

House Bill 4115

Sponsored by Representatives WEIDNER, READ, BUEHLER, HOYLE; Representatives BARRETO, DAVIS, EVANS, HACK, NEARMAN (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 of credit.

Applies to tax years beginning on or after January 1, 2017.

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. Section 2 of this 2016 Act is added to and made a part of ORS chapter 317.**

6 **SECTION 2. If a taxpayer that claims a credit under ORS 317.152 or 317.154 has Oregon**
7 **sales for the tax year that do not exceed \$1 million and if the amount allowable as a credit**
8 **under ORS 317.152 or 317.154, when added to the sum of the amount of estimated tax paid**
9 **under ORS 314.515 and any other tax prepayment amounts, exceeds the taxes imposed by this**
10 **chapter and ORS chapter 314 for the tax year (reduced by any nonrefundable credits allow-**
11 **able for purposes of this chapter for the tax year), the amount of the excess shall be re-**
12 **funded to the taxpayer as provided in ORS 314.415.**

13 **SECTION 3. ORS 317.152 is amended to read:**

14 317.152. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible
15 taxpayers for increases in qualified research expenses and basic research payments. The credit shall
16 be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

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

19 (b) "Qualified research" and "basic research" shall consist only of research conducted in
20 Oregon.

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

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

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

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

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

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

30 (5) A deduction may not be taken for the portion of expenses or payments, otherwise allowable

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 as a deduction, that is equal to the amount of the credit claimed under this section.

2 (6) Any tax credit that is otherwise allowable under this section and that is not used by the
 3 taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for the
 4 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
 5 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
 6 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
 7 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 8 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 9 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 10 thereafter.

11 **SECTION 4.** ORS 317.154 is amended to read:

12 317.154. (1) A credit against taxes otherwise due under this chapter shall be allowed for quali-
 13 fied research expenses that exceed 10 percent of Oregon sales.

14 (2) For purposes of this section:

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

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

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

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

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

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

26 (7) Any tax credit that is otherwise allowable under this section and that is not used by the
 27 taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for the
 28 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
 29 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
 30 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
 31 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 32 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 33 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 34 thereafter.

35 **SECTION 5.** ORS 317.850 is amended to read:

36 317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,
 37 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts
 38 available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

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

44 (b) **The refund payments in excess of tax liability authorized under section 2 of this 2016**
 45 **Act.**

1 **SECTION 6.** Section 2 of this 2016 Act and the amendments to ORS 317.152, 317.154 and
2 317.850 by sections 3 to 5 of this 2016 Act apply to tax years beginning on or after January
3 1, 2017.

4 **SECTION 7.** This 2016 Act takes effect on the 91st day after the date on which the 2016
5 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

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