

Enrolled
House Bill 2235

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Revenue)

CHAPTER

AN ACT

Relating to connection to federal tax law; creating new provisions; amending ORS 305.230, 305.494, 305.690, 307.130, 307.147, 310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012, 316.695, 317.010, 657.010, 657.115, 657.117, 657.195, 657.321 and 657.325; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 305.230 is amended to read:

305.230. (1) Notwithstanding ORS 9.320:

(a) Any person who is qualified to practice law or public accountancy in this state, any person who has been granted active enrollment to practice before the Internal Revenue Service and who is qualified to prepare tax returns in this state or any person who is the authorized employee of a taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer before a tax court magistrate or the Department of Revenue in any conference or proceeding with respect to the administration of any tax.

(b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer before a tax court magistrate or the department in any conference or proceeding with respect to the administration of any tax on or measured by net income.

(c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2004] **2006**, may represent the corporation in any proceeding before a tax court magistrate or the department in the same manner as if the shareholder were a partner and the S corporation were a partnership. The S corporation must designate in writing a tax matters shareholder authorized to represent the S corporation.

(d) Any person who is licensed as a real estate broker or principal real estate broker under ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a registered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or the department in any conference or proceeding with respect to the administration of any ad valorem property tax.

(e) A general partner who has been designated by members of a partnership as their tax matters partner under ORS 305.242 may represent those partners in any conference or proceeding with respect to the administration of any tax on or measured by net income.

(f) Any person authorized under rules adopted by the department may represent a taxpayer before the department in any conference or proceeding with respect to any tax. Rules adopted under this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-

tation before the Internal Revenue Service, as federal law is amended and in effect on December 31, [2004] 2006.

(g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a proceeding before a tax court magistrate.

(2) A person may not be recognized as representing a taxpayer pursuant to this section unless there is first filed with the magistrate or department a written authorization, or unless it appears to the satisfaction of the magistrate or department that the representative does in fact have authority to represent the taxpayer. A person recognized as an authorized representative under rules or procedures adopted by the tax court shall be considered an authorized representative by the department.

(3) A taxpayer represented by someone other than an attorney is bound by all things done by the authorized representative, and may not thereafter claim any proceeding was legally defective because the taxpayer was not represented by an attorney.

(4) Prior to the holding of a conference or proceeding before the tax court magistrate or department, written notice shall be given by the magistrate or department to the taxpayer of the provisions of subsection (3) of this section.

SECTION 2. ORS 305.494 is amended to read:

305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2004] 2006, may represent the corporation in any proceeding before the Oregon Tax Court in the same manner as if the shareholder were a partner and the S corporation were a partnership.

SECTION 3. ORS 305.690 is amended to read:

305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

(1) "Biennial years" means the two income tax years of individual taxpayers that begin in the two calendar years immediately following the calendar year in which a list is certified under ORS 305.715.

(2) "Commission" means the Oregon Charitable Checkoff Commission.

(3) "Department" means the Department of Revenue.

(4) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2004] 2006.

SECTION 4. ORS 307.130 is amended to read:

307.130. (1) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

(a) Except as provided in ORS 748.414, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including inventory. As used in this subsection, "rehabilitation facility" means either those facilities defined in ORS 344.710 or facilities which provide physically, mentally or emotionally disabled individuals with occupational rehabilitation activities of an educational or therapeutic nature, even if remuneration is received by the individual.

(d) All real and personal property of a retail store dealing exclusively in donated inventory, where the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are used to support a welfare program. As used in this subsection, "welfare program" means the providing of food, shelter, clothing or health care, including dental service, to needy persons without charge.

(e) All real and personal property of a retail store if:

(A) The retail store deals primarily and on a regular basis in donated and consigned inventory;

(B) The individuals who operate the retail store are all individuals who work as volunteers; and

(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and the sales proceeds used exclusively to support a welfare program. As used in this paragraph, “primarily” means at least one-half of the inventory.

(f) The real and personal property of an art museum that is used in conjunction with the public display of works of art or used to educate the public about art, but not including any portion of the art museum’s real or personal property that is used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.

(g) All real and personal property of a volunteer fire department that is used in conjunction with services and activities for providing fire protection to all residents within a fire response area.

(2) An art museum or institution shall not be deprived of an exemption under this section solely because its primary source of funding is from one or more governmental entities.

(3) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

(4) As used in this section:

(a) “Art museum” means a nonprofit corporation organized to display works of art to the public.

(b) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect on December 31, [2004] 2006.

(c) “Nonprofit corporation” means a corporation that:

(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

(d) “Volunteer fire department” means a nonprofit corporation organized to provide fire protection services in a specific response area.

SECTION 4a. If Senate Bill 83 becomes law, section 4 of this 2007 Act (amending ORS 307.130) is repealed and ORS 307.130, as amended by section 75, chapter 70, Oregon Laws 2007 (Enrolled Senate Bill 83), is amended to read:

307.130. (1) As used in this section:

(a) “Art museum” means a nonprofit corporation organized to display works of art to the public.

(b) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect on December 31, [2004] 2006.

(c) “Nonprofit corporation” means a corporation that:

(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

(d) “Volunteer fire department” means a nonprofit corporation organized to provide fire protection services in a specific response area.

(2) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

(a) Except as provided in ORS 748.414, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including inventory. As used in this subsection, “rehabilitation facility” means either those facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature, even if remuneration is received by the individual.

(d) All real and personal property of a retail store dealing exclusively in donated inventory, where the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are used to support a welfare program. As

used in this subsection, “welfare program” means the providing of food, shelter, clothing or health care, including dental service, to needy persons without charge.

(e) All real and personal property of a retail store if:

(A) The retail store deals primarily and on a regular basis in donated and consigned inventory;

(B) The individuals who operate the retail store are all individuals who work as volunteers; and

(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and the sales proceeds used exclusively to support a welfare program. As used in this paragraph, “primarily” means at least one-half of the inventory.

(f) The real and personal property of an art museum that is used in conjunction with the public display of works of art or used to educate the public about art, but not including any portion of the art museum’s real or personal property that is used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.

(g) All real and personal property of a volunteer fire department that is used in conjunction with services and activities for providing fire protection to all residents within a fire response area.

(3) An art museum or institution shall not be deprived of an exemption under this section solely because its primary source of funding is from one or more governmental entities.

(4) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

SECTION 5. ORS 307.147 is amended to read:

307.147. (1) For purposes of this section:

(a) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect on December 31, [2004] **2006**.

(b) “Nonprofit corporation” means a corporation that:

(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

(c) “Senior services center” means property that:

(A) Is owned or being purchased by a nonprofit corporation;

(B) Is actually and exclusively used to provide services and activities (including parking) primarily to or for persons over 50 years of age;

(C) Is open generally to all persons over 50 years of age;

(D) Is not used primarily for fund-raising activities; and

(E) Is not a residential or dwelling place.

(2) Upon compliance with ORS 307.162, a senior services center is exempt from ad valorem property taxation.

SECTION 6. ORS 310.140 is amended to read:

310.140. The Legislative Assembly finds that section 11b, Article XI of the Oregon Constitution, was drafted by citizens and placed before the voters of the State of Oregon by initiative petition. Section 11b, Article XI of the Oregon Constitution, uses terms that do not have established legal meanings and require definition by the Legislative Assembly. Section 11b, Article XI of the Oregon Constitution, was amended by section 11 (11), Article XI of the Oregon Constitution. This section is intended to interpret the terms of section 11b, Article XI of the Oregon Constitution, as originally adopted and as amended by section 11 (11), Article XI of the Oregon Constitution, consistent with the intent of the people in adopting these provisions, so that the provisions of section 11b, Article XI of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with minimal confusion and misunderstanding by citizens and affected units of government. As used in the revenue and tax laws of this state, and for purposes of section 11b, Article XI of the Oregon Constitution:

(1) “Actual cost” means all direct or indirect costs incurred by a government unit in order to deliver goods or services or to undertake a capital construction project. The “actual cost” of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property

or property owner, whether stated as a minimum, fixed or variable amount. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(2) "Assessment for local improvement" means any tax, fee, charge or assessment that does not exceed the actual cost incurred by a unit of government for design, construction and financing of a local improvement.

(3) "Bonded indebtedness" means any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

(4) "Capital construction":

(a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent prior to June 20, 1997, means the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is expected to have a useful life of more than one year, and includes, but is not limited to:

(A) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(B) Acquisition, installation of machinery or equipment, furnishings or materials that will become an integral part of a structure.

(C) Activities related to the capital construction, including planning, design, authorizing, issuing, carrying or repaying interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(D) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

(b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in paragraph (a) of this subsection, except that "capital construction":

(A) Includes public safety and law enforcement vehicles with a projected useful life of five years or more; and

(B) Does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(5) "Capital improvements":

(a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, means land, structures, facilities, as that term is defined in ORS 288.805, machinery, equipment or furnishings having a useful life longer than one year.

(b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in paragraph (a) of this subsection, except that "capital improvements":

(A) Includes public safety and law enforcement vehicles with a projected useful life of five years or more; and

(B) Does not include:

- (i) Maintenance and repairs, the need for which could be reasonably anticipated;
- (ii) Supplies and equipment that are not intrinsic to the structure; or
- (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(6) "Direct consequence of ownership" means that the obligation of the owner of property to pay a tax arises solely because that person is the owner of the property, and the obligation to pay the tax arises as an immediate and necessary result of that ownership without respect to any other intervening transaction, condition or event.

(7)(a) "Exempt bonded indebtedness" means:

(A) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

(B) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit on or before November 6, 1990;

(C) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit after November 6, 1990, with the approval of the electors of the issuing governmental unit; or

(D) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements, if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election that is in compliance with the voter participation requirements of section 11 (8), Article XI of the Oregon Constitution.

(b) "Exempt bonded indebtedness" includes bonded indebtedness issued to refund or refinance any bonded indebtedness described in paragraph (a) of this subsection.

(8)(a) "Incurred charge" means a charge imposed by a unit of government on property or upon a property owner that does not exceed the actual cost of providing goods or services and that can be controlled or avoided by the property owner because:

(A) The charge is based on the quantity of the goods or services used, and the owner has direct control over the quantity;

(B) The goods or services are provided only on the specific request of the property owner; or

(C) The goods or services are provided by the government unit only after the individual property owner has failed to meet routine obligations of ownership of the affected property, and such action is deemed necessary by an appropriate government unit to enforce regulations pertaining to health or safety.

(b) For purposes of this subsection, an owner of property may control or avoid an incurred charge if the owner is capable of taking action to affect the amount of a charge that is or will be imposed or to avoid imposition of a charge even if the owner must incur expense in so doing.

(c) For purposes of paragraph (a)(A) of this subsection, an owner of property has direct control over the quantity of goods or services if the owner of property has the ability, whether or not that ability is exercised, to determine the quantity of goods or services provided or to be provided.

(9)(a) "Local improvement" means a capital construction project, or part thereof, undertaken by a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or a part of the improvement:

(A) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties;

(B) The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(C) For which the property owner may elect to make payment of the assessment plus appropriate interest over a period of at least 10 years.

(b) For purposes of paragraph (a) of this subsection, the status of a capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the special benefit.

(10) “Maintenance and repairs, the need for which could be reasonably anticipated”:

(a) Means activities, the type of which may be deducted as an expense under the provisions of the federal Internal Revenue Code, as amended and in effect on December 31, [2004] **2006**, that keep the property in ordinarily efficient operating condition and that do not add materially to the value of the property nor appreciably prolong the life of the property;

(b) Does not include maintenance and repair of property that is required by damage, destruction or defect in design, or that was otherwise not reasonably expected at the time the property was constructed or acquired, or the addition of material that is in the nature of the replacement of property and that arrests the deterioration or appreciably prolongs the useful life of the property; and

(c) Does not include street and highway construction, overlay and reconstruction.

(11) “Projected useful life” means the useful life, as reasonably estimated by the unit of government undertaking the capital construction or capital improvement project, beginning with the date the property was acquired, constructed or reconstructed and based on the property’s condition at the time the property was acquired, constructed or reconstructed.

(12) “Routine obligations of ownership” means a standard of operation, maintenance, use or care of property established by law, or if established by custom or common law, a standard that is reasonable for the type of property affected.

(13) “Single assessment” means the complete assessment process, including preassessment, assessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a local ordinance or resolution that provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots that have been benefited by all or part of the improvement.

(14) “Special benefit only to specific properties” shall have the same meaning as “special and peculiar benefit” as that term is used in ORS 223.389.

(15) “Specific request” means:

(a) An affirmative act by a property owner to seek or obtain delivery of goods or services;

(b) An affirmative act by a property owner, the legal consequence of which is to cause the delivery of goods or services to the property owner; or

(c) Failure of an owner of property to change a request for goods or services made by a prior owner of the property.

(16) “Structure” means any temporary or permanent building or improvement to real property of any kind that is constructed on or attached to real property, whether above, on or beneath the surface.

(17) “Supplies and equipment intrinsic to a structure” means the supplies and equipment that are necessary to permit a structure to perform the functions for which the structure was constructed, or that will, upon installation, constitute fixtures considered to be part of the real property that is comprised, in whole or part, of the structure and land supporting the structure.

(18) “Tax on property” means any tax, fee, charge or assessment imposed by any government unit upon property or upon a property owner as a direct consequence of ownership of that property, but does not include incurred charges or assessments for local improvements. As used in this subsection, “property” means real or tangible personal property, and intangible property that is part of a unit of real or tangible personal property to the extent that such intangible property is subject to a tax on property.

SECTION 7. ORS 310.630 is amended to read:

310.630. As used in ORS 310.630 to 310.706:

(1) “Contract rent” means rental paid to the landlord for the right to occupy a homestead, including the right to use the personal property located therein. “Contract rent” does not include rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the homestead. “Contract rent” does not include advanced rental payments for another period and rental deposits, whether or not expressly set out in the rental agreement, or payments made to a

nonprofit home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each other at arm's length, and the Department of Revenue is satisfied that the contract rent charged was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630 to 310.706.

(2) "Department" means the Department of Revenue.

(3) "Fuel and utility payments" includes payments for heat, lights, water, sewer and garbage made solely to secure those commodities or services for the homestead of the taxpayer. "Fuel and utility payments" does not include telephone service.

(4) "Gross rent" means contract rent paid plus the fuel and utility payments made for the homestead in addition to the contract rent, during the calendar year for which the claim is filed.

(5) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

(6) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing in the homestead during any part of the calendar year for which a claim is filed.

(7) "Household income" means the aggregate income of the taxpayer and the spouse of the taxpayer who reside in the household, that was received during the calendar year for which the claim is filed. "Household income" includes payments received by the taxpayer or the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor child or minor children who are members of the household.

(8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code, as amended and in effect on December 31, [2004] 2006, even when the amendments take effect or become operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:

(a) There shall be added to adjusted gross income the following items of otherwise exempt income:

(A) The gross amount of any otherwise exempt pension less return of investment, if any.

(B) Child support received by the taxpayer.

(C) Inheritances.

(D) Gifts and grants, the sum of which are in excess of \$500 per year.

(E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.

(F) Life insurance proceeds.

(G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

(H) Personal injury damages.

(I) Sick pay which is not included in federal adjusted gross income.

(J) Strike benefits excluded from federal gross income.

(K) Worker's compensation, except for reimbursement of medical expense.

(L) Military pay and benefits.

(M) Veteran's benefits.

(N) Payments received under the federal Social Security Act which are excluded from federal gross income.

(O) Welfare payments, except as follows:

(i) Payments for medical care, drugs and medical supplies, if the payments are not made directly to the welfare recipient;

(ii) In-home services authorized and approved by the Department of Human Services; and

(iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or training programs.

(P) Nontaxable dividends.

(Q) Nontaxable interest not included in federal adjusted gross income.

(R) Rental allowance paid to a minister that is excluded from federal gross income.

(S) Income from sources without the United States that is excluded from federal gross income.

(b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

(A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties.

(B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

(C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business, profession or other activity entered into for the production or collection of income.

(D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for the production of rents, royalties or other income.

(E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted gross income.

(F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depreciation, amortization or depletion.

(G) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

(c) "Income" does not include any of the following:

(A) Any governmental grant which must be used by the taxpayer for rehabilitation of the homestead of the taxpayer.

(B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

(C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

(9) "Payments for heat" means those payments made to secure the commodities or services to be used as the principal source of heat for the homestead of the taxpayer and includes payments for natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use as a primary source of heat for the homestead.

(10) "Statement of gross rent" means a declaration by the applicant, under penalties of false swearing, that the amount of contract rent and fuel and utility payments designated is the actual amount both incurred and paid during the year for which elderly rental assistance is claimed.

(11) "Taxpayer" means an individual who is a resident of this state on December 31 of the year for which elderly rental assistance is claimed and whose homestead, as of the same December 31 and during all or a portion of the year ending on the same December 31, is rented and while rented is the subject, directly or indirectly, of property tax levied by this state or a political subdivision or of payments made in lieu of taxes.

SECTION 8. ORS 310.800 is amended to read:

310.800. (1) As used in this section:

(a) "Authorized representative" means a senior citizen who is authorized by a tax-exempt entity to perform charitable or public service on behalf of a senior citizen who has entered into a contract under subsection (2) of this section.

(b) "Homestead" means an owner-occupied principal residence.

(c) "Senior citizen" means a person who is 60 years of age or older.

(d) "Tax-exempt entity" means an entity that is exempt from federal income taxes under section 501 (c) of the Internal Revenue Code, as amended and in effect on December 31, [2004] **2006**.

(e) "Taxing unit" means any county, city or common or union high school district, community college service district or community college district within this state with authority to impose ad valorem property taxes.

(2) A tax-exempt entity may establish a property tax work-off program pursuant to which a senior citizen may contract to perform charitable or public service in consideration of payment of property taxes extended against the homestead of the senior citizen and billed to the senior citizen. For purposes of ORS chapters 316 and 656, and notwithstanding ORS 670.600 or other law, a senior citizen who enters into a contract under this subsection shall be considered an independent contractor and not a worker or employee with respect to the services performed pursuant to the contract. Nothing in this section precludes a taxing unit from being considered an employer, for purposes of unemployment compensation under ORS chapter 657, of a senior citizen who enters into a contract under this section.

(3) A taxing unit may enter into an agreement with a tax-exempt entity that has established a property tax work-off program. Pursuant to the agreement the taxing unit may accept, as volunteer and public service, the services of a senior citizen who has entered into a contract described in subsection (2) of this section or an authorized representative.

(4) A taxing unit may provide funds or make grants to any tax-exempt entity that has established a property tax work-off program for use to carry out the program.

SECTION 9. ORS 311.689 is amended to read:

311.689. (1) Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if the individual or, in the case of two or more individuals electing to defer property taxes jointly, all of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal adjusted gross income that exceeds \$32,000 for the tax year that began in the previous calendar year, then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be reduced by \$0.50 for each dollar of federal adjusted gross income in excess of \$32,000.

(2) Prior to June 1 of each year, and notwithstanding ORS 314.835, the Department of Revenue shall review returns filed under ORS chapter 314 and 316 to determine if subsection (1) of this section is applicable for a homestead for the tax year next beginning. If subsection (1) of this section is applicable, the department shall notify by mail the taxpayer or spouse electing deferral, and the taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in subsection (1) of this section or, if federal adjusted gross income in excess of \$32,000 exceeds the amount of property taxes by a factor of two, the property taxes shall not be deferred.

(3) If the taxpayer or spouse does not file a return for purposes of ORS chapters 314 and 316 and the department has reason to believe that the federal adjusted gross income of the taxpayer or spouse exceeds \$32,000 for the tax year that began in the previous calendar year, the department shall notify by mail the taxpayer or spouse electing deferral. If, within 30 days after the notice is mailed, the taxpayer or spouse does not file a return under ORS chapter 314 or 316 or otherwise satisfy the department that federal adjusted gross income does not exceed \$32,000, the department shall again notify the taxpayer or spouse, and the taxes otherwise to be deferred for the tax year next beginning shall not be deferred.

(4) For tax years beginning on or after July 1, 2002, the federal adjusted gross income limit set forth in subsections (1) to (3) of this section shall be recomputed by multiplying \$32,000 by the indexing factor described in ORS 311.668 (7)(a)(A), and rounding the amount so computed to the nearest multiple of \$500.

(5) Nothing in this section shall affect the continued deferral of taxes that have been deferred for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a tax year beginning after the tax year next beginning if subsection (1) is not applicable for that tax year for the homestead.

(6) As used in this section, "federal adjusted gross income" means federal adjusted gross income of the individual or, in the case of two or more individuals electing to defer property tax jointly, the combined federal adjusted gross income of the individuals, or the federal adjusted gross income of the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning in the calendar year prior to which a determination is required under subsection (2) of this section. "Federal adjusted gross income" shall be determined under the Internal Revenue Code, as amended and in effect on December 31, [2004] **2006**, without any of the additions, subtractions or other modifications or adjustments required under ORS chapter 314 or 316.

(7)(a) If, after an initial determination under this section has been made by the department, upon audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted gross income in excess of the limitation provided under subsection (1) of this section, the department shall determine the amount of taxes deferred that should not have been deferred and give notice to the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions of ORS chapters 305 and 314 shall apply to a determination of the department under this section in the same manner as those provisions are applicable to an income tax deficiency. The amount of deferred taxes that should not have been deferred shall bear interest from the date paid by the de-

partment until paid at the rate established under ORS 305.220 for deficiencies. A deficiency shall not be assessed under this section if notice required under this section is not given to the taxpayer or spouse within three years after the date that the department has paid the deferred taxes to the county. Upon payment of the amount assessed as deficiency, and interest, the department shall execute a release in the amount of the payment and the release shall be conclusive evidence of the removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.

(b) If, after an initial determination under this section has been made by the department, upon claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted gross income in the amount of or less than the limitation provided under subsection (1) of this section, the department shall determine the amount of taxes deferred that should have been deferred and give notice to the taxpayer or spouse of the amount of taxes that should have been deferred. The provisions of ORS chapters 305 and 314 shall apply to a determination of the department under this section in the same manner as those provisions are applicable to an income tax refund. The amount of the taxes that should have been deferred shall bear interest from the date paid by the taxpayer to the county at the rate established under ORS 305.220 for refunds until paid. Claim for refund under this paragraph must be filed within three years after the earliest date that the taxpayer or spouse is notified by the department that the taxes are not deferred.

(8) This section applies to all tax-deferred property, notwithstanding that election to defer taxes is made under ORS 311.666 to 311.701 before or after October 3, 1989.

SECTION 10. ORS 314.011 is amended to read:

314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means the Department of Revenue.

(2) As used in this chapter:

(a) Any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter.

(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(A) On December 31, [2004] **2006**; or

(B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, [2004] **2006**, even when the amendments take effect or become operative after that date, except where the Legislative Assembly has specifically provided otherwise.

(3) Insofar as is practicable in the administration of this chapter, the department shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United

States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally included in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title.

SECTION 11. ORS 315.004 is amended to read:

315.004. (1) Except when the context requires otherwise, the definitions contained in ORS chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of the personal and corporate income and excise tax credits contained in this chapter.

(2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined for purposes of construing, interpreting and applying the credit.

(b) With respect to the tax credits contained in this chapter, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, [2004] **2006**, even when the amendments take effect or become operative after that date.

(3) Insofar as is practicable in the administration of this chapter, the Department of Revenue shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally included in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title.

SECTION 12. ORS 316.012 is amended to read:

316.012. Any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter. Except where the Legislative Assembly has provided otherwise, any reference in this chapter to the laws of the United States or

to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(1) On December 31, [2004] **2006**; or

(2) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

SECTION 13. ORS 316.695 is amended to read:

316.695. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be added to or subtracted from federal taxable income:

(a) If, in computing federal income tax for a taxable year, the taxpayer deducted itemized deductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized deductions are reduced under section 68 of the Internal Revenue Code).

(b) If, in computing federal income tax for a taxable year, the taxpayer deducted the standard deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount of the standard deduction deducted.

(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section, for purposes of this subparagraph, "standard deduction" means the sum of the basic standard deduction and the additional standard deduction.

(B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

(i) \$3,280, in the case of joint return filers or a surviving spouse;

(ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving spouse;

(iii) \$1,640, in the case of a married individual who files a separate return; or

(iv) \$2,640, in the case of a head of household.

(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the [average] **monthly averaged** U.S. City Average Consumer Price Index for the [second quarter of the current] **12 consecutive months ending August 31 of the prior** calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

(ii) If any change in the maximum household income determined under this subparagraph is not a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

(iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

(E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household" have the meaning given those terms in section 2 of the Internal Revenue Code.

(F) In the case of the following, the standard deduction referred to in subparagraph (A) of this paragraph shall be zero:

(i) A husband or wife filing a separate return where the other spouse has claimed itemized deductions under subparagraph (A) of this paragraph;

(ii) A nonresident alien individual;

(iii) An individual making a return for a period of less than 12 months on account of a change in his or her annual accounting period;

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions are the sum of:

(A) The taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code); and

(B) The amount that may be taken into account under section 213(a) of the Internal Revenue Code, not to exceed seven and one-half percent of the federal adjusted gross income of the taxpayer, if the taxpayer has attained the following age before the close of the taxable year, or, in the case of a joint return, if either taxpayer has attained the following age before the close of the taxable year:

(i) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, a taxpayer must attain 58 years of age before the close of the taxable year.

(ii) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, a taxpayer must attain 59 years of age before the close of the taxable year.

(iii) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a taxpayer must attain 60 years of age before the close of the taxable year.

(iv) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, a taxpayer must attain 61 years of age before the close of the taxable year.

(v) For taxable years beginning on or after January 1, 1999, a taxpayer must attain 62 years of age before the close of the taxable year.

(2)(a) There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection shall not be added to federal taxable income in the year earned by the plan and shall not be subtracted from federal taxable income in the year received by the taxpayer.

(3)(a) Except as provided in paragraph (b) of this subsection and subsection (4) of this section, there shall be added to federal taxable income the amount of any federal income taxes in excess of \$5,500, accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(b) In the case of a husband and wife filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of \$2,750, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(c)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue shall make a cost-of-living adjustment to the federal income tax threshold amount described in paragraphs (a) and (b) of this subsection.

(B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

(C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of \$50, the adjustment shall be rounded to the next lower multiple of \$50.

(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

(4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of \$5,500 in the proportion provided in ORS 316.117.

(b) In the case of a husband and wife filing separate tax returns, the amount added under this subsection shall be computed in a manner consistent with the computation of the amount to be added in the case of a husband and wife filing separate returns under subsection (3) of this section. The method of computation shall be determined by the Department of Revenue by rule.

(5) Subsections (3)(b) and (4)(b) of this section shall not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

(6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

(b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder the items are required to be adjusted under the provisions of this chapter.

(c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S corporation.

(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small business corporation.

(7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For himself or herself if he or she has attained age 65 before the close of his or her taxable year; and

(B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code.

(b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For himself or herself if he or she is blind at the close of the taxable year; and

(B) For the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse dies during the taxable year, the determination of whether such spouse is blind shall be made immediately prior to death.

(c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a) and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

(d) For purposes of this subsection, an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(8) In the case of an individual with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the basic standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such individual's taxable year shall equal the lesser of:

(a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for federal income tax purposes for the tax year for which the deduction is being claimed; or

(b) The amount determined under subsection (1)(c)(B) of this section.

SECTION 14. ORS 317.010 is amended to read:

317.010. As used in this chapter, unless the context requires otherwise:

(1) "Centrally assessed corporation" means every corporation the property of which is assessed by the Department of Revenue under ORS 308.505 to 308.665.

(2) "Department" means the Department of Revenue.

(3)(a) "Consolidated federal return" means the return permitted or required to be filed by a group of affiliated corporations under section 1501 of the Internal Revenue Code.

(b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

(4) "Doing business" means any transaction or transactions in the course of its activities conducted within the state by a national banking association, or any other corporation; provided, however, that a foreign corporation whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside the state, shall not be deemed to be doing business unless such foreign corporation is an affiliate of another foreign or domestic corporation which is doing business in Oregon. Whether or not corporations are affiliated shall be determined as provided in section 1504 of the Internal Revenue Code.

(5) "Excise tax" means a tax measured by or according to net income imposed upon national banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing and business corporations for the privilege of carrying on or doing business in this state.

(6) "Financial institution" or "financial corporation" means a bank or trust company organized under ORS chapter 707, national banking association or production credit association organized under federal statute, building and loan association, savings and loan association, mutual savings bank, and any other corporation whose principal business is in direct competition with national and state banks.

(7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(a) On December 31, [2004] 2006; or

(b) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.

(9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.

(10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a corporation for which no federal taxable income or loss is determined, as would be determined, under chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States relating to the determination of taxable income or loss of corporate taxpayers, with the additions, subtractions, adjustments and other modifications as are specifically prescribed by this chapter except that in determining taxable income or loss for any year, no deduction under ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of income from transactions or activities carried on both within and without the state) applies, to derive taxable income or loss, the following shall occur:

(a) From the amount otherwise determined under this subsection, subtract nonbusiness income, or add nonbusiness loss, whichever is applicable.

(b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon apportionment percentage defined under ORS 314.280, 314.650 or 314.670, whichever is applicable. The resulting product shall be Oregon apportioned income or loss.

(c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645. The resulting figure is “taxable income or loss” for those corporations carrying on taxable transactions or activities both within and without Oregon.

(11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any domestic, foreign or alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange. However, “insurer” does not include title insurers or health care service contractors operating pursuant to ORS 750.005 to 750.095.

SECTION 15. (1) Except as provided in subsections (2) and (3) of this section, the amendments to statutes by sections 1 to 14 of this 2007 Act apply to transactions or activities occurring on or after January 1, 2007, in tax years beginning on or after January 1, 2007.

(2) The effective and applicable dates, and the exceptions, special rules and coordination with the Internal Revenue Code, as amended, relative to those dates, contained in the Deficit Reduction Act of 2005 (P.L. 109-171), the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222), the Pension Protection Act of 2006 (P.L. 109-280) and other federal law amending the Internal Revenue Code apply for Oregon personal income and corporate excise and income tax purposes, to the extent they can be made applicable, in the same manner as they are applied under the Internal Revenue Code and related federal law.

(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before January 1, 2007, and the deficiency or any portion thereof is attributable to any retroactive treatment under the amendments to statutes by sections 1 to 14 of this 2007 Act, then any interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.

(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2007, and the refund or any portion thereof is due the taxpayer on account of any retroactive treatment under the amendments to statutes by sections 1 to 14 of this 2007 Act, then notwithstanding ORS 305.270 or 314.415 or other law, the refund or portion thereof shall be paid without interest.

(c) Any changes required because of the amendments to statutes by sections 1 to 14 of this 2007 Act for a tax year beginning before January 1, 2007, shall be made by filing an amended return within the time prescribed by law.

(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection, the Department of Revenue shall make any changes under paragraph (c) of this subsection on the return to which the changes relate within the period specified for issuing a notice of deficiency or claiming a refund as otherwise provided by law with respect to that return, or within one year after a return for a tax year beginning on or after January 1, 2007, and before January 1, 2008, is filed, whichever period expires later.

SECTION 16. ORS 657.010 is amended to read:

657.010. As used in this chapter, unless the context requires otherwise:

(1) “Base year” means the first four of the last five completed calendar quarters preceding the benefit year.

(2) “Benefits” means the money allowances payable to unemployed persons under this chapter.

(3) “Benefit year” means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of the individual’s last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

(4) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director of the Employment Department may, by regulation, prescribe.

(5) "Contribution" or "contributions" means the taxes, as defined in subsection [(12)] (13) of this section, that are the money payments required by this chapter, or voluntary payments permitted, to be made to the Unemployment Compensation Trust Fund.

(6) "Educational institution," including an institution of higher education as defined in subsection (9) of this section, means an institution:

(a) In which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(b) That is accredited, registered, approved, licensed or issued a permit to operate as a school by the Department of Education or other government agency, or that offers courses for credit that are transferable to an approved, registered or accredited school;

(c) In which the course or courses of study or training that it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation; and

(d) In which the course or courses of study or training are offered on a regular and continuing basis.

(7) "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

(8) "Hospital" means an organization that has been licensed, certified or approved by the Department of Human Services as a hospital.

(9) "Institution of higher education" means an educational institution that:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

(10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in effect on December 31, 2006.

[(10)] (11) "Nonprofit employing unit" means an organization, or group of organizations, described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

[(11)] (12) "State" includes, in addition to the states of the United States of America, the District of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be considered a state on and after the day on which the United States Secretary of Labor first approves the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by Public Law 94-566.

[(12)] (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund required, or voluntary payments permitted, by this chapter.

[(13)] (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the individual meets the wages-paid-for-employment requirements of ORS 657.150.

[(14)] (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the director may, by regulation, prescribe. The director may by regulation prescribe that a "week" shall be "in," "within," or "during" the calendar quarter that includes the greater part of such week.

SECTION 17. ORS 657.115 is amended to read:

657.115. (1) "Wages" does not include the amount of any payment made to, or on behalf of, an individual or any of the individual's dependents on account of:

(a) Retirement.

- (b) Sickness or accident disability under a workers' compensation law.
- (c) Medical or hospitalization expenses in connection with sickness or accident disability.
- (d) Death.

(e) Dependent care assistance furnished pursuant to a program that meets the requirements of section 129(d) of the Internal Revenue Code, to the extent the assistance does not exceed the earned income limitation in section 129(b) of the Internal Revenue Code.

(2) For purposes of this section, "payment made" includes amounts paid by an employing unit for insurance or annuities or into a fund.

(3) This section does not apply unless the payment is made under a plan or system established by an employing unit which makes provision generally:

(a) For individuals performing service for it or for such individuals generally and their dependents; or

(b) For a class or classes of such individuals or for a class or classes of such individuals and their dependents.

[*(4) As used in this section, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 2004.*]

SECTION 18. ORS 657.117 is amended to read:

657.117. "Wages" as used in ORS 657.105 [*shall include*] **includes:**

(1) The amount of any tax imposed upon an employee and paid by an employer pursuant to [*paragraphs 6 of sections 3121(a) and 3306(b)*] **sections 3121(a)(6) and 3306(b)(6)** of the Internal Revenue Code [*of 1954 as amended by the Omnibus Reconciliation Act of 1980*].

(2) Tips reported by the employer pursuant to section 3306 of the Internal Revenue Code [*of 1954, as amended*].

SECTION 19. ORS 657.195 is amended to read:

657.195. (1) Notwithstanding any other provisions of this chapter, no work is deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout or other labor dispute.

(b) If the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(2) On and after November 8, 1938, and for the purposes of this chapter only, this section shall have the same meaning as the provisions of section 3304(a)(5) of the [*United States*] Internal Revenue Code.

SECTION 20. ORS 657.321 is amended to read:

657.321. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) "Extended benefit period" means a period that:

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with the third week after the first week for which there is a state "off" indicator or the 13th consecutive week of such period, whichever occurs later.

(2) Notwithstanding the provisions of subsection (1) of this section, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(3) There is a state "on" indicator for any week for which the Director of the Employment Department determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted):

(a) Equaled or exceeded five percent and equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(b) Equaled or exceeded six percent; or

(c) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(A) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6.5 percent; and

(B) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph (A) of this paragraph, equals or exceeds 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(4) There is a state “off” indicator for any week for which the director determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3) of this section results in an “on” indicator.

(5) “Rate of insured unemployment,” for the purpose of subsections (3) and (4) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(6) “Regular benefits” means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(7) “Extended benefits” means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual’s eligibility period.

(8) “Eligibility period” of an individual means the period consisting of the weeks in the individual’s benefit year which begin in an extended benefit period and, if the benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(9) “Exhaustee” means an individual who, with respect to any week of unemployment in the individual’s eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents’ allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b) The individual’s benefit year having expired prior to such week, has no, or insufficient wages and employment to establish a new benefit year that would include such week; and

(c) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(d) Has not received and is not seeking, or the appropriate agency has finally determined that the individual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(10) “State law” means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code [of 1954, as amended].

(11) “High unemployment period” means any period during which an extended benefit period would be in effect if subsection (3)(c)(A) of this section were applied by substituting “eight percent” for “6.5 percent.”

SECTION 21. ORS 657.325 is amended to read:

657.325. (1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the Director of the Employment Department finds that with respect to such week the individual:

(a) Is an exhaustee;

(b) Has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) Has been paid wages by an employer or employers subject to the provisions of this chapter during the base period of the individual's applicable benefit year in an amount equal to or in excess of 40 times the individual's applicable weekly benefit amount.

(2) The weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period shall be an amount equal to the weekly benefit amount payable to the individual during the applicable benefit year.

(3) The maximum extended benefit amount payable to any eligible individual with respect to the applicable benefit year shall be:

(a) 50 percent of the total amount of regular benefits which were payable to the individual under this chapter in the applicable benefit year; or

(b) With respect to weeks beginning in a high unemployment period, 80 percent of the total amount of regular benefits which were payable to the individual under this chapter in the applicable benefit year.

(4) Notwithstanding subsection (1) of this section, extended benefits shall not be payable to any individual for any week pursuant to an interstate claim filed in any other state under the interstate benefit payment plan if an extended benefit period is not in effect for such week in such other state.

(5) The provisions of subsection (4) of this section shall not apply with respect to the first two weeks for which extended benefits would otherwise be payable to an individual pursuant to an interstate claim filed under the interstate benefit payment plan.

(6) Notwithstanding the provisions of subsections (1) to (5) and (12) of this section, an individual shall be ineligible for payment of extended benefits for any week of unemployment in the individual's eligibility period if the director finds that during such week:

(a) The individual failed to accept any offer of suitable work or failed to apply for any suitable work, as defined under subsection (8) of this section, to which the individual was referred by the director; or

(b) The individual failed to actively engage in seeking work as prescribed under subsection (10) of this section.

(7) Any individual who has been found ineligible for extended benefits by reason of the provisions in subsection (6) of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until the individual has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than four times the extended weekly benefit amount.

(8)(a) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities, provided, however:

(A) That the gross average weekly remuneration payable for the work must exceed the sum of the individual's weekly benefit amount and the amount, if any, of supplemental unemployment benefits, as defined in section 501(c)(17)(D) of the Internal Revenue Code [of 1954], payable to such individual for such week; and

(B) The work must pay wages which equal or exceed the higher of the state or local minimum wage or the minimum wage provided by section 6 (a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption;

(b) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability as described herein if:

(A) The position was not offered to such individual in writing or was not listed with the Employment Department; or

(B) Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants pursuant to ORS 657.190 to the extent that the criteria of suitability are not inconsistent with the provisions of this section; or

(C) The individual furnishes satisfactory evidence to the director that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in ORS 657.190 without regard to the definition specified in this subsection.

(9) Notwithstanding the provisions of subsection (8) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by section 3304(a)(5) of the Internal Revenue Code [of 1954] and as set forth in ORS 657.195.

(10) For the purposes of subsection (6)(b) of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

(b) The individual furnishes tangible evidence of engaging in such effort during such week.

(11) The Employment Department shall refer any claimant entitled to extended benefits to any suitable work which meets the criteria prescribed in subsection (8) of this section.

(12) An individual shall not be eligible to receive extended benefits under this section if the individual has been disqualified for regular or extended benefits under ORS 657.176 (2) unless the individual has satisfied the disqualification as provided in ORS 657.176 (2).

(13) Subsections (6) to (11) of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995.

SECTION 22. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by House March 14, 2007

Received by Governor:

Repassed by House June 7, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

.....
Governor

Passed by Senate June 4, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
President of Senate

.....
Secretary of State