

D R A F T

SUMMARY

Advances sunset for subtraction for sale of manufactured dwelling park to certain entities. Creates personal income tax credit for sale of park. Provides that calculation of credit for taxes paid to other state allowed to non-resident taxpayer or allowed to estate treated as resident of another state occurs before allowance of credit for sale of park.

Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of sale of manufactured dwelling parks; creating
3 new provisions; amending ORS 314.752, 316.131, 316.292 and 318.031 and
4 section 7, chapter 826, Oregon Laws 2005, and section 18, chapter 89,
5 Oregon Laws 2014; and prescribing an effective date.

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

7 **SECTION 1.** Section 7, chapter 826, Oregon Laws 2005, as amended by
8 section 21, chapter 906, Oregon Laws 2007, section 36, chapter 750, Oregon
9 Laws 2013, and section 14, chapter 217, Oregon Laws 2015, is amended to
10 read:

11 **Sec. 7.** (1) Section 6, chapter 826, Oregon Laws 2005, applies to tax years
12 beginning on or after January 1, 2006, and before January 1, [2020] **2018**.

13 (2) The amendments to section 6, chapter 826, Oregon Laws 2005, by sec-
14 tion 9 of this 2015 Act apply to tax years beginning on or after January 1,
15 2015, and before January 1, [2020] **2018**.

16 **SECTION 2.** Section 18, chapter 89, Oregon Laws 2014, as amended by
17 section 13, chapter 217, Oregon Laws 2015, is amended to read:

1 **Sec. 18. (1)** The amendments to [*sections 6 and 9*] **section 6**, chapter 826,
2 Oregon Laws 2005, by [*sections 16 and 17*] **section 16**, chapter 89, Oregon
3 Laws 2014, apply to a sale of a manufactured dwelling park on or after
4 January 1, 2015, and to tax years beginning on or after January 1, 2015, and
5 before January 1, [2020] **2018**.

6 **(2)** The amendments to **section 9**, chapter 826, Oregon Laws 2005,
7 by **section 17**, chapter 89, Oregon Laws 2014, apply to a sale of a man-
8 ufactured dwelling park on or after January 1, 2015, and to tax years
9 beginning on or after January 1, 2015, and before January 1, 2020.

10 **SECTION 3.** Section 4 of this 2017 Act is added to and made a part
11 of ORS chapter 315.

12 **SECTION 4. (1)** A credit against taxes that are otherwise due under
13 ORS chapter 316 is allowed to a taxpayer for amounts received as a
14 result of the sale of a manufactured dwelling park to a corporate en-
15 tity formed by the tenants of the park, or by a nonprofit corporation
16 or housing authority, as described in ORS 90.844.

17 **(2)** The credit allowed under this section is computed by multiplying
18 the gain reported by the taxpayer and attributable to the sale of a
19 manufactured dwelling park by the taxpayer's highest marginal rate
20 under ORS 316.037.

21 **(3)** Prior to claiming the credit allowed under this section, a tax-
22 payer is required to receive written certification of eligibility from the
23 Housing and Community Services Department.

24 **(4)** The credit allowed under this section may not exceed the tax
25 liability of the taxpayer for the tax year.

26 **(5)** Any tax credit otherwise allowable under this section that is not
27 used by the taxpayer in a particular tax year may be carried forward
28 and offset against the taxpayer's tax liability for the next succeeding
29 tax year. Any credit remaining unused in the next succeeding tax year
30 may be carried forward and used in the second succeeding tax year,
31 and likewise any credit not used in that second succeeding tax year

1 may be carried forward and used in the third succeeding tax year but
2 may not be carried forward for any tax year thereafter.

3 (6) A nonresident shall be allowed the credit under this section. The
4 credit shall be computed in the same manner and be subject to the
5 same limitations as the credit granted to a resident. However, the
6 credit shall be prorated using the proportion provided in ORS 316.117.

7 (7) If a change in the taxable year of the taxpayer occurs as de-
8 scribed in ORS 314.085, or if the Department of Revenue terminates the
9 taxpayer's taxable year under ORS 314.440, the credit allowed under
10 this section shall be prorated or computed in a manner consistent with
11 ORS 314.085.

12 (8) If a change in the status of a taxpayer from resident to non-
13 resident or from nonresident to resident occurs, the credit allowed
14 under this section shall be determined in a manner consistent with
15 ORS 316.117.

16 (9) The Department of Revenue shall adopt rules for the purposes
17 of this section, including policies and procedures for certifying tax-
18 payers as eligible for the credit allowed under this section as required
19 in subsection (3) of this section.

20 **SECTION 5.** ORS 316.131 is amended to read:

21 316.131. (1) A nonresident shall be allowed a credit against the taxes
22 otherwise due under this chapter for income taxes imposed by and paid to
23 the state of residence (not including any preference, alternative or minimum
24 tax) on income taxable under this chapter, subject to the following condi-
25 tions:

26 (a) The credit shall be allowed only if the state of residence either:

27 (A) Does not tax the income of residents of this state derived from sources
28 within that state; or

29 (B) Allows residents of this state a credit against income taxes imposed
30 by that state on income for tax paid or payable under this chapter.

31 (b) The credit may not be allowed for taxes paid to a state that allows its

1 residents a credit against the taxes imposed by that state for income tax paid
2 or payable under this chapter irrespective of whether its residents are al-
3 lowed a credit against the taxes imposed by this chapter for income taxes
4 paid to that state.

5 (c) Credit shall be allowed only for the proportion of the taxes paid to the
6 state of residence (not including preference, alternative or minimum taxes)
7 as the adjusted gross income taxable under this chapter and also subject to
8 taxes in the state of residence bears to the entire adjusted gross income upon
9 which the taxes paid to the state of residence are imposed.

10 (d) The credit may not exceed the proportion of the tax payable under this
11 chapter that the modified adjusted gross income subject to tax in the state
12 of residence and also taxable under this chapter bears to the entire modified
13 adjusted gross income of the taxpayer.

14 **(2) The credit under this section shall be computed before allowance**
15 **of a credit under section 4 of this 2017 Act.**

16 [(2)] (3) For purposes of this section, the amount of income taxes paid to
17 another state includes the taxpayer's pro rata share of any taxes on, or ac-
18 cording to, or measured by, income or profits paid or accrued that were paid
19 by an S corporation.

20 [(3)] (4) Notwithstanding subsection (1) of this section, credit may not be
21 allowed under this section for taxes paid by a nonresident on qualifying
22 compensation.

23 [(4)] (5) As used in this section:

24 (a) "Modified adjusted gross income" means federal adjusted gross income
25 as modified by this chapter and the other laws of this state applicable to
26 personal income taxation.

27 (b) "Qualifying compensation" has the meaning given that term in section
28 1, chapter 559, Oregon Laws 2005.

29 (c) "State" means a state, district, territory or possession of the United
30 States.

31 **SECTION 6.** ORS 316.292 is amended to read:

1 316.292. (1) For purposes of this section, an estate or trust is considered
2 a resident of the state which taxes the income of the estate or trust irre-
3 spective of whether the income is derived from sources within that state.

4 (2) Notwithstanding the limitations contained in ORS 316.082 and 316.131,
5 if an estate or trust is a resident of this state and also a resident of another
6 state, the estate or trust shall be allowed a credit against the taxes imposed
7 under this chapter for income taxes imposed by and paid to the other state,
8 subject to the following conditions:

9 (a) Credit shall be allowed only for the proportion of the taxes paid to
10 the other state as the income taxable under this chapter and also subject to
11 tax in the other state bears to the entire income upon which the taxes paid
12 to the other state are imposed.

13 (b) The credit shall not exceed the proportion of the tax payable under
14 this chapter as the income subject to tax in the other state and also taxable
15 under this chapter bears to the entire income taxable under this chapter.

16 **(3) The credit under this section shall be computed before allowance**
17 **of a credit under section 4 of this 2017 Act.**

18 **SECTION 7.** ORS 316.131, as amended by section 5 of this 2017 Act, is
19 amended to read:

20 316.131. (1) A nonresident shall be allowed a credit against the taxes
21 otherwise due under this chapter for income taxes imposed by and paid to
22 the state of residence (not including any preference, alternative or minimum
23 tax) on income taxable under this chapter, subject to the following condi-
24 tions:

25 (a) The credit shall be allowed only if the state of residence either:

26 (A) Does not tax the income of residents of this state derived from sources
27 within that state; or

28 (B) Allows residents of this state a credit against income taxes imposed
29 by that state on income for tax paid or payable under this chapter.

30 (b) The credit may not be allowed for taxes paid to a state that allows its
31 residents a credit against the taxes imposed by that state for income tax paid

1 or payable under this chapter irrespective of whether its residents are al-
2 lowed a credit against the taxes imposed by this chapter for income taxes
3 paid to that state.

4 (c) Credit shall be allowed only for the proportion of the taxes paid to the
5 state of residence (not including preference, alternative or minimum taxes)
6 as the adjusted gross income taxable under this chapter and also subject to
7 taxes in the state of residence bears to the entire adjusted gross income upon
8 which the taxes paid to the state of residence are imposed.

9 (d) The credit may not exceed the proportion of the tax payable under this
10 chapter that the modified adjusted gross income subject to tax in the state
11 of residence and also taxable under this chapter bears to the entire modified
12 adjusted gross income of the taxpayer.

13 [(2) *The credit under this section shall be computed before allowance of a*
14 *credit under section 4 of this 2017 Act.*]

15 [(3)] (2) For purposes of this section, the amount of income taxes paid to
16 another state includes the taxpayer's pro rata share of any taxes on, or ac-
17 cording to, or measured by, income or profits paid or accrued that were paid
18 by an S corporation.

19 [(4)] (3) Notwithstanding subsection (1) of this section, credit may not be
20 allowed under this section for taxes paid by a nonresident on qualifying
21 compensation.

22 [(5)] (4) As used in this section:

23 (a) "Modified adjusted gross income" means federal adjusted gross income
24 as modified by this chapter and the other laws of this state applicable to
25 personal income taxation.

26 (b) "Qualifying compensation" has the meaning given that term in section
27 1, chapter 559, Oregon Laws 2005.

28 (c) "State" means a state, district, territory or possession of the United
29 States.

30 **SECTION 8.** ORS 316.292, as amended by section 6 of this 2017 Act, is
31 amended to read:

1 316.292. (1) For purposes of this section, an estate or trust is considered
2 a resident of the state which taxes the income of the estate or trust irre-
3 spective of whether the income is derived from sources within that state.

4 (2) Notwithstanding the limitations contained in ORS 316.082 and 316.131,
5 if an estate or trust is a resident of this state and also a resident of another
6 state, the estate or trust shall be allowed a credit against the taxes imposed
7 under this chapter for income taxes imposed by and paid to the other state,
8 subject to the following conditions:

9 (a) Credit shall be allowed only for the proportion of the taxes paid to
10 the other state as the income taxable under this chapter and also subject to
11 tax in the other state bears to the entire income upon which the taxes paid
12 to the other state are imposed.

13 (b) The credit shall not exceed the proportion of the tax payable under
14 this chapter as the income subject to tax in the other state and also taxable
15 under this chapter bears to the entire income taxable under this chapter.

16 *[(3) The credit under this section shall be computed before allowance of a*
17 *credit under section 4 of this 2017 Act.]*

18 **SECTION 9.** ORS 314.752 is amended to read:

19 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-
20 lowed or allowable to a C corporation for purposes of ORS chapter 317 or
21 318 shall not be allowed to an S corporation. The business tax credits al-
22 lowed 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
25 under ORS 314.734, on income of the shareholder of an S corporation, there
26 shall be taken into account the shareholder's pro rata share of business tax
27 credit (or item thereof) that would be allowed to the corporation (but for
28 subsection (1) of this section) or recapture or recovery thereof. The credit (or
29 item thereof), recapture or recovery shall be passed through to shareholders
30 in pro rata shares as determined in the manner prescribed under section
31 1377(a) of the Internal Revenue Code.

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

5 (4) If the shareholder is a nonresident and there is a requirement appli-
6 cable for the business tax credit that in the case of a nonresident the credit
7 be allowed in the proportion provided in ORS 316.117, then that provision
8 shall apply to the nonresident shareholder.

9 (5) As used in this section, "business tax credit" means a tax credit
10 granted to personal income taxpayers to encourage certain investment, to
11 create employment, economic opportunity or incentive or for charitable, ed-
12 ucational, scientific, literary or public purposes that is listed under this
13 subsection as a business tax credit or is designated as a business tax credit
14 by law or by the Department of Revenue by rule and includes but is not
15 limited to the following credits: ORS 285C.309 (tribal taxes on reservation
16 enterprise zones and reservation partnership zones), ORS 315.104 (forestation
17 and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways),
18 ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning),
19 ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (de-
20 pendent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213
21 (contributions for child care), ORS 315.304 (pollution control facility), ORS
22 315.326 (renewable energy development contributions), ORS 315.331 (energy
23 conservation projects), ORS 315.336 (transportation projects), ORS 315.341
24 (renewable energy resource equipment manufacturing facilities), ORS 315.354
25 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
26 merce) and ORS 315.533 (low income community jobs initiative) **and section**
27 **4 of this 2017 Act (sale of manufactured dwelling park).**

28 **SECTION 10.** ORS 318.031 is amended to read:

29 318.031. It being the intention of the Legislative Assembly that this
30 chapter and ORS chapter 317 shall be administered as uniformly as possible
31 (allowance being made for the difference in imposition of the taxes), ORS

1 305.140 and 305.150, ORS chapter 314 and the following sections are incor-
2 porated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141,
3 315.156, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and
4 315.533 **and section 4 of this 2017 Act** (all only to the extent applicable to
5 a corporation) and ORS chapter 317.

6 **SECTION 11. (1) Section 4 of this 2017 Act and the amendments to**
7 **ORS 316.131 and 316.292 by sections 5 and 6 of this 2017 Act apply to tax**
8 **years beginning on or after January 1, 2018, and before January 1, 2024.**

9 **(2) The amendments to ORS 316.131 and 316.292 by sections 7 and 8**
10 **of this 2017 Act apply to tax years beginning on or after January 1,**
11 **2024.**

12 **(3) The amendments to ORS 314.752 and 318.031 by sections 9 and 10**
13 **of this 2017 Act apply to tax years beginning on or after January 1,**
14 **2018.**

15 **SECTION 12. This 2017 Act takes effect on the 91st day after the**
16 **date on which the 2017 regular session of the Seventy-ninth Legislative**
17 **Assembly adjourns sine die.**

18
