



HB 2286 Building Common Procedures for Handling Tax Credits

Testimony for House Revenue – 2.9.2017 – Jody Wisner

This bill is a step in the right direction. Unfortunately it's a step being taken after much newsworthy treatment of our tax credits, especially the marketable tax credits.

We recommend that you take some additional steps beyond what is currently in the bill:

- 1) Give all tax credits the same life span. Oregon has tax credits with life spans of 3-9 years after the first year of use, a variety which makes no particular sense, but adds complexity. With a shorter the life span, fewer might actually be used. Though the economy may have greater bearing on the use. In scanning the 27 page bill before you today we've noticed tax credits that expire in 4, 5 and 9 years.
- 2) All marketable tax credits should have the same kind of "present value" controls as do the Department of Energy marketable tax credits (see page 18, line 23).
- 3) Further, on page 14, line 1 we see that loan interest rate that qualifies for loan subsidy is "must be less than 13.5%." This is clearly an inappropriate number to have in the law for the current interest environment. A floating interest rate would be more appropriate, either a federal rate, that moves monthly, reduced or increase by an appropriate percentage – which only experts in the area of low income housing can provide or an Oregon law which is tied to this moving federal rate. (See attached).

Federal Language might be used for the lenders tax credit

An interest rate that could be substituted for the 13.5% would be “the prevailing rates of interest established by the IRS for underpayments,” altered by an appropriate percentage for the type of housing building built. For your information, the current Federal rates are below.

You will want folks who are in the weeds on subsidized housing to address the appropriate numbers, which might be a percentage adjustment to one of the rates below, not necessarily the underpayment rate. But all of these move with the market.

First Quarter of 2017

IR-2016-159, Dec. 5, 2016

WASHINGTON — The Internal Revenue Service today announced that interest rates will remain the same for the calendar quarter beginning Jan. 1, 2017. The rates will be:

- four (4) percent for overpayments [three (3) percent in the case of a corporation];
- 1 and one-half (1.5) percent for the portion of a corporate overpayment exceeding \$10,000;
- four (4) percent for underpayments; and
- six (6) percent for large corporate underpayments.

Under the Internal Revenue Code, the rate of interest is determined on a quarterly basis. For taxpayers other than corporations, the overpayment and underpayment rate is the federal short-term rate plus 3 percentage points.

Generally, in the case of a corporation, the underpayment rate is the federal short-term rate plus 3 percentage points and the overpayment rate is the federal short-term rate plus 2 percentage points. The rate for large corporate underpayments is the federal short-term rate plus 5 percentage points. The rate on the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the federal short-term rate plus one-half (0.5) of a percentage point.

The interest rates announced today are computed from the federal short-term rate determined during October 2016 to take effect Nov. 1, 2016, based on daily compounding.

[Revenue Ruling 2016-28](#), announcing the rates of interest, is attached and will appear in Internal Revenue Bulletin 2016-51, dated Dec. 19, 2016.

An Oregon adaptation of the federal rate is here in Oregon law:

305.220 Interest on deficiency, delinquency or refunds; adjustments in rates; rules; computation. (1) Unless specifically provided otherwise by statute or by rule of the Director of the Department of Revenue adopted pursuant to subsection (3) of this section, every deficiency or delinquency arising under any law administered by the Department of Revenue shall bear simple interest at the rate of five-sixths of one percent per month or fraction thereof.

(2) Unless specifically provided otherwise by statute or by rule of the director adopted pursuant to subsection (3) of this section, every refund arising under any law administered by the department shall, subject to subsections (3) and (5) of this section and ORS 305.222, bear simple interest at the rate of five-sixths of one percent per month, or fraction thereof.

(3)(a) If the director determines that the rates of interest for deficiencies, delinquencies and refunds established in subsections (1) and (2) of this section are at least one percentage point more or less than the prevailing rates of interest established by the Internal Revenue Service for underpayments arising under the federal tax laws to which one percentage point has been added, the director may adopt, by rule, adjusted interest rates. The director shall not adopt adjusted interest rates more than once in a calendar year. Notice of intent to adopt adjusted interest rates shall be given in the manner provided in ORS 183.335, not less than three months before the proposed effective date of the adjusted rates.

(b) In establishing the adjusted interest rates to be adopted under this subsection:

(A) The director shall take into consideration the current interest rates established by the Internal Revenue Service for underpayments arising under the federal tax laws.

(B) To any interest amount determined by taking into consideration the current interest rates established by the Internal Revenue Service for underpayments under subparagraph (A) of this paragraph, which interest amount shall be expressed at a rate per month or fraction thereof, there shall be added one-twelfth of one percent.

(4) If the director adopts an adjusted interest rate for deficiencies and delinquencies, the director shall adopt an adjusted interest rate for refunds that is equal to the adjusted interest rate for deficiencies and delinquencies.

(5) Any change in the rate of interest applicable to deficiencies, delinquencies or refunds resulting from the adoption of adjusted interest rates by the director under this section shall apply to deficiencies, delinquencies and refunds outstanding on the effective date of the rule, or arising on or after that date, but only with respect to interest periods beginning on or after that date.

(6) If the rate of interest on a deficiency, a delinquency or a refund is governed by this section, and if a fraction of a month is involved in making the computation of interest on the deficiency, delinquency or refund, then for the fractional month, the simple interest otherwise provided shall be computed on a daily basis. [1982 s.s.1 c.16 §2; 1987 c.647 §5; 2001 c.114 §§2,4]

305.222 Determination of interest rate. For purposes of determining the interest rate established under ORS 305.220:

(1) In the case of a refund of tax ordered by the Oregon Tax Court or the Oregon Supreme Court and arising under any law administered by the Department of Revenue, if the refund is not paid by the department within 60 days after the date of the order, the interest rate provided under ORS 305.220 shall be one-third of one percent greater than that so provided under ORS 305.220, but only with respect to interest periods that begin 61 days after the date the order is entered.

(2)(a) In the case of a notice of assessment pursuant to any law administered by the department, if the deficiency is not paid within 60 days after the date of the notice of assessment, the interest rate provided under ORS 305.220 shall be one-third of one percent greater than that so provided under ORS 305.220, but only for interest periods that begin 61 days after the date of notice of assessment.

(b) In the case of an assessment under ORS 305.265 (12), if the delinquency is not paid within 60 days after the date of the assessment, the interest rate provided under ORS 305.220 shall be one-third of one percent greater than that so provided under ORS 305.220. The increased rate shall apply only for interest periods that begin 61 days after the date of notice of the delinquency.

(3) If the deficiency assessment is appealed to the Oregon Tax Court without prior payment of tax, then notwithstanding subsection (2) of this section, the increased rate of interest shall commence only for interest periods that begin 61 days after the date that the order of the Oregon Tax Court or the Oregon Supreme Court affirming the deficiency is entered. [1987 c.647 §7; 1993 c.726 §2; 1995 c.650 §110; 1997 c.325 §§3,4]

