



# *Not Your Basic Bean Counter*

## *Special Topic Newsletter*

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# Measures 66 and 67 Are Now Law in Oregon

## FIRST THINGS FIRST!!

Okay.....let's forget politics for a bit. These 2 measures have passed and we have to deal with it! That's what this special edition newsletter is all about. No fluff, no whining or complaining....just the plain and simple facts...and how this will—or will not - apply to *YOU*.

People are already predicting that this will usher in the end of the civilized world as we know it. I doubt it. There are some very bad parts that were passed (we'll talk about them below) and there are some parts that won't hurt that much. I'll spell it all out for you.

So, first of all.....relax. Sit down, take your time, and read this newsletter. You will understand these 2 measures. I promise. I am going to give you the "nuts and bolts" of these 2 new measures and how it might impact you and your business, regardless of which entity you presently operate under.

### **SOME THINGS TO KEEP IN MIND**

1. These 2 measures are *retroactive*....back to January 1, 2009.
2. I will not bore you with some of the more mundane parts of these measures.
3. We are NOT talking about FEDERAL taxes here....only OREGON.
4. People do and say the craziest things when panicked. Be careful who you listen to!
5. The hardest hit will be the individuals reporting LOTS of taxable income and the larger C corporations. I'll cover this over the next few pages.



# Measure 66

## **INDIVIDUALS**

Prior to this measure passing, the Oregon top bracket was 9%. Measure 66 created 2 new brackets and rates associated with those brackets. Here’s how they look in the Form 40 instructions (page 39):

### **For persons filing single, married filing separately, or RDP (Registered Domestic Partnership) filing separately—Here are your marginal tax brackets**

If your OREGON taxable income is over \$50,000 but not over \$125,000 .....9%  
If your OREGON taxable income is over \$125,000 but not over \$250,000 ..... **10.8% (new)**  
If your OREGON taxable income is over \$250,000 ..... **11% (new)**

### **For persons filing jointly, head of household, or qualifying widow(er) with dependent child—Here are your marginal tax brackets**

If your OREGON taxable income is over \$50,000 but not over \$250,000 .....9%  
If your OREGON taxable income is over \$250,000 but not over \$500,000 ..... **10.8% (new)**  
If your OREGON taxable income is over \$500,000 ..... **11% (new)**

These new rates are effective for 2009 through 2011. For 2012 and later years, the 2 new rates will be replaced by one 9.9% rate. Thus, the “big hit” is for 2009, 2010 and 2011....assuming that the Oregon legislators don’t mess with it again.

Another way (a politically *sneaky* way) to increase taxes is by reducing a deduction. Get it? Well, this Measure 66 has just such a reduction in it. By the way, I guarantee you nobody ever talked about this in any of the ads, forums or articles. It just kind of snuck past everyone! Here’s what they did. On Oregon tax returns, you get a deduction (up to \$5,500) for the amount of federal income tax you pay on your Form 1040. This has always been around (the amounts have fluctuated a bit). Well, now they have decided that if your income levels are in the brackets above for the new increased amount of tax, you should get that deduction (the \$5,500) reduced! So, without going into the exact numbers, suffice it to say that your Federal Tax Deduction on your Oregon return could be reduced. Nobody told you about that, did they? They just snuck it in right past our noses!

For those of you on unemployment, there is some good news. The first \$2,400 of unemployment compensation will be excluded from Oregon income. This will actually happen on your Federal return and carry over to the Oregon return.

## **BUSINESSES (CORPS, PARTNERSHIPS, LLC’S)**

The changes for these entities were contained in Measure 67 and will be discussed on the next page.

# Measure 67

## **INDIVIDUALS**

The changes for individuals were contained in Measure 66 and were discussed on the previous page.

## **PARTNERSHIPS AND LLC’S (with 2 or more members)**

Partnerships and LLC’s are called “flow-through” entities. That simply means that the entity pays NO income tax.....because the owners pay the tax on any profits earned. So, all these entities do is file a tax return disclosing the revenues and expenses of the business. But no taxes are paid. Clear? Some states, like California, charge a minimum filing fee. In California, for example, it is \$800 for LLC’s. That’s right! Just to file an LLC return you have to pay the state \$800 even though no tax is owed. They call this a minimum filing fee. Trust me, nobody in California likes this.

Well, Measure 67 liked this concept and enacted a similar law for partnerships and LLC’s. So, if you are such an entity you will now be subject to a \$150 minimum filing fee. Again, this starts with the filing of your 2009 returns.

**IMPORTANT:** Lots of people have been screaming bloody murder about new taxes that these entities will have to pay. That is not true. The **ONLY** change for partnerships and LLC’s is this new \$150 minimum filing fee. I will talk about S Corporations and C Corporations next.

## **S Corporations**

S corporations are also called “flow-through” entities for the same reasons we talked about above. Now, S corporations have always had a minimum filing fee of \$10. That has been around a LONG time. Well, Measure 67 has raised it from \$10 to \$150. So, now, partnerships, LLC’s and S corporations will all be subject to the same \$150 minimum filing fee. But, remember, none of these entities pay any tax.

## **C Corporations—Minimum Filing Fee.....***THE BIG HIT!*****

Based on everything you have just read, you would probably expect that Oregon would simply raise the existing minimum filing fee (which has been \$10, just like the S corporation) to \$150, right? Well, they DID....sort of....but not really. This is where they really got weird. I will not even try to explain. I will just give you the facts so you can see how this might impact you if you are a C corporation.

What they have done is to tie the minimum filing fee to gross sales dollars. Here’s the schedule of Oregon minimum filing fee (we’ll call it the “mff”)....if gross sales are:

- Less than \$500,000, the mff is \$150.
- \$500,000 or more but less than \$1,000,000, the mff is \$500
- \$1,000,000 or more but less than \$2,000,000, the mff is \$1,000

*(From page 3)*

- \$2,000,000 or more but less than \$3,000,000, the mff is \$1,500
- \$3,000,000 or more but less than \$5,000,000, the mff is \$2,000
- \$5,000,000 or more but less than \$7,000,000, the mff is \$4,000
- \$7,000,000 or more but less than \$10,000,000, the mff is \$7,500
- \$10,000,000 or more but less than \$25,000,000, the mff is \$15,000
- \$25,000,000 or more but less than \$50,000,000, the mff is \$30,000
- \$50,000,000 or more but less than \$75,000,000, the mff is \$50,000
- \$75,000,000 or more but less than \$100,000,000, the mff is \$75,000
- \$100,000,000 or more, the mff is \$100,000

Remember, this is based on gross sales...regardless of profits. So, for example, take a large contractor in the state who, because of the current economy, is bidding on large jobs at break-even. No profit. Please believe me when I tell you that this is happening all over the state. Contractors are feeling lucky to get jobs and not lose any money. And the large contractors, the ones bidding on the BIG jobs, are also bidding some of those jobs at ZERO profit and feeling lucky to get the job! So, a contractor who gets a \$50,000,000 job that makes NO profit will have to come up with an additional \$50,000 to pay Oregon. We'll see how this plays out.

Note that Oregon credits will NOT be allowed to offset this minimum filing fee.

**NOW, REMEMBER**....we are ONLY talking about C corporations here. This does NOT apply to S corporations, partnerships or LLC's.

## **C Corporations—Actual Tax Rate Increase**

The current tax rate for C corporations is 6.6%. It's been at that rate for some time. For 2009 and later years, it will remain there for the first \$250,000 Oregon corporate taxable income. For 2009 and 2010, for Oregon corporate taxable income over \$250,000 the rate will be 7.9%. For 2011 and 2012, that rate will go down to 7.6%. Boy, where on earth do they get these numbers, huh? After 2012, the 6.6% rate will apply to the first \$10,000,000 and a rate of 7.6% will apply to Oregon corporate taxable income over \$10,000,000.

Remember, this does NOT apply to S corporations, partnerships or LLC's.

## **Should You Convert Your C Corporation to an S Corporation?**

No joke. Many advisors are already talking about this on the web, talk shows, etc. I've gotten several e-mails from big firms saying that all C corporations in Oregon should convert to S corporations to avoid this gigantic new minimum filing fee. Here's my advice.....if you are a small business operating as a C corporation and your gross sales are less than \$1,000,000 then you will only get hit with an additional \$500...not that big, really. The cost of converting to an S corporation will be a lot more than that.

If you are a large C corporation, and showing profits, thus paying taxes, there may not be a large difference between your tax liability and the minimum filing fee. So, again, it may not be worth it.

Bottom line? Think about what I have said in this newsletter. Any questions, please call me and let's sit down, okay?