

# Enrolled House Bill 3125

Sponsored by Representative DAVIS; Representatives GILLIAM, HEARD, HOYLE, MCLAIN, WHISNANT, Senators EDWARDS, THOMSEN

CHAPTER .....

## AN ACT

Relating to property tax exemption for food processing equipment; creating new provisions; amending ORS 184.484, 307.455 and 307.457; repealing ORS 307.462, 307.464 and 307.466; and prescribing an effective date.

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

**SECTION 1.** ORS 307.455 is amended to read:

307.455. (1) As used in this section and ORS 307.457:

(a) "Assessor" means the county assessor, or the Department of Revenue if under ORS 306.126 the department is responsible for appraisal of the facility at which the qualified machinery and equipment is located.

**(b) "Bakery product" has the meaning given that term in ORS 625.010.**

**(c) "Dairy products" has the meaning given that term in ORS 621.003.**

[(b)] **(d) "Food processor":**

(A) Means a person engaged in the business of freezing, canning, dehydrating, concentrating, preserving, processing or repacking for human consumption raw or fresh fruit, vegetables, nuts, legumes, **grains, bakery products, dairy products, eggs** or seafood in any procedure that occurs prior to the point of first sale by the processor.

[(B) *Does not include persons engaged in the business of producing alcoholic beverages.*]

**(B) Does not include:**

**(i) Persons engaged in the business of producing alcoholic beverages, marijuana or any product that contains marijuana or a marijuana extract.**

**(ii) A person engaged in the business of producing bakery products unless the person has been issued a wholesale license by the State Department of Agriculture.**

[(c)] **(e) "Integrated processing line"** does not include forklifts, trucks or other rolling stock used to transport material to or from a point of manufacture or assembly.

[(d)] **(f) "Qualified machinery and equipment"** means property, whether new or used, that is newly acquired by a food processor and placed into service prior to January 1 preceding the first tax year for which an exemption under this section is sought, and that consists of:

(A) Real property machinery and equipment that is used by a food processor in the primary processing of raw or fresh fruit, vegetables, nuts, legumes, **grains, bakery products, dairy products, eggs** or seafood; or

(B) Personal property machinery and equipment that is used in an integrated processing line for the primary processing of raw or fresh fruit, vegetables, nuts, legumes, **grains, bakery products, dairy products, eggs** or seafood.

(2)(a) On or before March 1 preceding the first tax year for which property is to be exempt from taxation under this section, a food processor seeking an exemption under this section shall apply to the assessor for exemption. The application shall be on a form prescribed by the Department of Revenue and shall include any information required by the department, including a schedule of the qualified machinery and equipment for which certification is sought.

(b) Notwithstanding paragraph (a) of this subsection, the assessor may approve an application that is filed after March 1, and on or before December 31 of the assessment year, if the statement is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value of the property that is the subject of the application.

(c) The assessor shall review the application and, if the machinery and equipment that is the subject of the application constitutes qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, shall approve the application and exempt the qualified machinery and equipment.

(d) If any of the machinery and equipment that is the subject of the application does not constitute qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, the assessor shall exclude the nonqualified machinery and equipment from the application.

(3) Qualified machinery and equipment for which an application has been approved under subsection (2) of this section shall be exempt for the tax year for which the application was approved and for the next four succeeding tax years, if as of the assessment date for each year the property constitutes qualified machinery and equipment.

(4) The duration of the exemption under subsection (3) of this section may not be extended as the result of the value of changes to qualified machinery and equipment that are attributable to rehabilitation, reconditioning or ongoing maintenance or repair.

**(5) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process grains or bakery products may not be granted exemption under this section unless the qualified machinery and equipment has a real market value of at least \$100,000 when placed in service by the food processor.**

**(6) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process bakery products may not be granted exemption under this section if proceeds from retail sales made at the processing site constitute more than 10 percent of all proceeds from sales made at the processing site.**

**SECTION 2.** ORS 307.457 is amended to read:

307.457. (1) At the request of a food processor or *[under]* on the State Department of Agriculture's own initiative, the department shall certify **the eligibility of** qualified machinery and equipment *[as eligible]* for exemption under ORS 307.455.

(2) The method of certification under this section shall be provided by rules adopted by the State Department of Agriculture, after consultation with the Department of Revenue.

(3) A decision by the State Department of Agriculture to deny certification of certain property may be appealed to the Director of Agriculture as a contested case under ORS chapter 183.

**(4) The State Department of Agriculture may fix, assess and collect, or cause to be collected, fees on food processors for the certification of qualified machinery and equipment under subsection (1) of this section. The fees must be in an amount reasonably necessary to cover the costs of the certification and of the administration of this section. The fees must have a uniform basis, but the scale of fees may vary according to the location of the qualified machinery and equipment.**

**SECTION 3.** ORS 307.462, 307.464 and 307.466 are repealed.

**SECTION 4.** ORS 184.484 is amended to read:

184.484. (1) For each statute authorizing a tax expenditure that has a purpose connected to economic development and is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the Oregon Department of Administrative Services. If no agency is authorized by statute, or if the statute does not

provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to:

(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, [307.462,] 315.141, 315.331, 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394.

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N).

(d) ORS 316.116, if the allowed credit exceeds \$2,000.

(3) The following information, if it is already available in an existing database maintained by the agency, must be included in the report required under this section:

(a) The name of each taxpayer or applicant approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information shall be based on data already collected and analyzed by the agency in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in their generation.

(e) An explanation of the agency's certification decision for each taxpayer or applicant, if applicable.

(f) Any additional information submitted by the taxpayer or applicant and relied upon by the agency in its certification determination.

(g) Any other information that agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

(5) No later than September 30 of each year, agencies described in subsection (1) of this section shall submit to the Oregon Department of Administrative Services the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures approved by the agency during the agency fiscal year ending during the current calendar year. The information shall then be posted on the Oregon transparency website required under ORS 184.483 no later than December 31 of the same year.

(6) In addition to the information described in subsection (3) of this section, the Oregon Department of Administrative Services shall post on the Oregon transparency website copies of all reports that the department, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone. The reports shall be submitted to the Oregon Department of Administrative Services in a manner and format prescribed by the department.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the Oregon Department of Administrative Services.

(8) The information described in this section shall be furnished to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the Oregon Department of Administrative Services.

**SECTION 5. The State Department of Agriculture shall submit, in the manner provided by ORS 192.245, a report on the impact that the amendments to ORS 307.455 by section 1 of this 2015 Act have had on the use of the exemption for qualified food processing machinery**

and equipment to the interim committees of the Legislative Assembly related to revenue not later than September 15, 2018.

**SECTION 6.** (1) The amendments to ORS 307.455 (1)(d)(B)(i) and 307.457 by sections 1 and 2 of this 2015 Act apply to property tax years beginning on or after July 1, 2015.

(2) The amendments to ORS 307.455 by section 1 of this 2015 Act relating to grains, bakery products, dairy products and eggs apply to property tax years beginning on or after July 1, 2016.

**SECTION 7.** This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House June 10, 2015

Received by Governor:

Repassed by House July 1, 2015

.....M,....., 2015

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2015

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 30, 2015

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State