

House Bill 2065

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (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**.

Makes technical changes in Oregon tax statutes. Adjusts grammar and syntax. Repeals and deletes obsolete statutes and provisions. Conforms language and structure to existing statutes.

A BILL FOR AN ACT

1
2 Relating to correction of erroneous material in Oregon tax law; amending ORS 63.810, 118.290,
3 118.830, 118.870, 285C.250, 305.288, 305.620, 305.720, 309.100, 312.122, 312.125, 314.015, 314.041,
4 314.752, 314.775, 315.208, 316.168, 316.287, 316.871, 317.097, 318.031, 318.106, 318.130, 323.005,
5 323.110, 323.385 and 344.755 and section 15, chapter 625, Oregon Laws 2007, and section 10,
6 chapter 883, Oregon Laws 2007; and repealing ORS 315.254, 316.074, 316.834 and 317.383.

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

7 **SECTION 1.** ORS 63.810 is amended to read:

8
9 63.810. For purposes of ORS [*chapters 305 to 324*] **320.005 to 320.150 and ORS chapters 305,**
10 **306, 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, 317, 318, 319, 321, 323 and 324,** a limited li-
11 ability company formed under this chapter or qualified to do business in this state as a foreign
12 limited liability company shall be classified in the same manner as it is classified for federal income
13 tax purposes. For purposes of ORS [*chapters 305 to 324*] **320.005 to 320.150 and ORS chapters 305,**
14 **306, 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316, 317, 318, 319, 321, 323 and 324,** a member or
15 an assignee of a member of a limited liability company formed under this chapter or qualified to do
16 business in this state as a foreign limited liability company shall have the same status as the mem-
17 ber or assignee of a member has for federal income tax purposes.

18 **NOTE:** Eliminates misleading super-series reference.

19 **SECTION 2.** ORS 118.290 is amended to read:

20 118.290. (1) If any bequest or legacy is charged upon or payable out of any property, the heir
21 or devisee shall deduct [*such tax therefrom and pay such*] **from the property the tax imposed by**
22 **ORS 118.005 to 118.840 and pay the tax** to the administrator, executor or trustee, and the tax shall
23 remain a lien or charge on [*such*] **the** property until paid. The payment thereof shall be enforced
24 by the executor, administrator or trustee in the same manner that payment of the bequest or legacy
25 is enforced, or by the Department of Revenue in the same manner as income taxes are collected
26 under ORS chapter 314.

27 (2) If any bequest or legacy is given in money for a limited period, the administrator, executor
28 or trustee shall retain the tax upon the whole amount[; *but, if it is not*]. **If any bequest or legacy**
29 **is not given** in money, the administrator, executor or trustee shall make application to the court
30 having jurisdiction of an accounting by the administrator, executor or trustee to make an appor-
31 tionment, if the case requires, of the sum to be paid by such legatee or beneficiary, and for such

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 further order relative thereto as the case may require.

2 **NOTE:** Conforms grammar and punctuation to legislative style; clarifies reference in (1).

3 **SECTION 3.** ORS 118.830 is amended to read:

4 118.830. (1) The proof required by ORS 118.820 may be in the form of a certificate issued by the
5 official or body charged with the administration of the death tax laws of the domiciliary state *[but*
6 *if such proof]*.

7 **(2) If the proof** is not filed within the time limit set out in ORS 118.820, the clerk of the court
8 *[forthwith]* shall notify by mail the official or body of the domiciliary state charged with the admin-
9 istration of the death tax laws *[thereof]* with respect to *[such] the* estate[,] and shall state in *[such]*
10 **the** notice, as far as is known to the clerk[,]:

11 **(a)** The name, date of death and last domicile of *[such] the* decedent;

12 **(b)** The name and address of each executor or administrator;

13 **(c)** A summary of the values of the real estate, tangible personalty and intangible personalty,
14 wherever situated, belonging to *[such] the* decedent at the time of death; and

15 **(d)** The fact that *[such] the* executor or administrator has not filed *[theretofore]* the proof re-
16 quired in ORS 118.820.

17 **(3)** The clerk shall attach to *[such] the* notice:

18 **(a)** A plain copy of the will and codicils of *[such] the* decedent, if the decedent died testate[,];
19 or

20 **(b)** If the decedent died intestate, a list of heirs and next of kin of the decedent, so far as is
21 known to *[such] the* clerk.

22 **(4)** Within 60 days after the mailing of *[such] the* notice, the official or body charged with the
23 administration of the death tax laws of the domiciliary state may file with the court in this state a
24 petition for an accounting in *[such] the* estate. *[Such] The* official or body of the domiciliary state
25 shall be deemed a party interested for the purpose of petitioning the court for *[such] the* accounting.

26 **(5)** If *[such] the* petition is filed within the period of 60 days, the court shall order the
27 accounting[, *and upon the accounting being filed and approved]* **and, upon the filing and approval**
28 **of the accounting,** shall enter a judgment requiring the remission to the fiduciary appointed by the
29 domiciliary probate court of the balance of the intangible personalty after the payment of creditors
30 and expenses of administration in this state.

31 **NOTE:** Conforms structure to legislative style and updates word choice.

32 **SECTION 4.** ORS 118.870 is amended to read:

33 118.870. (1) When it appears by the written admission of the executor and the tax official of each
34 state involved in the dispute that an agreement contemplated in ORS 118.865 (1) cannot be reached
35 or, in all events, if one year has elapsed from the date of the election without such an agreement
36 having been reached, the domicile of the decedent at the time of death shall be determined solely
37 for death tax purposes as *[follows:] provided in this section.*

38 *[(1)]* **(2)** When this state and one other state only are involved in the dispute, the Director of
39 the Department of Revenue and the taxing official of the other state shall each appoint a member
40 of a board of arbitration and those members shall appoint the third member of the board. If this
41 state and more than one other state are involved, the taxing officials *[thereof] of the involved*
42 **states** shall agree upon the authorities charged with the duty of administering death tax laws in
43 three states not involved in the dispute and each of these authorities shall appoint one member of
44 the board of arbitration. The board shall select one of its members as chairperson.

45 *[(2) The board shall hold hearings at such places as it deems necessary, upon reasonable notice to*

1 *the executor, ancillary administrators, all interested persons and the taxing officials of the states in-*
 2 *volved, all of whom are entitled to be heard.]*

3 (3) The board may administer oaths, take testimony, subpoena witnesses and require their
 4 attendance[;], require the production of books, papers and documents and issue commissions to take
 5 testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena of the
 6 board may be punished by any court of record in the same manner as if the subpoena had been is-
 7 sued by [*such*] **the** court.

8 (4) Whenever practicable the board shall apply the rules of evidence then prevailing in the fed-
 9 eral courts under the federal rules of civil procedure.

10 **(5) The reasonable compensation and expenses of the members of the board and its em-**
 11 **ployees shall be agreed upon among the members, the taxing officials involved and the ex-**
 12 **ecutor. If such an agreement cannot be reached, the compensation and expenses shall be**
 13 **determined by the taxing officials and, if they cannot agree, by the appropriate probate court**
 14 **of the state determined to be the domicile of the decedent. The amount so determined shall**
 15 **be borne by the decedent's estate and shall be deemed an administration expense of the es-**
 16 **tate.**

17 **(6) The board shall hold hearings at places the board deems necessary, upon reasonable**
 18 **notice to the executor, ancillary administrators, all interested persons and the taxing offi-**
 19 **cial of the states involved, all of whom are entitled to be heard.**

20 [(5)] (7) The board, by the decision of its majority, shall determine the domicile of the decedent
 21 at the time of death. The decision of the board is final and conclusive and binds this state and all
 22 of its judicial and administrative officials on all questions concerning the domicile of the decedent
 23 for death tax purposes. If the board does not render a decision within one year from the time that
 24 it is fully constituted, all authority of the board shall cease and the bar to court proceedings set
 25 forth in ORS 118.860 shall no longer exist.

26 [(6)] (8) The decision of the board and the record of [*its*] **the board's** proceeding shall be filed
 27 with the authority [*having*] **that has** jurisdiction to assess death taxes in the state determined to
 28 be the domicile of the decedent and with the authorities [*which*] **that** would have had jurisdiction
 29 to assess death taxes in each of the other states involved if the decedent had been found to be
 30 domiciled [*therein*] **there.**

31 [(7) *The reasonable compensation and expenses of the members of the board and its employees shall*
 32 *be agreed upon among such members, the taxing officials involved, and the executor. If such an*
 33 *agreement cannot be reached, the compensation and expenses shall be determined by such taxing offi-*
 34 *cial and, if they cannot agree, by the appropriate probate court of the state determined to be the*
 35 *domicile of the decedent. Such amount so determined shall be borne by the decedent's estate and shall*
 36 *be deemed an administration expense thereof.*]

37 **NOTE:** Ameliorates lead-in read-in problems and updates punctuation and word choice.

38 **SECTION 5.** ORS 285C.250 is amended to read:

39 285C.250. (1) Within a reasonable period of time prior to the termination of enterprise zones
 40 under ORS 285C.245 (2), the Director of the Economic and Community Development Department
 41 shall competitively designate the same number of enterprise zones effective immediately after ter-
 42 mination of the previous enterprise zones. The determination by the director as to the areas desig-
 43 nated as enterprise zones shall be final.

44 (2) When an enterprise zone is terminated under ORS [285B.686 (4) to (6)] **285C.245 (4) to (6),**
 45 the director may competitively designate a new enterprise zone. The sponsor of the enterprise zone

1 terminated under ORS 285C.245 (4) or (5) is not eligible to apply for a new enterprise zone, except
 2 for a county government when the terminated zone was also jointly sponsored by one or more cities
 3 or ports.

4 (3) Sponsors of existing enterprise zones that are due to terminate may reapply for designation
 5 under subsection (1) of this section.

6 (4) Any city, county or port may apply to the director for designation of an enterprise zone in
 7 accordance with the criteria set forth in ORS 285C.065 and 285C.090. In addition, the Economic and
 8 Community Development Department by rule shall determine the minimum level of economic hard-
 9 ship in any area to be included within an enterprise zone, any other criteria necessary to evaluate
 10 the need for the enterprise zone and the potential for accomplishing the purposes of ORS 285C.050
 11 to 285C.250.

12 (5) All enterprise zones designated under this section shall terminate in accordance with ORS
 13 285C.245 (2).

14 (6) When the director designates enterprise zones under this section, there is no limit on the
 15 relative number of urban or rural enterprise zones designated.

16 (7) The director may determine when to accept applications for any enterprise zone that termi-
 17 nates under subsection (2) of this section or is not designated under subsection (1) of this section
 18 for lack of qualified applicants.

19 **NOTE:** Corrects faulty reference in (2).

20 **SECTION 6.** ORS 305.288 is amended to read:

21 305.288. (1) The tax court shall order a change or correction applicable to a separate assessment
 22 of property to the assessment and tax roll for the current tax year or for either of the two tax years
 23 immediately preceding the current tax year, or for any or all of those tax years, if all of the fol-
 24 lowing conditions exist:

25 (a) For the tax year to which the change or correction is applicable, the property was or is used
 26 primarily as a dwelling (or is vacant) and was and is a single-family dwelling, a multifamily dwelling
 27 of not more than four units, a condominium unit, a manufactured structure or a floating home.

28 (b) The change or correction requested is a change in value for the property for the tax year
 29 and it is asserted in the request and determined by the tax court that the difference between the
 30 real market value of the property for the tax year and the real market value on the assessment and
 31 tax roll for the tax year is equal to or greater than 20 percent.

32 (2) If the tax court finds that the conditions needed to order a change or correction under sub-
 33 section (1) of this section exist, the court may order a change or correction in the maximum assessed
 34 value of the property in addition to the change or correction in the real market value of the prop-
 35 erty.

36 (3) The tax court may order a change or correction applicable to a separate assessment of
 37 property to the assessment or tax roll for the current tax year and for either of the two tax years
 38 immediately preceding the current tax year if, for the year to which the change or correction is
 39 applicable, the assessor or taxpayer has no statutory right of appeal remaining and the tax court
 40 determines that good and sufficient cause exists for the failure by the assessor or taxpayer to pursue
 41 the statutory right of appeal.

42 (4) Before ordering a change or correction to the assessment or tax roll under subsection (3)
 43 of this section, the tax court may determine whether any of the conditions exist in a particular case.
 44 If the tax court determines that one of the conditions specified does exist, the tax court shall hold
 45 a hearing to determine whether to order a change or correction to the roll.

1 (5) For purposes of this section:

2 (a) “Current tax year” has the meaning given the term under ORS 306.115.

3 (b) “Good and sufficient cause”:

4 (A) Means an extraordinary circumstance that is beyond the control of the taxpayer, or the
5 taxpayer’s agent or representative, and that causes the taxpayer, agent or representative to fail to
6 pursue the statutory right of appeal; and

7 (B) Does not include inadvertence, oversight, lack of knowledge, hardship or reliance on mis-
8 leading information provided by any person except an authorized tax official providing the relevant
9 misleading information.

10 (6) The remedy provided under this section is in addition to all other remedies provided by law.

11 (7) As used in subsections (1) to (6) of this section, “manufactured structure” has the meaning
12 given that term in ORS 446.561.

13 **NOTE:** Provides proper punctuation in (3).

14 **SECTION 7.** ORS 305.620 is amended to read:

15 305.620. (1) Any state agency or department may enter into agreements with any political sub-
16 division of this state for the collection, enforcement, administration and distribution of local taxes
17 of the political subdivision imposed upon or measured by gross or net income, wages or net earnings
18 from self-employment or local general sales and use taxes.

19 (2) The department or agency shall prescribe the rules by which the agreements entered into
20 under subsection (1) of this section are administered.

21 (3) The department or agency shall prescribe the rules by which the taxes described by sub-
22 section (1) of this section are administered, collected, enforced and distributed.

23 (4) A political subdivision may appear as an intervenor at any conference held by the Depart-
24 ment of Revenue or conference, hearing or proceeding held by another department or agency in
25 connection with a local tax administered by the department or agency. The political subdivision may
26 be represented by its own counsel. The department or agency shall adopt rules governing the pro-
27 cedures to be followed by the political subdivision in making an appearance.

28 (5) Costs incurred by the department or agency in the administration, enforcement, collection
29 and distribution of taxes under the agreements entered into under subsection (1) of this section shall
30 be first deducted from the taxes collected before distribution is made to the political subdivision
31 which is a party to the agreement.

32 (6) The Oregon Tax Court shall have exclusive jurisdiction to review determinations of the De-
33 partment of Revenue or orders of another department or agency relating to the collection, enforce-
34 ment, administration and distribution of local taxes under agreements entered into under subsection
35 (1) of this section.

36 (7) A proceeding for refund or to set aside additional taxes or taxes assessed when no return
37 was filed may be initiated before the state agency or department.

38 (8) An appeal from a determination or an order may be taken by the taxpayer or by the political
39 subdivision whose taxes are in issue, by filing a complaint with the clerk of the Oregon Tax Court
40 at its principal office [*at the state capital,*] in Salem, Oregon, within 60 days after the notice of the
41 determination of the Department of Revenue or the order of the department or agency is sent to the
42 taxpayer or the political subdivision. The filing of the complaint in the Oregon Tax Court shall
43 constitute perfection of the appeal. Service of the taxpayer’s complaint shall be accomplished by the
44 clerk of the tax court by filing a copy of the complaint with the administrative head of the depart-
45 ment or agency and a copy with the political subdivision. Service of the political subdivision’s

1 complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with
 2 the administrative head of the department or agency and mailing a copy of the complaint to the
 3 taxpayer. The complaint of a taxpayer shall be entitled in the name of the person filing as plaintiff
 4 and the department or agency as defendant. The complaint of a political subdivision shall be entitled
 5 in the name of the political subdivision as plaintiff and the taxpayer and the department or agency
 6 as defendants. A copy of the order of the department or agency shall be attached to the complaint.
 7 All procedures shall be in accordance with ORS 305.405 to 305.494.

8 **NOTE:** Purges extra words in (8).

9 **SECTION 8.** ORS 305.720 is amended to read:

10 305.720. Subject to ORS 305.710, 305.723 and 305.745, an entity qualifies for listing on the eligi-
 11 bility roster for form listing to receive contributions by means of checkoff if:

12 (1) The entity supports private charitable causes or engages in public activities that are con-
 13 sistent with policies and programs of the state and:

14 (a) Checkoff resources are used to augment existing programs or provide new funding to related
 15 activities of proven value[.];

16 (b) Checkoff funds are not to be used to meet the administrative expenses of the entity;

17 [(b)] (c) Programs funded by checkoff resources [must] result in substantial and direct benefits
 18 to the human and natural resources of the state that the Oregon Charitable Checkoff Commission
 19 determines are unlikely to occur under existing public and private programs; and

20 [(c)] (d) After checkoff resources are received by the entity, the entity shows a pattern over
 21 several years of increasing its total revenues from other than checkoff sources or reaches the level
 22 where no more than 50 percent of its revenues are from checkoff sources.

23 (2) The entity is qualified to receive contributions that are tax deductible under the following:

24 (a) Section 170 of the Internal Revenue Code (relating to contributions and gifts to charitable
 25 and governmental entities).

26 (b) Section 501(k) of the Internal Revenue Code (relating to contributions to certain organiza-
 27 tions providing child care).

28 (c) Section 7871 of the Internal Revenue Code (relating to contributions to Indian tribal gov-
 29 ernments).

30 (d) Any other federal law allowing a deduction from federal individual income tax for charitable
 31 contributions to an entity classified by rule of the Department of Revenue as being an entity be-
 32 longing to the general class described in paragraphs (a) to (c) of this subsection.

33 (3) The entity makes application for listing within the time and in the manner prescribed by ORS
 34 305.725.

35 (4) The entity files a financial report, and other information, with the commission as described
 36 under ORS 305.730.

37 (5) The entity received \$25,000 or more in checkoff contributions in at least one of the two tax
 38 years immediately preceding the tax year for which it is to be listed on the Oregon income tax re-
 39 turn. This subsection does not apply if the entity has not been included on the Oregon personal in-
 40 come tax return for each of the two tax years immediately preceding the tax year for which
 41 determination for purposes of this subsection is being made.

42 **NOTE:** Abolishes abnormal punctuation in (1).

43 **SECTION 9.** ORS 309.100 is amended to read:

44 309.100. (1) The owner or an owner of any taxable property or any person who holds an interest
 45 in the property that obligates the person to pay taxes imposed on the property, may petition the

1 board of property tax appeals for relief as authorized under ORS 309.026. As used in this subsection,
 2 an interest that obligates the person to pay taxes includes a contract, lease or other intervening
 3 instrumentality.

4 (2) Petitions filed under this section shall be filed with the clerk of the board during the period
 5 following the date the tax statements are mailed for the current tax year and ending December 31.

6 (3) Each petition shall:

7 (a) Be made in writing.

8 (b) State the facts and the grounds upon which the petition is made.

9 (c) Be signed and verified by the oath of a person described in subsection (1) or (4) of this sec-
 10 tion.

11 (d) State the address to which notice of the action of the board shall be sent. The notice may
 12 be sent to a person described in subsection (1) or (4) of this section.

13 (e) State if the petitioner or a representative desires to appear at a hearing before the board.

14 (4)(a) The following persons may sign a petition and appear before the board on behalf of a
 15 person described in subsection (1) of this section:

16 (A) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the
 17 property.

18 (B) A person duly qualified to practice law or public accountancy in this state.

19 (C) A legal guardian or conservator who is acting on behalf of an owner of the property.

20 (D) A real estate broker or principal real estate broker licensed under ORS 696.022.

21 (E) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered
 22 appraiser under ORS 308.010.

23 (F) The lessee of the property.

24 (G) An attorney-in-fact under a general power of attorney executed by a principal who is an
 25 owner of the property.

26 (b) A petition signed by a person described in this subsection, other than a legal guardian or
 27 conservator of a property owner, an attorney-in-fact described in paragraph (a)(G) of this subsection
 28 or a person duly qualified to practice law in this state, shall include written [*and signed*] authori-
 29 zation [*from*] **for the person to act on behalf of** the owner or other person described in subsection
 30 (1) of this section [*for the person to act on their behalf*]. **The authorization shall be signed by the**
 31 **owner or other person described in subsection (1) of this section.**

32 (c) In the case of a petition signed by a legal guardian or conservator, the board may request
 33 the guardian or conservator to authenticate the guardianship or conservatorship.

34 (d) In the case of a petition signed by an attorney-in-fact described in paragraph (a)(G) of this
 35 subsection, the petition shall be accompanied by a copy of the general power of attorney.

36 (5) If the petitioner has requested a hearing before the board, the board shall give such
 37 petitioner at least five days' written notice of the time and place to appear. If the board denies any
 38 petition upon the grounds that it does not meet the requirements of subsection (3) of this section,
 39 it shall issue a written order rejecting the petition and set forth in the order the reasons the board
 40 considered the petition to be defective.

41 (6) Notwithstanding ORS 9.160 or 9.320, the owner or other person described in subsection (1)
 42 of this section may appear and represent himself or herself at the hearing before the board, or may
 43 be represented at the hearing by any authorized person described in subsection (4) of this section.

44 **NOTE:** Reconciles pronoun with antecedent in (4)(b).

45 **SECTION 10.** ORS 312.122 is amended to read:

1 312.122. (1) A county may by ordinance provide the means to require the tax collector of the
 2 county to deed to the county pursuant to ORS 312.200 any real property sold to the county under
 3 ORS 312.100 after the expiration of the 30-day period provided in subsection (2) of this section if:

4 (a) The property is subjected to waste [*which*] **that** results in a forfeiture to the county of the
 5 right to possession of the property under ORS 312.180; or

6 (b) The property is not occupied by the owner or any person or entity that appears in the re-
 7 cords of the county to have a lien or other interest in the property for a period of six consecutive
 8 months, and the property has suffered a substantial depreciation in value or will suffer a substantial
 9 depreciation in value if not occupied.

10 (2)(a) Upon determining that real property sold to the county under ORS 312.100 may be subject
 11 to waste or abandonment as provided in subsection (1) of this section, the county shall set a date,
 12 time and place within the county for a hearing for the purpose of determining whether the property
 13 should be deeded to the county pursuant to subsection (1) of this section.

14 (b) The owner and any person or entity that appears in the records of the county to have a lien
 15 or other interest in the property shall be given an opportunity to be heard at the hearing provided
 16 in paragraph (a) of this subsection.

17 (c) If the county determines after the hearing provided in paragraph (a) of this subsection that
 18 the property is subject to waste or abandonment as provided in subsection (1) of this section, the
 19 county governing body shall provide that any rights of possession the owner may have in the prop-
 20 erty are forfeited and direct the property be deeded to the county by the tax collector of the county
 21 after expiration of a period of 30 days from the date of the action of the county governing body
 22 determining property subject to forfeiture unless it is sooner redeemed by the owner or any person
 23 or entity that then appears in the records of the county to have a lien or other interest in the
 24 property. All rights of redemption with respect to the real property described in that deed shall
 25 terminate on the execution of the deed to the county.

26 (d) The county shall, in its ordinance, provide for procedures for the hearing required under this
 27 subsection that are compatible with the requirements of due process of law.

28 (3) Not less than 30 days prior to the hearing provided in subsection (2) of this section, the
 29 county shall notify the owner and any person or entity that then appears in the records of the
 30 county to have a lien or other interest in the property of the hearing. The notice shall contain:

31 (a) The date, time and place of the hearing provided for in subsection (2) of this section;

32 (b) The date of the judgment;

33 (c) The normal date of expiration of the period of redemption under ORS 312.120;

34 (d) **A** warning to the effect that if the county determines that the property is subject to waste
 35 or abandonment as provided in subsection (1) of this section, the property will be deeded to the
 36 county immediately after the expiration of 30 days from the date of the county governing body
 37 action so determining and that every right or interest of any person in the property will be forfeited
 38 forever to the county unless the property is redeemed within that 30-day period;

39 (e) A legal description of the property and a tax account number; and

40 (f) The name of the owner as it appears on the latest tax roll.

41 (4) The notice required to be given under subsection (3) of this section shall be given by both
 42 certified mail and by regular first class mail.

43 (5)(a) If the notice required under subsection (3) of this section is to be given to an owner, the
 44 notice shall be addressed to the owner or owners, as reflected in the county records of deeds, at the
 45 true and correct address of the owner as appearing on the instrument of conveyance under ORS

1 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collector of the
 2 county pursuant to ORS 311.560.

3 (b) If the person or entity to whom the notice is required under subsection (3) of this section to
 4 be given is a lienholder, or person or entity other than the owner, having or appearing to have a
 5 lien or other interest in the property, the notice shall be addressed to the lienholder, person or en-
 6 tity at the address [*which*] **that** the county knows or after reasonable inquiry[,] has reason to believe
 7 to be the address at which the lienholder, person or entity will most likely receive actual notice.

8 (6) For purposes of subsection (5)(b) of this section, if the lienholder is a corporation or a limited
 9 partnership, the county shall be considered to have made reasonable inquiry if the notice is mailed
 10 to the registered agent or last registered office of the corporation or limited partnership, if any, as
 11 shown by the records on file in the office of the Corporation Commissioner, or if the corporation
 12 or limited partnership is not authorized to transact business in this state, to the principal office or
 13 place of business of the corporation or limited partnership.

14 (7) As used in this section, “records of the county” has that meaning given in ORS 312.125 (7).

15 **NOTE:** Repairs relative pronouns in (1)(a) and (5)(b); furnishes forgotten article in (3)(d); cor-
 16 rects comma usage in (5)(b).

17 **SECTION 11.** ORS 312.125 is amended to read:

18 312.125. (1) Not less than one year prior to the expiration of the period of redemption of any real
 19 property ordered sold to the county under a judgment under ORS 312.100, the tax collector shall
 20 provide notice of the expiration of the period of redemption to any person or entity entitled to re-
 21 deem the property under ORS 312.120 (2) whose interest appears in the records of the county as of
 22 the date foreclosure proceedings were instituted. Any person or entity whose interest has terminated
 23 by any means other than a judgment of foreclosure under ORS 312.120 shall not be entitled to such
 24 notice.

25 (2) The notice shall contain:

26 (a) The date of the judgment;

27 (b) The date of expiration of the period of redemption;

28 (c) **A** warning to the effect that the property ordered sold under the judgment, unless sooner
 29 redeemed, will be deeded to the county immediately on expiration of the period of redemption and
 30 that every right or interest of any person in the property will be forfeited forever to the county;

31 (d) A legal description of the property and a tax account number; and

32 (e) The name of the owner as it appears on the latest tax roll.

33 (3) The notice required to be given under subsections (1) and (2) of this section shall be given
 34 by both certified mail and by regular first class mail and subsections (4) and (5) of this section shall
 35 apply to both mailings.

36 (4)(a) If the notice required under subsections (1) and (2) of this section is to be given to an
 37 owner, the notice shall be addressed to the owner or owners, as reflected in the county records of
 38 deeds, at the true and correct address of the owner as appearing on the instrument of conveyance
 39 under ORS 93.260 or as furnished under ORS 311.555 or as otherwise ascertained by the tax collec-
 40 tor pursuant to ORS 311.560.

41 (b) If the person or entity to whom the notice is required under subsection (1) of this section to
 42 be given is a lienholder, or person or entity other than the owner, having or appearing to have a
 43 lien or other interest in the property, the notice shall be addressed to the lienholder, person or en-
 44 tity at the address [*which*] **that** the tax collector knows or after reasonable inquiry[,] has reason to
 45 believe to be the address at which the lienholder, person or entity will most likely receive actual

1 notice. For the convenience of the county, any lien, instrument or other document, memorandum or
 2 writing, filed on or after September 27, 1987, that creates an interest with respect to which notice
 3 is required to be given under this paragraph, shall contain:

4 (A) The address of the person or entity holding lien or other interest created by the instrument
 5 or other document, memorandum or writing; and

6 (B) The tax account number, if any, and if known, of the property subject to the lien or in which
 7 the interest is created.

8 (5) Failure of a lien, instrument or other document, memorandum or other writing to contain the
 9 address and tax account number information required under subsection (4)(b) of this section does
 10 not invalidate the lien, instrument or other document, memorandum or writing, nor shall the failure
 11 of the writing to contain the information relieve the tax collector of the duty to obtain and mail the
 12 notice required under subsection (4)(b) of this section to the address that the tax collector believes
 13 to be the address at which the lienholder, person or entity is most likely to receive actual notice.

14 (6) For purposes of subsection (4)(b) of this section, if the lienholder is a corporation or a limited
 15 partnership, the tax collector shall be considered to have made reasonable inquiry if the notice is
 16 mailed to the registered agent or last registered office of the corporation or limited partnership, if
 17 any, as shown by the records on file in the office of the Corporation Commissioner, or if the cor-
 18 poration or limited partnership is not authorized to transact business in this state, to the principal
 19 office or place of business of the corporation or limited partnership.

20 (7)(a) As used in this section, “records of the county” means the following:

21 (A) The grantor-grantee indexes.

22 (B) Other records of deeds, mortgages, powers of attorney, contracts and other instruments,
 23 documents or memorandum of conveyance or otherwise of real property that are described in ORS
 24 205.130 (1) and (2).

25 (C) The County Clerk Lien Record described in ORS 205.130 (3).

26 (D) Records of federal tax liens and other liens, instruments or other documents or writings
 27 reflecting an interest in real property described in ORS 205.246, if those records are kept separately
 28 from the records described in paragraph (b) of this subsection.

29 (E) Records of statutory liens on real property described in ORS 87.372.

30 (F) Any other records of interests in real property required to be kept by the county clerk, if
 31 the records contain a legal description of the property and an address specifically designated as
 32 indicated on the instrument, document or other memorandum or writing for purposes of mailing the
 33 notice required by this section.

34 (b) For purposes of this section only, “records of the county” includes:

35 (A) The appropriate records of the courts described in ORS 7.010 in the custody of the clerk of
 36 the appropriate court or court administrator under ORS 7.110; and

37 (B) Probate records in the custody of the clerk of the appropriate court or court administrator
 38 under ORS 7.230 and 7.240. Notwithstanding any provision to the contrary in ORS chapter 7 or other
 39 law, the clerk of the appropriate court or the court administrator shall make available to and assist
 40 the tax collector in the examination of the records described in this paragraph for purposes of car-
 41 rying out the obligations of the tax collector under this section without charge.

42 **NOTE:** Furnishes forgotten article in (2)(c); repairs relative pronoun and corrects comma usage
 43 in (4)(b).

44 **SECTION 12.** ORS 314.015 is amended to read:

45 314.015. Notwithstanding ORS [314.013] **670.600**, for purposes of ORS chapter 316, a person

1 serving as a referee or assistant referee in a youth or adult recreational soccer match shall be
2 considered to be an independent contractor.

3 **NOTE:** Replaces reference to repealed section.

4 **SECTION 13.** ORS 314.041 is amended to read:

5 314.041. (1) Except as provided in subsection (2) of this section, [*ORS 314.304 and*] sections 7,
6 7a, 28, 38 and 40, chapter 556, Oregon Laws 1995, **and** the new material enacted and amendments
7 and repeals made by chapter 556, Oregon Laws 1995, apply to transactions or activities occurring
8 on or after January 1, 1995, in tax years beginning on or after January 1, 1995.

9 (2) The effective and applicable dates, and the exceptions, special rules and coordination with
10 the Internal Revenue Code, as amended, relative to those dates, contained in the Revenue Recon-
11 ciliation Act of 1993 (P.L. 103-66), the Uruguay Round Agreements Act (P.L. 103-465) or P.L. 104-7
12 shall apply for Oregon personal income and corporate excise and income tax purposes, to the extent
13 they can be made applicable, in the same manner as they are applied under the federal Internal
14 Revenue Code and related federal law.

15 (3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before January
16 1, 1995, and the deficiency, or any portion thereof, is attributable to any retroactive treatment under
17 chapter 556, Oregon Laws 1995, then any interest or penalty assessed under ORS chapter 305, 314,
18 315, 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.

19 (b) If a refund is due any taxpayer for a tax year beginning before January 1, 1995, and the re-
20 fund or any portion thereof is due the taxpayer on account of any retroactive treatment under
21 chapter 556, Oregon Laws 1995, then notwithstanding ORS 314.415 or other law, the refund or por-
22 tion thereof shall be paid without interest.

23 (c) Any changes required on account of chapter 556, Oregon Laws 1995, for a tax year beginning
24 before January 1, 1995, shall be made by filing an amended return within the time prescribed by law.

25 (d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection, the De-
26 partment of Revenue shall make any changes under paragraph (c) of this subsection on the return
27 to which the change or changes relate within the period specified for issuing a notice of deficiency
28 or claiming a refund as otherwise provided by law with respect to that return, or within one year
29 after a 1995 return is filed, whichever period expires later.

30 **NOTE:** Removes reference to repealed section and provides missing conjunction in (1).

31 **SECTION 14.** ORS 314.752 is amended to read:

32 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
33 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
34 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
35 allowable to the shareholders of the S corporation.

36 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
37 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
38 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
39 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
40 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
41 manner prescribed under section 1377(a) of the Internal Revenue Code.

42 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
43 of this section shall be determined as if such item were realized directly from the source from which
44 realized by the corporation, or incurred in the same manner as incurred by the corporation.

45 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax

1 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
2 316.117, then that provision shall apply to the nonresident shareholder.

3 (5) As used in this section, “business tax credit” means a tax credit granted to personal income
4 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
5 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
6 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
7 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
8 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS
9 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-pass devices, fishways), ORS
10 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care
11 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), [ORS
12 315.254 (*youth apprenticeship sponsorship*),] ORS 315.304 (pollution control facility), ORS 315.324
13 (plastics recycling), ORS 315.354 and ORS 469.207 (energy conservation facilities), ORS 315.507
14 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone
15 marrow transplant expenses), ORS 317.115 (fueling stations necessary to operate an alternative fuel
16 vehicle) and ORS 315.141 (biomass production for biofuel).

17 **NOTE:** Deletes reference to repealed section in (5); see section 19 (repealing 315.254).

18 **SECTION 15.** ORS 314.752, as amended by section 13, chapter 625, Oregon Laws 2007, is
19 amended to read:

20 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
21 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
22 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
23 allowable to the shareholders of the S corporation.

24 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
25 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s
26 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
27 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
28 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
29 manner prescribed under section 1377(a) of the Internal Revenue Code.

30 (3) The character of any item included in a shareholder’s pro rata share under subsection (2)
31 of this section shall be determined as if such item were realized directly from the source from which
32 realized by the corporation, or incurred in the same manner as incurred by the corporation.

33 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
34 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
35 316.117, then that provision shall apply to the nonresident shareholder.

36 (5) As used in this section, “business tax credit” means a tax credit granted to personal income
37 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
38 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
39 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
40 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
41 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS
42 315.134 (fish habitat improvement), **ORS 315.138 (fish screening, by-pass devices, fishways)**, ORS
43 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care
44 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), [ORS
45 315.254 (*youth apprenticeship sponsorship*),] ORS 315.304 (pollution control facility), ORS 315.324

1 (plastics recycling), ORS 315.354 and ORS 469.207 (energy conservation facilities), ORS 315.507
 2 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone
 3 marrow transplant expenses), ORS 317.115 (fueling stations necessary to operate an alternative fuel
 4 vehicle) and ORS 315.141 (biomass production for biofuel).

5 **NOTE:** Deletes reference to repealed section in (5); see section 19 (repealing 315.254). Restores
 6 unnecessarily omitted language in (5).

7 **SECTION 16.** ORS 314.752, as amended by section 13, chapter 625, Oregon Laws 2007, and
 8 section 3, chapter 883, Oregon Laws 2007, is amended to read:

9 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 10 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 11 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 12 allowable to the shareholders of the S corporation.

13 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 14 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 15 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 16 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 17 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 18 manner prescribed under section 1377(a) of the Internal Revenue Code.

19 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 20 of this section shall be determined as if such item were realized directly from the source from which
 21 realized by the corporation, or incurred in the same manner as incurred by the corporation.

22 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 23 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 24 316.117, then that provision shall apply to the nonresident shareholder.

25 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 26 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 27 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 28 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 29 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 30 (tribal taxes on reservation enterprise zones), **ORS 315.104 (forestation and reforestation)**, ORS
 31 315.134 (fish habitat improvement), **ORS 315.138 (fish screening, by-pass devices, fishways)**, ORS
 32 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care
 33 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), [ORS
 34 315.254 (*youth apprenticeship sponsorship*),] ORS 315.304 (pollution control facility), ORS 315.324
 35 (plastics recycling), ORS 315.354 and ORS 469.207 (energy conservation facilities), ORS 315.507
 36 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone
 37 marrow transplant expenses), ORS 317.115 (fueling stations necessary to operate an alternative fuel
 38 vehicle) and ORS 315.141 (biomass production for biofuel).

39 **NOTE:** Deletes reference to repealed section in (5); see section 19 (repealing 315.254). Restores
 40 unnecessarily omitted language in (5).

41 **SECTION 17.** ORS 314.775 is amended to read:

42 314.775. As used in ORS 314.775 to 314.784:

43 (1) "Distributive income" means the net amount of income, gain, deduction or loss of a pass-
 44 through entity for the tax year of the entity.

45 (2) "Lower-tier pass-through entity" means a pass-through entity, an ownership interest of which

1 is held by another pass-through entity.

2 (3) "Nonresident" means:

3 (a) An individual who is not a resident of this state;

4 (b) A corporation, partnership or other business entity that has a commercial domicile, as de-
5 fined in ORS 314.610, that is outside this state; or

6 (c) A trust that is not a resident trust or qualified funeral trust under ORS 316.282.

7 (4) "Owner" means a person that owns an interest in a pass-through entity.

8 (5) "Pass-through entity" means any entity that is recognized as a separate entity for federal
9 income tax purposes, for which the owners are required to report income, gains, losses, deductions
10 or credits from the entity for federal income tax purposes. "Pass-through entity" does not include
11 any trust[, *as defined in ORS 128.005,*] except a form of trust that the Department of Revenue has
12 determined by rule to have been established or maintained primarily for tax avoidance purposes.

13 (6) "Upper-tier pass-through entity" means a pass-through entity that owns an interest in an-
14 other pass-through entity.

15 **NOTE:** Eliminates citation to repealed section in (5).

16 **SECTION 18.** ORS 315.208 is amended to read:

17 315.208. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer
18 is a corporation that is an employer, under ORS chapter 317 or 318) is allowed to an employer, based
19 upon costs actually paid or incurred by the employer, to acquire, construct, reconstruct, renovate
20 or otherwise improve real property so that the property may be used primarily as a dependent care
21 facility.

22 (2) The credit allowed under this section shall be the lesser of:

23 (a) \$2,500[,] multiplied by the number of full-time equivalent employees employed by the em-
24 ployer (on the property or within such proximity to the property that any dependents of the em-
25 ployees may be cared for in the facility) on any date within the two years immediately preceding
26 the end of the first tax year for which credit is first claimed; [or]

27 (b) Fifty percent of the cost of the acquisition, construction, reconstruction, renovation or other
28 improvement; or

29 (c) \$100,000.

30 (3) To qualify for the credit allowed under subsection (1) of this section:

31 (a) The amounts paid or incurred by the employer for the acquisition, construction, recon-
32 struction, renovation or other improvement to real property may be paid or incurred either:

33 (A) To another to be used to acquire, construct, reconstruct, renovate or otherwise improve real
34 property to the end that it may be used as a dependent care facility with which the employer con-
35 tracts to make dependent care assistance payments which payments are wholly or partially entitled
36 to exclusion from income of the employee for federal tax purposes under section 129 of the Internal
37 Revenue Code; or

38 (B) To acquire, construct, reconstruct, renovate or otherwise improve real property to the end
39 that it may be operated by the employer, or a combination of employers, to provide dependent care
40 assistance to the employees of the employer under a program or programs under which the assist-
41 ance is, under section 129 of the Internal Revenue Code, wholly or partially excluded from the in-
42 come of the employee.

43 (b) The property must be in actual use as a dependent care facility on the last day of the tax
44 year for which credit is claimed and dependent care services assisted by the employer must take
45 place on the acquired, constructed, reconstructed, renovated or improved property and must be en-

1 titled to an exclusion (whole or partial) from the income of the employee for federal tax purposes
2 under section 129 of the Internal Revenue Code on the last day of the tax year for which credit is
3 claimed.

4 (c) The person or persons operating the dependent care facility on the property acquired, con-
5 structed, reconstructed, renovated or improved must hold a certification (temporary or not) issued
6 under ORS 657A.030 and 657A.250 to 657A.450 by the Child Care Division to operate the facility on
7 the property on the last day of the tax year of any tax year in which credit under this section is
8 claimed.

9 (d) The dependent care facility acquired, constructed, reconstructed, renovated or otherwise
10 improved must be located in Oregon. No credit shall be allowed under this section if the dependent
11 care facility is not acquired, constructed, reconstructed, renovated or improved to accommodate six
12 or more children.

13 (e) The employer must meet any other requirements or furnish any information, including in-
14 formation furnished by the employees or person operating the dependent care facility, to the De-
15 partment of Revenue that the department requires under its rules to carry out the purposes of this
16 section.

17 (f) The dependent care facility, the costs of the acquisition, construction, reconstruction, reno-
18 vation or improvement upon which the credit granted under this section is based, must be placed
19 in operation before January 1, 2002.

20 (4) The total amount of the costs upon which the credit allowable under this section is based,
21 and the total amount of the credit, shall be determined by the employer, subject to any rules adopted
22 by the department, during the tax year in which the property acquired, constructed, reconstructed,
23 renovated or otherwise improved is first placed in operation as a dependent care facility certified
24 by the Child Care Division under ORS 657A.030 and 657A.250 to 657A.450. One-tenth of the total
25 credit is allowable in that tax year and one-tenth of the total credit is allowable in each succeeding
26 tax year, not to exceed nine tax years, thereafter. No credit shall be allowed under this section for
27 any tax year at the end of which the dependent care facility is not in actual operation under a
28 current certification (temporary or not) issued by the Child Care Division nor shall any credit be
29 allowed for any tax year at the end of which the employer is not providing dependent care assist-
30 ance entitled to exclusion (whole or partial) from employee income for federal tax purposes under
31 section 129 of the Internal Revenue Code for dependent care on the property. Any tax credit al-
32 lowable under this section in a tax year may be carried forward in the same manner and to the same
33 tax years as if it were a tax credit described in ORS 315.204.

34 (5) Nothing in this section shall affect the computation of depreciation or basis of a dependent
35 care facility. If a deduction is allowed for purposes of ORS chapter 316, 317 or 318 for the amounts
36 paid or incurred upon which the credit under this section is based, the deduction shall be reduced
37 by the dollar amount of the credit granted under this section.

38 (6) For purposes of the credit allowed under this section:

39 (a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code
40 shall apply to the extent applicable.

41 (b) "Employer" means a resident, part-year resident or full-year nonresident employer carrying
42 on a business, trade, occupation or profession in this state.

43 (7) The department shall require that evidence that the person operating the dependent care
44 facility on the date that the taxpayer's tax year ends holds a current certification (temporary or
45 otherwise) to operate the facility accompany the tax return on which any amount of tax credit

1 granted under this section is claimed, or that such evidence be separately furnished. If the evidence
2 is not so furnished, no credit shall be allowed for the tax year for which the evidence is not fur-
3 nished. The Child Care Division shall cooperate by making such evidence, in an appropriate form,
4 available to the person operating the facility, if the person is currently certified (temporary or not)
5 so that, if necessary, it may be made available to the taxpayer.

6 **NOTE:** Corrects punctuation and conjunction in (2)(a).

7 **SECTION 19. ORS 315.254 is repealed.**

8 **NOTE:** Repeals obsolete statute.

9 **SECTION 20. ORS 316.074 is repealed.**

10 **NOTE:** Repeals obsolete statute.

11 **SECTION 21.** ORS 316.168 is amended to read:

12 316.168. (1) Except as otherwise provided by law, every employer subject to the provisions of
13 ORS 316.162 to 316.221, 656.506 and ORS chapter 657, or a payroll-based tax imposed by a mass
14 transit district and administered by the Department of Revenue under ORS 305.620, shall make and
15 file a combined quarterly tax and assessment report upon a form prescribed by the department.

16 (2) The report shall be filed with the Department of Revenue on or before the last day of the
17 month following the quarter to which the report relates and shall be deemed received on the date
18 of mailing, as provided in ORS 305.820.

19 [(a)] (3) The report shall be accompanied by payment of any tax or assessment due and a com-
20 bined tax and assessment payment coupon prescribed by the department. The employer shall indicate
21 on the coupon the amount of the total payment and the portions of the payment to be paid to each
22 of the tax or assessment programs.

23 [(b)] (4) The Department of Revenue shall credit the payment to the tax or assessment programs
24 in the amounts indicated by the employer on the coupon and shall promptly remit the payments to
25 the appropriate taxing or assessing body.

26 [(c)] (5) If the employer fails to allocate the payment on the coupon, the department shall allo-
27 cate the payment to the proper tax or assessment programs on the basis of the percentage the
28 payment bears to the total amount due.

29 [(d)] (6) The Department of Revenue shall distribute copies of the combined quarterly tax and
30 assessment report and the necessary tax or assessment payment information to each of the agencies
31 charged with the administration of a tax or assessment covered by the report.

32 [(e)] (7) The Department of Revenue, the Employment Department and the Department of Con-
33 sumer and Business Services shall develop a system of account numbers and assign to each employer
34 a single account number representing all of the tax and assessment programs included in the com-
35 bined quarterly tax and assessment report.

36 **NOTE:** Mends misnumbering.

37 **SECTION 22.** ORS 316.287 is amended to read:

38 316.287. (1) The "fiduciary adjustment" is the net amount of the modifications to federal taxable
39 income described in this chapter (ORS 316.697 being applicable if the estate or trust is a beneficiary
40 of another estate or trust) that relates to its items of income or deduction of an estate or trust.

41 (2) The respective shares of an estate or trust and its beneficiaries (including, solely for the
42 purpose of this allocation, nonresident beneficiaries) in the fiduciary adjustment shall be in propor-
43 tion to their respective shares of federal distributable net income of the estate or trust. If the estate
44 or trust has no federal distributable net income for the taxable year, the share of each beneficiary
45 in the fiduciary adjustment shall be in proportion to the share of the estate or trust income of the

1 beneficiary for such year, under state law or the terms of the instrument, that is required to be
 2 distributed currently and any other amounts of such income distributed in such year. Any balance
 3 of the fiduciary adjustment shall be allocated to the estate or trust.

4 (3) The Department of Revenue may by [*regulation*] **rule** authorize the use of such other methods
 5 of determining to whom the items comprising the fiduciary adjustment shall be attributed, as may
 6 be appropriate and equitable, on such terms and conditions as the department may require.

7 **NOTE:** Substitutes usual usage in (3).

8 **SECTION 23. ORS 316.834 is repealed.**

9 **NOTE:** Repeals obsolete statute.

10 **SECTION 24.** ORS 316.871 is amended to read:

11 316.871. As used in ORS 316.871 and 316.872, unless the context requires otherwise:

12 (1) "Consideration" includes money, property or securities. If consideration is for other than
 13 money, consideration shall mean the amount equal to the adjusted basis to the corporation of the
 14 property received reduced by any liability to which the property was subject or [*which*] **that** was
 15 assumed by the corporation as of the time the property was received.

16 (2) "Security" means any security as defined in ORS 59.015.

17 (3) "Small business corporation" means a corporation that:

18 (a) Is organized in this state or authorized to transact business in this state under the Oregon
 19 Business Corporation Act and [*which*] **that** has its primary place of business or commercial domicile
 20 in Oregon as determined under the administrative rule of the Department of Revenue.

21 (b) Had total employment of no more than 200 employees, as measured by the number of em-
 22 ployees covered by federal unemployment insurance on December 31 of the year preceding issuance
 23 of the small business stock, a majority of which employees were covered by Oregon unemployment
 24 insurance on December 31 of the year preceding acquisition of the small business stock. However,
 25 if more than 50 percent of the outstanding equity securities of all classes are held by another cor-
 26 poration, the employment of the controlling corporation shall be counted as employment of the eli-
 27 gible corporation for purposes of this paragraph.

28 (c) Had gross receipts for its tax year ending in the calendar year previous to the calendar year
 29 in which the tax year of the taxpayer claiming the credit under ORS 316.872[,] begins, of which not
 30 more than 25 percent were obtained from royalties, rents, dividends, interest, annuities and sales
 31 and exchanges of property. However, this restriction does not apply to companies whose primary
 32 business is the sale or development of computer software.

33 (d) Is not engaged primarily in the business of managing, holding, buying or selling real prop-
 34 erty.

35 (e) Has not issued small business securities for consideration in excess of \$1 million. Any small
 36 business securities issued by affiliates of the corporation as defined in section 1504 of the Internal
 37 Revenue Code shall be aggregated with the small business securities issued by the corporation for
 38 purposes of the \$1 million limit.

39 (4) "Small business security" means a security issued by a small business corporation and pur-
 40 chased by a taxpayer directly from the same small business corporation, or purchased by a taxpayer
 41 from an underwriter [*which*] **that** is selling the securities as part of a plan to raise new debt or
 42 equity capital for the small business corporation. The Department of Revenue shall, upon request,
 43 designate those small business security issues [*which*] **that** fit the definition set forth in this [*para-*
 44 *graph*] **subsection.**

45 **NOTE:** Improves pronoun choice in (1), (3)(a) and (4); corrects punctuation in (3)(c); fixes inter-

1 nal reference in (4).

2 **SECTION 25.** ORS 317.097, as amended by section 6, chapter 29, Oregon Laws 2008, and section
3 15, chapter 45, Oregon Laws 2008, is amended to read:

4 317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
5 be allowed to a lending institution in an amount equal to the difference between:

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

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

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

17 (3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
18 particular year may be carried forward and offset against the taxpayer's tax liability for the next
19 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
20 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
21 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
22 credit not used in that third succeeding tax year may be carried forward and used in the fourth
23 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
24 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
25 thereafter.

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

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

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

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

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

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

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

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

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

44 (C) Accompanied by a written certification by the Housing and Community Services Department
45 that the housing will continue to be operated as a manufactured dwelling park during the period for

1 which the tax credit is allowed; or

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

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

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

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

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

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

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

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

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

21 (7)(a) The Housing and Community Services Department may certify loans that are eligible un-
22 der subsection (4) of this section if the total credits attributable to all loans eligible for credits un-
23 der subsection (1) of this section and then outstanding do not exceed \$17 million for any fiscal year.
24 In making loan certifications, the Housing and Community Services Department shall attempt to
25 distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state
26 that are determined by the State Housing Council to have the greatest need for affordable housing.

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

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

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

35 [(10) As used in this section:]

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

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

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

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

44 [(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section
45 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2007.]

1 [(f) “Preservation project” means housing that was previously developed as affordable housing with
2 a contract for rent assistance from the United States Department of Housing and Urban Development
3 or the United States Department of Agriculture and that is being acquired by a sponsoring entity.]

4 [(g) “Qualified assignee” means any investor participating in the secondary market for real estate
5 loans.]

6 [(h) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling
7 interest in the real property that is financed by the loan described in subsection (4) of this section. Such
8 a controlling interest includes, but is not limited to, a controlling interest in the general partner of a
9 limited partnership that owns the real property.]

10 [(i) “Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state governmental
11 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
12 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
13 nonprofit cooperative, state governmental entity, local unit of government or housing authority.]

14 [(11)] (10) Notwithstanding any other provision of law, a lending institution that is a community
15 development corporation organized under the Oregon Nonprofit Corporation Law may transfer any
16 part or all of any tax credit arising under subsection (1) of this section to one or more other lending
17 institutions that are stockholders or members of the community development corporation or that
18 otherwise participate through the community development corporation in the making of one or more
19 loans that generate the tax credit under subsection (1) of this section.

20 [(12)] (11) The lending institution shall file an annual statement with the Housing and Commu-
21 nity Services Department, specifying that it has conformed with all requirements imposed by law to
22 qualify for this tax credit.

23 [(13)] (12) The Housing and Community Services Department and the Department of Revenue
24 may adopt rules to carry out the provisions of this section.

25 **(13) As used in this section:**

26 (a) **“Annual rate” means the yearly interest rate specified on the note, and not the an-
27 nual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in
28 Lending Act.**

29 (b) **“Finance charge” means the total of all interest, loan fees, interest on any loan fees
30 financed by the lending institution, and other charges related to the cost of obtaining credit.**

31 (c) **“Lending institution” means any insured institution, as that term is defined in ORS
32 706.008, any mortgage banking company that maintains an office in this state or any com-
33 munity development corporation that is organized under the Oregon Nonprofit Corporation
34 Law.**

35 (d) **“Manufactured dwelling park” has the meaning given that term in ORS 446.003.**

36 (e) **“Nonprofit corporation” means a corporation that is exempt from income taxes under
37 section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December
38 31, 2007.**

39 (f) **“Preservation project” means housing that was previously developed as affordable
40 housing with a contract for rent assistance from the United States Department of Housing
41 and Urban Development or the United States Department of Agriculture and that is being
42 acquired by a sponsoring entity.**

43 (g) **“Qualified assignee” means any investor participating in the secondary market for
44 real estate loans.**

45 (h) **“Qualified borrower” means any borrower that is a sponsoring entity that has a**

1 **controlling interest in the real property that is financed by the loan described in subsection**
 2 **(4) of this section. Such a controlling interest includes, but is not limited to, a controlling**
 3 **interest in the general partner of a limited partnership that owns the real property.**

4 (i) **“Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state gov-**
 5 **ernmental entity, local unit of government as defined in ORS 466.706, housing authority or**
 6 **any other person, provided that the person has agreed to restrictive covenants imposed by**
 7 **a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of gov-**
 8 **ernment or housing authority.**

9 **NOTE:** Makes section definitions easier to find.

10 **SECTION 26. ORS 317.383 is repealed.**

11 **NOTE:** Repeals obsolete statute.

12 **SECTION 27. ORS 318.031 is amended to read:**

13 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 14 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 15 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 16 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134, 315.141, 315.156,
 17 315.204, 315.208, 315.213, [315.254,] 315.304, 315.507, 315.511 and 315.604 (all only to the extent ap-
 18 plicable to a corporation) and ORS chapter 317.

19 **NOTE:** Deletes reference to repealed section; see section 19 (repealing 315.254).

20 **SECTION 28. ORS 318.031, as amended by section 4, chapter 883, Oregon Laws 2007, is**
 21 **amended to read:**

22 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 23 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 24 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 25 corporated into and made a part of this chapter: ORS 285C.309, **315.104**, 315.134, 315.141, 315.156,
 26 315.204, 315.208, 315.213, [315.254,] 315.304, 315.507, 315.511 and 315.604 (all only to the extent ap-
 27 plicable to a corporation) and ORS chapter 317.

28 **NOTE:** Deletes reference to repealed section; see section 19 (repealing 315.254). Restores un-
 29 necessarily omitted reference.

30 **SECTION 29. ORS 318.106 is amended to read:**

31 318.106. ORS 317.151[, *during its existence and as it may be amended,*] is incorporated into **and**
 32 **made a part of** this chapter [*and made a part hereof*].

33 **NOTE:** Conforms section to legislative style.

34 **SECTION 30. ORS 318.130 is amended to read:**

35 318.130. ORS 317.329[, *during its existence and as it may be amended,*] is incorporated into **and**
 36 **made a part of** this chapter by reference [*and made a part hereof*].

37 **NOTE:** Conforms section to legislative style.

38 **SECTION 31. ORS 323.005 is amended to read:**

39 323.005. [(1)] ORS 323.005 to 323.482 may be cited as the Cigarette Tax Act.

40 [(2) *Except where the context otherwise requires, the definitions given in ORS 323.005 to 323.482*
 41 *govern its construction.*]

42 **NOTE:** Deletes redundant language.

43 **SECTION 32. ORS 323.110 is amended to read:**

44 323.110. The Department of Revenue, to [*insure*] **ensure** compliance with ORS 323.005 to 323.482,
 45 shall require a licensee or an applicant for a license as distributor to deposit with it such security

1 as the department may determine. The amount of the security shall be fixed by the department but
 2 shall not be greater than two times the estimated average monthly liability shown in the monthly
 3 reports, determined in such manner as the department deems proper. The amount of the security
 4 may be increased or decreased by the department subject to the limitations herein provided. Except
 5 as provided in ORS 323.120, the security shall be in the form of a bond or bonds executed by the
 6 distributor as principal and by a corporation, authorized to engage in business as a surety company
 7 in Oregon under ORS 742.350 to 742.370, as surety, payable to the State of Oregon through its De-
 8 partment of Revenue, conditioned upon the payment of all taxes, penalties and other obligations of
 9 the distributor arising under ORS 323.005 to 323.482.

10 **NOTE:** Ensures adherence to legislative style.

11 **SECTION 33.** ORS 323.385 is amended to read:

12 323.385. (1) If the Department of Revenue believes that the collection of any amount of tax re-
 13 quired to be paid by any person under ORS 323.005 to 323.482 will be jeopardized by delay, it shall
 14 thereupon make a determination of the amount of tax, noting that fact upon the determination. The
 15 amount determined is immediately due and payable, with interest and penalty as provided in ORS
 16 323.381.

17 (2) If the amount of the tax, interest, and penalty specified in the jeopardy determination is not
 18 paid within 20 days after service upon the person of notice of the determination, the determination
 19 becomes final, unless a petition for redetermination is filed within the 20 days.

20 (3) The person against whom a jeopardy determination is made may petition for the redetermi-
 21 nation thereof pursuant to ORS 323.416. The person shall, however, file the petition for redetermi-
 22 nation with the department within 20 days after the service upon the person of notice of the
 23 determination. The person shall at the time of filing the petition for redetermination deposit with
 24 the department such security as *[it]* **the department** may deem necessary to *[insure]* **ensure** com-
 25 pliance with ORS 323.005 to 323.482. The security may be sold by the department at public sale if
 26 it becomes necessary in order to recover any amount due. Notice of the sale may be served upon
 27 the person who deposited the security personally or by mail in the same manner as prescribed pur-
 28 suant to ORS 323.403. Upon any such sale, the surplus, if any, above the amount due under ORS
 29 323.005 to 323.482 shall be returned to the person who deposited the security.

30 **NOTE:** Clarifies antecedent and standardizes syntax in (3).

31 **SECTION 34.** ORS 344.755 is amended to read:

32 344.755. Training agents who terminate youth apprentices without cause as determined by the
 33 appropriate apprenticeship committee prior to completion of training or who violate ORS 344.745
 34 or 344.750 or rules adopted pursuant thereto by the State Apprenticeship and Training Council or
 35 the Department of Education, upon notice to the Department of Revenue, may lose their eligibility
 36 for tax credits pursuant to ORS *[315.254 and]* 318.031 and their eligibility to train and employ youth
 37 apprentices under ORS *[315.254 and]* 344.745 to 344.757 for a period of one year.

38 **NOTE:** Deletes references to repealed section; see section 19 (repealing 315.254).

39 **SECTION 35.** Section 15, chapter 625, Oregon Laws 2007, is amended to read:

40 **Sec. 15.** The amendments to ORS *[314.752 and]* 496.303 by *[sections 13 and 14 of this 2007 Act]*
 41 **section 14, chapter 625, Oregon Laws 2007**, become operative on January 2, 2014.

42 **NOTE:** Corrects operative date.

43 **SECTION 36.** Section 10, chapter 883, Oregon Laws 2007, is amended to read:

44 **Sec. 10.** The amendments to ORS *[314.752, 318.031,]* 526.450, 526.455, 526.465 and 526.475 by
 45 sections *[3 to 8 of this 2007 Act]* **5 to 8, chapter 883, Oregon Laws 2007**, become operative on

1 January 2, 2028.

2 **NOTE:** Corrects operative date.

3
