

House Bill 2507

Sponsored by Representative DAVIS (Presession filed.)

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**.

Increases maximum amount of corporate excise tax credit allowed for qualified research activities. Provides for refundability and transferability of credit.

Applies to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for qualified research facilities; creating new provisions; amending ORS
3 317.152, 317.154 and 317.850; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of ORS**
6 **chapter 317.**

7 **SECTION 2. If the amount allowable as a credit under ORS 317.152 or 317.154, when added**
8 **to the sum of the amount of estimated tax paid under ORS 314.515 and any other tax pre-**
9 **payment amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year**
10 **(reduced by any nonrefundable credits allowable for purposes of ORS chapter 317 for the tax**
11 **year), the amount of the excess, not to exceed \$200,000, shall be refunded to the taxpayer as**
12 **provided in ORS 314.415.**

13 **SECTION 3. (1) A person that has obtained a tax credit under ORS 317.152 or 317.154 may**
14 **transfer all or a portion of the credit to a taxpayer subject to tax under ORS chapter 316,**
15 **317 or 318.**

16 **(2) A tax credit allowed under ORS 317.152 or 317.154 may be transferred on or before the**
17 **date on which the return is due for the tax year in which the credit may first be claimed.**
18 **After that date, no portion of a credit allowed under ORS 317.152 or 317.154 may be trans-**
19 **ferred.**

20 **(3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will**
21 **claim the credit shall, on or before the date prescribed in subsection (2) of this section,**
22 **jointly file a notice of tax credit transfer with the Department of Revenue. The notice shall**
23 **be given on a form prescribed by the Oregon Business Development Department and shall**
24 **contain all of the following:**

25 **(a) The name and address of the transferor and transferee;**

26 **(b) The amount of the tax credit that is being transferred;**

27 **(c) The amount of the tax credit that is being retained by the transferor; and**

28 **(d) Any other information required by the Oregon Business Development Department.**

29 **(4) The Oregon Business Development Department shall issue a certificate to the**
30 **transferee.**

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 **(5) The Oregon Business Development Department may establish by rule a minimum**
2 **discounted value of a tax credit under this section.**

3 **(6) The Department of Revenue, in consultation with the Oregon Business Development**
4 **Department, may by rule establish procedures for the transfer of tax credits provided by this**
5 **section.**

6 **(7) Notwithstanding ORS 317.152 (6) or 317.154 (7), a transferee may claim a credit**
7 **transferred under this section only in the three consecutive tax years that begin with the**
8 **tax year in which the transferee pays for the credit.**

9 **SECTION 4.** ORS 317.152 is amended to read:

10 317.152. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible
11 taxpayers for increases in qualified research expenses and basic research payments. The credit shall
12 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

13 (a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be
14 five percent.

15 (b) “Qualified research” and “basic research” shall consist only of research conducted in
16 Oregon.

17 (c) The following do not apply to the credit allowable under this section:

18 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).

19 (B) Section 41(h) of the Internal Revenue Code (relating to termination of the federal credit).

20 (2) For purposes of this section, “eligible taxpayer” means a corporation, other than a corpo-
21 ration excluded under Internal Revenue Code section 41(e)(7)(E).

22 (3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority
23 of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by
24 this section or as provided in rules adopted by the Department of Revenue.

25 (4) The maximum credit under this section may not exceed [~~\$1~~] **\$2** million.

26 (5) A deduction may not be taken for the portion of expenses or payments, otherwise allowable
27 as a deduction, that is equal to the amount of the credit claimed under this section.

28 (6) Any tax credit that is otherwise allowable under this section and that is not used by the
29 taxpayer in that year may be carried forward and offset against the taxpayer’s tax liability for the
30 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
31 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
32 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
33 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
34 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
35 forward and used in the fifth succeeding tax year, **and any credit not used in that fifth suc-**
36 **ceeding tax year may be carried forward and used in the sixth succeeding tax year, and any**
37 **credit not used in that sixth succeeding tax year may be carried forward and used in the**
38 **seventh succeeding tax year, and any credit not used in that seventh succeeding tax year**
39 **may be carried forward and used in the eighth succeeding tax year, and any credit not used**
40 **in that eighth succeeding tax year may be carried forward and used in the ninth succeeding**
41 **tax year, and any credit not used in that ninth succeeding tax year may be carried forward**
42 **and used in the tenth succeeding tax year, but may not be carried forward for any tax year**
43 **thereafter.**

44 **SECTION 5.** ORS 317.154 is amended to read:

45 317.154. (1) A credit against taxes otherwise due under this chapter shall be allowed for quali-

1 fied research expenses that exceed 10 percent of Oregon sales.

2 (2) For purposes of this section:

3 (a) "Oregon sales" shall be computed using the laws and administrative rules for calculating the
4 numerator of the Oregon sales factor under ORS 314.665.

5 (b) "Qualified research" has the meaning given the term under section 41(d) of the Internal Re-
6 venue Code and shall consist only of research conducted in Oregon.

7 (3) The credit under this section is equal to five percent of the amount by which the qualified
8 research expenses exceed 10 percent of Oregon sales.

9 (4) The credit under this section *[shall]* **may** not exceed \$10,000 times the number of percentage
10 points by which the qualifying research expenses exceed 10 percent of Oregon sales.

11 (5) The maximum credit under this section may not exceed *[\$1]* **\$2** million.

12 (6) A deduction may not be taken for the portion of expenses or payments, otherwise allowable
13 as a deduction, that is equal to the amount of the credit claimed under this section.

14 (7) Any tax credit that is otherwise allowable under this section and that is not used by the
15 taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for the
16 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
17 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
18 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
19 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
20 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
21 forward and used in the fifth succeeding tax year, **and any credit not used in that fifth suc-**
22 **ceeding tax year may be carried forward and used in the sixth succeeding tax year, and any**
23 **credit not used in that sixth succeeding tax year may be carried forward and used in the**
24 **seventh succeeding tax year, and any credit not used in that seventh succeeding tax year**
25 **may be carried forward and used in the eighth succeeding tax year, and any credit not used**
26 **in that eighth succeeding tax year may be carried forward and used in the ninth succeeding**
27 **tax year, and any credit not used in that ninth succeeding tax year may be carried forward**
28 **and used in the tenth succeeding tax year, but may not be carried forward for any tax year**
29 **thereafter.**

30 **SECTION 6.** ORS 317.850 is amended to read:

31 317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,
32 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts
33 available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

34 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
35 tained for the payment of refunds, but such working balance *[shall]* **may** not at the close of any
36 fiscal year exceed the sum of \$500,000.

37 **(3) Moneys are continuously appropriated to the Department of Revenue to make:**

38 **(a) The refunds authorized under subsection (2) of this section; and**

39 **(b) The refund payments in excess of tax liability authorized under section 2 of this 2015**
40 **Act.**

41 **SECTION 7.** Sections 2 and 3 of this 2015 Act and the amendments to ORS 317.152, 317.154
42 and 317.850 by sections 4 to 6 of this 2015 Act apply to tax years beginning on or after Jan-
43 uary 1, 2016.

44 **SECTION 8.** This 2015 Act takes effect on the 91st day after the date on which the 2015
45 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

