

House Bill 3621

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to connection to federal tax law; creating new provisions; amending ORS 305.230, 305.494,
3 305.690, 307.130, 307.147, 308A.450, 310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012,
4 317.010, 317.097, 458.670 and 657.010; and prescribing an effective date.

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

6 **SECTION 1.** ORS 305.230 is amended to read:

7 305.230. (1) Notwithstanding ORS 9.320:

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

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

18 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
19 Code, as amended and in effect on December 31, [2006] **2007**, may represent the corporation in any
20 proceeding before a tax court magistrate or the department in the same manner as if the share-
21 holder were a partner and the S corporation were a partnership. The S corporation must designate
22 in writing a tax matters shareholder authorized to represent the S corporation.

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-
 2 fore the department in any conference or proceeding with respect to any tax. Rules adopted under
 3 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-
 4 tation before the Internal Revenue Service, as federal law is amended and in effect on December 31,
 5 [2006] **2007**.

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

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

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

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

20 **SECTION 2.** ORS 305.494 is amended to read:

21 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
 22 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2006] **2007**, may
 23 represent the corporation in any proceeding before the Oregon Tax Court in the same manner as
 24 if the shareholder were a partner and the S corporation were a partnership.

25 **SECTION 3.** ORS 305.690 is amended to read:

26 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

27 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the
 28 two calendar years immediately following the calendar year in which a list is certified under ORS
 29 305.715.

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

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

32 (4) "Eligibility roster" means a list, prepared under ORS 305.715 and maintained by the com-
 33 mission in chronological order based on the date of form listing or date of eligibility determination,
 34 whichever is later, of charitable and governmental entities seeking inclusion on the Oregon indi-
 35 vidual income tax return forms.

36 (5) "Form listed" or "form listing" means being listed on the Oregon individual income tax re-
 37 turn form.

38 (6) "Instruction listing" means being listed on the Department of Revenue instructions for tax
 39 return checkoff contribution.

40 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
 41 on December 31, [2006] **2007**.

42 **SECTION 4.** ORS 307.130 is amended to read:

43 307.130. (1) As used in this section:

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

45 (b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect

1 on December 31, [2006] **2007**.

2 (c) "Nonprofit corporation" means a corporation that:

3 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
4 65; or

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

6 (d) "Volunteer fire department" means a nonprofit corporation organized to provide fire pro-
7 tection services in a specific response area.

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

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

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

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

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

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

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

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

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

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

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

38 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit
39 corporation if:

40 (A) The retail store deals exclusively in donated inventory; and

41 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose
42 purpose is to:

43 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-
44 quisition and construction; and

45 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

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

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

5 **SECTION 5.** ORS 307.147 is amended to read:

6 307.147. (1) For purposes of this section:

7 (a) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
8 on December 31, [2006] 2007.

9 (b) "Nonprofit corporation" means a corporation that:

10 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
11 65; or

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

13 (c) "Senior services center" means property that:

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

15 (B) Is actually and exclusively used to provide services and activities (including parking) pri-
16 marily to or for persons over 50 years of age;

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

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

19 (E) Is not a residential or dwelling place.

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

22 **SECTION 6.** ORS 308A.450 is amended to read:

23 308A.450. As used in ORS 308A.450 to 308A.465:

24 (1) "Conservation easement" has the meaning given that term in ORS 271.715.

25 (2) "Holder" has the meaning given that term in ORS 271.715.

26 (3) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
27 on December 31, [2006] 2007.

28 (4) "Lot" has the meaning given that term in ORS 92.010.

29 (5) "Parcel" has the meaning given that term in ORS 92.010, as further modified by ORS 215.010.

30 **SECTION 7.** ORS 310.140 is amended to read:

31 310.140. The Legislative Assembly finds that section 11b, Article XI of the Oregon Constitution,
32 was drafted by citizens and placed before the voters of the State of Oregon by initiative petition.
33 Section 11b, Article XI of the Oregon Constitution, uses terms that do not have established legal
34 meanings and require definition by the Legislative Assembly. Section 11b, Article XI of the Oregon
35 Constitution, was amended by section 11 (11), Article XI of the Oregon Constitution. This section is
36 intended to interpret the terms of section 11b, Article XI of the Oregon Constitution, as originally
37 adopted and as amended by section 11 (11), Article XI of the Oregon Constitution, consistent with
38 the intent of the people in adopting these provisions, so that the provisions of section 11b, Article
39 XI of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with
40 minimal confusion and misunderstanding by citizens and affected units of government. As used in the
41 revenue and tax laws of this state, and for purposes of section 11b, Article XI of the Oregon Con-
42 stitution:

43 (1) "Actual cost" means all direct or indirect costs incurred by a government unit in order to
44 deliver goods or services or to undertake a capital construction project. The "actual cost" of pro-
45 viding goods or services to a property or property owner includes the average cost or an allocated

1 portion of the total amount of the actual cost of making a good or service available to the property
2 or property owner, whether stated as a minimum, fixed or variable amount. "Actual cost" includes,
3 but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition,
4 permits, engineering, financing, reasonable program delinquencies, return on investment, required
5 fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, re-
6 pair or replacement and debt service, including debt service payments or payments into reserve ac-
7 counts for debt service and payment of amounts necessary to meet debt service coverage
8 requirements.

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

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

15 (4) "Capital construction":

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

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

23 (B) Acquisition, installation of machinery or equipment, furnishings or materials that will be-
24 come an integral part of a structure.

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

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

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

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

36 (B) Does not include:

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

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

39 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-
40 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-
41 cause of damage or destruction of the structure.

42 (5) "Capital improvements":

43 (a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any
44 bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually
45 obligated to be spent before June 20, 1997, means land, structures, facilities, personal property that

1 is functionally related and subordinate to real property, machinery, equipment or furnishings having
 2 a useful life longer than one year.

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

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

9 (B) Does not include:

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

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

12 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-
 13 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-
 14 cause of damage or destruction of the structure.

15 (6) “Direct consequence of ownership” means that the obligation of the owner of property to pay
 16 a tax arises solely because that person is the owner of the property, and the obligation to pay the
 17 tax arises as an immediate and necessary result of that ownership without respect to any other in-
 18 tervening transaction, condition or event.

19 (7)(a) “Exempt bonded indebtedness” means:

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

21 (B) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-
 22 ments that was issued as a general obligation of the issuing governmental unit on or before No-
 23 vember 6, 1990;

24 (C) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-
 25 ments that was issued as a general obligation of the issuing governmental unit after November 6,
 26 1990, with the approval of the electors of the issuing governmental unit; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) Means activities, the type of which may be deducted as an expense under the provisions of
19 the federal Internal Revenue Code, as amended and in effect on December 31, [2006] **2007**, that keep
20 the property in ordinarily efficient operating condition and that do not add materially to the value
21 of the property nor appreciably prolong the life of the property;

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

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

28 (11) "Projected useful life" means the useful life, as reasonably estimated by the unit of gov-
29 ernment undertaking the capital construction or capital improvement project, beginning with the
30 date the property was acquired, constructed or reconstructed and based on the property's condition
31 at the time the property was acquired, constructed or reconstructed.

32 (12) "Routine obligations of ownership" means a standard of operation, maintenance, use or care
33 of property established by law, or if established by custom or common law, a standard that is rea-
34 sonable for the type of property affected.

35 (13) "Single assessment" means the complete assessment process, including preassessment, as-
36 sessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a
37 local ordinance or resolution that provides the procedure to be followed in making local assessments
38 for benefits from a local improvement upon lots that have been benefited by all or part of the im-
39 provement.

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

42 (15) "Specific request" means:

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

44 (b) An affirmative act by a property owner, the legal consequence of which is to cause the de-
45 livery of goods or services to the property owner; or

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

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

6 (17) "Supplies and equipment intrinsic to a structure" means the supplies and equipment that
 7 are necessary to permit a structure to perform the functions for which the structure was con-
 8 structed, or that will, upon installation, constitute fixtures considered to be part of the real property
 9 that is comprised, in whole or part, of the structure and land supporting the structure.

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

16 **SECTION 8.** ORS 310.630 is amended to read:

17 310.630. As used in ORS 310.630 to 310.706:

18 (1) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, in-
 19 cluding the right to use the personal property located therein. "Contract rent" does not include
 20 rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu
 21 of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the
 22 homestead. "Contract rent" does not include advanced rental payments for another period and rental
 23 deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit
 24 home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each
 25 other at arm's length, and the Department of Revenue is satisfied that the contract rent charged
 26 was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630
 27 to 310.706.

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

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

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

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

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

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

43 (8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
 44 as amended and in effect on December 31, [2006] 2007, even when the amendments take effect or
 45 become operative after that date, relating to the measurement of taxable income of individuals, es-

1 tates and trusts, with the following modifications:

2 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-
3 come:

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

5 (B) Child support received by the taxpayer.

6 (C) Inheritances.

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

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

10 (F) Life insurance proceeds.

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

12 (H) Personal injury damages.

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

14 (J) Strike benefits excluded from federal gross income.

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

16 (L) Military pay and benefits.

17 (M) Veteran's benefits.

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

20 (O) Welfare payments, except as follows:

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

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

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

26 (P) Nontaxable dividends.

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

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

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

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

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

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

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

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

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

40 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
41 ciation, amortization or depletion.

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

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

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

1 homestead of the taxpayer.

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

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

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

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

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

16 **SECTION 9.** ORS 310.800 is amended to read:

17 310.800. (1) As used in this section:

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

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

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

23 (d) "Tax-exempt entity" means an entity that is exempt from federal income taxes under section
24 501(c) of the Internal Revenue Code, as amended and in effect on December 31, [2006] 2007.

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

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

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

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

43 **SECTION 10.** ORS 311.689 is amended to read:

44 311.689. (1) Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if
45 the individual or, in the case of two or more individuals electing to defer property taxes jointly, all

1 of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal ad-
2 justed gross income that exceeds \$32,000 for the tax year that began in the previous calendar year,
3 then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be re-
4 duced by \$0.50 for each dollar of federal adjusted gross income in excess of \$32,000.

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

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

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

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

28 (6) As used in this section, "federal adjusted gross income" means federal adjusted gross income
29 of the individual or, in the case of two or more individuals electing to defer property tax jointly, the
30 combined federal adjusted gross income of the individuals, or the federal adjusted gross income of
31 the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning
32 in the calendar year prior to which a determination is required under subsection (2) of this section.
33 "Federal adjusted gross income" shall be determined under the Internal Revenue Code, as amended
34 and in effect on December 31, [2006] **2007**, without any of the additions, subtractions or other mod-
35 ifications or adjustments required under ORS chapter 314 or 316.

36 (7)(a) If, after an initial determination under this section has been made by the department, upon
37 audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted
38 gross income in excess of the limitation provided under subsection (1) of this section, the department
39 shall determine the amount of taxes deferred that should not have been deferred and give notice to
40 the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions
41 of ORS chapters 305 and 314 shall apply to a determination of the department under this section in
42 the same manner as those provisions are applicable to an income tax deficiency. The amount of de-
43 ferred taxes that should not have been deferred shall bear interest from the date paid by the de-
44 partment until paid at the rate established under ORS 305.220 for deficiencies. A deficiency shall
45 not be assessed under this section if notice required under this section is not given to the taxpayer

1 or spouse within three years after the date that the department has paid the deferred taxes to the
2 county. Upon payment of the amount assessed as deficiency, and interest, the department shall ex-
3 ecute a release in the amount of the payment and the release shall be conclusive evidence of the
4 removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.

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

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

18 **SECTION 11.** ORS 314.011 is amended to read:

19 314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means
20 the Department of Revenue.

21 (2) As used in this chapter:

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

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

28 (A) On December 31, [2006] **2007**; or

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

30 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
31 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,
32 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described
33 in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal
34 Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue
35 Code as they are amended on or before December 31, [2006] **2007**, even when the amendments take
36 effect or become operative after that date, except where the Legislative Assembly has specifically
37 provided otherwise.

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

45 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-

1 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
2 then such rules or regulations shall be regarded as rules adopted by the department under and in
3 accordance with the provisions of this chapter, whenever they are prescribed or amended.

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

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

17 **SECTION 12.** ORS 315.004 is amended to read:

18 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS
19 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of
20 the personal and corporate income and excise tax credits contained in this chapter.

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

25 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the
26 United States or to the Internal Revenue Code means the laws of the United States relating to in-
27 come taxes or the Internal Revenue Code as they are amended on or before December 31, [2006]
28 **2007**, even when the amendments take effect or become operative after that date.

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

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

40 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
41 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
42 States Congress designated as an Act or Title making technical corrections, then notwithstanding
43 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
44 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
45 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title

1 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
2 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
3 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
4 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
5 manner provided under ORS 314.135.

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

8 **SECTION 13.** ORS 316.012 is amended to read:

9 316.012. Any term used in this chapter has the same meaning as when used in a comparable
10 context in the laws of the United States relating to federal income taxes, unless a different meaning
11 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
12 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
13 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
14 Code as they are amended and in effect:

15 (1) On December 31, [2006] **2007**; or

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

17 **SECTION 14.** ORS 317.010 is amended to read:

18 317.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

25 (4) "Doing business" means any transaction or transactions in the course of its activities con-
26 ducted within the state by a national banking association, or any other corporation; provided, how-
27 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
28 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
29 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
30 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
31 termined as provided in section 1504 of the Internal Revenue Code.

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

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

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

43 (a) On December 31, [2006] **2007**; or

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

45 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS

1 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
2 ORS 317.650 to 317.665.

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

5 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a
6 corporation for which no federal taxable income or loss is determined, as would be determined, un-
7 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
8 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
9 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
10 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
11 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a
12 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of
13 income from transactions or activities carried on both within and without the state) applies, to
14 derive taxable income or loss, the following shall occur:

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

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

20 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
21 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to
22 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to
23 314.645. The resulting figure is "taxable income or loss" for those corporations carrying on taxable
24 transactions or activities both within and without Oregon.

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

31 **SECTION 15.** ORS 317.097 is amended to read:

32 317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
33 be allowed to a lending institution in an amount equal to the difference between:

34 (a) The amount of finance charge charged by the lending institution during the taxable year at
35 an annual rate less than the market rate for a loan that is made before January 1, 2020, that com-
36 plies with the requirements of this section; and

37 (b) The amount of finance charge that would have been charged during the taxable year by the
38 lending institution for the loan for housing construction, development, acquisition or rehabilitation
39 measured at the annual rate charged by the lending institution for nonsubsidized loans made under
40 like terms and conditions at the time the loan for housing construction, development, acquisition or
41 rehabilitation is made.

42 (2) The maximum amount of credit for the difference between the amounts described in sub-
43 section (1)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
44 the loan during the tax year for which the credit is claimed.

45 (3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a

1 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 2 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 3 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 4 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
 5 credit not used in that third succeeding tax year may be carried forward and used in the fourth
 6 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 7 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 8 thereafter.

9 (4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
 10 shall be:

11 (a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied
 12 community rehabilitation program and are certified by the local government or its designated agent
 13 as having an income level at the time the loan is made of less than 80 percent of the area median
 14 income;

15 (b)(A) Made to a qualified borrower;

16 (B) Used to finance construction, development, acquisition or rehabilitation of housing; and

17 (C) Accompanied by a written certification by the Housing and Community Services Department
 18 that the:

19 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent
 20 of the area median income; and

21 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
 22 or will be passed on to the tenants in the form of reduced housing payments, regardless of other
 23 subsidies provided to the housing project;

24 (c)(A) Made to a qualified borrower;

25 (B) Used to finance construction, development, acquisition, or acquisition and rehabilitation of
 26 housing consisting of a manufactured dwelling park; and

27 (C) Accompanied by a written certification by the Housing and Community Services Department
 28 that the housing will continue to be operated as a manufactured dwelling park during the period for
 29 which the tax credit is allowed; or

30 (d)(A) Made to a qualified borrower;

31 (B) Used to finance acquisition, or acquisition and rehabilitation, of housing consisting of a
 32 preservation project; and

33 (C) Accompanied by a written certification by the Housing and Community Services Department
 34 that the housing preserved by the loan:

35 (i) Is or will be occupied by households earning less than 80 percent of the area median income;
 36 and

37 (ii) Has a rent assistance contract with the United States Department of Housing and Urban
 38 Development or the United States Department of Agriculture that will be maintained by the quali-
 39 fied borrower.

40 (5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this sec-
 41 tion shall be treated the same as a loan that meets the criteria stated in subsection (4) of this sec-
 42 tion.

43 (6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
 44 also shall be accompanied by a written certification by the Housing and Community Services De-
 45 partment that:

1 (a) Specifies the period, as determined by the Housing and Community Services Department,
 2 during which the loan is eligible for the tax credit under subsection (1) of this section; and

3 (b) States that the loan is within the limitation imposed by subsection (7) of this section.

4 (7)(a) The Housing and Community Services Department may certify loans that are eligible un-
 5 der subsection (4) of this section if the total credits attributable to all loans eligible for credits un-
 6 der subsection (1) of this section and then outstanding do not exceed \$13 million for any fiscal year.
 7 In making loan certifications, the Housing and Community Services Department shall attempt to
 8 distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state
 9 that are determined by the State Housing Council to have the greatest need for affordable housing.

10 (b) The certification under subsection (6) of this section shall state the period for which the
 11 credit will be allowed, which may not exceed 20 years.

12 (8) The applicant's receipt of a credit under section 42 of the Internal Revenue Code does not
 13 affect the credit allowed under this section.

14 (9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a
 15 qualified assignee with or without the lending institution's retaining servicing of the loan so long
 16 as a designated lending institution maintains records annually verified by a loan servicer that es-
 17 tablish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

18 (10) As used in this section:

19 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-
 20 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

21 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed
 22 by the lending institution, and other charges related to the cost of obtaining credit.

23 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,
 24 any mortgage banking company that maintains an office in this state or any community development
 25 corporation that is organized under the Oregon Nonprofit Corporation Law.

26 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

27 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section
 28 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, [2006]
 29 **2007**.

30 (f) "Preservation project" means housing that was previously developed as affordable housing
 31 with a contract for rent assistance from the United States Department of Housing and Urban De-
 32 velopment or the United States Department of Agriculture and that is being acquired by a spon-
 33 soring entity.

34 (g) "Qualified assignee" means any investor participating in the secondary market for real estate
 35 loans.

36 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling
 37 interest in the real property that is financed by the loan described in subsection (4) of this section.
 38 Such a controlling interest includes, but is not limited to, a controlling interest in the general
 39 partner of a limited partnership that owns the real property.

40 (i) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental
 41 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
 42 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
 43 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

44 (11) Notwithstanding any other provision of law, a lending institution that is a community de-
 45 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer any

1 part or all of any tax credit arising under subsection (1) of this section to one or more other lending
 2 institutions that are stockholders or members of the community development corporation or that
 3 otherwise participate through the community development corporation in the making of one or more
 4 loans that generate the tax credit under subsection (1) of this section.

5 (12) The lending institution shall file an annual statement with the Housing and Community
 6 Services Department, specifying that it has conformed with all requirements imposed by law to
 7 qualify for this tax credit.

8 (13) The Housing and Community Services Department and the Department of Revenue may
 9 adopt rules to carry out the provisions of this section.

10 **SECTION 16.** ORS 458.670 is amended to read:

11 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
 12 wise:

13 (1) "Account holder" means a resident of this state who:

- 14 (a) Is 12 years of age or older;
- 15 (b) Is a member of a lower income household; and
- 16 (c) Has established an individual development account with a fiduciary organization.

17 (2) "Fiduciary organization" means an organization selected under ORS 458.695 to administer
 18 state moneys directed to individual development accounts and that is:

19 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
 20 of the Internal Revenue Code as amended and in effect on December 31, [2006] **2007**; or

21 (b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the
 22 boundaries of this state.

23 (3) "Financial institution" means:

- 24 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or
- 25 (b) In the case of individual development accounts established for the purpose described in ORS
 26 458.685 (1)(c), a financial institution as defined in ORS 348.841.

27 (4) "Individual development account" means a contract between an account holder and a
 28 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
 29 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
 30 the account holder to accumulate assets for use toward achieving a specific purpose approved by
 31 the fiduciary organization.

32 (5) "Lower income household" means a household having an income equal to or less than 80
 33 percent of the median household income for the area as determined by the Housing and Community
 34 Services Department. In making the determination, the department shall give consideration to any
 35 data on area household income published by the United States Department of Housing and Urban
 36 Development.

37 (6) "Resident of this state" has the meaning given that term in ORS 316.027.

38 **SECTION 17.** ORS 657.010 is amended to read:

39 657.010. As used in this chapter, unless the context requires otherwise:

40 (1) "Base year" means the first four of the last five completed calendar quarters preceding the
 41 benefit year.

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

43 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with
 44 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
 45 utive weeks period beginning with the first week with respect to which the individual next files an

1 initial valid claim after the termination of the individual's last preceding benefit year except that
2 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
3 any quarter of the base year of a previously filed initial valid claim.

4 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
5 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
6 of the Employment Department may, by regulation, prescribe.

7 (5) "Contribution" or "contributions" means the taxes, as defined in subsection (13) of this sec-
8 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be
9 made to the Unemployment Compensation Trust Fund.

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

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

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

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

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

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

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

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

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

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

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

34 (d) Is a public or other nonprofit institution.

35 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
36 fect on December 31, [2006] **2007**.

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

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

45 (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund re-

1 quired, or voluntary payments permitted, by this chapter.

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

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

7 **SECTION 18.** (1) **Except as provided in subsections (2) and (3) of this section, the**
8 **amendments to statutes by sections 1 to 17 of this 2008 Act apply to transactions or activities**
9 **occurring on or after January 1, 2008, in tax years beginning on or after January 1, 2008.**

10 (2) **The effective and applicable dates, and the exceptions, special rules and coordination**
11 **with the Internal Revenue Code, as amended, relative to those dates, contained in the Energy**
12 **Independence and Security Act of 2007 (P.L. 110-140), the Mortgage Forgiveness Debt Relief**
13 **Act of 2007 (P.L. 110-142), the Tax Increase Prevention Act of 2007 (P.L. 110-166), the Tax**
14 **Technical Corrections Act of 2007 (P.L. 110-172) and other federal law amending the Internal**
15 **Revenue Code apply for Oregon personal income and corporate excise and income tax pur-**
16 **poses, to the extent they can be made applicable, in the same manner as they are applied**
17 **under the Internal Revenue Code and related federal law.**

18 (3)(a) **If a deficiency is assessed against any taxpayer for a tax year beginning before**
19 **January 1, 2008, and the deficiency or any portion thereof is attributable to any retroactive**
20 **treatment under the amendments to statutes by sections 1 to 17 of this 2008 Act, then any**
21 **interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to**
22 **the deficiency or portion thereof shall be canceled.**

23 (b) **If a refund is due any taxpayer for a tax year beginning before January 1, 2008, and**
24 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**
25 **ment under the amendments to statutes by sections 1 to 17 of this 2008 Act, then**
26 **notwithstanding ORS 305.270 or 314.415 or other law, the refund or portion thereof shall be**
27 **paid without interest.**

28 (c) **Any changes required because of the amendments to statutes by sections 1 to 17 of**
29 **this 2008 Act for a tax year beginning before January 1, 2008, shall be made by filing an**
30 **amended return within the time prescribed by law.**

31 (d) **If a taxpayer fails to file an amended return under paragraph (c) of this subsection,**
32 **the Department of Revenue shall make any changes under paragraph (c) of this subsection**
33 **on the return to which the changes relate within the period specified for issuing a notice of**
34 **deficiency or claiming a refund as otherwise provided by law with respect to that return, or**
35 **within one year after a return for a tax year beginning on or after January 1, 2008, and be-**
36 **fore January 1, 2009, is filed, whichever period expires later.**

37 **SECTION 19.** **This 2008 Act takes effect on the 91st day after the date on which the**
38 **special session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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