

# House Bill 2230

Sponsored by Representative JOHNSON (at the request of Oregon School Boards Association) (Pre-session 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**.

Imposes 0.7 percent commercial activity tax, applicable to all persons other than excluded persons, to be measured by gross receipts. Allows for exclusion amount of \$1 million per year of gross receipts that is not subject to tax. Defines excluded persons exempt from tax. Enacts administrative provisions for commercial activity tax. Repeals corporate excise and income taxes. Includes provision for siting of gross receipts to state. Defines terms.

Requires person who engages in business in this state to register with Department of Revenue.

Increases earned income tax credit against personal income taxes and doubles standard deduction for personal income taxpayers that claim standard deduction on federal return.

Takes effect only if constitutional amendment proposed by House Joint Resolution 4 (2017) is approved by people at next regular general election. Takes effect on effective date of constitutional amendment proposed by House Joint Resolution 4 (2017).

## A BILL FOR AN ACT

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Relating to taxation; creating new provisions; amending ORS 63.810, 128.760, 184.484, 267.370, 267.385, 268.505, 279B.045, 279B.110, 285C.309, 285C.406, 285C.503, 285C.506, 305.217, 305.265, 305.270, 305.280, 305.380, 305.565, 305.645, 305.850, 305.992, 308A.071, 311.473, 314.011, 314.078, 314.135, 314.256, 314.260, 314.265, 314.276, 314.280, 314.287, 314.300, 314.302, 314.364, 314.385, 314.400, 314.403, 314.430, 314.466, 314.505, 314.520, 314.610, 314.615, 314.671, 314.673, 314.690, 314.712, 314.714, 314.716, 314.722, 314.727, 314.730, 314.732, 314.734, 314.736, 314.738, 314.744, 314.749, 314.752, 314.781, 314.784, 315.004, 315.052, 315.053, 315.054, 315.068, 315.104, 315.113, 315.119, 315.138, 315.141, 315.144, 315.156, 315.163, 315.164, 315.169, 315.174, 315.204, 315.208, 315.213, 315.237, 315.266, 315.271, 315.304, 315.326, 315.331, 315.336, 315.341, 315.354, 315.507, 315.514, 315.517, 315.521, 315.533, 315.610, 315.675, 316.127, 316.267, 316.277, 316.680, 316.695, 316.749, 317.097, 317.111, 317.131, 317.716, 344.755, 401.690, 461.560, 469.685, 469.687, 469.720, 526.450, 526.455, 526.465, 526.475, 701.106, 723.586, 731.840 and 743B.012 and section 28, chapter 618, Oregon Laws 2003, and sections 16 and 30, chapter 913, Oregon Laws 2009; repealing ORS 314.505, 314.515, 314.525, 314.647, 314.650, 314.655, 314.660, 314.665, 314.667, 314.668, 314.669, 314.675, 314.740, 314.742, 316.279, 317.005, 317.010, 317.013, 317.018, 317.019, 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122, 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304, 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344, 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.386, 317.388, 317.391, 317.394, 317.398, 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655, 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.717, 317.720, 317.725, 317.850, 317.853, 317.920, 317.950, 317.991, 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074, 318.106 and 318.130; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

**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.

## COMMERCIAL ACTIVITY TAX

**SECTION 1. Definitions.** As used in sections 1 to 31 of this 2017 Act:

(1) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of sections 1 to 31 of this 2017 Act under section 4 of this 2017 Act.

(2) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of sections 1 to 31 of this 2017 Act as the result of an election made under section 3 of this 2017 Act.

(3) "Doing business" means any transaction in the course of its activities conducted within this state by a national banking association, or any other corporation, provided, however, that a foreign corporation whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside this state, is not deemed to be doing business unless the foreign corporation is an affiliate of another foreign or domestic corporation that is doing business in Oregon. Whether or not corporations are affiliated shall be determined as provided in section 1504 of the Internal Revenue Code.

(4) "Excluded person" means any of the following:

(a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the exemption is denied under subsection (h), (i) or (m) of section 501 or under section 502, 503 or 505 of the Internal Revenue Code.

(b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption is denied under section 502 or 503 of the Internal Revenue Code.

(c) Organizations described in section 501(e) of the Internal Revenue Code.

(d) Organizations described in section 501(f) of the Internal Revenue Code.

(e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

(f) Organizations described in section 521 of the Internal Revenue Code.

(g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

(h) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828.

(i) Corporations, organized and operated primarily for the purpose of furnishing permanent residential, recreational and social facilities primarily for elderly persons, that:

(A) Are corporations not for profit, authorized to transact business in this state pursuant to ORS chapter 65 or any statute repealed by chapter 580, Oregon Laws 1959;

(B) Receive not less than 95 percent of their operating gross income (excluding any investment income) solely from payments for living, medical, recreational, and social services and facilities, paid by or on behalf of the elderly persons using the facilities of the corporation;

(C) Permit no part of their net earnings to inure to the benefit of any private stockholder or individual; and

(D) Provide in their articles or other governing instrument that, upon dissolution, the assets remaining after satisfying all lawful debts and liabilities shall be distributed to one or more corporations exempt from taxation under sections 1 to 31 of this 2017 Act as corporations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes.

1 (j) People’s utility districts established under ORS chapter 261.

2 (5) “Gross receipts” means the total amount realized by a person, without deduction for  
 3 the cost of goods sold or other expenses incurred, that contributes to the production of gross  
 4 income of the person, including the fair market value of any property and any services re-  
 5 ceived, and any debt transferred or forgiven as consideration. “Gross receipts” does not  
 6 mean:

7 (a) Interest income except interest on credit sales;

8 (b) Receipts from the sale, exchange or other disposition of an asset described in section  
 9 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person  
 10 held the asset;

11 (c) Proceeds received attributable to the repayment, maturity or redemption of the  
 12 principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument;

13 (d) The principal amount received under a repurchase agreement or on account of any  
 14 transaction properly characterized as a loan to the person;

15 (e) Contributions received by a trust, plan or other arrangement, any of which is de-  
 16 scribed in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A,  
 17 Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

18 (f) Compensation, whether current or deferred, and whether in cash or in kind, received  
 19 or to be received by an employee, former employee or the employee’s legal successor for  
 20 services rendered to or for an employer, including reimbursements received by or for an in-  
 21 dividual for medical or education expenses, health insurance premiums or employee ex-  
 22 penses, or on account of a dependent care spending account, legal services plan, any  
 23 cafeteria plan described in section 125 of the Internal Revenue Code or any similar employee  
 24 reimbursement;

25 (g) Proceeds received from the issuance of the taxpayer’s own stock, options, warrants,  
 26 puts or calls, or from the sale of the taxpayer’s treasury stock;

27 (h) Proceeds received on the account of payments from insurance policies, except those  
 28 proceeds received for the loss of business revenue;

29 (i) Gifts or charitable contributions received, membership dues received by trade, pro-  
 30 fessional, homeowners’ or condominium associations, payments received for educational  
 31 courses, meetings or meals, or similar payments to a trade, professional or other similar  
 32 association, and fundraising receipts received by any person when any excess receipts are  
 33 donated or used exclusively for charitable purposes;

34 (j) Damages received as the result of litigation in excess of amounts that, if received  
 35 without litigation, would be gross receipts;

36 (k) Property, money and other amounts received or acquired by an agent on behalf of  
 37 another in excess of the agent’s commission, fee or other remuneration;

38 (L) Tax refunds, other tax benefit recoveries and reimbursements for the tax imposed  
 39 under sections 1 to 31 of this 2017 Act made by entities that are part of the same combined  
 40 taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that  
 41 are not members of a combined taxpayer or consolidated elected taxpayer group that are  
 42 required to be made for economic parity among multiple owners of an entity whose tax ob-  
 43 ligation under sections 1 to 31 of this 2017 Act is required to be reported and paid entirely  
 44 by one owner, pursuant to the requirements of sections 3 and 4 of this 2017 Act;

45 (m) Pension reversions;

1       **(n) Contributions to capital;**

2       **(o) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the**  
3 **taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect**  
4 **directly from a purchaser and remit to a local, state or federal tax authority;**

5       **(p) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale**  
6 **dealer, retail dealer, distributor, manufacturer or seller, an amount equal to the federal and**  
7 **state excise taxes paid by any person on or for such cigarettes or tobacco products under**  
8 **subtitle E of the Internal Revenue Code or ORS chapter 323;**

9       **(q) In the case of receipts from the sale, transfer, exchange or other disposition of motor**  
10 **vehicle fuel as defined in ORS 319.010, an amount equal to the value of the motor fuel, in-**  
11 **cluding federal and state motor fuel excise taxes and receipts from billing or invoicing the**  
12 **tax imposed under section ORS 319.020 to another person;**

13       **(r) In the case of receipts from the sale of malt beverages or distilled liquor, as defined**  
14 **in ORS 471.001, by a person holding a license issued under ORS chapter 471, an amount equal**  
15 **to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor**  
16 **under subtitle E of the Internal Revenue Code or ORS chapter 471;**

17       **(s) Receipts realized by a vehicle dealer certified under ORS 822.020 from the sale or**  
18 **other transfer of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for the**  
19 **purpose of resale by the transferee vehicle dealer, but only if the sale or other transfer was**  
20 **based upon the transferee's need to meet a specific customer's preference for a motor vehi-**  
21 **cle;**

22       **(t) Receipts from a financial institution for services provided to the financial institution**  
23 **in connection with the issuance, processing, servicing and management of loans or credit**  
24 **accounts, if the financial institution and the recipient of the receipts have at least 50 percent**  
25 **of their ownership interests owned or controlled, directly or constructively through related**  
26 **interests, by common owners;**

27       **(u) Receipts realized from administering anti-neoplastic drugs and other cancer**  
28 **chemotherapy, biologicals, therapeutic agents and supportive drugs in a physician's office to**  
29 **patients with cancer;**

30       **(v) Funds received or used by a mortgage broker that is not a dealer in intangibles, other**  
31 **than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-**  
32 **lending mortgage loan;**

33       **(w) Property, moneys and other amounts received by a professional employer organiza-**  
34 **tion from a client employer in excess of the administrative fee charged by the professional**  
35 **employer organization to the client employer;**

36       **(x) In the case of amounts retained as commissions by a holder of a license under ORS**  
37 **chapter 462, an amount equal to the amounts specified under ORS chapter 462 that must be**  
38 **paid to or collected by the Department of Revenue as a tax and the amounts specified under**  
39 **ORS chapter 462 to be used as purse money; or**

40       **(y) Qualifying distribution center receipts.**

41       **(6) "Person" includes individuals, combinations of individuals of any form, receivers,**  
42 **assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts,**  
43 **estates, partnerships, limited liability partnerships, limited liability companies, associations,**  
44 **joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter**  
45 **S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal**

1 income tax purposes, and any other entities.

2 (7) "Taxable gross receipts" means gross receipts situated to this state under section 9  
3 of this 2017 Act.

4 (8) "Taxpayer" means any person, or any group of persons in the case of a combined  
5 taxpayer or consolidated elected taxpayer treated as one taxpayer, required to register or  
6 pay tax under sections 1 to 31 of this 2017 Act. "Taxpayer" does not include excluded persons.

7 **SECTION 2. Accounting methods.** A taxpayer's method of accounting for gross receipts  
8 for a tax period shall be the same as the taxpayer's method of accounting for federal income  
9 tax purposes for the taxpayer's federal taxable year that includes the tax period. If a  
10 taxpayer's method of accounting for federal income tax purposes changes, the taxpayer's  
11 method of accounting for gross receipts under sections 1 to 31 of this 2017 Act shall be  
12 changed accordingly.

13 **SECTION 3. Consolidation of related taxpayers.** (1) A group of two or more persons may  
14 elect to be a consolidated elected taxpayer for the purposes of sections 1 to 31 of this 2017  
15 Act if the group satisfies all of the following requirements:

16 (a) The group elects to include all persons, including excluded persons, having at least  
17 80 percent, or having at least 50 percent, of the value of their ownership interests owned or  
18 controlled, directly or constructively through related interests, by common owners during  
19 all or any portion of the tax period, together with the common owners.

20 (b) A group making its initial election on the basis of the 80 percent ownership test may  
21 change its election so that its consolidated elected taxpayer group is formed on the basis of  
22 the 50 percent ownership test if all of the following are satisfied:

23 (A) When the initial election was made, the group did not have any persons satisfying the  
24 50 percent ownership test;

25 (B) One or more of the persons in the initial group subsequently acquires ownership in-  
26 terests in a person such that the 50 percent ownership test is satisfied, the 80 percent own-  
27 ership test is not satisfied and the acquired person would be required to be included in a  
28 combined taxpayer group under section 4 of this 2017 Act;

29 (C) The group requests the change in writing to the Director of the Department of Re-  
30 venue as required by subsection (8) of this section; and

31 (D) The group has not previously changed its election.

32 (2)(a) At the election of the group, all entities that are not incorporated or formed under  
33 the laws of a state or of the United States and that meet the consolidated elected ownership  
34 test either shall be included in the group or shall be excluded from the group. If, at the time  
35 of registration, the group does not include any such entities that meet the consolidated  
36 elected ownership test, the group shall elect to either include or exclude the newly acquired  
37 entities before the due date of the first return due after the date of the acquisition.

38 (b) If 50 percent of the value of a person's ownership interests is owned or controlled by  
39 each of two consolidated elected taxpayer groups formed under the 50 percent ownership or  
40 control test, that person is a member of each group for the purposes of this section, and  
41 each group shall include in the group's taxable gross receipts 50 percent of that person's  
42 taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included  
43 in the taxable gross receipts of the consolidated elected taxpayer group of which the person  
44 is a member. In no event shall the ownership or control of 50 percent of the value of a  
45 person's ownership interests by two otherwise unrelated groups form the basis for consol-

1 idating the groups into a single consolidated elected taxpayer group or permit any exclusion  
2 under subsection (6) of this section of taxable gross receipts between members of the two  
3 groups. Subsection (4) of this section applies with respect to the elections described in this  
4 subsection.

5 (3) The group makes the election to be treated as a consolidated elected taxpayer in the  
6 manner prescribed under subsection (8) of this section.

7 (4) Subject to review and audit by the Department of Revenue, the group agrees that all  
8 of the following apply:

9 (a) The group shall file reports as a single taxpayer for at least the next eight calendar  
10 quarters following the election as long as at least two or more of the members of the group  
11 meet the requirements of subsection (1)(a) of this section.

12 (b) Before the expiration of the eighth calendar quarter, the group shall notify the di-  
13 rector if the group elects to cancel its designation as a consolidated elected taxpayer. If the  
14 group does not so notify the department, the election remains in effect for another eight  
15 calendar quarters.

16 (c) If, at any time during any of those eight calendar quarters following the election, a  
17 former member of the group no longer meets the requirements under subsection (1) of this  
18 section, that member shall report and pay the tax imposed under sections 1 to 31 of this 2017  
19 Act separately, as a member of a combined taxpayer, or, if the former member satisfies such  
20 requirements with respect to another consolidated elected group, as a member of that con-  
21 solidated elected group.

22 (d) The group agrees to the application of subsection (2) of this section.

23 (5) A group of persons making the election under this section shall report and pay tax  
24 on all of the group's taxable gross receipts even if substantial nexus with this state does not  
25 exist for one or more persons in the group.

26 (6)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts  
27 among persons included in the consolidated elected taxpayer group.

28 (b) Subject to paragraph (c) of this subsection, nothing in this section shall have the ef-  
29 fect of requiring a consolidated elected taxpayer group to include gross receipts received by  
30 an excluded person if that person is a member of the group pursuant to the elections made  
31 by the group under subsection (1) of this section.

32 (c)(A) As used in this paragraph, "dealer transfer" means a transfer of property that  
33 satisfies both of the following:

34 (i) The property is directly transferred by any means from one member of the group to  
35 another member of the group that is a dealer in intangibles; and

36 (ii) The property is subsequently delivered by the dealer in intangibles to a person that  
37 is not a member of the group.

38 (B) In the event of a dealer transfer, a consolidated elected taxpayer group may not ex-  
39 clude, under this paragraph, gross receipts from the transfer described in this paragraph.

40 (7) Gross receipts related to the sale or transmission of electricity through the use of  
41 an intermediary regional transmission organization approved by the Federal Energy Regula-  
42 tory Commission shall be excluded from taxable gross receipts under this section if all other  
43 requirements of this section are met, even if the receipts are from and to the same member  
44 of the group.

45 (8) To make the election to be a consolidated elected taxpayer, a group of persons shall

1 notify the director of the election on a form prescribed by the director for that purpose,  
2 which shall be signed by one or more individuals with authority, separately or together, to  
3 make a binding election on behalf of all persons in the group. Elections under subsection (1)  
4 of this section shall be made on or before the due date for filing the first return due after  
5 the election applies.

6 (9) Any person acquired or formed after the filing of the registration shall be included in  
7 the group if the person meets the requirements of subsection (1)(a) of this section, and the  
8 group shall notify the director of any additions to the group on a form prescribed by the di-  
9 rector for such purpose.

10 **SECTION 4. Combined taxpayer groups.** (1) All persons, other than excluded persons,  
11 having more than 50 percent of the value of their ownership interest owned or controlled,  
12 directly or constructively through related interests, by common owners during all or any  
13 portion of the tax period, together with the common owners, shall be members of a combined  
14 taxpayer group if those persons are not members of a consolidated elected taxpayer group  
15 pursuant to an election under section 3 of this 2017 Act.

16 (2) A combined taxpayer group shall register, file returns and pay taxes under sections  
17 1 to 31 of this 2017 Act as a single taxpayer and shall not exclude taxable gross receipts be-  
18 tween its members or from others that are not members.

19 (3) Any person acquired or formed after the filing of the registration shall be included in  
20 the group if the person meets the requirements of subsection (1) of this section.

21 (4) The group must notify the Director of the Department of Revenue of any additions  
22 to the group on a form prescribed by the director for such purpose.

23 **SECTION 5. Taxation of property transferred into state.** (1) Except as provided in sub-  
24 section (2) of this section:

25 (a) A person shall include as taxable gross receipts the value of property the person  
26 transfers into this state for the person's own use within one year after the person receives  
27 the property outside this state; and

28 (b) In the case of a combined taxpayer group or a consolidated elected taxpayer group,  
29 the taxpayer shall include as taxable gross receipts the value of property that any of the  
30 taxpayer's members transferred into this state for the use of any of the taxpayer's members  
31 within one year after the taxpayer receives the property outside this state.

32 (2) Property brought into this state within one year after it is received outside this state  
33 by a person or group described in subsection (1)(a) or (b) of this section may not be included  
34 as taxable gross receipts as required under subsection (1) of this section if the Department  
35 of Revenue ascertains that the property's receipt outside this state by the person or group  
36 followed by its transfer into this state within one year was not intended in whole or in part  
37 to avoid in whole or in part the tax imposed under sections 1 to 31 of this 2017 Act.

38 (3) The department may adopt rules necessary to administer this section.

39 **SECTION 6. Joint and several liability.** All members of a combined taxpayer group or a  
40 consolidated elected taxpayer during the tax period or periods for which additional tax, pen-  
41 alty or interest is owed are jointly and severally liable for such amounts. Although the re-  
42 porting person will be assessed for the liability, amounts due may be collected by assessment  
43 against any member of the group or pursued against any member of the group.

44 **SECTION 7. Commercial activity tax imposed on gross receipts.** (1) A commercial ac-  
45 tivity tax is imposed on each person with taxable gross receipts for the privilege of doing

1 business in this state. Persons on which the commercial activity tax is imposed include, but  
 2 are not limited to, persons with substantial nexus with this state. The tax imposed under this  
 3 section is not a transactional tax and is not subject to the Interstate Income Act of 1959  
 4 (P.L. 86-272). The tax imposed under this section is in addition to any other taxes or fees  
 5 imposed under the tax laws of the state. The tax imposed under this section is imposed on  
 6 the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The  
 7 tax imposed by this section is an annual privilege tax for the calendar year that, in the case  
 8 of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter  
 9 taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to  
 10 the annual privilege tax for doing business during any portion of such calendar year.

11 (2) The tax imposed by this section is a tax on the taxpayer and may not be billed or in-  
 12 voiced to another person. Nothing in this subsection prohibits:

13 (a) A person from including in the price charged for a good or service an amount suffi-  
 14 cient to recover the tax imposed by this section; or

15 (b) A lessor from including an amount sufficient to recover the tax imposed by this sec-  
 16 tion in a lease payment charged, or from including such an amount on a billing or invoice  
 17 pursuant to the terms of a written lease agreement providing for the recovery of the lessor's  
 18 tax costs. The recovery of such costs shall be based on an estimate of the total tax cost of  
 19 the lessor during the tax period, as the tax liability of the lessor cannot be calculated until  
 20 the end of that period.

21 **SECTION 8. Rate of taxation.** (1) Except as provided in subsection (2) of this section, the  
 22 tax imposed under section 7 of this 2017 Act for each tax period shall be the product of 0.7  
 23 percent multiplied by the remainder of the taxpayer's taxable gross receipts for the tax pe-  
 24 riod after subtracting the exclusion amount provided for in subsection (2) of this section.

25 (2) A taxpayer may exclude the greater of:

26 (a) The taxpayer's gross receipts for the calendar year; or

27 (b) \$1 million for the calendar year.

28 **SECTION 9. Situs of gross receipts.** (1) For purposes of sections 1 to 31 of this 2017 Act,  
 29 gross receipts shall be situated to this state as follows:

30 (a) Gross rents and royalties from real property located in this state shall be situated to  
 31 this state.

32 (b) Gross rents and royalties from tangible personal property shall be situated to this  
 33 state to the extent the tangible personal property is located or used in this state.

34 (c) Gross receipts from the sale of real property located in this state shall be situated to  
 35 this state.

36 (d) Gross receipts from the sale of tangible personal property shall be situated to this  
 37 state if the property is received in this state by the purchaser.

38 (e) Gross receipts from the sale, exchange, disposition or other grant of the right to use  
 39 trademarks, trade names, patents, copyrights and similar intellectual property shall be  
 40 situated to this state to the extent that the receipts are based on the amount of use of the  
 41 property in this state. If the receipts are not based on the amount of use of the property,  
 42 but rather on the right to use the property, and the payer has the right to use the property  
 43 in this state, then the receipts from the sale, exchange, disposition or other grant of the  
 44 right to use the property shall be situated to this state to the extent the receipts are based  
 45 on the right to use the property in this state.



1 (f) Gross receipts from the sale of transportation services by a motor carrier shall be  
 2 sitused to this state in proportion to the mileage traveled by the carrier during the tax pe-  
 3 riod on roadways, waterways, airways and railways in this state to the mileage traveled by  
 4 the carrier during the tax period on roadways, waterways, airways and railways everywhere.  
 5 With prior written approval of the Department of Revenue, a motor carrier may use an al-  
 6 ternative situsing procedure for transportation services.

7 (g) Gross receipts from the sale of all other services, and all other gross receipts not  
 8 otherwise sitused under this subsection, shall be sitused to this state in the proportion that  
 9 the purchaser's benefit in this state with respect to what was purchased bears to the  
 10 purchaser's benefit everywhere with respect to what was purchased. The physical location  
 11 where the purchaser ultimately uses or receives the benefit of what was purchased shall be  
 12 paramount in determining the proportion of the benefit in this state to the benefit every-  
 13 where. If a taxpayer's records do not allow the taxpayer to determine that location, the  
 14 taxpayer may use an alternative method to situs gross receipts under this subsection if the  
 15 alternative method is reasonable, is consistently and uniformly applied and is supported by  
 16 the taxpayer's records as the records exist when the service is provided or within a reason-  
 17 able period of time thereafter.

18 (2) If the situsing provisions of subsection (1) of this section do not fairly represent the  
 19 extent of a person's activity in this state, the person may request, or the Department of  
 20 Revenue may require or permit, an alternative method. A request under this subsection by  
 21 a person must be made within the applicable statute of limitations set forth in sections 1 to  
 22 31 of this 2017 Act.

23 (3) The department may adopt rules to provide additional guidance to the application of  
 24 this section, and provide alternative methods of situsing gross receipts that apply to all  
 25 persons, or subset of persons, that are engaged in similar business or trade activities.

26 (4) As used in this section, "motor carrier" has the meaning given that term in ORS  
 27 825.005.

28  
 29 **PROCEDURE**

30  
 31 **SECTION 10. Registration.** (1) Any person who engages in business in this state shall  
 32 register with the Department of Revenue as provided in and subject to sections 10 to 16 of  
 33 this 2017 Act.

34 (2) Each person described in subsection (1) of this section shall apply for and obtain from  
 35 the department a certificate of registration for the principal or main place of business of the  
 36 person and a separate certificate of registration for any other business location of the person  
 37 in this state.

38 (3) The application shall contain the names of the persons who have an interest in the  
 39 business, their addresses, the address of the principal or main place of business and of any  
 40 other business location, and other information as reasonably required by the department.

41 (4) No fee need accompany the application.

42 **SECTION 11. Certificate of registration.** (1) The Department of Revenue shall examine  
 43 an application submitted under section 10 of this 2017 Act and, if the information contained  
 44 in the application is complete and accurate, shall issue an original registration certificate for  
 45 the principal or main place of business and a branch registration certificate for each addi-

1 tional business location.

2 (2)(a) Each registration certificate issued must be numbered and must show the name,  
3 residence, place and character of business of the person, the business location for which it  
4 is issued and any other information required by the department. The registration certificate  
5 issued for a business location must be displayed at the location in a conspicuous place.

6 (b) A registration certificate must be personal and not assignable or transferable.

7 (c) No fee shall be charged for issuance of a registration certificate.

8 (3) If the principal or main place of business is outside this state, the department shall  
9 issue the original registration certificate for that location. The department shall issue a  
10 branch registration certificate for each business location within this state.

11 (4) The department may, but need not, consider as a separate business location or place  
12 of business, any store, mercantile, market, outlet, shop, emporium, mart, establishment,  
13 office, studio, stand, booth, stall, site, vending machine or other location.

14 **SECTION 12. Duration, suspension, revocation.** (1) A registration under section 11 of this  
15 2017 Act shall be valid and in effect for the period during which the person registered en-  
16 gages in business at the place indicated by the registration certificate and pays the com-  
17 mercial activity tax or until the registration is suspended, revoked or canceled.

18 (2)(a) Except in a case of loss, theft, destruction, damage or as otherwise provided by  
19 rule, if the person registered or a business location changes, the registration certificate must  
20 be returned to the Department of Revenue and, if applicable, an application made for a new  
21 or replacement certificate.

22 (b) Except as provided in paragraph (c) of this subsection, a change in the person regis-  
23 tered occurs if the business is sold, transferred or dissolved, a change in ownership occurs  
24 or the department otherwise determines that the person registered has changed.

25 (c) A change in the person registered does not occur:

26 (A) Upon transfer of assets to an assignee for the benefit of creditors or upon the ap-  
27 pointment of a receiver or trustee in bankruptcy.

28 (B) Upon the death of a sole proprietor in those cases where there is a continuous op-  
29 eration of the business by the personal representative or trustee.

30 (C) Upon any other transfer described by rule adopted by the department.

31 (3) The department may suspend or revoke the registration of any person that fails to  
32 pay the commercial activity tax or that fails to comply with any provision of sections 1 to  
33 31 of this 2017 Act. The department may not issue a new registration certificate to the per-  
34 son unless the department is satisfied that the person will comply with sections 1 to 31 of  
35 this 2017 Act and any rules of the department adopted thereunder. If the department sus-  
36 pends or revokes the registration of a person, the person shall be entitled to a hearing. The  
37 hearing shall be conducted as a contested case hearing under ORS chapter 183. Judicial re-  
38 view of an order issued under this subsection shall be as provided in ORS chapter 183.

39 **SECTION 13. Temporary certificate.** A temporary registration certificate may be issued  
40 to any person that engages in business in this state under rules adopted by the Department  
41 of Revenue.

42 **SECTION 14. Inactive.** The Department of Revenue may cancel a registration if the per-  
43 son has not incurred any liability or obligation under the commercial activity tax for at least  
44 two years or for any other reason that has been determined by the department by rule to  
45 be an appropriate reason. Rules adopted by the department shall afford an opportunity to the

1 person to demonstrate that registration should continue or resume.

2 **SECTION 15. Resale certificates, validity.** (1) A person may engage in business in this  
 3 state only if the person and the location of the business are registered with the Department  
 4 of Revenue.

5 (2) For purposes of proper administration of sections 1 to 31 of this 2017 Act and to pre-  
 6 vent evasion, it is presumed that the entire gross receipts from sales or sales price is the  
 7 measure of the tax until the contrary is established. The burden of proving that a sale is not  
 8 a sale at retail is upon the person that makes the sale unless the person takes from the  
 9 purchaser a resale certificate to the effect that the property or service is purchased for re-  
 10 sale.

11 (3) The resale certificate of a person that is engaged in the business of selling tangible  
 12 personal property or services at retail in this state is valid only if the person is registered  
 13 with the department and the registration has not been suspended, revoked or canceled.

14 (4) The department shall prescribe by rule the contents and proper format for a resale  
 15 certificate.

16 **SECTION 16. Records.** Every person engaging in business in this state shall keep records,  
 17 receipts, invoices and other pertinent papers related to the commercial activity tax imposed  
 18 under section 7 of this 2017 Act in a form required by the Department of Revenue.

19  
 20 **RETURNS AND PAYMENTS**

21  
 22 **SECTION 17. Returns, payment.** (1) The commercial activity tax imposed under section  
 23 7 of this 2017 Act is due and payable to the Department of Revenue as follows:

24 (a) If the tax may reasonably be expected to be \$500 or less for the entire calendar year,  
 25 the tax is due and payable to the department not later than the last day of the calendar  
 26 month next following the calendar year.

27 (b) If the tax may reasonably be expected to be more than \$500, but \$5,000 or less for the  
 28 entire calendar year, the tax is due and payable to the department semiannually not later  
 29 than the last day of the calendar month next following June 30 and December 31.

30 (c) If the tax may reasonably be expected to be more than \$5,000, but \$12,500 or less for  
 31 the entire calendar year, the tax is due and payable to the department quarterly not later  
 32 than the last day of the calendar month next following the calendar quarter.

33 (d) If the tax may reasonably be expected to be more than \$12,500 for the entire calendar  
 34 year, the tax is due and payable to the department monthly as set forth in section 18 of this  
 35 2017 Act.

36 (2) The commercial activity tax is due and payable as provided in this section without  
 37 regard to any extension of time for filing a return.

38 **SECTION 18. Returns, filing.** (1) Not later than the last day of the calendar month next  
 39 following the applicable tax period described in section 17 of this 2017 Act, a return for the  
 40 preceding tax period shall be filed with the Department of Revenue in a form prescribed by  
 41 the department.

42 (2) For purposes of the commercial activity tax imposed under section 7 of this 2017 Act,  
 43 a return shall be filed by every person engaged in business in this state.

44 (3) Returns must be signed by the person required to file the return, or by a duly au-  
 45 thorized agent, subject to penalties for false swearing.

1 (4) The department for good cause may extend for a period not to exceed one month the  
 2 time for making any return. If the time for filing a return is extended at the request of a  
 3 taxpayer, interest on any unpaid tax at the rate established under ORS 305.220, for each  
 4 month or fraction of a month from the time the return was originally required to be filed  
 5 to the time of payment, shall be added and paid.

6 **SECTION 19. Accounting, installment payment.** (1) Subject to rules adopted by the De-  
 7 partment of Revenue, the commercial activity tax imposed under section 7 of this 2017 Act  
 8 becomes payable in accordance with the system of accounting regularly employed by the  
 9 retailer.

10 (2) In the case of a lease, contract, sale or arrangement described in section 4216(c) of  
 11 the Internal Revenue Code, rules similar to the rules of section 4217(e)(2) of the Internal  
 12 Revenue Code shall apply for purposes of the commercial activity tax.

13 (3) A person is entitled to a credit or refund for taxes previously paid on debts that are  
 14 deductible as worthless for federal income tax purposes.

15 **SECTION 20. Persons outside state.** Any person engaged in business within or outside  
 16 this state may be required or permitted to file a return and pay the commercial activity tax  
 17 imposed under section 7 of this 2017 Act under rules that shall be adopted by the Department  
 18 of Revenue.

19  
 20 **COLLECTION**

21  
 22 **SECTION 21.** (1) The commercial activity tax imposed under section 7 of this 2017 Act is  
 23 a revenue or tax law of this state and shall be administered by the Department of Revenue.

24 (2) For purposes of determining whether and to whom information contained on a return  
 25 of commercial activity tax may be made known, ORS 314.835 and 314.840 shall apply.

26 **SECTION 22.** (1) Except where the context requires otherwise, the provisions of ORS  
 27 chapters 305 and 314 as to the audit and examination of returns, determination of deficien-  
 28 cies, assessments, claims for refund, refunds, conferences and appeals to the Oregon Tax  
 29 Court, and the procedures relating thereto, shall apply to the determination of commercial  
 30 activity tax imposed under section 7 of this 2017 Act, penalties and interest.

31 (2) The commercial activity tax, interest and penalties are a personal debt due and owing  
 32 from the taxpayer to the State of Oregon from the time that liability for the tax is incurred.  
 33 The lien and collection provisions of ORS chapters 305 and 314, including but not limited to  
 34 the warrant authority under ORS 314.430, the jeopardy provisions of ORS 314.440 and the  
 35 collection agency provisions of ORS 305.850, apply to the commercial activity tax.

36 **SECTION 23. Rules, administration.** (1) The Department of Revenue is authorized to and  
 37 shall adopt rules requiring uniformity in application, reporting and collection and otherwise  
 38 carrying out the purposes of sections 1 to 31 of this 2017 Act.

39 (2) The department shall provide by rule for the effective administration of the com-  
 40 mercial activity tax.

41 **SECTION 24. Quitting business, successor.** (1) For purposes of sections 1 to 31 of this  
 42 2017 Act, "successor" means any person to whom another person quitting, selling out, ex-  
 43 changing or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk  
 44 and not in the ordinary course of business, a major part of the materials, supplies, mer-  
 45 chandise, inventory, fixtures or equipment of the person. Any person obligated to fulfill the

1 terms of a contract shall be considered a successor to any contractor defaulting in the per-  
 2 formance of any contract as to which the person is a surety or guarantor.

3 (2) If any person quits business or sells out, exchanges or otherwise disposes of a busi-  
 4 ness or stock of goods, any commercial activity tax imposed under section 7 of this 2017 Act  
 5 shall become immediately due and payable. The person shall, within 10 days after the sale,  
 6 exchange or disposition, make a return and pay the tax due.

7 (3) The successor is liable for the full amount of the tax and may withhold from the  
 8 purchase price a sum sufficient to pay any tax due until a receipt or evidence from the De-  
 9 partment of Revenue showing payment in full of any tax due is presented to the successor.  
 10 If a receipt or other evidence is not presented to the successor within 10 days, the successor  
 11 may pay the tax and the amount paid shall, to the extent paid, be considered a payment of  
 12 the purchase price. If the tax paid by the successor is greater than the purchase price, the  
 13 amount of the difference is a debt due to the successor from the seller or transferor.

14 (4) A successor is not liable for any tax due from the person from whom the successor  
 15 has acquired a business or stock of goods if the successor gives written notice to the de-  
 16 partment of the acquisition and the department does not assess a deficiency against the  
 17 seller or transferor within six months of receipt of the notice of acquisition and mail or de-  
 18 liver a copy of the assessment to the successor.

19  
 20 **DISPOSITION OF PROCEEDS**

21  
 22 **SECTION 25. Payments to department.** For purposes of sections 1 to 31 of this 2017 Act,  
 23 and except as otherwise provided by law, all taxes, interest and penalties imposed and all  
 24 amounts of commercial activity tax collected or required to be paid to the state shall be paid  
 25 to the Department of Revenue and upon receipt by the department shall be turned over to  
 26 the State Treasurer, to be disbursed as provided in section 26 of this 2017 Act.

27 **SECTION 26. Suspense account, other disposition.** (1) Except as otherwise provided by  
 28 law, all moneys received by the Department of Revenue under sections 1 to 31 of this 2017  
 29 Act shall be deposited in the State Treasury and credited to a suspense account established  
 30 under ORS 293.445 separate and distinct from the General Fund. Refunds, including refunds  
 31 of erroneous overpayments or refunds of other moneys received in which the department  
 32 has no legal interest, shall be paid out of the suspense account. After payment of refunds,  
 33 the net revenue shall be held in the General Fund as miscellaneous receipts available gen-  
 34 erally to meet any expense or obligation of the State of Oregon lawfully incurred. A working  
 35 balance of unreceipted revenue from the tax imposed by sections 1 to 31 of this 2017 Act may  
 36 be retained for the payment of refunds, but such working balance may not at the close of  
 37 any fiscal year exceed the sum of \$500,000.

38 (2) There is continuously appropriated to the department, out of the General Fund,  
 39 amounts necessary to pay the administrative expenses of the department in administering,  
 40 collecting and enforcing the commercial activity tax.

41  
 42 **PENALTIES**

43  
 44 **SECTION 27.** (1) Any person required under sections 1 to 31 of this 2017 Act to make,  
 45 render, furnish, sign or verify any commercial activity tax return that makes any false or

1 fraudulent or supplementary return, with intent to defeat or evade the determination of an  
 2 amount of tax due, is subject to the penalty and shall be punished as provided under ORS  
 3 314.991 (1).

4 (2) Any person that fails or refuses to file any commercial activity tax return or supple-  
 5 mentary return, or to furnish any information required by the Department of Revenue, shall  
 6 be punished, upon conviction, as provided under ORS 305.990 (4).

7 (3) Violation of any provision contained in sections 1 to 31 of this 2017 Act, or any rule  
 8 adopted thereunder, shall be punished, upon conviction, as provided under ORS 305.990 (4).

9 **SECTION 28. Unauthorized engaging in business.** (1) Any person that engages in business  
 10 within this state without having registered with the Department of Revenue under section  
 11 10 of this 2017 Act is punishable, upon conviction, as provided in ORS 305.990 (4).

12 (2) Any person that engages in business in this state after having registered with the  
 13 department and having had the registration revoked under section 12 of this 2017 Act is  
 14 guilty of a Class C felony.

15 **SECTION 29. Resale certificate, fraudulent.** Any person that willfully tenders a resale  
 16 certificate under section 15 of this 2017 Act that is false, fraudulent or invalid to a seller or  
 17 that, under false or knowingly misleading circumstances, tenders a resale certificate to a  
 18 seller, is punishable, upon conviction, as provided under ORS 305.990 (4).

19 **SECTION 30. Corporations.** For purposes of sections 27, 28 and 29 of this 2017 Act, “per-  
 20 son” includes an officer or employee of a corporation or a member or employee of a part-  
 21 nership.

22 **SECTION 31. Penalties additional to all other penalties.** Any of the penalties provided in  
 23 sections 27, 28 and 29 of this 2017 Act are in addition to all other penalties applicable to  
 24 sections 1 to 31 of this 2017 Act.

25  
 26 **EARNED INCOME TAX CREDIT INCREASE**  
 27

28 **SECTION 32.** ORS 315.266, as amended by section 1, chapter 98, Oregon Laws 2016, is amended  
 29 to read:

30 315.266. (1)(a) In addition to any other credit available for purposes of ORS chapter 316, an eli-  
 31 gible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter  
 32 316 for the tax year in an amount equal to [eight] 18 percent of the earned income credit allowable  
 33 to the individual for the same tax year under section 32 of the Internal Revenue Code.

34 (b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the  
 35 age of three at the close of the tax year, the credit allowed under this section shall be in an amount  
 36 equal to [11] 18 percent of the earned income credit allowable to the individual for the same tax  
 37 year under section 32 of the Internal Revenue Code.

38 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner  
 39 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.  
 40 However, the credit shall be prorated using the proportion provided in ORS 316.117.

41 (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 42 Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit al-  
 43 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

44 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 45 resident occurs, the credit allowed by this section shall be determined in a manner consistent with

1 ORS 316.117.

2 (5) If the amount allowable as a credit under this section, when added to the sum of the amounts  
 3 allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other  
 4 refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year  
 5 after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax  
 6 year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

7 (6) The Department of Revenue may adopt rules for purposes of this section, including but not  
 8 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal  
 9 earned income credit claimed by the taxpayer for the tax year.

10 (7) Refunds attributable to the earned income credit allowed under this section do not bear in-  
 11 terest.

12  
 13 **DOUBLING OF PERSONAL INCOME TAX STANDARD DEDUCTION**

14  
 15 **SECTION 33.** ORS 316.680, as amended by sections 8 and 9, chapter 91, Oregon Laws 2016, is  
 16 amended to read:

17 316.680. (1) There shall be subtracted from federal taxable income:

18 (a) The interest or dividends on obligations of the United States and its territories and pos-  
 19 sessions or of any authority, commission or instrumentality of the United States to the extent  
 20 includable in gross income for federal income tax purposes but exempt from state income taxes un-  
 21 der the laws of the United States. However, the amount subtracted under this paragraph shall be  
 22 reduced by any interest on indebtedness incurred to carry the obligations or securities described in  
 23 this paragraph, and by any expenses incurred in the production of interest or dividend income de-  
 24 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,  
 25 are deductible in determining federal taxable income.

26 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as  
 27 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for  
 28 which a tax benefit was received.

29 (c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the  
 30 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce  
 31 federal taxable income by those amounts.

32 (d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

33 (e)(A) Federal pension income that is attributable to federal employment occurring before Oc-  
 34 tober 1, 1991. Federal pension income that is attributable to federal employment occurring before  
 35 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for  
 36 the tax year by the ratio of the number of months of federal creditable service occurring before  
 37 October 1, 1991, over the total number of months of federal creditable service.

38 (B) The subtraction allowed under this paragraph applies only to federal pension income re-  
 39 ceived at a time when:

40 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

41 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,  
 42 are exempt from state income tax.

43 (C) As used in this paragraph:

44 (i) "Federal creditable service" means those periods of time for which a federal employee earned  
 45 a federal pension.

1 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-  
2 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-  
3 aries.

4 (f) Any amount included in federal taxable income for the tax year that is attributable to the  
5 conversion of a regular individual retirement account into a Roth individual retirement account  
6 described in section 408A of the Internal Revenue Code, to the extent that:

7 (A) The amount was subject to the income tax of another state or the District of Columbia in  
8 a prior tax year; and

9 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax  
10 year.

11 (g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS  
12 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-  
13 termining the taxpayer's federal taxable income for the tax year.

14 (h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax  
15 year in qualified withdrawals from a savings network account for higher education established under  
16 ORS 178.300 to 178.355.

17 (i) Any federal deduction that the taxpayer would have been allowed for the production, pro-  
18 cessing or sale of marijuana items authorized under ORS 475B.010 to 475B.395 or 475B.400 to  
19 475B.525 but for section 280E of the Internal Revenue Code.

20 (j) If included in taxable income for federal tax purposes, any distributions from an ABLE ac-  
21 count that do not exceed the qualified disability expenses of the designated beneficiary as provided  
22 in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board.

23 **(k) If a basic standard deduction is claimed under section 63(c)(2) of the Internal Revenue**  
24 **Code on the taxpayer's federal income tax return for the tax year, an additional amount**  
25 **equal to the basic standard deduction.**

26 (2) There shall be added to federal taxable income:

27 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any  
28 foreign state or of a political subdivision or authority of any foreign state. However, the amount  
29 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the  
30 obligations or securities described in this paragraph and by any expenses incurred in the production  
31 of interest or dividend income described in this paragraph.

32 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-  
33 torial possession of the United States that by the laws of the United States are exempt from federal  
34 income tax but not from state income taxes. However, the amount added under this paragraph shall  
35 be reduced by any interest on indebtedness incurred to carry the obligations or securities described  
36 in this paragraph and by any expenses incurred in the production of interest or dividend income  
37 described in this paragraph.

38 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not  
39 taxable by Oregon.

40 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the  
41 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-  
42 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

43 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under  
44 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

45 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-



1 ness credits under section 196 of the Internal Revenue Code.

2 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws  
 3 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,  
 4 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal  
 5 Revenue Code.

6 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer  
 7 during the tax year if:

8 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the  
 9 tax year; and

10 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

11 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-  
 12 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right  
 13 income repayment adjustment under ORS 315.068.

14 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 178.300, from a savings  
 15 network account for higher education established under ORS 178.300 to 178.355, the amount of the  
 16 withdrawal that is attributable to contributions that were subtracted from federal taxable income  
 17 under ORS 316.699.

18 (k) If the taxpayer makes a distribution from an ABLE account that is not a qualified disability  
 19 expense of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by  
 20 the Oregon 529 Savings Board, the amount of the distribution that is attributable to contributions  
 21 that were subtracted from federal taxable income under ORS 316.699.

22 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-  
 23 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this  
 24 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the  
 25 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-  
 26 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

27  
 28 **DISALLOWANCE OF CREDITS AGAINST CORPORATE TAX**

29  
 30 **SECTION 34.** ORS 285C.309 is amended to read:

31 285C.309. (1) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the*  
 32 *taxpayer is a corporation, under ORS chapter 317 or 318,*] is allowed to an eligible business operating  
 33 a new business facility in a reservation enterprise zone or a reservation partnership zone.

34 (2) The amount of the credit allowed to the eligible business shall equal:

35 (a) The amount of tribal property tax imposed on a new business facility of an eligible business  
 36 that is paid or incurred by the eligible business during the income [*or corporate excise*] tax year of  
 37 the eligible business; or

38 (b) If the eligible business has not previously conducted business operations within the reser-  
 39 vation enterprise zone or reservation partnership zone, the amount of tribal tax paid or incurred by  
 40 the eligible business during the income [*or corporate excise*] tax year of the eligible business.

41 (3) The credit allowed to the eligible business may not exceed the tax liability of the eligible  
 42 business for the tax year and may not be carried over to another tax year.

43 (4) A credit is allowable under this section only to the extent the tribal tax on which the credit  
 44 is based is imposed on businesses not owned by Indians on a uniform basis within the territory over  
 45 which the tribal government has the authority to levy, impose and collect taxes.

1 (5) The credit shall be claimed on a form prescribed by the Department of Revenue containing  
 2 the information required by the department, including information sufficient for the department to  
 3 determine that the taxpayer is an eligible business and that the facility operated by the business is  
 4 a new business facility.

5 (6) An eligible nonresident individual shall be allowed the credit computed in the same manner  
 6 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.  
 7 However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

14 (9) An eligible business claiming a credit under this section shall maintain records sufficient to  
 15 authenticate the allowance of the credit claimed under this section and shall furnish the department  
 16 with these records upon the request of the department.

17 (10) A credit claimed by an eligible business may not be disallowed solely because the eligible  
 18 business conducts business operations both within and outside of a reservation enterprise zone or  
 19 a reservation partnership zone.

20 **SECTION 35.** ORS 285C.406 is amended to read:

21 285C.406. (1) In order for a taxpayer to claim the property tax exemption under ORS 285C.409  
 22 or a corporate excise or income tax credit under ORS 317.124:

23 [(1)] (a) The written agreement between the business firm and the rural enterprise zone sponsor  
 24 that is required under ORS 285C.403 (3)(c) must be entered into prior to the termination of the en-  
 25 terprise zone under ORS 285C.245; and

26 [(2)(a)] (b)(A) For the purpose of the property tax exemption, the business firm must obtain  
 27 certification under ORS 285C.403 on or before June 30, 2025; or

28 [(b)] (B) For the purpose of the corporate excise or income tax credit, the business firm must  
 29 obtain certification under ORS 285C.403 on or before [June 30, 2018] **January 1, 2017**.

30 **(2) A corporate excise or income tax credit may not be claimed under ORS 317.124 for**  
 31 **any tax year beginning on or after January 1, 2019.**

32 **SECTION 36.** ORS 285C.503 is amended to read:

33 285C.503. (1) A business firm seeking the income [*and corporate excise*] tax exemption allowed  
 34 under ORS 316.778 [*or 317.391*] shall, before the commencement of construction, reconstruction,  
 35 modification or installation of property or improvements at the location for which the exemption is  
 36 sought and before the hiring of any employees at that location, apply to the Oregon Business De-  
 37 velopment Department for preliminary certification under this section.

38 (2) The application shall be on a form prescribed by the department and shall contain the fol-  
 39 lowing information:

40 (a) The proposed location of the facility;

41 (b) A description of the property to be constructed, reconstructed, modified, acquired, installed  
 42 or leased and that is to comprise the facility when the business firm commences business operations  
 43 at the facility;

44 (c) If any property described in paragraph (b) of this subsection is to be leased, the term of the  
 45 lease;

- 1 (d) The number of full-time, year-round employees the business firm intends to hire;
- 2 (e) The minimum annual average compensation intended to be given to the employees described  
3 in paragraph (d) of this subsection;
- 4 (f) A description of any other business activities of the firm in this state at the time of appli-  
5 cation, sufficient for the department to be able to determine if the proposed facility will constitute  
6 a new business in this state; and
- 7 (g) Any other information that the department requires.
- 8 (3) An application filed under this section must be accompanied by a fee in an amount prescribed  
9 by the Oregon Business Development Department by rule. The fee required by the department may  
10 not exceed \$500.
- 11 (4)(a) When an application is filed under this section, the department shall send copies of the  
12 application to the governing bodies of the city and county in which the facility is proposed to be  
13 located. If the facility is to be located within a port, the department shall also send a copy of the  
14 application to the governing body of the port.
- 15 (b) The governing body of a city, port or county described in paragraph (a) of this subsection  
16 may object to the preliminary certification of a business firm if the firm would be:
- 17 (A) In competition with an existing business employing individuals within the city, port or  
18 county; or
- 19 (B) Incompatible with economic growth or development standards that the city, port or county  
20 had adopted prior to the date of application for preliminary certification.
- 21 (c) If the governing body of the city, port or county decides to object to preliminary certification  
22 of the firm, the governing body shall adopt a resolution stating its objection and the reason for its  
23 objection.
- 24 (d) The governing body of a city, port or county has 60 days from the date the application is sent  
25 to the city, port or county to object to preliminary certification. If the objection is not made within  
26 the 60-day period, the city, port or county shall be deemed to have agreed to preliminary certifica-  
27 tion.
- 28 (5) When an application is filed under this section, the department shall review the application  
29 and determine whether all of the following requirements are met:
- 30 (a) The proposed facility is to be located at a qualified location.
- 31 (b) The proposed facility is intended to operate as a facility for at least 10 years following the  
32 date the facility becomes operational.
- 33 (c) The business firm intends to hire at least five employees for full-time, year-round employ-  
34 ment.
- 35 (d) The newly hired employees described in paragraph (c) of this subsection are to receive a  
36 minimum annual compensation of:
- 37 (A) 150 percent of the county per capita personal income of the county in which the facility is  
38 to be located as of the date of the application for preliminary certification; or
- 39 (B) 100 percent of the county per capita personal income of the county in which the facility is  
40 to be located as of the date of the application for preliminary certification and the business firm  
41 will provide health insurance coverage to the employees at the facility who are described in para-  
42 graph (c) of this subsection that equals or exceeds the health insurance benefits provided to em-  
43 ployees of the city, port or county in which the facility is to be located.
- 44 (e) The business operations of the business firm that are to be conducted at the facility consti-  
45 tute a new business that the firm does not operate at another location in this state.

1 (f) The business operations of the business firm will not compete with existing businesses in the  
 2 city or county in which the facility is to be located.

3 (6) If the department determines that the proposed facility, if completed as described in the ap-  
 4 plication, meets the criteria set forth in subsection (5) of this section and the governing body of the  
 5 city, port or county does not object under subsection (4) of this section to preliminary certification  
 6 of the firm, the department shall issue a preliminary certification to the firm.

7 (7) If the department determines that the proposed facility, as set forth in the application, does  
 8 not meet the requirements for preliminary certification under this section, the department may not  
 9 issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary  
 10 certification in the manner of a contested case under ORS chapter 183. No appeal may be made if  
 11 the reason for not issuing a preliminary certification is the objection of the governing body of the  
 12 city, port or county under subsection (4) of this section.

13 **SECTION 37.** Section 30, chapter 913, Oregon Laws 2009, as amended by section 1, chapter 475,  
 14 Oregon Laws 2011, is amended to read:

15 **Sec. 30.** The Housing and Community Services Department may not issue a certificate under  
 16 ORS 317.097 on or after January 1, [2020] 2019.

17 **SECTION 38.** ORS 317.097, as amended by section 23, chapter 33, Oregon Laws 2016, is  
 18 amended to read:

19 317.097. (1) As used in this section:

20 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-  
 21 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

22 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed  
 23 by the lending institution, and other charges related to the cost of obtaining credit.

24 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,  
 25 any mortgage banking company that maintains an office in this state or any community development  
 26 corporation that is organized under the Oregon Nonprofit Corporation Law.

27 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

28 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section  
 29 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2015.

30 (f) "Preservation project" means housing that was previously developed as affordable housing  
 31 with a contract for rent assistance from the United States Department of Housing and Urban De-  
 32 velopment or the United States Department of Agriculture and that is being acquired by a spon-  
 33 soring entity.

34 (g) "Qualified assignee" means any investor participating in the secondary market for real estate  
 35 loans.

36 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling  
 37 interest in the real property that is financed by a qualified loan. A controlling interest includes, but  
 38 is not limited to, a controlling interest in the general partner of a limited partnership that owns the  
 39 real property.

40 (i) "Qualified loan" means:

41 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-  
 42 finance a loan that meets the criteria described in subsection (5) of this section; or

43 (B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf  
 44 of the Housing and Community Services Department, the proceeds of which are used to finance or  
 45 refinance a loan that meets the criteria described in subsection (5) of this section.

1 (j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental  
2 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,  
3 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,  
4 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

5 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this  
6 chapter for the taxable year to a lending institution that makes a qualified loan certified by the  
7 Housing and Community Services Department as provided in subsection (7) of this section. The  
8 amount of the credit is equal to the difference between:

9 (a) The amount of finance charge charged by the lending institution during the taxable year at  
10 an annual rate less than the market rate for a qualified loan that is made before January 1, [2020]  
11 **2018**, that complies with the requirements of this section; and

12 (b) The amount of finance charge that would have been charged during the taxable year by the  
13 lending institution for the qualified loan for housing construction, development, acquisition or re-  
14 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans  
15 made under like terms and conditions at the time the qualified loan for housing construction, de-  
16 velopment, acquisition or rehabilitation is made.

17 (3) The maximum amount of credit for the difference between the amounts described in sub-  
18 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of  
19 the qualified loan during the tax year for which the credit is claimed.

20 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular  
21 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding  
22 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and  
23 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding  
24 tax year may be carried forward and used in the third succeeding tax year, and any credit not used  
25 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,  
26 and any credit not used in that fourth succeeding tax year may be carried forward and used in the  
27 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

28 (5) To be eligible for the tax credit allowable under this section, a lending institution must make  
29 a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the  
30 Housing and Community Services Department, the proceeds of which are used to finance or refi-  
31 nance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

32 (a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-  
33 nity rehabilitation program and are certified by the local government or its designated agent as  
34 having an income level when the loan is made of less than 80 percent of the area median income;

35 (b) A qualified borrower who:

36 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
37 of housing; and

38 (B) Provides a written certification executed by the Housing and Community Services Depart-  
39 ment that the:

40 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent  
41 of the area median income; and

42 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is  
43 or will be passed on to the tenants in the form of reduced housing payments, regardless of other  
44 subsidies provided to the housing project;

45 (c) Subject to subsection (14) of this section, a qualified borrower who:

1 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
2 of housing consisting of a manufactured dwelling park; and

3 (B) Provides a written certification executed by the Housing and Community Services Depart-  
4 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-  
5 riod for which the tax credit is allowed; or

6 (d) A qualified borrower who:

7 (A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a  
8 preservation project; and

9 (B) Provides a written certification executed by the Housing and Community Services Depart-  
10 ment that the housing preserved by the loan:

11 (i) Is or will be occupied by households earning less than 80 percent of the area median income;  
12 and

13 (ii) Is the subject of a rent assistance contract with the United States Department of Housing  
14 and Urban Development or the United States Department of Agriculture that will be maintained by  
15 the qualified borrower.

16 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-  
17 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-  
18 tion.

19 (7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing  
20 and Community Services Department must execute a written certification for the qualified loan that:

21 (a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community  
22 Services Department, during which the tax credit is allowed for the qualified loan; and

23 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-  
24 tion.

25 (8) The Housing and Community Services Department may certify qualified loans that are eligi-  
26 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible  
27 for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In  
28 making loan certifications under subsection (7) of this section, the Housing and Community Services  
29 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax  
30 credits in those areas of the state that are determined by the Oregon Housing Stability Council to  
31 have the greatest need for affordable housing.

32 (9) The tax credit provided for in this section may be taken whether or not:

33 (a) The financial institution is eligible to take a federal income tax credit under section 42 of  
34 the Internal Revenue Code with respect to the project financed by the qualified loan; or

35 (b) The project receives financing from bonds, the interest on which is exempt from federal  
36 taxation under section 103 of the Internal Revenue Code.

37 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-  
38 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the  
39 Internal Revenue Code, the amount of finance charge that would have been charged under sub-  
40 section (2)(b) of this section is determined by reference to the finance charge that would have been  
41 charged if the federally tax exempt bonds had been issued and the tax credit under this section did  
42 not apply.

43 (11) A lending institution may sell a qualified loan for which a certification has been executed  
44 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan  
45 so long as a designated lending institution maintains records, annually verified by a loan servicer,

1 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

2 (12) Notwithstanding any other provision of law, a lending institution that is a community de-  
3 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or  
4 part of a tax credit allowed under this section to one or more other lending institutions that are  
5 stockholders or members of the community development corporation or that otherwise participate  
6 through the community development corporation in the making of one or more qualified loans for  
7 which the tax credit under this section is allowed.

8 (13) The lending institution shall file an annual statement with the Housing and Community  
9 Services Department, specifying that it has conformed with all requirements imposed by law to  
10 qualify for a tax credit under this section.

11 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to  
12 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park  
13 under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park  
14 nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706  
15 or housing authority.

16 (15) The Housing and Community Services Department and the Department of Revenue may  
17 adopt rules to carry out the provisions of this section.

18 **SECTION 39.** ORS 317.111 is amended to read:

19 317.111. (1) A credit against taxes otherwise due under this chapter for the taxable year shall  
20 be allowed commercial lending institutions in an amount equal to the difference between:

21 (a) The maximum amount of interest allowed to be charged during the taxable year under sec-  
22 tion 6b, chapter 887, Oregon Laws 1977, for loans made before November 1, 1981, by the lending  
23 institution to space-heating customers for the purpose of financing weatherization services; and

24 (b) The amount of interest which would have been charged during the taxable year by the  
25 lending institution for such loans at an annual interest rate which is the lesser of the following:

26 (A) The average interest rate charged by the commercial lending institution for home improve-  
27 ment loans made during the calendar year immediately preceding the year in which the loans for  
28 weatherization services are made; or

29 (B) Twelve percent.

30 (2) Any tax credit otherwise allowable under this section which is not used by the taxpayer in  
31 a particular year may be carried forward and used in each of the 15 years following the unused tax  
32 credit year. However, the entire amount of the unused credit for an unused credit year shall be  
33 carried forward to the earliest of the 15 years to which it may be carried.

34 (3) ~~[No] A credit [shall be] is not~~ allowed under this section for loans made on or after No-  
35 vember 1, 1981, **or for tax years beginning on or after January 1, 2019.**

36 **SECTION 40.** Section 16, chapter 913, Oregon Laws 2009, is amended to read:

37 **Sec. 16.** (1) Except as provided in ORS 317.112 (2), a credit may not be claimed under ORS  
38 317.112 for tax years beginning on or after January 1, 2012.

39 **(2) A credit may not be carried forward as provided in ORS 317.112 to any tax year be-**  
40 **ginning on or after January 1, 2019.**

41 **SECTION 41.** ORS 315.104 is amended to read:

42 315.104. (1) A credit against the taxes otherwise due under ORS chapter 316 *[(or if the taxpayer*  
43 *is a corporation, under ORS chapter 317 or 318)]* shall be allowed in an amount equal to 50 percent  
44 of reforestation project costs actually paid or incurred to reforest underproductive Oregon  
45 forestlands. Such costs include, but are not limited to, any fees established by the State Forester

1 under ORS 315.106 (4), site preparation, tree planting and other silviculture treatments considered  
2 necessary by the State Forester to establish commercial, hardwood or softwood stands on appropri-  
3 ate sites. Subject to subsection (5) of this section:

4 (a) One-half of the credit shall be taken in the tax year for which the State Forester, after  
5 physical inspection of the forestland, issues a preliminary certificate under ORS 315.106 certifying  
6 that the land qualifies as underproductive Oregon forestland and that the reforestation project  
7 undertaken meets the requirements of this section and the specifications established by the State  
8 Forester and the costs appear to be reasonable; and

9 (b) One-half of the credit shall be taken in the tax year for which the State Forester, after fur-  
10 ther physical inspection of the land and project, certifies that the new forest is established in ac-  
11 cordance with the specifications of the State Forester.

12 (2) No credit shall be allowed under either subsection (1)(a) or (b) of this section unless written  
13 certification containing the following statements accompanies the claim for the credit or is other-  
14 wise filed with the Department of Revenue:

15 (a) A preliminary certificate issued by the State Forester under ORS 315.106 that the land and  
16 project meet the preliminary specifications established by the State Forester or that the new forest  
17 is established, whichever is applicable at the time.

18 (b) A statement by the landowner or person in possession of the land that the land within the  
19 project area will be used for the primary purpose of growing and harvesting trees of an acceptable  
20 species.

21 (c) A statement that the landowner or person in possession of the land is aware that mainte-  
22 nance practices, including release, may be needed to insure that a new forest is established and will  
23 remain established.

24 (3) For purposes of this section, reforestation project costs shall not include:

25 (a) Costs paid or incurred to reforest any forestland that has been commercially logged to the  
26 extent that reforestation is required under the Oregon Forest Practices Act, except costs paid or  
27 incurred to reforest forestland following a hardwood harvest, conducted for the purposes of con-  
28 verting underproductive forestlands, as determined by administrative rule.

29 (b) That portion of costs or expenses paid through a federal or state cost share, financial as-  
30 sistance or other incentive program.

31 (c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants,  
32 or those costs paid or incurred to grow hardwood timber described under ORS 321.267 (3) or 321.824  
33 (3).

34 (d) Any costs paid or incurred to purchase or otherwise acquire the land.

35 (e) The cost of purchase or other acquisition of tools and equipment with a useful life of more  
36 than one year.

37 (4) To qualify for the credit:

38 (a) The project must be completed to specifications approved by the State Forester.

39 (b) The taxpayer's portion of the project costs must be \$500 or more.

40 (c) The taxpayer must be a private individual, [*corporation,*] group, Indian tribe or other native  
41 group, association or other nonpublic legal entity owning, purchasing under recorded contract of  
42 sale or leasing at least five acres of Oregon commercial forestland.

43 (d) Prior to December 31, 2012, the taxpayer must file with the State Forester a written request  
44 for preliminary certification under ORS 315.106.

45 (5) Any tax credit otherwise allowable under this section which is not used by the taxpayer in



1 a particular year may be carried forward and offset against the taxpayer's tax liability for the next  
2 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried  
3 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
4 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
5 be carried forward for any tax year thereafter. In all cases the taxpayer must be the person who  
6 made the investment into the project.

7 (6) The credit provided by this section shall be in addition to and not in lieu of any depreciation  
8 or amortization deduction to which the taxpayer otherwise may be entitled with respect to the  
9 reforestation project and the credit shall not affect the computation of basis for the property.

10 (7) In compliance with ORS chapter 183, the Department of Revenue and the State Forestry  
11 Department may adopt rules consistent with law for carrying out the provisions of this section.

12 (8) As used in this section, "underproductive Oregon forestlands" means Oregon commercial  
13 forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

14 (9) If, for any reason other than those specified in subsection (10) of this section, a new forest  
15 is not established by the last day of the second taxable year following the taxable year for which  
16 the preliminary certificate was issued, the State Forester shall so report to the Department of Re-  
17 venue. The report filed under this subsection shall be the basis for the department to recover any  
18 credit granted under subsection (1)(a) of this section. If, however, the new forest is not established  
19 within the time required by this subsection on account of the reasons specified in subsection (10)  
20 of this section, any credit allowed under subsections (1)(a) and (5) of this section shall not be re-  
21 covered but no further credit as provided under subsections (1)(b) and (5) of this section shall be  
22 allowed.

23 (10) Subject to requalification under this section in the manner applicable for the original claim,  
24 including obtaining a new preliminary certificate, a taxpayer may claim an additional credit or  
25 credits for reestablishing a new planting in the event that the new forest is destroyed by a natural  
26 disaster or is not established for reasons beyond the control of the taxpayer, if the measures taken  
27 in completing the original or earlier project would normally have resulted in establishing the mini-  
28 mum number of trees per acre anticipated by the project.

29 (11) Any owner affected by a determination, regarding the reforestation tax credit made by:

30 (a) The State Forester, except for a denial of a request for a preliminary certificate due to the  
31 annual reforestation credit cost limitation calculated under ORS 315.108, may appeal that determi-  
32 nation in the manner provided for in ORS 526.475 (1).

33 (b) The Department of Revenue, may appeal that determination in the manner provided for in  
34 ORS 526.475 (2).

35 **SECTION 42.** ORS 315.119 is amended to read:

36 315.119. (1) As used in this section:

37 (a) "Effective property tax rate" means:

38 (A) The ratio of the total amount of property taxes imposed on the account that contains the  
39 machinery and equipment for which a credit is being claimed (after application of ORS 310.150 but  
40 prior to discount under ORS 311.505) over the assessed value of the property tax account; and

41 (B) The ratio determined under subparagraph (A) of this paragraph for the property tax year  
42 that begins in the income tax year for which the credit is claimed.

43 (b) "Farm operator" means a person that operates a farming business as defined in section 263A  
44 of the Internal Revenue Code.

45 (c) "Machinery and equipment" means machinery and equipment that meets the definition of

1 section 1245 property in section 1245 of the Internal Revenue Code.

2 (d) "Processing":

3 (A) Means any activity that is directly related and necessary to clean, sort, grade, produce,  
4 prepare, manufacture, handle, package, store or ship a farm crop or livestock product after the point  
5 of harvest and before the point of sale, in a modified state or altered form.

6 (B) Does not include an activity primarily associated with the promotion or retail sale of a  
7 product for personal or household use that is normally sold through consumer retail distribution.

8 (e) "Qualified machinery and equipment" means machinery and equipment used in processing  
9 that meets the requirements of subsections (3) and (4) of this section for the tax year.

10 (2) A taxpayer who is a farm operator may claim a credit against the taxes that are otherwise  
11 due under ORS chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318*] for  
12 ad valorem property taxes paid or incurred on qualified machinery and equipment.

13 (3) A credit under this section may be claimed only if:

14 (a) The machinery and equipment is owned by the farm operator or by a person who is related  
15 to the farm operator under section 267 of the Internal Revenue Code;

16 (b) The machinery and equipment is used for processing primarily occurring on land described  
17 in subsection (4) of this section; and

18 (c)(A) The farm operator has grown or raised at least one-half of the total volume of farm crop  
19 or livestock products processed with the machinery and equipment for which the credit is being  
20 claimed in three of the five previous income tax years; or

21 (B)(i) The farm operator has grown or raised at least one-tenth of the total volume of farm crop  
22 or livestock products processed with the machinery and equipment for which the credit is being  
23 claimed in three of the five previous income tax years; and

24 (ii) The farm operator has used the machinery and equipment to process at least one-half of the  
25 volume of the applicable farm crop or livestock products grown or raised by the farm operator in  
26 three of the five previous income tax years.

27 (4) In addition to the requirements under subsection (3) of this section, a credit under this sec-  
28 tion may be claimed only if:

29 (a) The machinery and equipment is located on land that is specially assessed for farm use under  
30 ORS 308A.050 to 308A.128 and the machinery and equipment is owned or otherwise controlled by  
31 the farm operator; or

32 (b) The machinery and equipment is located on land that is contiguous to land that is specially  
33 assessed for farm use under ORS 308A.050 to 308A.128 and the machinery and equipment is owned  
34 or otherwise controlled by the farm operator.

35 (5) A credit may be claimed under this section only for qualified machinery and equipment that  
36 was subject to assessment and property taxation for the property tax year beginning in the income  
37 tax year for which the credit is being claimed.

38 (6) The amount of the credit shall be the lesser of:

39 (a) The effective property tax rate multiplied by the adjusted basis of the qualified machinery  
40 and equipment; or

41 (b) \$30,000.

42 (7) The adjusted basis of the qualified machinery and equipment shall be the adjusted basis of  
43 the qualified machinery and equipment for personal income [*or corporate excise or income*] tax pur-  
44 poses as of the last day of the income tax year for which the credit is being claimed, except that  
45 the adjusted basis shall be increased by the cost of any qualified machinery and equipment that the

1 taxpayer elected to expense under section 179 of the Internal Revenue Code, until the qualified  
2 machinery and equipment is fully depreciated for personal income [*or corporate excise or income*] tax  
3 purposes. The adjusted basis shall reflect any depreciation allowable for the current tax year. A  
4 credit under this section may not be allowed for a tax year in which the qualified machinery and  
5 equipment is fully depreciated for personal income [*or corporate excise or income*] tax purposes.

6 (8) The credit allowed under this section for any one tax year may not exceed the tax liability  
7 of the taxpayer.

8 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
9 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
10 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
11 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
12 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
13 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
14 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
15 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
16 thereafter.

17 (10) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
18 duction to which the taxpayer otherwise may be entitled [*under ORS chapter 316, 317 or 318*] for the  
19 tax year.

20 (11) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
21 any amount of credit allowed under this section.

22 (12) A nonresident shall be allowed the credit under this section in the proportion provided in  
23 ORS 316.117.

24 (13) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
25 resident occurs, the credit allowed under this section shall be determined in a manner consistent  
26 with ORS 316.117.

27 (14) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
28 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
29 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

30 **SECTION 43.** ORS 315.138 is amended to read:

31 315.138. (1) There shall be allowed a credit against tax due under ORS chapter 316[, *or if the*  
32 *taxpayer is a corporation, under ORS chapter 317,*] for taxpayers that install screening devices, by-  
33 pass devices or fishways, pursuant to ORS 498.306 or 509.585, and the diversion is not part of a  
34 hydroelectric project required to be licensed under the Federal Energy Regulatory Commission.  
35 Except as allowed in subsection (4) of this section, the credit shall be taken in the tax year in which  
36 the final certification is issued under subsection (10) of this section.

37 (2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a  
38 screening device, by-pass device or fishway. The total credit allowed shall not exceed \$5,000 per  
39 device installed.

40 (3) The credit allowed in any one year shall not exceed the tax liability of the taxpayer.

41 (4) Any tax credit otherwise allowable under this section which is not used by the taxpayer in  
42 a particular tax year may be carried forward and offset against the taxpayer's tax liability for the  
43 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be  
44 carried forward and used in the second succeeding tax year. Any credit remaining unused in such  
45 second succeeding tax year may be carried forward and used in the third succeeding tax year. Any

1 credit remaining unused in such third succeeding tax year may be carried forward and used in the  
2 fourth succeeding tax year. Any credit remaining unused in such fourth succeeding tax year may  
3 be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year  
4 thereafter.

5 (5) The credit provided by this section shall be in addition to and not in lieu of any depreciation  
6 or amortization deduction to which the taxpayer otherwise may be entitled with respect to the in-  
7 stallation of a screening device, by-pass device or fishway. The taxpayer's adjusted basis for de-  
8 termining gain or loss shall not be further decreased by any tax credits allowed under this section.

9 *[(6) In the case of a credit allowed under this section for purposes of ORS chapter 316:]*

10 *[(a)]* (6)(a) A nonresident shall be allowed the credit in the same manner and subject to the same  
11 limitations as a resident. However, the credit shall be prorated using the proportion provided in  
12 ORS 316.117.

13 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
14 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
15 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

16 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
17 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
18 ORS 316.117.

19 (7) To qualify for the credit the taxpayer must be issued a certificate by the State Department  
20 of Fish and Wildlife.

21 (8) To obtain credit under subsection (1) of this section, any person proposing to apply for cer-  
22 tification of a screening device, by-pass device or fishway, before installing the screening device,  
23 by-pass device or fishway, shall file a request for preliminary certification with the State Depart-  
24 ment of Fish and Wildlife. The request shall be in a form prescribed by the State Department of Fish  
25 and Wildlife. The following conditions shall apply:

26 (a) Within 30 days of the receipt of a request for preliminary certification, the State Department  
27 of Fish and Wildlife may require, as a condition precedent to issuance of a preliminary certificate  
28 of approval, the submission of plans and specifications. After examination thereof, the State De-  
29 partment of Fish and Wildlife may request corrections and revisions to the plans and specifications.  
30 The State Department of Fish and Wildlife may also require any pertinent information necessary to  
31 determine whether the proposed screening device, by-pass device or fishway is in accordance with  
32 State Department of Fish and Wildlife requirements.

33 (b) If the State Department of Fish and Wildlife determines that the proposed screening device,  
34 by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements,  
35 it shall issue a preliminary certificate approving the screening device, by-pass device or fishway. If  
36 the State Department of Fish and Wildlife determines that the screening device, by-pass device or  
37 fishway does not comply with State Department of Fish and Wildlife requirements, the State De-  
38 partment of Fish and Wildlife shall issue an order denying certification.

39 (c) If within 90 days of the receipt of plans, specifications or any subsequently requested re-  
40 visions or corrections to the plans and specifications or any other information required pursuant to  
41 this section, the State Department of Fish and Wildlife fails to issue a preliminary certificate of  
42 approval and the State Department of Fish and Wildlife fails to issue an order denying certification,  
43 the preliminary certificate shall be considered to have been issued. The capital investment must  
44 comply with the plans, specifications and any corrections or revisions thereto, if any, previously  
45 submitted.

1 (d) Within 30 days from the date of mailing of the order, any person against whom an order is  
2 directed pursuant to paragraph (b) of this subsection may demand a hearing. The demand shall be  
3 in writing, shall state the grounds for hearing and shall be mailed to the State Fish and Wildlife  
4 Director. The hearing shall be conducted in accordance with the applicable provisions of ORS  
5 chapter 183.

6 (9) A screening device, by-pass device or fishway that is installed by the State Department of  
7 Fish and Wildlife pursuant to ORS 498.306 (8) in response to noncompliance by the person respon-  
8 sible for the water diversion is not eligible for the credit provided in subsection (1) of this section.

9 (10) Upon completion and pursuant to application for final certification, final certification shall  
10 be issued by the State Department of Fish and Wildlife if the screening device, by-pass device or  
11 fishway was constructed and installed in accordance with State Department of Fish and Wildlife  
12 requirements. Final certification shall include a statement of the costs of installation as verified by  
13 the State Department of Fish and Wildlife. The credit allowed under this section shall be claimed  
14 first for the tax year of the taxpayer in which final certification is issued.

15 (11) Pursuant to the procedures for a contested case under ORS chapter 183, the State Depart-  
16 ment of Fish and Wildlife may order the revocation of the certificate issued under this section of  
17 any taxpayer, if it finds that:

18 (a) The certificate was obtained by fraud or misrepresentation; or

19 (b) The holder of the certificate fails to meet State Department of Fish and Wildlife require-  
20 ments.

21 (12) As soon as the order of revocation under this section has become final the State Depart-  
22 ment of Fish and Wildlife shall notify the Department of Revenue of such order.

23 (13) If the certificate of a screening device, by-pass device or fishway is ordered revoked pur-  
24 suant to subsection (11) of this section, all prior tax relief provided to the holder of the certificate  
25 by virtue of the certificate shall be forfeited and the Department of Revenue shall proceed to collect  
26 those taxes not paid by the certificate holder as a result of the tax relief provided to the holder.

27 (14) If the certificate of a screening device, by-pass device or fishway is ordered revoked pur-  
28 suant to subsection (11) of this section, the certificate holder shall be denied any further relief  
29 provided under this section in connection with the screening device, by-pass device or fishway, as  
30 the case may be, from and after the date that the order of revocation becomes final.

31 (15) In the event that the screening device, by-pass device or fishway is destroyed by flood, na-  
32 tural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless  
33 claim the credit as if no destruction had taken place.

34 (16) Screening devices, by-pass devices or fishways that are financed by funds obtained from the  
35 Water Development Fund, pursuant to ORS 541.700 to 541.855, shall not be eligible for the credit  
36 under any circumstances.

37 (17) The State Department of Fish and Wildlife shall adopt rules for carrying out the provisions  
38 of this section and report to the interim committee created under ORS 171.605 to 171.640 to make  
39 studies of and inquiries into state revenue matters.

40 **SECTION 44.** ORS 315.141 is amended to read:

41 315.141. (1) As used in this section:

42 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in  
43 Oregon, as biofuel or to produce biofuel.

44 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-  
45 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct

1 biomass energy use at the biofuel producer’s site.

2 (c) “Biofuel producer” means a person that through activities in Oregon:

3 (A) Alters the physical makeup of biomass to convert it into biofuel;

4 (B) Changes one biofuel into another type of biofuel; or

5 (C) Uses biomass in Oregon to produce energy.

6 (d) “Biomass” means organic matter that is available on a renewable or recurring basis and that  
7 is derived from:

8 (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest  
9 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

10 (B) Wood material from hardwood timber described in ORS 321.267 (3);

11 (C) Agricultural residues;

12 (D) Offal and tallow from animal rendering;

13 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

14 (F) Wood debris collected as provided under ORS chapter 459 or 459A;

15 (G) Wastewater solids; or

16 (H) Crops grown solely to be used for energy.

17 (e) “Biomass” does not mean wood that has been treated with creosote, pentachlorophenol, in-  
18 organic arsenic or other inorganic chemical compounds or waste, other than matter described in  
19 paragraph (d) of this subsection.

20 (f) “Biomass collector” means a person that collects biomass in Oregon to be used, in Oregon,  
21 as biofuel or to produce biofuel.

22 (g) “Canola” means plants of the genus Brassica:

23 (A) In which seeds having a high oil content are the primary economically valuable product; and

24 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content  
25 suitable for edible oils.

26 (h) “Oilseed processor” means a person that receives agricultural oilseeds and separates them  
27 into meal and oil by mechanical or chemical means.

28 (i) “Willamette Valley” means Clackamas, Linn, Marion, Multnomah, Polk, Washington and  
29 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast  
30 Range.

31 (2) The Director of the State Department of Energy may adopt rules to define criteria, only as  
32 the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes  
33 of this section.

34 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes  
35 that would otherwise be due under ORS chapter 316 [*or, if the taxpayer is a corporation, under ORS*  
36 *chapter 317 or 318*] for:

37 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce  
38 biofuel; or

39 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

40 (b) A credit under this section may be claimed in the tax year in which the credit is certified  
41 under subsection (5) of this section.

42 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined  
43 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or  
44 a biomass collector may not claim a credit under this section.

45 (d) A credit under this section may be claimed only once for each unit of biomass.

1 (e) Notwithstanding paragraph (a) of this subsection, a tax credit:

2 (A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

3 (B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

4 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

5 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-  
6 mining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403.  
7 The department shall provide written certification to taxpayers that are eligible to claim the credit  
8 under this section.

9 (b) The State Department of Energy may charge and collect a fee from taxpayers for certifica-  
10 tion of credits under this section. The fee may not exceed the cost to the department of determining  
11 the amount of certified cost.

12 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax  
13 year, of taxpayers for which a credit is certified under this section, upon request of the Department  
14 of Revenue.

15 (6) The amount of the credit claimed under this section for any tax year may not exceed the tax  
16 liability of the taxpayer.

17 (7) Each agricultural producer or biomass collector shall maintain the written documentation  
18 of the amount certified for tax credit under this section in its records for a period of at least five  
19 years after the tax year in which the credit is claimed and provide the written documentation to the  
20 Department of Revenue upon request.

21 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
22 the information required by the department.

23 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
24 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
25 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
26 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
27 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
28 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
29 succeeding tax year, but may not be carried forward for any tax year thereafter.

30 (10) In the case of a credit allowed under this section:

31 (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
32 ORS 316.117.

33 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident  
34 to resident occurs, the credit allowed by this section shall be determined in a manner consistent  
35 with ORS 316.117.

36 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
37 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this  
38 section shall be prorated or computed in a manner consistent with ORS 314.085.

39 **SECTION 45.** ORS 315.156 is amended to read:

40 315.156. (1) A taxpaying individual [*or corporation that*] **who** is a grower of a crop and [*that*]  
41 **who** makes a qualified donation of the crop shall be allowed a credit against the taxes otherwise  
42 due under ORS chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318,*] as  
43 follows:

44 (a) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(a)  
45 or (b), the amount of the credit shall be 15 percent of the value of the quantity of the crop donated

1 computed at the wholesale market price.

2 (b) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(c),  
 3 the amount of the credit shall be 15 percent of the value of the quantity of the crop donated com-  
 4 puted at the wholesale market price that the grower would have received had the quantity of the  
 5 crop donated been sold or salable.

6 (2) At the time of donation, the director, supervisor or other appropriate official of the entity  
 7 to which a qualified donation is made shall supply to the grower of the crop donated two copies of  
 8 a form prescribed by the Department of Revenue. The forms shall contain:

9 (a) The name and address of the grower;

10 (b) The description and quantity of the donated crop;

11 (c) The signature of the director, supervisor or other appropriate official of the entity receiving  
 12 the donated crop verifying that the produce was or will be distributed to children or homeless, un-  
 13 employed, elderly or low-income individuals;

14 (d) The wholesale market price; and

15 (e) Other information required by the Department of Revenue by rule.

16 (3) Tax claim for tax credit shall be substantiated by submission with the tax return, of the form  
 17 described in subsection (2) of this section, a statement verified by the taxpayer that the qualified  
 18 donation was made under circumstances described in ORS 315.154 (5) and a copy of an invoice or  
 19 other statement identifying the price received by the grower for the crops of comparable grade or  
 20 quality if there is a previous cash buyer. The requirement for substantiation may be waived par-  
 21 tially, conditionally or absolutely, as provided under ORS 315.063.

22 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
 23 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
 24 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
 25 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
 26 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
 27 be carried forward for any tax year thereafter.

28 (5)(a) A nonresident individual shall be allowed the credit computed under this section in the  
 29 same manner and subject to the same limitations as the credit allowed a resident by this section.  
 30 However, the credit shall be prorated using the proportion provided in ORS 316.117.

31 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 32 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this  
 33 section shall be prorated or computed in a manner consistent with ORS 314.085.

34 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 35 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 36 ORS 316.117.

37 **SECTION 46.** ORS 315.164 is amended to read:

38 315.164. (1) A taxpayer who is the owner or operator of agriculture workforce housing is allowed  
 39 a credit against the taxes otherwise due under ORS chapter 316[, *if the taxpayer is a resident indi-*  
 40 *vidual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a corporation*].  
 41 The total amount of the credit shall be equal to 50 percent of the eligible costs actually paid or  
 42 incurred by the taxpayer to complete an agriculture workforce housing project, to the extent the  
 43 eligible costs actually paid or incurred by the taxpayer do not exceed the estimate of eligible costs  
 44 approved by the Housing and Community Services Department under ORS 315.167.

45 (2) A taxpayer who is otherwise eligible to claim a credit under this section may elect to



1 transfer all or a portion of the credit to a contributor in the manner provided in ORS 315.169.

2 (3)(a) The credit allowed under this section may be taken for the tax year in which the agri-  
3 culture workforce housing project is completed or in any of the nine tax years succeeding the tax  
4 year in which the project is completed.

5 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined  
6 under subsection (1) of this section.

7 (4)(a) To claim a credit under this section, a taxpayer must show in each year following the  
8 completion of an agriculture workforce housing project that the housing continues to be operated  
9 as agriculture workforce housing.

10 (b) A taxpayer need not make the showing required in paragraph (a) of this subsection if the  
11 Housing and Community Services Department waives the requirement after the taxpayer has suc-  
12 cessfully met the requirement for the first five years after completion of the agriculture workforce  
13 housing project.

14 (c) The Housing and Community Services Department shall determine by rule the factors nec-  
15 essary to grant a waiver. Such factors may include a documented decline in a particular area for  
16 agriculture workforce housing.

17 (5) The credit shall apply only to an agriculture workforce housing project that is located within  
18 this state and physically begun on or after January 1, 1990.

19 (6)(a) A credit may not be allowed under this section unless the taxpayer claiming credit under  
20 this section:

21 (A) Obtains a letter of credit approval from the Housing and Community Services Department  
22 pursuant to ORS 315.167; and

23 (B) Files with the Department of Revenue an annual certification providing that all occupied  
24 units for which credit is being claimed are occupied by agricultural workers, including agricultural  
25 workers who are retired or disabled, and their immediate families.

26 (b) The certification described under this subsection shall be made on the form and in the time  
27 and manner prescribed by the Department of Revenue.

28 (7) Except as provided under subsection (8) of this section, the credit allowed in any one year  
29 may not exceed the tax liability of the taxpayer.

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

44 (9)(a) The credit provided by this section is not in lieu of any depreciation or amortization de-  
45 duction for the agriculture workforce housing project to which the taxpayer otherwise may be en-

1 titled [under ORS chapter 316 or 317] for the year.

2 (b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
3 any tax credits allowed under this section.

4 (10) For a taxpayer to receive a credit under this section, the agriculture workforce housing  
5 must:

6 (a) Comply with all occupational safety or health laws, rules, regulations and standards;

7 (b) If registration is required, be registered as a farmworker camp with the Department of  
8 Consumer and Business Services under ORS 658.750;

9 (c) Upon occupancy and if an indorsement is required, be operated by a person who holds a valid  
10 indorsement as a farmworker camp operator under ORS 658.730; and

11 (d) Continue to be operated as agriculture workforce housing for a period of at least 10 years  
12 after the completion of the agriculture workforce housing project, unless a waiver has been granted  
13 under subsection (4) of this section.

14 (11)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department  
15 of Revenue may order the disallowance of the credit allowed under this section if it finds, by order,  
16 that:

17 (A) The credit was obtained by fraud or misrepresentation; or

18 (B) In the event that an owner or operator claims or claimed the credit:

19 (i) The taxpayer has failed to continue to substantially comply with the occupational safety or  
20 health laws, rules, regulations or standards;

21 (ii) After occupancy and if registration is required, the agriculture workforce housing is not  
22 registered as a farmworker camp with the Department of Consumer and Business Services under  
23 ORS 658.750;

24 (iii) After occupancy and if an indorsement is required, the agriculture workforce housing is not  
25 operated by a person who holds a valid indorsement as a farmworker camp operator under ORS  
26 658.730; or

27 (iv) The taxpayer has failed to make a showing that the housing continues to be operated as  
28 agriculture workforce housing as required under subsection (4)(a) of this section and the taxpayer  
29 has not been granted a waiver by the Housing and Community Services Department under sub-  
30 section (4)(b) of this section.

31 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or  
32 other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of  
33 Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior  
34 granting of the credit.

35 (c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any  
36 further credit provided under this section, in connection with the agriculture workforce housing  
37 project, as the case may be, from and after the date that the order of disallowance becomes final.

38 (12) In the event that the agriculture workforce housing is destroyed by fire, flood, natural dis-  
39 aster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the  
40 credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection  
41 district or unit determines that the fire was caused by arson, as defined in ORS 164.315 and 164.325,  
42 by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the De-  
43 partment of Revenue. Upon conviction of arson, the Department of Revenue shall disallow the credit  
44 in accordance with subsection (11) of this section.

45 (13)(a) A nonresident individual shall be allowed the credit computed in the same manner and

1 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
2 shall be prorated using the proportion provided in ORS 316.117.

3 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
4 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
5 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

6 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
7 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
8 ORS 316.117.

9 (14) The Department of Revenue may adopt rules for carrying out the provisions of this section.

10 **SECTION 47.** ORS 315.169 is amended to read:

11 315.169. (1) A taxpayer that is a contributor is allowed a credit against the taxes otherwise due  
12 under ORS chapter 316[, *if the taxpayer is a resident individual, or ORS chapter 317, if the taxpayer*  
13 *is a corporation,*] to the extent the owner or operator of agriculture workforce housing transferred  
14 all or a portion of the credit allowed to the owner or operator under ORS 315.164.

15 (2) An owner or operator of agriculture workforce housing may transfer all or a portion of the  
16 credit allowed to the owner or operator under ORS 315.164 to one or more contributors but the  
17 amount transferred may not total more than the total credit the owner or operator may claim.

18 (3) To receive a credit under this section:

19 (a) The contributor must obtain a letter of credit approval from the Housing and Community  
20 Services Department under ORS 315.167; or

21 (b) If the owner or operator of agriculture workforce housing elects to transfer all or a portion  
22 of the credit allowed under ORS 315.164 after the date that a letter of credit approval has been is-  
23 sued to the owner or operator, the owner or operator and the contributor must jointly file a state-  
24 ment with the Department of Revenue stating the portion of the credit the contributor is allowed  
25 to claim and any other information the department may require by rule.

26 (4) A contributor remains eligible to receive a credit under this section even if the owner or  
27 operator of the agriculture workforce housing becomes ineligible for the credit as a result of:

28 (a) Failure to file the annual certification under ORS 315.164 (6);

29 (b) Failure to continue to substantially comply with occupational safety or health laws, rules,  
30 regulations or standards under ORS 315.164 (10);

31 (c) Failure to register as a farmworker camp with the Department of Consumer and Business  
32 Services under ORS 658.750;

33 (d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under  
34 ORS 658.730; or

35 (e) Failure to comply with any other rules or provisions relating to the operation or mainte-  
36 nance of the agriculture workforce housing after work on the agriculture workforce housing project  
37 has been completed.

38 (5)(a) A contributor does not remain eligible to receive a credit under this section if the De-  
39 partment of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for  
40 a contested case under ORS chapter 183, that the contributor obtained the credit by fraud or mis-  
41 representation, including a finding that the housing did not comply with all occupational safety or  
42 health laws, rules, regulations and standards applicable for agriculture workforce housing at the  
43 time the housing was completed.

44 (b) If the credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other  
45 law, all prior tax relief provided to the taxpayer shall be forfeited and the department shall proceed

1 to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

2 (c) If the credit is disallowed pursuant to this subsection, the taxpayer shall be denied any fur-  
3 ther credit provided under this section, in connection with the agriculture workforce housing  
4 project, as the case may be, from and after the date that the order of disallowance becomes final.

5 (6)(a) The credit allowed under this section may be taken for the tax year in which the agri-  
6 culture workforce housing project is completed or in any of the nine tax years succeeding the tax  
7 year in which the project is completed.

8 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined  
9 under subsection (2) of this section that was transferred to the contributor claiming the credit.

10 (7) Except as provided under subsection (8) of this section, the credit allowed in any one year  
11 may not exceed the tax liability of the taxpayer.

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

26 (9)(a) A nonresident individual shall be allowed the credit computed in the same manner and  
27 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
28 shall be prorated using the proportion provided in ORS 316.117.

29 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
30 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this  
31 section shall be prorated or computed in a manner consistent with ORS 314.085.

32 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
33 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
34 ORS 316.117.

35 (10) The department may adopt rules for carrying out the provisions of this section.

36 **SECTION 48.** ORS 315.174 is amended to read:

37 315.174. (1) As used in this section, "livestock" has the meaning given that term in ORS 610.150.

38 (2) A credit against taxes imposed under ORS chapter 316 [*or, if the taxpayer is a corporation,*  
39 *under ORS chapter 317 or 318*] shall be allowed for the current market value of any livestock that  
40 belongs to the taxpayer and that is killed during the tax year by a wolf.

41 (3) In order to qualify for the credit allowed under this section, the taxpayer must obtain written  
42 certification from the State Department of Fish and Wildlife as provided in subsection (4) of this  
43 section.

44 (4)(a) The State Department of Fish and Wildlife shall issue written certification to taxpayers  
45 that are eligible to claim the credit allowed under this section. Before issuing a certification under

1 this subsection, the department must possess evidence that the loss to a taxpayer's livestock is due  
2 to wolf depredation. The evidence must include a finding by the department or by a peace officer,  
3 as defined in ORS 161.015, that wolf depredation was the probable cause of the loss.

4 (b) The department may not issue certifications for more than \$37,500 in tax credits for any tax  
5 year. The department shall issue certifications to taxpayers in the order in which completed appli-  
6 cations for certification are received by the department.

7 (5) A credit allowed under this section shall be reduced by any amount that a taxpayer has al-  
8 ready received as compensation for the killed livestock, including compensation pursuant to ORS  
9 610.150.

10 (6) A taxpayer may not claim a credit under this section for:

11 (a) Any tax year that ends after the date on which the State Fish and Wildlife Commission has,  
12 by rule, removed the wolf from the list of endangered species established pursuant to ORS 496.172  
13 (2); or

14 (b) A loss to livestock killed after June 30, 2018.

15 (7) If the amount allowable as a credit under this section, when added to the sum of the amounts  
16 allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax  
17 prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chap-  
18 ters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of  
19 ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as  
20 provided in ORS 316.502.

21 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
22 the information required by the department.

23 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
24 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
25 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
26 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
27 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
28 be carried forward for any tax year thereafter.

29 (10) In the case of a credit allowed under this section:

30 (a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

31 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident  
32 to resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

33 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
34 department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated  
35 or computed in a manner consistent with ORS 314.085.

36 **SECTION 49.** ORS 315.204 is amended to read:

37 315.204. (1) A credit against the taxes otherwise due under ORS chapter 316 [*or, if the taxpayer*  
38 *is a corporation, under ORS chapter 317 or 318)] shall be allowed to a resident employer [*or to a*  
39 *corporation that is an employer*] for amounts paid or incurred during the taxable year by the em-  
40 ployer for dependent care assistance actually provided to an employee if the assistance is furnished  
41 pursuant to a program which meets the requirements of section 129(d) of the Internal Revenue Code  
42 and if the employer has received a certificate as provided in subsection (2) of this section.*

43 (2)(a) Each employer that elects to receive a credit allowed under subsection (1) of this section  
44 must submit an application to the Office of Child Care each year the employer wishes to receive the  
45 credit. The Early Learning Council shall prescribe by rule the form of the application and the in-

1 formation required to be given on the application.

2 (b) The Office of Child Care shall issue a certificate to each employer that submits an applica-  
3 tion under this subsection.

4 (3) The amount of the credit allowed under subsection (1) of this section shall be 50 percent of  
5 the amount so paid or incurred by the employer during the taxable year but shall not exceed \$2,500  
6 of dependent care assistance actually provided to the employee.

7 (4)(a) A credit against the taxes otherwise due under ORS chapter 316 [*or, if the taxpayer is a*  
8 *corporation, under ORS chapter 317 or 318*] shall be allowed to a resident employer[, *or to a corpo-*  
9 *ration that is an employer,*] based upon amounts paid or incurred by the employer during the taxable  
10 year to provide information and referral services to assist employees of the employer employed  
11 within this state to obtain dependent care.

12 (b) The amount of the credit allowed under this subsection shall be 50 percent of the amounts  
13 paid or incurred during the taxable year.

14 (5) No amount paid or incurred during the taxable year of an employer in providing dependent  
15 care assistance to any employee shall qualify for the credit allowed under subsection (1) of this  
16 section if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of  
17 the Internal Revenue Code.

18 (6) No amount paid or incurred by an employer to provide dependent care assistance to an em-  
19 ployee shall qualify for the credit allowed under subsection (1) of this section if the amount paid or  
20 incurred is paid or incurred pursuant to a salary reduction plan or is not paid or incurred for ser-  
21 vices performed within this state.

22 (7) If the credit allowed under subsection (1) or (4) of this section is claimed, the amount of any  
23 deduction allowed or allowable under ORS chapter 316[, *317 or 318*] for the amount that qualifies  
24 for the credit (or upon which the credit is based) shall be reduced by the dollar amount of the credit  
25 allowed. The election to claim a credit allowed under this section shall be made at the time of filing  
26 the tax return in accordance with any rules adopted by the Department of Revenue.

27 (8) The amount upon which the credit allowed under subsection (1) of this section is based shall  
28 not be included in the gross income of the employee to whom the dependent care assistance is pro-  
29 vided. However, the amount excluded from the income of an employee under this section shall not  
30 exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of ORS  
31 316.162, with respect to an employee to whom dependent care assistance is provided, "wages" does  
32 not include any amount excluded under this subsection. Amounts excluded under this subsection  
33 shall not qualify as expenses for which a credit is allowed to the employee under ORS 316.078.

34 (9) A nonresident shall be allowed the credit allowed under subsection (1) or (4) of this section.  
35 The credit shall be computed in the same manner and be subject to the same limitations as the  
36 credit granted to a resident.

37 (10) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if  
38 the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this  
39 section shall be prorated or computed in a manner consistent with ORS 314.085.

40 (11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
41 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
42 ORS 316.117.

43 (12) Any tax credit otherwise allowable under this section which is not used by the taxpayer in  
44 a particular year may be carried forward and offset against the taxpayer's tax liability for the next  
45 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
2 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
3 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
4 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
5 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
6 thereafter.

7 (13) For purposes of the credit allowed under subsection (1) or (4) of this section:

8 (a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code  
9 shall apply to the extent applicable.

10 (b) "Employer" means an employer carrying on a business, trade, occupation or profession in  
11 this state.

12 (14) In the case of an on-site facility, in accordance with any rules adopted by the department,  
13 the amount upon which the credit allowed under subsection (1) of this section is based, with respect  
14 to any dependent, shall be based upon utilization and the value of the services provided.

15 **SECTION 50.** ORS 315.208 is amended to read:

16 315.208. (1) A credit against the taxes otherwise due under ORS chapter 316 [*or, if the taxpayer*  
17 *is a corporation that is an employer, under ORS chapter 317 or 318)] is allowed to an employer, based  
18 upon costs actually paid or incurred by the employer, to acquire, construct, reconstruct, renovate  
19 or otherwise improve real property so that the property may be used primarily as a dependent care  
20 facility.*

21 (2) The credit allowed under this section shall be the lesser of:

22 (a) \$2,500 multiplied by the number of full-time equivalent employees employed by the employer  
23 (on the property or within such proximity to the property that any dependents of the employees may  
24 be cared for in the facility) on any date within the two years immediately preceding the end of the  
25 first tax year for which credit is first claimed;

26 (b) Fifty percent of the cost of the acquisition, construction, reconstruction, renovation or other  
27 improvement; or

28 (c) \$100,000.

29 (3) To qualify for the credit allowed under subsection (1) of this section:

30 (a) The amounts paid or incurred by the employer for the acquisition, construction, recon-  
31 struction, renovation or other improvement to real property may be paid or incurred either:

32 (A) To another to be used to acquire, construct, reconstruct, renovate or otherwise improve real  
33 property to the end that it may be used as a dependent care facility with which the employer con-  
34 tracts to make dependent care assistance payments which payments are wholly or partially entitled  
35 to exclusion from income of the employee for federal tax purposes under section 129 of the Internal  
36 Revenue Code; or

37 (B) To acquire, construct, reconstruct, renovate or otherwise improve real property to the end  
38 that it may be operated by the employer, or a combination of employers, to provide dependent care  
39 assistance to the employees of the employer under a program or programs under which the assist-  
40 ance is, under section 129 of the Internal Revenue Code, wholly or partially excluded from the in-  
41 come of the employee.

42 (b) The property must be in actual use as a dependent care facility on the last day of the tax  
43 year for which credit is claimed and dependent care services assisted by the employer must take  
44 place on the acquired, constructed, reconstructed, renovated or improved property and must be en-  
45 titled to an exclusion (whole or partial) from the income of the employee for federal tax purposes

1 under section 129 of the Internal Revenue Code on the last day of the tax year for which credit is  
2 claimed.

3 (c) The person or persons operating the dependent care facility on the property acquired, con-  
4 structed, reconstructed, renovated or improved must hold a certification (temporary or not) issued  
5 under ORS 329A.030 and 329A.250 to 329A.450 by the Office of Child Care to operate the facility  
6 on the property on the last day of the tax year of any tax year in which credit under this section  
7 is claimed.

8 (d) The dependent care facility acquired, constructed, reconstructed, renovated or otherwise  
9 improved must be located in Oregon. No credit shall be allowed under this section if the dependent  
10 care facility is not acquired, constructed, reconstructed, renovated or improved to accommodate six  
11 or more children.

12 (e) The employer must meet any other requirements or furnish any information, including in-  
13 formation furnished by the employees or person operating the dependent care facility, to the De-  
14 partment of Revenue that the department requires under its rules to carry out the purposes of this  
15 section.

16 (f) The dependent care facility, the costs of the acquisition, construction, reconstruction, reno-  
17 vation or improvement upon which the credit granted under this section is based, must be placed  
18 in operation before January 1, 2002.

19 (4) The total amount of the costs upon which the credit allowable under this section is based,  
20 and the total amount of the credit, shall be determined by the employer, subject to any rules adopted  
21 by the department, during the tax year in which the property acquired, constructed, reconstructed,  
22 renovated or otherwise improved is first placed in operation as a dependent care facility certified  
23 by the Office of Child Care under ORS 329A.030 and 329A.250 to 329A.450. One-tenth of the total  
24 credit is allowable in that tax year and one-tenth of the total credit is allowable in each succeeding  
25 tax year, not to exceed nine tax years, thereafter. No credit shall be allowed under this section for  
26 any tax year at the end of which the dependent care facility is not in actual operation under a  
27 current certification (temporary or not) issued by the Office of Child Care nor shall any credit be  
28 allowed for any tax year at the end of which the employer is not providing dependent care assist-  
29 ance entitled to exclusion (whole or partial) from employee income for federal tax purposes under  
30 section 129 of the Internal Revenue Code for dependent care on the property. Any tax credit al-  
31 lowable under this section in a tax year may be carried forward in the same manner and to the same  
32 tax years as if it were a tax credit described in ORS 315.204.

33 (5) Nothing in this section shall affect the computation of depreciation or basis of a dependent  
34 care facility. If a deduction is allowed [*for purposes of ORS chapter 316, 317 or 318*] for the amounts  
35 paid or incurred upon which the credit under this section is based, the deduction shall be reduced  
36 by the dollar amount of the credit granted under this section.

37 (6) For purposes of the credit allowed under this section:

38 (a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code  
39 shall apply to the extent applicable.

40 (b) "Employer" means a resident, part-year resident or full-year nonresident employer carrying  
41 on a business, trade, occupation or profession in this state.

42 (7) The department shall require that evidence that the person operating the dependent care  
43 facility on the date that the taxpayer's tax year ends holds a current certification (temporary or  
44 otherwise) to operate the facility accompany the tax return on which any amount of tax credit  
45 granted under this section is claimed, or that such evidence be separately furnished. If the evidence



1 is not so furnished, no credit shall be allowed for the tax year for which the evidence is not fur-  
2 nished. The Office of Child Care shall cooperate by making such evidence, in an appropriate form,  
3 available to the person operating the facility, if the person is currently certified (temporary or not)  
4 so that, if necessary, it may be made available to the taxpayer.

5 **SECTION 51.** ORS 315.213 is amended to read:

6 315.213. (1) A credit against the taxes otherwise due under ORS chapter 316 [*or, if the taxpayer*  
7 *is a corporation, under ORS chapter 317 or 318*] is allowed to a taxpayer for certified contributions  
8 made to the Office of Child Care under ORS 329A.706.

9 (2) The amount of a tax credit available to a taxpayer for a tax year under this section shall  
10 equal the amount stated in the tax credit certificate received under ORS 329A.706.

11 (3) The credit allowed under this section may not exceed the lesser of 50 percent of the amount  
12 contributed in the tax year or the tax liability of the taxpayer for the tax year in which the credit  
13 is claimed.

14 (4) If the amount claimed as a credit under this section is allowed as a deduction for federal tax  
15 purposes, the amount allowed as a credit under this section shall be added to federal taxable income  
16 for Oregon tax purposes.

17 (5) A credit under this section may be claimed by a nonresident or part-year resident without  
18 proration.

19 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
20 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
21 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
22 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
23 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
24 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
25 succeeding tax year, but may not be carried forward for any tax year thereafter.

26 (7) The definitions in ORS 329A.700 apply to this section.

27 **SECTION 52.** ORS 315.237 is amended to read:

28 315.237. (1) As used in this section, "qualified scholarship" means a scholarship that meets the  
29 criteria set forth or incorporated into the letter of employee and dependent scholarship program  
30 certification issued by the Oregon Student Access Commission under ORS 348.618.

31 (2) A credit against the taxes otherwise due under ORS chapter 316 is allowed to a resident  
32 employer [*or, if the taxpayer is a corporation that is an employer, under ORS chapter 317 or 318*]  
33 that has received:

34 (a) Program certification from the commission under ORS 348.618; and

35 (b) Tax credit certification under ORS 348.621 for the calendar year in which the tax year of the  
36 taxpayer begins.

37 (3) The amount of the credit allowed to a taxpayer under this section shall equal 50 percent of  
38 the amount of qualified scholarship funds actually paid to or on behalf of qualified scholarship re-  
39 cipients during the tax year.

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

42 (5) The credit allowed to a taxpayer for a tax year under this section may not exceed \$50,000.

43 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
44 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
45 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
 2 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
 3 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
 4 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
 5 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
 6 thereafter.

7 *[(7) In the case of a credit allowed under this section for purposes of ORS chapter 316:]*

8 *[(a)] (7)(a)* A nonresident shall be allowed the credit under this section in the proportion pro-  
 9 vided in ORS 316.117.

10 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 11 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 12 ORS 316.117.

13 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 14 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 15 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

16 (8) The credit shall be claimed on the form and in the time and manner in which the department  
 17 shall prescribe. If the taxpayer is required to do so by the department, the taxpayer shall file a copy  
 18 of the letter of tax credit certification issued by the commission with the taxpayer's return for the  
 19 tax year in which a credit under this section is claimed.

20 **SECTION 53.** ORS 315.304 is amended to read:

21 315.304. (1) A credit against taxes imposed by ORS chapter 316 *[(or, if the taxpayer is a corpo-*  
 22 *ration, under ORS chapter 317 or 318)]* for a pollution control facility or facilities certified under  
 23 ORS 468.170 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

24 (2) For a facility certified under ORS 468.170, the maximum credit allowed in any one tax year  
 25 shall be the lesser of the tax liability of the taxpayer or the applicable percentage of the certified  
 26 cost of the facility, as determined under ORS 468.173 or 468.183, multiplied by the certified per-  
 27 centage allocable to pollution control, divided by the number of years of the facility's useful life.  
 28 The number of years of the facility's useful life used in this calculation shall be the remaining  
 29 number of years of useful life at the time the facility is certified but not less than one year nor more  
 30 than 10 years.

31 (3) To qualify for the credit the pollution control facility must be erected, constructed or in-  
 32 stalled in accordance with the provisions of ORS 468.165 (1) and must be certified for tax relief un-  
 33 der ORS 468.155 to 468.190.

34 (4) To qualify for a tax credit under this section:

35 (a) The taxpayer who is allowed the credit must be:

36 (A) The owner, including a contract purchaser, of the trade or business that utilizes Oregon  
 37 property requiring a pollution control facility to prevent or minimize pollution;

38 (B) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that  
 39 operates or utilizes such property; or

40 (C) A person who, as an owner, including a contract purchaser, or lessee, owns or leases a  
 41 pollution control facility that is used:

42 (i) In a business that is engaged in a production activity described in 40 C.F.R. 430.20 (as of July  
 43 1, 1998); or

44 (ii) For recycling, material recovery or energy recovery as defined in ORS 459.005; and

45 (b) The facility must be owned or leased during the tax year by the taxpayer claiming the credit

1 and must have been in use and operation during the tax year for which the credit is claimed.

2 (5) Regardless of when the facility is erected, constructed or installed, a credit under this sec-  
3 tion may be claimed by a taxpayer:

4 (a) For a facility qualifying under ORS 468.165 (1)(a) or (b), only in those tax years which begin  
5 on or after January 1, 1967.

6 (b) For a facility qualifying under ORS 468.165 (1)(c), in those tax years which begin on or after  
7 January 1, 1973.

8 (c) For a facility qualifying under ORS 468.165 (1)(d), in those tax years which begin on or after  
9 January 1, 1984.

10 (6) For a facility certified under ORS 468.170, the maximum total credit allowable shall not ex-  
11 ceed one-half of the certified cost of the facility multiplied by the certified percentage allocable to  
12 pollution control.

13 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-  
14 duction for the facility to which the taxpayer otherwise may be entitled [*under ORS chapter 316,*  
15 *317 or 318 for such*] **for the** year.

16 (8) Upon any sale, exchange or other disposition of a facility, notice thereof shall be given to  
17 the Environmental Quality Commission who shall revoke the certification covering such facility as  
18 of the date of such disposition. Notwithstanding ORS 468.170 (4)(c), the transferee may apply for a  
19 new certificate under ORS 468.170, but the tax credit available to such transferee shall be limited  
20 to the amount of credit not claimed by the transferor. The sale, exchange or other disposition of  
21 shares in an S corporation as defined in section 1361 of the Internal Revenue Code or of a partner's  
22 interest in a partnership shall not be deemed a sale, exchange or other disposition of a facility for  
23 purposes of this subsection.

24 (9) Any tax credit otherwise allowable under this section which is not used by the taxpayer in  
25 a particular year may be carried forward and offset against the taxpayer's tax liability for the next  
26 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried  
27 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
28 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
29 be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax  
30 year beyond the years specified in ORS 468.170.

31 (10) The taxpayer's adjusted basis for determining gain or loss shall not be further decreased  
32 by any tax credits allowed under this section.

33 (11) A person described in subsection (4)(a)(C) of this section may, but need not, operate the  
34 facility or conduct a trade or business that utilizes property requiring the facility. If more than one  
35 person has an interest under subsection (4)(a)(C) of this section in the facility, only one person may  
36 claim the credit allowed under this section. However, portions of the facility may be certified sepa-  
37 rately in the same manner as provided in ORS 468.170 (8) if ownership of the portions is in more  
38 than one person. The person claiming the credit as between an owner, including a contract pur-  
39 chaser, and lessee under this subsection shall be designated in a written statement signed by both  
40 the lessor and lessee of the facility. This statement shall be filed with the Department of Revenue  
41 not later than the final day of the first tax year for which a tax credit is claimed.

42 (12)(a) A taxpayer may not be allowed a tax credit under this section for any tax year during  
43 which the taxpayer is convicted of a felony under ORS 468.922 to 468.956 that is related to the fa-  
44 cility for which the tax credit would otherwise be claimed, or for the four tax years succeeding the  
45 tax year during which the taxpayer is convicted.

1 (b) The amount of any tax credit that is otherwise allowable under this section but for para-  
2 graph (a) of this subsection shall be considered to be claimed by the taxpayer for purposes of de-  
3 termining the amount of tax credit that may be claimed in a tax year in which paragraph (a) of this  
4 subsection permits the taxpayer to claim the credit.

5 **SECTION 54.** ORS 315.326 is amended to read:

6 315.326. (1) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the*  
7 *taxpayer is a corporation, under ORS chapter 317 or 318,*] is allowed to a taxpayer for certified  
8 renewable energy development contributions made by the taxpayer during the tax year to the  
9 Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy De-  
10 ployment Fund established in ORS 470.800.

11 (2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy,  
12 conduct an auction of tax credits under this section. The auction may be conducted no later than  
13 April 15 following December 31 of any tax year for which the credit is allowed. The department may  
14 conduct the auction in the manner that it determines is best suited to maximize the return to the  
15 state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting  
16 the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit.  
17 Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the  
18 department in administering an auction, not to exceed 0.25 percent of auction proceeds, are contin-  
19 uously appropriated to the department. The Department of Revenue shall deposit net receipts from  
20 the auction required under this section in the Renewable Energy Development Subaccount, estab-  
21 lished in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800. Net re-  
22 cepts from the auction required under this section shall be used only for purposes related to  
23 renewable energy development.

24 (b) The State Department of Energy shall adopt rules in order to achieve the following goals:

25 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
26 \$1.5 million are certified for each fiscal year;

27 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state  
28 operations; and

29 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into  
30 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

31 (3) Contributions made under this section shall be deposited in the Renewable Energy Develop-  
32 ment Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in  
33 ORS 470.800.

34 (4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as provided  
35 in ORS 315.329, issue to the taxpayer written certification of the amount certified for tax credit  
36 under this section to the extent the amount certified for tax credit, when added to all amounts  
37 previously certified for tax credit under this section, does not exceed \$1.5 million for the fiscal year  
38 in which certification is made.

39 (b) The State Department of Energy and the Department of Revenue are not liable, and a refund  
40 of a contributed amount need not be made, if a taxpayer who has received tax credit certification  
41 is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

42 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-  
43 ability of the taxpayer.

44 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
45 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next

1 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
2 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
3 succeeding tax year may be carried forward and used in the third succeeding tax year but may not  
4 be carried forward for any tax year thereafter.

5 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,  
6 the amount shall be allowed without proration under ORS 316.117.

7 (8) If the amount of contribution for which a tax credit certification is made is allowed as a  
8 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable  
9 income for Oregon tax purposes.

10 **SECTION 55.** ORS 315.331 is amended to read:

11 315.331. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 [*or, if*  
12 *the taxpayer is a corporation, under ORS chapter 317 or 318,*] for an energy conservation project that  
13 is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

14 (a) Except as provided in ORS 469B.298 and in paragraph (b) of this subsection, the credit al-  
15 lowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the  
16 certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed  
17 in each of the succeeding three years shall be five percent of the certified cost, but may not exceed  
18 the tax liability of the taxpayer.

19 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit  
20 allowable under subsection (3) of this section may be claimed in the first tax year for which the  
21 credit may be claimed, but may not exceed the tax liability of the taxpayer.

22 (2) In order for a tax credit to be allowable under this section:

23 (a) The project must be located in Oregon.

24 (b) The project must have received final certification from the Director of the State Department  
25 of Energy under ORS 469B.270 to 469B.306.

26 (c) If the project is a research and development project, it must receive, prior to certification  
27 under ORS 469B.288, a recommendation from a qualified third party selected by the director.

28 (d) If the project is new construction or a total building retrofit, then the project must achieve,  
29 at a minimum, the energy efficiency standards required for:

30 (A) LEED Platinum certification;

31 (B) A four globes rating from the Green Globes program;

32 (C) A nationally or regionally recognized and appropriate sustainable building program whose  
33 performance standards are equivalent to the standards required for LEED Platinum certification or  
34 a four globes rating from the Green Globes program, as determined by the department; or

35 (D) Verification that the construction conformed to the standards of the Reach Code adopted  
36 pursuant to ORS 455.500.

37 (3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
38 ceed 35 percent of the certified cost of the project.

39 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
40 project, notice thereof shall be given to the director, who shall revoke the certificate covering the  
41 project as of the date of such disposition.

42 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate  
43 under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to  
44 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner  
45 or lessee to the State of Oregon have been paid, if the project continues to operate and if all con-

1 ditions in the final certification are met. The tax credit available to the new owner shall be limited  
2 to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit  
3 not claimed by the lessee under all previous leases. The State Department of Energy may waive the  
4 requirement that a new owner or lessee apply for a new certificate under ORS 469B.291 if the re-  
5 maining credit is less than \$20,000.

6 (c) The department may not revoke the certificate covering a project under paragraph (a) of this  
7 subsection if the tax credit associated with the project has been transferred to a taxpayer who is  
8 an eligible applicant under ORS 469B.285.

9 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-  
10 ability of the taxpayer.

11 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
12 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
13 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
14 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
15 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
16 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
17 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
18 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any  
19 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years  
20 specified in subsection (1) of this section only as provided in this subsection.

21 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
22 duction for the project to which the taxpayer otherwise may be entitled for *[purposes of ORS chapter*  
23 *316, 317 or 318 for such]* **the** year.

24 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
25 credits allowed under this section.

26 (9) The definitions in ORS 469B.270 apply to this section.

27 **SECTION 56.** ORS 315.336 is amended to read:

28 315.336. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 *[or, if*  
29 *the taxpayer is a corporation, under ORS chapter 317 or 318,]* for a transportation project, based upon  
30 the certified cost of the project during the period for which the project is certified under ORS  
31 469B.320 to 469B.347.

32 (2) The credit allowed for a project other than an alternative fuel vehicle project shall be as  
33 follows:

34 (a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maxi-  
35 mum allowed credit shall be:

36 (A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior  
37 to July 1, 2011; or

38 (B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on  
39 or after July 1, 2011, and before January 1, 2012.

40 (b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maxi-  
41 mum allowed credit shall be 25 percent of certified cost.

42 (c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maxi-  
43 mum allowed credit shall be 20 percent of certified cost.

44 (d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maxi-  
45 mum allowed credit shall be 15 percent of certified cost.

1 (e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the maxi-  
2 mum allowed credit shall be 10 percent of certified cost.

3 (3) The total amount of the credit allowable for an alternative fuel vehicle project under this  
4 section may not exceed 35 percent of the certified cost of the project.

5 (4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the  
6 first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the  
7 project, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the  
8 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability  
9 of the taxpayer.

10 (b) If the amount of the credit allowed under this section is less than 35 percent of the certified  
11 cost of the project, the credit allowed in any tax year may not exceed five percent of the certified  
12 cost of the project, and may not exceed the tax liability of the taxpayer.

13 (5) In order for a tax credit to be allowable under this section:

14 (a) The project must be located in Oregon.

15 (b) The project must have received final certification from the Director of the State Department  
16 of Energy under ORS 469B.320 to 469B.347.

17 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
18 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
19 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
20 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
21 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
22 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
23 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
24 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any  
25 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years  
26 specified in subsection (2) of this section only as provided in this subsection.

27 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
28 duction for the transportation project to which the taxpayer otherwise may be entitled for [*purposes*  
29 *of ORS chapter 316, 317 or 318 for such*] **the** year.

30 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
31 credits allowed under this section.

32 (9) The definitions in ORS 469B.320 apply to this section.

33 **SECTION 57.** ORS 315.341 is amended to read:

34 315.341. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 [*or, if*  
35 *the taxpayer is a corporation, under ORS chapter 317 or 318*], based upon the certified cost of a  
36 renewable energy resource equipment manufacturing facility during the period for which the facility  
37 is certified under ORS 285C.540 to 285C.559. The credit allowed under this section in each of five  
38 succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the  
39 tax liability of the taxpayer.

40 (2) In order for a tax credit to be allowable under this section:

41 (a) The facility must be located in Oregon;

42 (b) The facility must have received:

43 (A) Final certification from the Director of the Oregon Business Development Department under  
44 ORS 285C.540 to 285C.559; or

45 (B) Final certification from the Director of the State Department of Energy under ORS 469B.130

1 to 469B.169, prior to January 1, 2012; and

2 (c) The taxpayer must be an eligible applicant under ORS 285C.547 (1)(b).

3 (3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
4 ceed 50 percent of the certified cost of a facility.

5 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
6 facility, notice thereof shall be given to the Director of the Oregon Business Development Depart-  
7 ment, who shall revoke the certificate covering the facility as of the date of such disposition.

8 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-  
9 tificate under ORS 285C.553. The new lessor or owner must meet the requirements of ORS 285C.540  
10 to 285C.559 and may claim a tax credit under this section only if all moneys owed to the State of  
11 Oregon have been paid, the facility continues to operate, unless continued operation is waived by  
12 the Oregon Business Development Department, and all conditions in the final certification are met.  
13 The tax credit available to the new owner shall be limited to the amount of credit not claimed by  
14 the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all  
15 previous leases.

16 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
17 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
18 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
19 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
20 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
21 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
22 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
23 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that  
24 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and  
25 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in  
26 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax  
27 year may be carried forward and used in the eighth succeeding tax year, but may not be carried  
28 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-  
29 yond the years specified in subsection (1) of this section only as provided in this subsection.

30 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
31 duction for the facility to which the taxpayer otherwise may be entitled for [*purposes of ORS chapter*  
32 *316, 317 or 318 for such*] **the** year.

33 (7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
34 credits allowed under this section.

35 (8) The definitions in ORS 285C.540 apply to this section.

36 **SECTION 58.** ORS 315.354 is amended to read:

37 315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 [*or, if*  
38 *the taxpayer is a corporation, under ORS chapter 317 or 318*], based upon the certified cost of the  
39 facility during the period for which that facility is certified under ORS 469B.130 to 469B.169. The  
40 credit is allowed as follows:

41 (a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of  
42 the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the  
43 facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the  
44 succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability  
45 of the taxpayer.



1 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit  
2 allowable under subsection (4) of this section may be claimed in the first tax year for which the  
3 credit may be claimed, but may not exceed the tax liability of the taxpayer.

4 (c) If the facility uses or produces renewable energy resources, the credit allowed in each of five  
5 succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the  
6 tax liability of the taxpayer.

7 (2) Notwithstanding subsection (1) of this section:

8 (a) If the facility is one or more renewable energy resource systems installed in a single-family  
9 dwelling, the amount of the credit for each system shall be determined as if the facility was con-  
10 sidered a residential alternative energy device under ORS 316.116, but subject to the maximum  
11 credit amount under subsection (4)(b) of this section;

12 (b) If the facility is a high-performance home, the amount of the credit shall equal the amount  
13 determined under paragraph (a) of this subsection plus \$3,000; and

14 (c) If the facility is a high-performance home or a homebuilder-installed renewable energy sys-  
15 tem, the total amount of the credit may be claimed in the first tax year for which the credit is  
16 claimed, but may not exceed the tax liability of the taxpayer.

17 (3) In order for a tax credit to be allowable under this section:

18 (a) The facility must be located in Oregon;

19 (b) The facility must have received final certification from the Director of the State Department  
20 of Energy under ORS 469B.130 to 469B.169;

21 (c) The taxpayer must be an eligible applicant under ORS 469B.145 (1)(c); and

22 (d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric  
23 plug-in charging, it must be purchased before January 1, 2010.

24 (4) The total amount of credit allowable to an eligible taxpayer under this section may not ex-  
25 ceed:

26 (a) 50 percent of the certified cost of a renewable energy resources facility or a high-efficiency  
27 combined heat and power facility;

28 (b) \$9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

29 (c) \$12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the  
30 dwelling also constitutes a high-performance home; or

31 (d) 35 percent of the certified cost of any other facility.

32 (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the  
33 facility, notice thereof shall be given to the Director of the State Department of Energy, who shall  
34 revoke the certificate covering the facility as of the date of such disposition.

35 (b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new cer-  
36 tificate under ORS 469B.161. The new lessor or owner must meet the requirements of ORS 469B.130  
37 to 469B.169 and may claim a tax credit under this section only if all moneys owed to the State of  
38 Oregon have been paid, the facility continues to operate, unless continued operation is waived by  
39 the State Department of Energy, and all conditions in the final certification are met. The tax credit  
40 available to the new owner shall be limited to the amount of credit not claimed by the former owner  
41 or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

42 (c) The State Department of Energy may not revoke the certificate covering a facility under  
43 paragraph (a) of this subsection if the tax credit associated with the facility has been transferred  
44 to a taxpayer who is an eligible applicant under ORS 469B.145 (1)(c)(A).

45 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a

1 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
 2 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried  
 3 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
 4 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,  
 5 any credit not used in that third succeeding tax year may be carried forward and used in the fourth  
 6 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be  
 7 carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that  
 8 fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and  
 9 likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in  
 10 the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax  
 11 year may be carried forward and used in the eighth succeeding tax year, but may not be carried  
 12 forward for any tax year thereafter. Credits may be carried forward to and used in a tax year be-  
 13 yond the years specified in subsection (1) of this section only as provided in this subsection.

14 (7) The credit provided by this section is not in lieu of any depreciation or amortization de-  
 15 duction for the facility to which the taxpayer otherwise may be entitled for *[purposes of ORS chapter*  
 16 *316, 317 or 318 for such]* **the** year.

17 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
 18 credits allowed under this section.

19 (9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed  
 20 renewable energy system or a high-performance home:

21 (a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy  
 22 system and a high-performance home with respect to the same dwelling;

23 (b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a  
 24 tax credit under this section with respect to the dwelling; and

25 (c) The buyer of the dwelling may not claim a credit under this section that is based on any  
 26 facility for which the homebuilder has already claimed a credit.

27 (10) The definitions in ORS 469B.130 apply to this section.

28 **SECTION 59.** Section 28, chapter 618, Oregon Laws 2003, as amended by section 53, chapter  
 29 843, Oregon Laws 2007, and section 17, chapter 855, Oregon Laws 2007, is amended to read:

30 **Sec. 28.** (1) As used in this section and section 29, chapter 618, Oregon Laws 2003:

31 (a) "Combined weight" has the meaning given that term in ORS 825.005.

32 (b) "Motor vehicle" has the meaning given that term in ORS 825.005.

33 (c) "Truck" means a motor vehicle or combination of vehicles that has a combined weight of  
 34 more than 26,000 pounds.

35 (2) A taxpayer who owns a truck that is registered in Oregon under the provisions of ORS  
 36 chapter 803 or 826 and that has a diesel engine that was purchased in Oregon on or after *[the ef-*  
 37 *fective date of this 2007 Act]* **September 27, 2007**, and that is certified by the federal Environmental  
 38 Protection Agency to emit particulate matter at the rate of 0.01 grams per brake horsepower-hour  
 39 or less, is allowed a credit against the taxes otherwise due under ORS chapter 316*[, if the taxpayer*  
 40 *is a resident individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is*  
 41 *a corporation]*. The total amount of the credit under this section depends on the number of trucks  
 42 owned by the taxpayer prior to the purchase, as follows:

43 (a) 1 to 10 trucks, \$925 for each qualifying engine purchased.

44 (b) 11 to 50 trucks, \$705 for each qualifying engine purchased.

45 (c) 51 to 100 trucks, \$525 for each qualifying engine purchased.

1 (d) More than 100 trucks, \$400 for each qualifying engine purchased.

2 (3) Notwithstanding subsection (2) of this section, a taxpayer may not claim a credit under this  
3 section of more than \$80,000 for purchases in any one year.

4 (4) A credit may not be allowed under this section unless the taxpayer claiming the credit  
5 complies with rules adopted by the Environmental Quality Commission and the Department of Re-  
6 venue as provided in section 29, chapter 618, Oregon Laws 2003.

7 (5) Except as provided under subsection (6) of this section, the credit allowed in any one year  
8 may not exceed the tax liability of the taxpayer.

9 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
10 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
11 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
12 forward and used in the second succeeding tax year, any credit not used in the second succeeding  
13 tax year may be carried forward and used in the third succeeding tax year and any credit not used  
14 in the third succeeding tax year may be carried forward and used in the fourth succeeding tax year  
15 but may not be carried forward for any tax year thereafter.

16 (7)(a) The credit provided by this section is not in lieu of any depreciation or amortization de-  
17 duction for the truck to which the taxpayer otherwise may be entitled [*under ORS chapter 316 or*  
18 *317*] for the tax year.

19 (b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
20 any tax credit allowed under this section.

21 (8)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department  
22 of Revenue may order the disallowance of the credit allowed under this section if it finds, by order,  
23 that the credit was obtained by fraud or misrepresentation.

24 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or  
25 other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of  
26 Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior  
27 granting of the credit.

28 (c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any  
29 further credit provided under this section from and after the date that the order of disallowance  
30 becomes final.

31 (9) If the engine is destroyed by fire, flood, natural disaster or act of God before all of the credit  
32 has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place.  
33 In the event of fire, if the fire chief of the fire protection district or unit determines that the fire  
34 was caused by arson, as described in ORS 164.315 and 164.325, by the taxpayer or by another at the  
35 taxpayer's direction, then the fire chief shall notify the Department of Revenue. If the taxpayer is  
36 convicted of arson, the Department of Revenue shall disallow the credit in accordance with sub-  
37 section (8) of this section.

38 (10)(a) A nonresident individual shall be allowed the credit computed in the same manner and  
39 subject to the same limitations as the credit allowed a resident by this section. However, the credit  
40 shall be prorated using the proportion provided in ORS 316.117.

41 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
42 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
43 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

44 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
45 resident occurs, the credit allowed by this section shall be determined in a manner consistent with

1 ORS 316.117.

2 **SECTION 60.** ORS 315.507 is amended to read:

3 315.507. (1) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the*  
4 *taxpayer is a corporation, under ORS chapter 317 or 318,*] shall be allowed to a taxpayer that is:

5 (a) A business firm engaged or preparing to engage in electronic commerce in an enterprise zone  
6 that has been designated for electronic commerce under ORS 285C.095; or

7 (b) A business firm engaged or preparing to engage in electronic commerce in a city that has  
8 been designated for electronic commerce under ORS 285C.100.

9 (2) The credit shall equal 25 percent of the investments made by the business firm in capital  
10 assets:

11 (a) Located in the area designated for electronic commerce;

12 (b) Used or constructed, installed or otherwise prepared for use in electronic commerce oper-  
13 ations within the area designated for electronic commerce that are related to electronic commerce  
14 sales, customer service, order fulfillment, broadband infrastructure or other electronic commerce  
15 operations; and

16 (c)(A) During the period that commences with the income [*or corporate excise*] tax year in which  
17 the firm applied to be an authorized business firm under ORS 285C.140 and ends on the last day of  
18 the income [*or corporate excise*] tax year in which begins the first property tax year in which qual-  
19 ified property of the firm used in eligible electronic commerce activities is exempt from property  
20 taxation under ORS 285C.175; or

21 (B) During any income [*or corporate excise*] tax year in which begins a property tax year in  
22 which qualified property of the firm used in eligible electronic commerce operations is exempt from  
23 property taxation under ORS 285C.175.

24 (3) Except as provided in subsection (5) of this section, the credit must be claimed for the income  
25 [*or corporate excise*] tax year that is:

26 (a) The year in which the investment for which a credit is being claimed is made; and

27 (b) A year, all or part of which is described in subsection (2)(c) of this section.

28 (4) A credit allowed under this section for any one tax year may not exceed the lesser of \$2  
29 million or the tax liability of the taxpayer.

30 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
31 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
32 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
33 forward and used in the second succeeding tax year, and likewise any credit not used in that second  
34 succeeding tax year may be carried forward and used in the third succeeding tax year, and any  
35 credit not used in that third succeeding tax year may be carried forward and used in the fourth  
36 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried  
37 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year  
38 thereafter.

39 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
40 duction to which the taxpayer otherwise may be entitled [*under ORS chapter 316, 317 or 318*] for the  
41 tax year.

42 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
43 any amount of credit allowed under this section.

44 (8)(a) A nonresident shall be allowed the credit under this section in the proportion provided in  
45 ORS 316.117.

1 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 2 resident occurs, the credit allowed under this section shall be determined in a manner consistent  
 3 with ORS 316.117.

4 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 5 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 6 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

7 (9) As used in this section, "authorized business firm," "business firm," "electronic commerce"  
 8 and "qualified property" have the meanings given those terms in ORS 285C.050.

9 **SECTION 61.** ORS 315.514, as amended by section 8, chapter 29, Oregon Laws 2016, is amended  
 10 to read:

11 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the*  
 12 *taxpayer is a corporation, under ORS chapter 317 or 318,*] is allowed to a taxpayer for certified film  
 13 production development contributions made by the taxpayer during the tax year to the Oregon  
 14 Production Investment Fund established under ORS 284.367.

15 (2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,  
 16 conduct an auction of tax credits under this section. The department may conduct the auction in the  
 17 manner that it determines is best suited to maximize the return to the state on the sale of tax credit  
 18 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount  
 19 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse  
 20 the department for the actual costs incurred by the department in administering an auction, not to  
 21 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-  
 22 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-  
 23 duction Investment Fund.

24 (b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

25 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
 26 \$12 million are certified for each fiscal year;

27 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state  
 28 operations; and

29 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into  
 30 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

31 (3) Contributions made under this section shall be deposited in the Oregon Production Invest-  
 32 ment Fund.

33 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided  
 34 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit  
 35 under this section to the extent the amount certified for tax credit, when added to all amounts  
 36 previously certified for tax credit under this section, does not exceed \$12 million for the fiscal year  
 37 in which certification is made.

38 (b) The Oregon Film and Video Office and the department are not liable, and a refund of a  
 39 contributed amount need not be made, if a taxpayer who has received tax credit certification is  
 40 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

41 (5) To the extent the Oregon Film and Video Office does not certify contributed amounts as el-  
 42 igible for a tax credit under this section, the taxpayer may request a refund of the amount the tax-  
 43 payer contributed, and the office shall refund that amount.

44 (6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this  
 45 section may not exceed the tax liability of the taxpayer and may not be carried over to another tax

1 year.

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

8 (c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which  
 9 the credit would otherwise be allowed begins on or after January 1, 2024.

10 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,  
 11 the amount shall be allowed without proration under ORS 316.117.

12 (8) If the amount of contribution for which a tax credit certification is made is allowed as a  
 13 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable  
 14 income for Oregon tax purposes.

15 **SECTION 62.** ORS 315.514, as amended by sections 8 and 9, chapter 29, Oregon Laws 2016, is  
 16 amended to read:

17 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the*  
 18 *taxpayer is a corporation, under ORS chapter 317 or 318,*] is allowed to a taxpayer for certified film  
 19 production development contributions made by the taxpayer during the tax year to the Oregon  
 20 Production Investment Fund established under ORS 284.367.

21 (2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,  
 22 conduct an auction of tax credits under this section. The department may conduct the auction in the  
 23 manner that it determines is best suited to maximize the return to the state on the sale of tax credit  
 24 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount  
 25 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse  
 26 the department for the actual costs incurred by the department in administering an auction, not to  
 27 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-  
 28 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-  
 29 duction Investment Fund.

30 (b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

31 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of  
 32 \$14 million are certified for each fiscal year;

33 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state  
 34 operations; and

35 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into  
 36 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

37 (3) Contributions made under this section shall be deposited in the Oregon Production Invest-  
 38 ment Fund.

39 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided  
 40 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit  
 41 under this section to the extent the amount certified for tax credit, when added to all amounts  
 42 previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year  
 43 in which certification is made.

44 (b) The Oregon Film and Video Office and the department are not liable, and a refund of a  
 45 contributed amount need not be made, if a taxpayer who has received tax credit certification is

1 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

2 (5) To the extent the Oregon Film and Video Office does not certify contributed amounts as el-  
3 igible for a tax credit under this section, the taxpayer may request a refund of the amount the tax-  
4 payer contributed, and the office shall refund that amount.

5 (6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this  
6 section may not exceed the tax liability of the taxpayer and may not be carried over to another tax  
7 year.

8 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
9 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
10 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
11 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
12 succeeding tax year may be carried forward and used in the third succeeding tax year but may not  
13 be carried forward for any tax year thereafter.

14 (c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which  
15 the credit would otherwise be allowed begins on or after January 1, 2024.

16 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,  
17 the amount shall be allowed without proration under ORS 316.117.

18 (8) If the amount of contribution for which a tax credit certification is made is allowed as a  
19 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable  
20 income for Oregon tax purposes.

21 **SECTION 63.** ORS 315.517 is amended to read:

22 315.517. (1) As used in this section, "water transit vessel" means a United States Coast Guard  
23 licensed and inspected vessel that is primarily designed to carry 50 or more passengers and vehicles  
24 or 50 or more passengers only for a published fee across a body of water between two or more fixed  
25 points on a regular schedule.

26 (2)(a) A credit against the taxes that are otherwise due under ORS chapter 316 [*or, if the tax-*  
27 *payer is a corporation, under ORS chapter 317 or 318,*] is allowed to a resident employer based upon  
28 wages actually paid by the taxpayer to a person employed in this state to assist in the manufacture  
29 of a water transit vessel.

30 (b) The credit allowed under this section:

31 (A) Must be claimed for the year in which the wages were paid;

32 (B) May not be claimed for wages paid to an employee who was employed by the employer  
33 during the previous tax year; and

34 (C) Must be for wages paid as a result of an increase in the number of full-time equivalent em-  
35 ployees employed by the eligible taxpayer when compared to the previous tax year.

36 (3) The amount of the credit provided under this section shall be equal to the lesser of:

37 (a) \$5,000; or

38 (b) 15 percent of the wages paid to employees during the tax year for which the credit is  
39 claimed.

40 (4) The tax credit available under this section may not exceed the tax liability of the taxpayer  
41 for the tax year.

42 (5)(a) Wages taken into account for the purposes of subsection (3) of this section may not include  
43 any amount paid by the employer to an employee for whom the employer receives federal funds for  
44 on-the-job training.

45 (b) A tax credit under this section is not in lieu of any deduction for payroll costs or any other

1 expense to which the taxpayer may be entitled.

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

5 (b) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the  
6 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
7 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

8 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
9 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
10 ORS 316.117.

11 **SECTION 64.** ORS 315.521, as amended by section 2, chapter 31, Oregon Laws 2016, is amended  
12 to read:

13 315.521. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS  
14 chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318,*] based on amounts  
15 contributed in the tax year to a university venture development fund established under ORS 350.550,  
16 to the extent the university that established the fund issued a tax credit certificate to the taxpayer.

17 (2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the contribu-  
18 tion amount stated on the tax credit certificate, but may not exceed \$600,000.

19 (3) The credit allowed under this section in any one tax year may not exceed the tax liability  
20 of the taxpayer for the tax year.

21 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
22 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
23 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried  
24 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
25 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
26 be carried forward for any tax year thereafter.

27 [*(5) In the case of a credit allowed under this section for purposes of ORS chapter 316:*]

28 [*(a)*] (5)(a) A nonresident shall be allowed the credit in the same manner and subject to the same  
29 limitations as a resident. However, the credit shall be prorated using the proportion provided in  
30 ORS 316.117.

31 (b) If a change in the tax year of a taxpayer occurs as described in ORS 314.085 or if the De-  
32 partment of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit shall be  
33 prorated or computed in a manner consistent with ORS 314.085.

34 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
35 resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

36 (6) A taxpayer claiming a credit under this section shall add to federal taxable income for  
37 Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as  
38 the basis for the credit allowed under this section.

39 **SECTION 65.** ORS 315.533 is amended to read:

40 315.533. (1) As used in this section, "applicable percentage" means zero percent for each of the  
41 first two credit allowance dates, seven percent for the third credit allowance date and eight percent  
42 for the next four credit allowance dates.

43 (2) A person that makes a qualified equity investment shall, at the time of investment, earn a  
44 vested credit against the taxes otherwise due under ORS chapter 316 [*or, if the person is a corpo-*  
45 *ration, under ORS chapter 317 or 318*].



1 (3)(a) The total amount of the tax credit available to a taxpayer under this section shall equal  
2 39 percent of the purchase price of the qualified equity investment.

3 (b) The taxpayer that holds a qualified equity investment on a particular credit allowance date  
4 of the qualified equity investment may claim a portion of the tax credit against its tax liability for  
5 the tax year that includes the credit allowance date equal to the applicable percentage for that  
6 credit allowance date multiplied by the purchase price of the qualified equity investment.

7 (4) The credit allowed under this section may not exceed the tax liability of the taxpayer for the  
8 tax year in which the credit is claimed.

9 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
10 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next  
11 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried  
12 forward and used in the second succeeding tax year. Any credit remaining unused in the second  
13 succeeding tax year may be carried forward and used in the third succeeding tax year. Any credit  
14 remaining unused in the third succeeding tax year may be carried forward and used in the fourth  
15 succeeding tax year. Any credit remaining unused in the fourth succeeding tax year may be carried  
16 forward and used in the fifth succeeding tax year, but may not be used in any tax year thereafter.

17 (6) The following conditions must exist for a taxpayer to be eligible for the credit allowed under  
18 this section:

19 (a) A qualified community development entity that issues a debt instrument may not make cash  
20 interest payments on the debt instrument during the period commencing with its issuance and end-  
21 ing on its final credit allowance date in excess of the sum of the cash interest payments and the  
22 cumulative operating income, as defined in the regulations promulgated under section 45D of the  
23 Internal Revenue Code, of the qualified community development entity for the same period. Neither  
24 this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way  
25 limits the holder's ability to accelerate payments on the debt instrument in situations where the  
26 qualified community development entity has defaulted on covenants designed to ensure compliance  
27 with this section or section 45D of the Internal Revenue Code.

28 (b) A business shall be considered a qualified active low-income community business for the  
29 duration of a qualified community development entity's investment in or loan to the business, if it  
30 is reasonable to expect that at the time of the qualified community development entity's investment  
31 in or loan to a qualified active low-income community business, the business will continue to satisfy  
32 the requirements for being a qualified active low-income community business throughout the entire  
33 period of the investment or loan.

34 (c) A qualified equity investment must be designated by the issuer as a qualified equity invest-  
35 ment and be certified by the Oregon Business Development Department as not exceeding the limi-  
36 tation in ORS 285C.653. The qualified community development entity must keep sufficiently detailed  
37 books and records with respect to the investments made with the proceeds of the qualified equity  
38 investments to allow the direct tracing of proceeds into qualified low-income community investments  
39 in qualified active low-income community businesses in this state.

40 (d) The qualified community development entity shall report annually to the department:

41 (A) The number of employment positions created and retained as a result of qualified low-income  
42 community investments by the qualified community development entity;

43 (B) The average annual salary of positions described in subparagraph (A) of this paragraph; and

44 (C) The number of positions described in subparagraph (A) of this paragraph that provide health  
45 benefits.

1 (e) The maximum amount of qualified low-income community investments that may be made in  
 2 a qualified active low-income community business and all of its affiliates, with the proceeds of  
 3 qualified equity investments that have been certified under ORS 285C.650, shall be \$8 million,  
 4 whether made by one or several qualified community development entities.

5 (f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph  
 6 precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a  
 7 tax credit relating to that qualified equity investment for each applicable credit allowance date.

8 (7) A taxpayer claiming a credit under this section may not claim any other credit under this  
 9 chapter or ORS chapter 285C during the same tax year based on activities related to the same  
 10 qualified active low-income community business.

11 **SECTION 66.** ORS 315.610 is amended to read:

12 315.610. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS  
 13 chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318*] for premium costs  
 14 actually paid or incurred during the tax year for a long term care insurance policy:

15 (a) For long term care coverage of the taxpayer or a dependent or parent of the taxpayer; or

16 (b) That is offered by the taxpayer to employees of the taxpayer that are employed in this state.

17 (2) The amount of the credit allowed under this section shall equal the lesser of:

18 (a) Fifteen percent of the total amount of long term care insurance premiums paid or incurred  
 19 by the taxpayer during the tax year; or

20 (b)(A) If the long term care insurance coverage is for the taxpayer and the dependents or par-  
 21 ents of the taxpayer, \$500; or

22 (B) If the long term care insurance coverage is for Oregon-based employees of the taxpayer and  
 23 their dependents or parents, \$500 multiplied by the number of employees covered.

24 (3) A credit may not be allowed under this section if the policy was first issued prior to January  
 25 1, 2000.

26 (4) The credit allowed under this section may not exceed the tax liability of the taxpayer and  
 27 may not be carried forward to another tax year.

28 [*5) In the case of a credit allowed under this section for purposes of ORS chapter 316:*]

29 [*a)*] (5)(a) A nonresident shall be allowed the credit under this section in the proportion pro-  
 30 vided in ORS 316.117.

31 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 32 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 33 ORS 316.117.

34 (c) Spouses in a marriage who file separate returns for a taxable year may each claim a share  
 35 of the tax credit that would have been allowed on a joint return in proportion to the contribution  
 36 of each.

37 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 38 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 39 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

40 (6) As used in this section, "long term care insurance" has the meaning given that term in ORS  
 41 743.652.

42 **SECTION 67.** ORS 315.675 is amended to read:

43 315.675. (1) As used in this section, "cultural organization" means an entity that is:

44 (a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

45 (b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage,

1 programs and humanities to the public or organized primarily for identifying, documenting, inter-  
2 preting and preserving cultural resources.

3 (2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316  
4 for amounts contributed during the tax year to the Trust for Cultural Development Account estab-  
5 lished under ORS 359.405.

6 *[(3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due*  
7 *under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural*  
8 *Development Account established under ORS 359.405.]*

9 *[(4) (3) The credit is allowable under this section only to the extent the taxpayer has contrib-*  
10 *uted an equal amount to an Oregon cultural organization during the tax year.*

11 *[(5) (4) The amount of the credit shall equal 100 percent of the amount contributed to the Trust*  
12 *for Cultural Development Account, but may not exceed the lesser of the tax liability of the[:]*

13 *[(a)] taxpayer under ORS chapter 316 for the tax year or \$500.*

14 *[(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or \$2,500.]*

15 *[(6) (5) The credit allowed under this section may not be carried over to another tax year.*

16 *[(7) (6) The credit allowed under this section is in addition to any charitable contribution de-*  
17 *duction allowable to the taxpayer.*

18 *[(8) In the case of a credit allowed under this section for purposes of ORS chapter 316:]*

19 *[(a) (7)(a) A nonresident shall be allowed the credit under this section in the proportion pro-*  
20 *vided in ORS 316.117.*

21 *(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to*  
22 *resident occurs, the credit allowed under this section shall be determined in a manner consistent*  
23 *with ORS 316.117.*

24 *(c) Spouses in a marriage who file separate returns for a taxable year may each claim a share*  
25 *of the tax credit that would have been allowed on a joint return in proportion to the contribution*  
26 *of each.*

27 *(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the*  
28 *Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-*  
29 *lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.*

30 **SECTION 68.** ORS 469.720 is amended to read:

31 469.720. (1) A dwelling owner who is or who rents to a residential fuel oil customer, or who is  
32 or who rents to a wood heating resident, may not apply for low-interest financing under ORS 469.710  
33 to 469.720 unless:

34 (a) The dwelling owner, customer or resident has first requested and obtained an energy audit  
35 from a fuel oil dealer, a publicly owned utility or an investor-owned utility or from a person under  
36 contract with the State Department of Energy under ORS 316.744[, 317.111, 317.386] and 469.631 to  
37 469.687;

38 (b) The dwelling owner first submits to the department written permission to inspect the in-  
39 stallations to verify that installation of energy conservation measures has been made;

40 (c) The dwelling owner presents to the lending institution a copy of the energy audit together  
41 with certification that the dwelling in question receives space heating from fuel oil or wood and a  
42 copy of the written permission to inspect submitted to the department under paragraph (b) of this  
43 subsection; and

44 (d) The dwelling owner does not receive any other state incentives for that part of the cost of  
45 the energy conservation measures to be financed by the loan.

1 (2) Any dwelling owner applying for low-interest financing under ORS 469.710 to 469.720 who is  
2 or who rents to a residential fuel oil customer, or who is or who rents to a wood heating resident,  
3 may use without obtaining a new energy audit any assistance and technical advice obtained from  
4 an energy supplier before November 1, 1981, under chapter 887, Oregon Laws 1977, or from a public  
5 utility under chapter 889, Oregon Laws 1977, including an estimate of cost for installation of  
6 weatherization materials.

7 **SECTION 69.** ORS 314.078 is amended to read:

8 314.078. For purposes of this chapter and ORS chapters 315[,] **and** 316[, 317 and 318], a taxpayer  
9 claiming a credit against tax must claim the maximum amount of any tax credit that is allowed to  
10 the taxpayer for the tax year, to the extent of the tax liability of the taxpayer.

11 **SECTION 70.** ORS 314.505 is amended to read:

12 314.505. (1) Every corporation expecting to have a tax liability under [*either*] ORS chapter 317  
13 [*or 318*] of \$500 or more shall make an estimate of tax liability for the corporation's tax year and  
14 pay the amount of tax determined [*as provided in ORS 314.515*].

15 (2) The Department of Revenue shall by rule provide for the payment of estimated tax liability  
16 by a group of affiliated corporations filing a consolidated return.

17 (3) As used in ORS 314.505 to 314.525, the term "estimated tax liability" means the tax computed  
18 under ORS chapter 317 [*or 318 less the credits allowed for purposes of ORS chapter 317 or 318*].

19 **SECTION 71.** ORS 315.004, as amended by section 18, chapter 33, Oregon Laws 2016, is  
20 amended to read:

21 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS  
22 chapters 314[,] **and** 316[, 317 and 318] are applicable in the construction, interpretation and appli-  
23 cation of the personal [*and corporate income and excise*] **income** tax credits contained in this chap-  
24 ter.

25 (2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning  
26 as when used in a comparable context in the laws of the United States relating to federal income  
27 taxes, unless a different meaning is clearly required or the term is specifically defined for purposes  
28 of construing, interpreting and applying the credit.

29 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the  
30 United States or to the Internal Revenue Code means the laws of the United States relating to in-  
31 come taxes or the Internal Revenue Code as they are amended on or before December 31, 2015, even  
32 when the amendments take effect or become operative after that date.

33 (3) Insofar as is practicable in the administration of this chapter, the Department of Revenue  
34 shall apply and follow the administrative and judicial interpretations of the federal income tax law.  
35 When a provision of the federal income tax law is the subject of conflicting opinions by two or more  
36 federal courts, the department shall follow the rule observed by the United States Commissioner of  
37 Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right  
38 or duty of the department to audit the return of any taxpayer or to determine any fact relating to  
39 the tax liability of any taxpayer.

40 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-  
41 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,  
42 then such rules or regulations shall be regarded as rules adopted by the department under and in  
43 accordance with the provisions of this chapter, whenever they are prescribed or amended.

44 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in  
45 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United

1 States Congress designated as an Act or Title making technical corrections, then notwithstanding  
2 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so  
3 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided  
4 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title  
5 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-  
6 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any  
7 adjustment is required to an Oregon return that would otherwise be prevented by operation of law  
8 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the  
9 manner provided under ORS 314.135.

10 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
11 Act or Title.

12 **SECTION 72.** ORS 315.053 is amended to read:

13 315.053. An income tax credit allowed under ORS 315.141, 315.331, 315.336, 315.341 or 315.354  
14 or section 12, chapter 855, Oregon Laws 2007, may be transferred or sold only to one or more of the  
15 following:

16 [(1) A C corporation.]

17 [(2)] (1) An S corporation.

18 [(3)] (2) A personal income taxpayer.

19 **SECTION 73.** ORS 315.144 is amended to read:

20 315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit  
21 to a taxpayer subject to tax under ORS chapter 316[, 317 or 318].

22 (2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which  
23 the return is due for the tax year in which the credit may first be claimed. After that date, no  
24 portion of a credit allowed under ORS 315.141 may be transferred.

25 (3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim  
26 the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice  
27 of tax credit transfer with the Department of Revenue. The notice shall be given on a form pre-  
28 scribed by the department that contains all of the following:

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

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

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

32 (d) Any other information required by the department.

33 (4) The State Department of Energy may establish by rule a minimum discounted value of a tax  
34 credit under this section.

35 (5) The Department of Revenue, in consultation with the State Department of Energy, may by  
36 rule establish procedures for the transfer of tax credits provided by this section.

37 **SECTION 74.** ORS 285C.506 is amended to read:

38 285C.506. (1) Following completion of the construction, reconstruction, modification, acquisition,  
39 installation or lease of the facility, the hiring of employees to conduct business operations at the  
40 facility and the commencement of operations at the facility, a business firm that obtained prelimi-  
41 nary certification under ORS 285C.503 may apply for annual certification under this section.

42 (2) The application shall be filed with the Oregon Business Development Department on or be-  
43 fore 30 days after the end of the income or corporate excise tax year of the business firm.

44 (3) The application shall contain the following information:

45 (a) A description of the business operations conducted at the facility;

- 1 (b) The date business operations commenced at the facility;
- 2 (c) The number of full-time, year-round employees employed by the business firm at the facility;
- 3 (d) A schedule of the annual compensation paid to the employees; and
- 4 (e) Any other information required by the department.
- 5 (4) An application filed under this section must be accompanied by a fee in an amount prescribed
- 6 by the department by rule. The fee required by the department may not exceed \$100.
- 7 (5) The department shall review a business firm's application and approve the application if:
- 8 (a) The business operations of the firm at the facility commenced at least 24 months before the
- 9 date of application for annual certification but within 10 years before the end of the tax year pre-
- 10 ceeding the date of application for annual certification; and
- 11 (b) The business firm has satisfied the employment and minimum compensation requirements
- 12 described in ORS 285C.503 (5)(c) and (d).
- 13 (6) In the case of the first application for annual certification filed by a business firm under this
- 14 section, the department may approve the application only if, in addition to the requirements of
- 15 subsection (5) of this section:
- 16 (a) Business operations commenced at the facility within a reasonable period of time, as deter-
- 17 mined by the department by rule, following the date of preliminary certification under ORS 285C.503;
- 18 (b) There has not been a significant interruption in construction, reconstruction, modification
- 19 or installation activity at the location, as determined by the department by rule, following the date
- 20 of preliminary certification under ORS 285C.503; and
- 21 (c) The facility and the business operations actually conducted at the facility are reasonably
- 22 similar to the proposed facility and proposed operations described in the application for preliminary
- 23 certification.
- 24 (7) After the first application for annual certification, the department may approve a subsequent
- 25 application or certification filed under this section only if:
- 26 (a) The business firm meets the requirements of subsection (5) of this section; and
- 27 (b) The facility and the business operations actually conducted at the facility retain similar
- 28 characteristics to the facility and the business operations actually conducted at the facility during
- 29 the period of prior certification. This paragraph does not preclude an applicant from changing the
- 30 location of the facility, the ownership or organization of the business firm or other aspects of the
- 31 facility or business firm that are within the intent of ORS 285C.500 to 285C.506 if the change is made
- 32 in accordance with rules adopted by the department.
- 33 (8) The department may consult with the city or county in determining whether to approve or
- 34 disapprove an application under this section.
- 35 (9) If the department approves an application, it shall issue an annual certification to the busi-
- 36 ness firm.
- 37 (10) If the department disapproves an application, the business firm or any owner of the business
- 38 firm may not be allowed the exemption described in ORS 316.778 [or 317.391] for the tax year for
- 39 which the annual certification was sought or for any subsequent tax year.
- 40 (11) The decision of the department to disapprove an application under this section may be ap-
- 41 pealed in the manner of a contested case under ORS chapter 183.
- 42 (12) An annual certification may not be issued under this section for a tax year that is more
- 43 than nine consecutive tax years following the first tax year an exemption is allowed under ORS
- 44 316.778 [or 317.391] with respect to the facility.
- 45 (13) The department must approve or disapprove an application under this section within 30

1 days of the date the application is filed.

2  
3 **CONFORMING AMENDMENTS**  
4

5 **SECTION 75.** ORS 63.810 is amended to read:

6 63.810. For purposes of ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308, 308A, 309,  
7 310, 311, 312, 314, 315, 316, [317, 318,] 319, 321, 323 and 324, a limited liability company formed under  
8 this chapter or qualified to do business in this state as a foreign limited liability company shall be  
9 classified in the same manner as it is classified for federal income tax purposes. For purposes of  
10 ORS 320.005 to 320.150 and ORS chapters 305, 306, 307, 308, 308A, 309, 310, 311, 312, 314, 315, 316,  
11 [317, 318,] 319, 321, 323 and 324, a member or an assignee of a member of a limited liability company  
12 formed under this chapter or qualified to do business in this state as a foreign limited liability  
13 company shall have the same status as the member or assignee of a member has for federal income  
14 tax purposes.

15 **SECTION 76.** ORS 128.760 is amended to read:

16 128.760. (1) The Attorney General may issue an order disqualifying a charitable organization  
17 from receiving contributions that are deductible as charitable donations for the purpose of Oregon  
18 income tax [*and corporate excise tax*] if the Attorney General finds that the organization has failed  
19 to expend at least 30 percent of the organization's total annual functional expenses on program  
20 services when those expenses are averaged over the most recent three fiscal years for which the  
21 Attorney General has reports containing expense information. The calculation of program services  
22 expenses and total functional expenses shall be based on the amounts of program services expenses  
23 and total functional expenses identified by the organization in the organization's Internal Revenue  
24 Service Form 990 return or other Internal Revenue Service return required to be filed as part of the  
25 organization's report to the Attorney General.

26 (2) A charitable organization may request a contested case hearing within 60 days after notifi-  
27 cation from the Attorney General that the Attorney General proposes to issue a disqualification  
28 order under this section. Notwithstanding a finding that the charitable organization's program ser-  
29 vices expenses fall below the minimum percentage specified in subsection (1) of this section, the  
30 Attorney General may decline to issue a disqualification order if the organization establishes:

31 (a) That the organization made payments to affiliates that should be considered in calculating  
32 the organization's program services expenses;

33 (b) That the organization is accumulating revenue for a specific program purpose consistent with  
34 representations in solicitations; or

35 (c) Such other mitigating circumstances as may be identified by the Attorney General by rule.

36 (3) A disqualification order under this section remains in effect until such time as the charitable  
37 organization submits sufficient information to the Attorney General to demonstrate that the  
38 organization's program services expenses meet the minimum percentage specified in subsection (1)  
39 of this section. A charitable organization may submit information under this subsection no earlier  
40 than one year after the disqualification order becomes final, and may not submit information under  
41 this subsection more than once each year after the initial submission is made. The information  
42 submitted under this subsection must include all Internal Revenue Service Form 990 returns, or  
43 equivalent Internal Revenue Service returns, filed by the organization after the disqualification or-  
44 der became final.

45 (4) A disqualification order under this section may not be issued to:

1 (a) A private foundation as defined in section 509 of the Internal Revenue Code, as in effect on  
2 October 7, 2013;

3 (b) A community trust or foundation operating as described in 26 C.F.R. 1.170A-9(f)(10) and (11),  
4 as in effect on October 7, 2013;

5 (c) A qualified charitable remainder trust described in section 664 of the Internal Revenue Code,  
6 as in effect on October 7, 2013;

7 (d) An organization that does not qualify to receive tax deductible contributions;

8 (e) An organization that is not required to file annual reports with the Attorney General;

9 (f) An organization that is not required to file an Internal Revenue Service Form 990 return or  
10 an equivalent Internal Revenue Service return;

11 (g) An organization that receives less than 50 percent of the organization's total annual reven-  
12 ues from contributions or grants identified in accordance with Internal Revenue Service Form 990  
13 or an equivalent form; and

14 (h) An organization that has been in existence for less than four years.

15 (5) When a disqualification order is issued under this section, the charitable organization that  
16 is the subject of the order does not qualify for and may not claim exemption from taxation under  
17 ORS 307.130 for the tax year following the tax year in which the order went into effect and subse-  
18 quent tax years in which the order remains in effect.

19 **SECTION 77.** ORS 184.484, as amended by section 8, chapter 112, Oregon Laws 2016, is  
20 amended to read:

21 184.484. (1) For each statute that authorizes a tax expenditure with a purpose connected to  
22 economic development and that is listed in subsection (2) of this section, the state agency charged  
23 with certifying or otherwise administering the tax expenditure shall submit a report to the State  
24 Chief Information Officer. If a statute does not exist to authorize a state agency to certify or oth-  
25 erwise administer the tax expenditure, or if a statute does not provide for certification or adminis-  
26 tration of the tax expenditure, the Department of Revenue shall submit the report.

27 (2) This section applies to:

28 (a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 315.141, 315.331, 315.336, 315.341, 315.507,  
29 315.514, 315.533, 316.698, 316.778[,] **and** 317.124[, *317.391 and 317.394*] and sections 1 to 5, chapter  
30 112, Oregon Laws 2016.

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

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

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

35 (3) The following information, if the information is already available in an existing database the  
36 state agency maintains, must be included in the report required under this section:

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

39 (b) The address of each taxpayer or applicant.

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

42 (d) Specific outcomes or results required by the tax expenditure program and information about  
43 whether the taxpayer or applicant meets those requirements. This information must be based on data  
44 the state agency has already collected and analyzed in the course of administering the tax expend-  
45 iture. Statistics must be accompanied by a description of the methodology employed in the statistics.



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

3 (f) Any additional information that the taxpayer or applicant submits and that the state agency  
4 relies on in certifying the determination.

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

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

9 (5) No later than September 30 of each year, a state agency described in subsection (1) of this  
10 section shall submit to the State Chief Information Officer the information required under subsection  
11 (3) of this section as applicable to applications for allowance of tax expenditures the state agency  
12 approved during the agency fiscal year ending during the current calendar year. The information  
13 must then be posted on the Oregon transparency website described in ORS 184.483 no later than  
14 December 31 of the same year.

15 (6)(a) In addition to the information described in subsection (3) of this section, the State Chief  
16 Information Officer shall post on the Oregon transparency website:

17 (A) Copies of all reports that the State Chief Information Officer, the Department of Revenue  
18 or the Oregon Business Development Department receives from counties and other local govern-  
19 ments relating to properties in enterprise zones that have received tax exemptions under ORS  
20 285C.170, 285C.175 or 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507  
21 or 317.124 by reason of being in an enterprise zone; and

22 (B) Copies of any annual reports that agencies described in subsection (1) of this section are  
23 required by law to produce regarding the administration of statutes listed in subsection (2) of this  
24 section.

25 (b) The reports must be submitted to the State Chief Information Officer in a manner and format  
26 that the State Chief Information Officer prescribes.

27 (7) The information described in this section that is available on the Oregon transparency  
28 website must be accessible in the format and manner required by the State Chief Information Offi-  
29 cer.

30 (8) The information described in this section must be provided to the Oregon transparency  
31 website by posting reports and providing links to existing information systems applications in ac-  
32 cordance with standards established by the State Chief Information Officer.

33 **SECTION 78.** ORS 267.385 is amended to read:

34 267.385. (1) To carry out the powers granted by ORS 267.010 to 267.390, a district may by ordi-  
35 nance impose an excise tax on every employer equal to not more than eight-tenths of one percent  
36 of the wages paid with respect to the employment of individuals. For the same purposes, a district  
37 may by ordinance impose a tax on each individual equal to not more than eight-tenths of one percent  
38 of the individual's net earnings from self-employment.

39 (2) No employer shall make a deduction from the wages of an employee to pay all or any portion  
40 of a tax imposed under this section.

41 (3) The provisions of ORS 305.620 are applicable to collection, enforcement, administration and  
42 distribution of a tax imposed under this section.

43 (4) At any time an employer or individual fails to remit the amount of taxes when due under  
44 an ordinance of the district board imposing a tax under this section, the Department of Revenue  
45 may enforce collection by the issuance of a distraint warrant for the collection of the delinquent

1 amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be  
 2 issued and may be enforced in the same manner and have the same force and effect as prescribed  
 3 with respect to warrants for the collection of delinquent state income taxes.

4 (5) Any ordinance adopted under subsection (1) of this section shall require an individual having  
 5 net earnings from self-employment from activity both within and without the district taxable by the  
 6 State of Oregon to allocate and apportion such net earnings to the district [*in the manner required*  
 7 *for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675*] **on a fair and**  
 8 **equitable basis**. Such ordinance shall give the individual the option of apportioning income based  
 9 on a single factor designated by the ordinance.

10 (6) Any ordinance adopted under subsection (1) of this section with respect to net earnings from  
 11 self-employment may impose a tax for a taxable year measured by each individual's net earnings  
 12 from self-employment for the prior taxable year, whether such prior taxable year begins before or  
 13 after November 1, 1981, or such ordinance.

14 (7) Any ordinance imposing a tax authorized by subsection (1) of this section shall not apply to  
 15 any business, trade, occupation or profession upon which a tax is imposed under ORS 267.360.

16 (8) The district board may not adopt an ordinance increasing a tax authorized by subsection (1)  
 17 of this section unless the board makes a finding that the economy in the district has recovered to  
 18 an extent sufficient to warrant the increase in tax. In making the finding, the board shall consider  
 19 regional employment and income growth.

20 **SECTION 79.** ORS 267.370 is amended to read:

21 267.370. (1) To carry out any of the powers granted by ORS 267.010 to 267.390, a district may  
 22 by ordinance impose a tax:

23 (a) Upon the entire taxable income of every resident of the district subject to tax under ORS  
 24 chapter 316 and upon the taxable income of every nonresident that is derived from sources within  
 25 the district which income is subject to tax under ORS chapter 316; and

26 (b) On or measured by the net income of a mercantile, manufacturing, business, financial, cen-  
 27 trally assessed, investment, insurance or other corporation or entity taxable as a corporation doing  
 28 business, located, or having a place of business or office within or having income derived from  
 29 sources within the district which income is subject to tax under [*ORS chapter 317 or 318*] **section**  
 30 **11 of the Internal Revenue Code**.

31 (2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this  
 32 section [*shall*] **may** not exceed one percent. The tax may be imposed and collected as a surtax upon  
 33 the state income or excise tax.

34 (3) Any ordinance adopted pursuant to subsection (1) of this section shall require a nonresident,  
 35 corporation or other entity taxable as a corporation having income from activity both within and  
 36 without the district taxable by the State of Oregon to allocate and apportion such net income to the  
 37 district [*in the manner required for allocation and apportionment of income under ORS 314.280 and*  
 38 *314.605 to 314.675*] **on a fair and equitable basis**.

39 (4) The district shall allow a credit against the tax imposed pursuant to this section, in an  
 40 amount equal to the employer's payroll tax paid to the district by the taxpayer.

41 (5) If a district adopts an ordinance under this section, the ordinance shall be consistent with  
 42 any state law relating to the same subject, and with rules and regulations of the Department of  
 43 Revenue prescribed under ORS 305.620.

44 (6) An ordinance adopted under this section shall not declare an emergency.

45 **SECTION 80.** ORS 268.505 is amended to read:

1 268.505. (1) Subject to the provisions of a district charter, to carry out the purposes of this  
 2 chapter, a district may by ordinance impose a tax:

3 (a) Upon the entire taxable income of every resident of the district subject to tax under ORS  
 4 chapter 316 and upon the taxable income of every nonresident that is derived from sources within  
 5 the district which income is subject to tax under ORS chapter 316; and

6 (b) On or measured by the net income of a mercantile, manufacturing, business, financial, cen-  
 7 trally assessed, investment, insurance or other corporation or entity taxable as a corporation doing  
 8 business, located, or having a place of business or office within or having income derived from  
 9 sources within the district which income is subject to tax under [ORS chapter 317 or 318] **section**  
 10 **11 of the Internal Revenue Code.**

11 (2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this  
 12 section shall not exceed one percent. The tax may be imposed and collected as a surtax upon the  
 13 state income or excise tax.

14 (3) Any ordinance adopted pursuant to subsection (1) of this section may require a nonresident,  
 15 corporation or other entity taxable as a corporation having income from activity both within and  
 16 without the district taxable by the State of Oregon to allocate and apportion such net income to the  
 17 district in the manner required for allocation and apportionment of income under ORS 314.280 and  
 18 314.605 to 314.675.

19 (4) If a district adopts an ordinance under this section, the ordinance shall be consistent with  
 20 any state law relating to the same subject, and with rules and regulations of the Department of  
 21 Revenue prescribed under ORS 305.620.

22 (5) Any ordinance adopted by the district under subsection (1) of this section shall receive the  
 23 approval of the electors of the district before taking effect.

24 **SECTION 81.** ORS 279B.045 is amended to read:

25 279B.045. Every public contract that is subject to this chapter must include a representation and  
 26 warranty from the contractor that the contractor has complied with the tax laws of this state or a  
 27 political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316[,]  
 28 **and** 317 [and 318]. The public contract must also require a covenant from the contractor to continue  
 29 to comply with the tax laws of this state or a political subdivision of this state during the term of  
 30 the public contract and provide that a contractor's failure to comply with the tax laws of this state  
 31 or a political subdivision of this state before the contractor executed the public contract or during  
 32 the term of the public contract is a default for which a contracting agency may terminate the public  
 33 contract and seek damages and other relief available under the terms of the public contract or under  
 34 applicable law.

35 **SECTION 82.** ORS 279B.110 is amended to read:

36 279B.110. (1) As part of a contracting agency's evaluation of a bid or proposal, the contracting  
 37 agency shall determine whether the bidder or proposer is responsible in accordance with the stan-  
 38 dards of responsibility set forth in subsection (2) of this section. If the contracting agency deter-  
 39 mines that a bidder or proposer is not responsible, the contracting agency shall provide the bidder  
 40 or proposer with written notice of the contracting agency's determination.

41 (2) In order for a contracting agency to determine that a bidder or proposer is responsible, the  
 42 bidder or proposer must demonstrate to the contracting agency that the bidder or proposer:

43 (a) Has available the appropriate financial, material, equipment, facility and personnel resources  
 44 and expertise, or has the ability to obtain the resources and expertise, necessary to meet all con-  
 45 tractual responsibilities.

1 (b) Completed previous contracts of a similar nature with a satisfactory record of performance.  
 2 For purposes of this paragraph, a satisfactory record of performance means that to the extent that  
 3 the costs associated with and time available to perform a previous contract remained within the  
 4 bidder's or proposer's control, the bidder or proposer stayed within the time and budget allotted for  
 5 the procurement and otherwise performed the contract in a satisfactory manner. The contracting  
 6 agency shall document the bidder's or proposer's record of performance if the contracting agency  
 7 finds under this paragraph that the bidder or proposer is not responsible.

8 (c) Has a satisfactory record of integrity. The contracting agency in evaluating the bidder's or  
 9 proposer's record of integrity may consider, among other things, whether the bidder or proposer has  
 10 previous criminal convictions for offenses related to obtaining or attempting to obtain a contract  
 11 or subcontract or in connection with the bidder's or proposer's performance of a contract or sub-  
 12 contract. The contracting agency shall document the bidder's or proposer's record of integrity if the  
 13 contracting agency finds under this paragraph that the bidder or proposer is not responsible.

14 (d) Is legally qualified to contract with the contracting agency.

15 (e) Complied with the tax laws of the state or a political subdivision of the state, including ORS  
 16 305.620 and ORS chapters 316[,] and 317 [and 318]. The bidder or proposer shall demonstrate com-  
 17 pliance by attesting to the bidder's or proposer's compliance in any way the contracting agency  
 18 deems credible and convenient.

19 (f) Possesses an unexpired certificate that the Oregon Department of Administrative Services  
 20 issued under ORS 279A.167 if the bidder or proposer employs 50 or more full-time workers and  
 21 submitted a bid or proposal for a procurement with an estimated contract price that exceeds  
 22 \$500,000 in response to an advertisement or solicitation from a state contracting agency.

23 (g) Supplied all necessary information in connection with the inquiry concerning responsibility.  
 24 If a bidder or proposer fails to promptly supply information concerning responsibility that the con-  
 25 tracting agency requests, the contracting agency shall determine the bidder's or proposer's respon-  
 26 sibility based on available information or may find that the bidder or proposer is not responsible.

27 (h) Was not debarred by the contracting agency under ORS 279B.130.

28 (3) A contracting agency may refuse to disclose outside of the contracting agency confidential  
 29 information furnished by a bidder or proposer under this section when the bidder or proposer has  
 30 clearly identified in writing the information the bidder or proposer seeks to have treated as confi-  
 31 dential and the contracting agency has authority under ORS 192.410 to 192.505 to withhold the  
 32 identified information from disclosure.

33 **SECTION 83.** ORS 305.217 is amended to read:

34 305.217. No deduction shall be allowed under ORS chapter 316[, 317 or 318] to an individual or  
 35 entity for amounts paid as wages or as remuneration for personal services if that individual or entity  
 36 fails to report the payments as required by ORS 314.360 or 316.202 on the date prescribed therefor  
 37 (determined with regard to any extension of time for filing) unless it is shown that the failure to  
 38 report is due to reasonable cause and not done with the intent to evade payment of the tax imposed  
 39 by ORS chapter 316 or to assist another in evading the payment of such tax.

40 **SECTION 84.** ORS 305.265 is amended to read:

41 305.265. (1) Except as provided in ORS 305.305, the provisions of this section apply to all reports  
 42 or returns of tax or tax liability filed with the Department of Revenue under the revenue and tax  
 43 laws administered by it, except those filed under ORS 320.005 to 320.150.

44 (2) As soon as practicable after a report or return is filed, the department shall examine or audit  
 45 it, if required by law or the department deems such examination or audit practicable. If the de-

1 partment discovers from an examination or an audit of a report or return or otherwise that a defi-  
2 ciency exists, it shall compute the tax and give notice to the person filing the return of the  
3 deficiency and of the department's intention to assess the deficiency, plus interest and any appro-  
4 priate penalty. Except as provided in subsection (3) of this section, the notice shall:

5 (a) State the reason for each adjustment;

6 (b) Give a reference to the statute, regulation or department ruling upon which the adjustment  
7 is based; and

8 (c) Be certified by the department that the adjustments are made in good faith and not for the  
9 purpose of extending the period of assessment.

10 (3) When the notice of deficiency described in subsection (2) of this section results from the  
11 correction of a mathematical or clerical error and states what would have been the correct tax but  
12 for the mathematical or clerical error, such notice need state only the reason for each adjustment  
13 to the report or return.

14 (4) With respect to any tax return filed under ORS chapter 314[, 316, 317 or 318] **and 316 or**  
15 **sections 1 to 31 of this 2017 Act**, deficiencies shall include but not be limited to the assertion of  
16 additional tax arising from:

17 (a) The failure to report properly items or amounts of income subject to or which are the  
18 measure of the tax;

19 (b) The deduction of items or amounts not permitted by law;

20 (c) Mathematical errors in the return or the amount of tax shown due in the records of the de-  
21 partment; or

22 (d) Improper credits or offsets against the tax claimed in the return.

23 (5)(a) The notice of deficiency shall be accompanied by a statement explaining the person's right  
24 to make written objections, the person's right to request a conference and the procedure for re-  
25 questing a conference. The statement, and an accompanying form, shall also explain that conference  
26 determinations are routinely transmitted via regular mail and that a person desiring to have con-  
27 ference determinations transmitted by certified mail may do so by indicating on the form the  
28 person's preference for certified mail and by returning the form with the person's written objections  
29 as described in paragraph (b) of this subsection.

30 (b) Within 30 days from the date of the notice of deficiency, the person given notice shall pay  
31 the deficiency with interest computed to the date of payment and any penalty proposed. Or within  
32 that time the person shall advise the department in writing of objections to the deficiency, and may  
33 request a conference with the department, which shall be held prior to the expiration of the one-year  
34 period set forth in subsection (7) of this section.

35 (6) If a request for a conference is made, the department shall notify the person of a time and  
36 place for conference and appoint a conference officer to meet with the person for an informal dis-  
37 cussion of the matter. After the conference, the conference officer shall send the determination of  
38 the issues to the person. The determination letter shall be sent by regular mail, or by certified mail  
39 if the person given notice has indicated a preference for transmission of the determination by cer-  
40 tified mail. The department shall assess any deficiency in the manner set forth in subsection (7) of  
41 this section. If no conference is requested and written objections are received, the department shall  
42 make a determination of the issues considering such objections, and shall assess any deficiency in  
43 the manner provided in subsection (7) of this section. The failure to request or have a conference  
44 shall not affect the rights of appeal otherwise provided by law.

45 (7) If neither payment nor written objection to the deficiency is received by the department

1 within 30 days after the notice of deficiency has been mailed, the department shall assess the defi-  
 2 ciency, plus interest and penalties, if any, and shall send the person a notice of assessment, stating  
 3 the amount so assessed, and interest and penalties. The notice of assessment shall be mailed within  
 4 one year from the date of the notice of deficiency unless an extension of time is agreed upon as  
 5 described in subsection (8) of this section. The notice shall advise the person of the rights of appeal.

6 (8) If, prior to the expiration of any period of time prescribed in subsection (7) of this section  
 7 for giving of notice of assessment, the department and the person consent in writing to the defi-  
 8 ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed  
 9 at any time prior to the expiration of the period agreed upon. The period so agreed upon may be  
 10 extended by subsequent agreements in writing made before the expiration of the period agreed upon.

11 (9) The failure to hold a requested conference within the one-year period prescribed in sub-  
 12 section (5) of this section shall not invalidate any assessment of deficiency made within the one-year  
 13 period pursuant to subsection (7) of this section or within any extension of time made pursuant to  
 14 subsection (8) of this section, but shall invalidate any assessment of interest or penalties attributable  
 15 to the deficiency. After an assessment has been made, the department and the person assessed may  
 16 still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day  
 17 period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-  
 18 nation of the issues.

19 (10)(a) In the case of a failure to file a report or return on the date prescribed therefor (deter-  
 20 mined with regard to any extension for filing), the department shall determine the tax according to  
 21 the best of its information and belief, assess the tax plus appropriate penalty and interest, and give  
 22 written notice of the failure to file the report or return and of the determination and assessment to  
 23 the person required to make the filing. The amount of tax shall be reduced by the amount of any  
 24 part of the tax which is paid on or before the date prescribed for payment of the tax and by the  
 25 amount of any credit against the tax which may be lawfully claimed upon the return.

26 (b) Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent al-  
 27 lowed by rules adopted by the department, the department may accept the filing of a report or re-  
 28 turn submitted by a person who has been assessed a tax under paragraph (a) of this subsection.

29 (c) The department may reject a report or return:

30 (A) That is not verified as required by ORS 305.810;

31 (B) That the department determines is not true and correct as to every material matter as re-  
 32 quired by ORS 305.815; or

33 (C) If the department may impose a penalty under ORS 316.992 (1) with respect to the report  
 34 or return.

35 (d) If the department rejects a report or return of a person assessed a tax under paragraph (a)  
 36 of this subsection, the department shall issue a notice of rejection to the person. The person may  
 37 appeal the rejection to the magistrate division of the Oregon Tax Court only if:

38 (A) The report or return was filed within 90 days of the date the department's assessment under  
 39 paragraph (a) of this subsection was issued; and

40 (B) The appeal is filed within 90 days of the date shown on the notice of rejection.

41 (e) If the person assessed under paragraph (a) of this subsection submits a report or return to  
 42 the department and appeals the assessment to the tax court, the department may request a stay of  
 43 action from the court pending review of the report or return. If the department:

44 (A) Accepts the filing of the report or return, the appeal shall be dismissed as moot.

45 (B) Rejects the report or return, the stay of action on the appeal shall be lifted.

1 (f) If the department accepts the filing of a report or return, the department may reduce the  
 2 assessment issued under paragraph (a) of this subsection. A report or return filed under this sub-  
 3 section that is accepted by the department, whether or not the assessment has been reduced, shall  
 4 be considered a report or return described in subsection (1) of this section and shall be subject to  
 5 the provisions of this section, including but not limited to examination and adjustment pursuant to  
 6 subsection (2) of this section.

7 (g) The department may refund payments made with respect to a report or return filed and ac-  
 8 cepted pursuant to this subsection. If the report or return is filed within three years of the due date  
 9 for filing the report or return, excluding extensions, the refund shall be made as provided by ORS  
 10 305.270 and 314.415. If the report or return is not filed within three years of the due date for filing  
 11 the report or return, excluding extensions, the refund shall be limited to payments received within  
 12 the two-year period ending on the date the report or return is received by the department and  
 13 payments received after the date the report or return is received by the department. Interest shall  
 14 be paid at the rate established under ORS 305.220 for each month or fraction of a month from the  
 15 date the report or return is received by the department to the time the refund is made.

16 (11) Mailing of notice to the person at the person's last-known address shall constitute the giv-  
 17 ing of notice as prescribed in this section.

18 (12) If a return is filed with the department accompanied by payment of less than the amount  
 19 of tax shown on or from the information on the return as due, the difference between the tax and  
 20 the amount submitted is considered as assessed on the due date of the report or return (determined  
 21 with regard to any extension of time granted for the filing of the return) or the date the report or  
 22 return is filed, whichever is later. For purposes of this subsection, the amount of tax shown on or  
 23 from the information on the return as due shall be reduced by the amount of any part of the tax that  
 24 is paid on or before the due date prescribed for payment of the tax, and by any credits against the  
 25 tax that are claimed on the return. If the amount required to be shown as tax on a return is less  
 26 than the amount shown as tax on the return, this subsection shall be applied by substituting the  
 27 lesser amount.

28 (13) Every deficiency shall bear interest at the rate established under ORS 305.220 for each  
 29 month or fraction of a month computed from the due date of the return to date of payment. If the  
 30 return was falsely prepared and filed with intent to evade the tax, a penalty equal to 100 percent  
 31 of the deficiency shall be assessed and collected. All payments received shall be credited first to  
 32 penalty, then to interest accrued, and then to tax due.

33 (14) If the deficiency is paid in full before a notice of assessment is issued, the department is  
 34 not required to send a notice of assessment, and the tax shall be considered as assessed as of the  
 35 date which is 30 days from the date of the notice of deficiency or the date the deficiency is paid,  
 36 whichever is the later. A partial payment of the deficiency shall constitute only a credit to the ac-  
 37 count of the person assessed. Assessments and billings of taxes shall be final after the expiration  
 38 of the appeal period specified in ORS 305.280, except to the extent that an appeal is allowed under  
 39 ORS 305.280 (3) following payment of the tax.

40 (15) Appeal may be taken to the tax court from any notice of assessment. The provisions of this  
 41 chapter with respect to appeals to the tax court apply to any deficiency, penalty or interest as-  
 42 sessed.

43 **SECTION 85.** ORS 305.270 is amended to read:

44 305.270. (1) If the amount of the tax shown as due on a report or return originally filed with the  
 45 Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314,

1 316[, 317, 318] or 321 **or sections 1 to 31 of this 2017 Act**, or collected pursuant to ORS 305.620,  
2 or as corrected by the department, is less than the amount theretofore paid, or if a person files a  
3 claim for refund of any tax paid to the department under such laws within the period specified in  
4 subsection (2) of this section, any excess tax paid shall be refunded by the department with interest  
5 as provided in this section and ORS 314.415.

6 (2) The claim shall be made on a form prescribed by the department, except that an amended  
7 report or return showing a refund due and filed within the time allowed by this subsection for the  
8 filing of a claim for refund, shall constitute a claim for refund. The claim shall be filed within the  
9 period specified in ORS 314.415 (2) for taxes imposed under ORS chapters 310, 314[,] **and** 316[, 317  
10 *and* 318,] **and sections 1 to 31 of this 2017 Act** or collected pursuant to ORS 305.620 (except where  
11 any applicable ordinance specifies another period), within the period specified in ORS 118.100 (2) for  
12 taxes imposed under ORS chapter 118 and within two years of the payment of any tax under ORS  
13 chapter 308, 308A or 321.

14 (3) Upon receipt of a claim for refund, or original report or return claiming a refund, the de-  
15 partment shall either refund the amount requested or send to the claimant a notice of any proposed  
16 adjustment to the refund claim, stating the basis upon which the adjustment is made. A proposed  
17 adjustment may either increase or decrease the amount of the refund claim or result in the finding  
18 of a deficiency. If the proposed adjustment results in a determination by the department that some  
19 amount is refundable, the department may send the claimant the adjusted amount with the notice.

20 (4)(a) The notice of proposed adjustment shall be accompanied by a statement explaining the  
21 claimant's right to make written objections to the refund adjustment, the claimant's right to request  
22 a conference and the procedure for requesting a conference. The statement, and an accompanying  
23 form, shall also explain that conference determinations are routinely transmitted via regular mail  
24 and that a claimant desiring to have conference determinations transmitted by certified mail may  
25 do so by indicating on the form the claimant's preference for certified mail and by returning the  
26 form with the claimant's written objections as described in paragraph (b) of this subsection.

27 (b) The claimant may, within 30 days of the date of the notice of proposed adjustment, advise  
28 the department in writing of objections to the refund adjustment and may request a conference with  
29 the department, which shall be held within one year of the date of the notice. The department shall  
30 notify the claimant of a time and place for the conference, and appoint a conference officer to meet  
31 with the claimant for an informal discussion of the claim. After the conference, the conference offi-  
32 cer shall send a determination of the matter to the claimant. The determination letter shall be sent  
33 by regular mail, or by certified mail if the claimant has indicated a preference for transmission of  
34 the determination by certified mail. The department shall issue either a notice of refund denial or  
35 payment of any amount found to be refundable, together with any applicable interest provided by  
36 this section. If the conference officer determines that a deficiency exists, the department shall issue  
37 a notice of assessment.

38 (5) If no conference is requested, and the adjustments have not resulted in the finding of a de-  
39 ficiency, the following shall apply:

40 (a) If written objections have been made by the claimant, the department shall consider the ob-  
41 jections, determine any issues raised and send the claimant a notice of refund denial or payment of  
42 any amount found to be refundable, together with any interest provided by this section.

43 (b) If no written objections are made, the notice of any proposed adjustment shall be final after  
44 the period for requesting a conference or filing written objections has expired.

45 (6) If no conference is requested, and the notice of proposed adjustment has asserted a defi-



1   ciency, the department shall consider any objections made by the person denied the refund, make  
2   a determination of any issues raised, pay any refunds found due, with applicable interest, or assess  
3   any deficiency and mail a notice thereof within one year from the date of the notice of deficiency,  
4   unless an extension of time is agreed upon as described in subsection (7) of this section.

5       (7) If, prior to the expiration of any period of time prescribed in subsection (6) of this section  
6   for giving of notice of assessment, the department and the person consent in writing to the defi-  
7   ciency being assessed after the expiration of such prescribed period, such deficiency may be assessed  
8   at any time prior to the expiration of the period agreed upon. The period so agreed upon may be  
9   extended by subsequent agreements in writing made before the expiration of the period agreed upon.

10       (8) If the department refunds the amount requested as provided in subsection (3) of this section,  
11   without examination or audit of the refund claim, the department shall give notice of this to the  
12   claimant at the time of making the refund. Thereafter, the department shall have one year in which  
13   to examine or audit the refund claim, and send the notice of proposed adjustment provided for in  
14   subsection (3) of this section, in addition to any time permitted in ORS 314.410 or 314.415.

15       (9) The failure to hold a requested conference within the one-year period prescribed in sub-  
16   section (4) of this section shall not invalidate any assessment of deficiency made within the one-year  
17   period pursuant to subsection (8) of this section or within any extension of time made pursuant to  
18   subsection (7) of this section, but shall invalidate any assessment of interest or penalties attributable  
19   to the deficiency. After an assessment has been made, the department and the person assessed may  
20   still hold a conference within 90 days from the date of assessment. If a conference is held, the 90-day  
21   period under ORS 305.280 (2) shall run from the date of the conference officer's written determi-  
22   nation of the issues.

23       (10) The claimant may appeal any notice of proposed adjustment, refund denial or notice of as-  
24   sessment in the manner provided in ORS 305.404 to 305.560. The failure to file written objections  
25   or to request or have a conference shall not affect the rights of appeal so provided. All notices and  
26   determinations shall set forth rights of appeal.

27       **SECTION 86.** ORS 305.280 is amended to read:

28       305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2)  
29   shall be filed within 90 days after the act, omission, order or determination becomes actually known  
30   to the person, but in no event later than one year after the act or omission has occurred, or the  
31   order or determination has been made. An appeal under ORS 308.505 to 308.681 shall be filed within  
32   90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order  
33   or other order or determination of the Department of Revenue shall be filed within 90 days after the  
34   date a copy of the order or determination or notice of the order or determination has been served  
35   upon the appealing party by mail as provided in ORS 306.805.

36       (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial  
37   issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308,  
38   308A, 310, 314, 316, [317, 318,] 321 or this chapter **or sections 1 to 31 of this 2017 Act**, or collected  
39   pursuant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from  
40   a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of  
41   adjustment is final.

42       (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes  
43   imposed under ORS chapter 314, 316[ 317 or 318] **or sections 1 to 31 of this 2017 Act** may be filed  
44   within two years after the date the amount of tax, as shown on the notice and including appropriate  
45   penalties and interest, is paid.

1 (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter  
2 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of  
3 property tax appeals shall be filed within 30 days after the date of the notice of the determination  
4 made by the department or date of mailing of the order, date of publication of notice of the order,  
5 date the order is personally delivered to the taxpayer or date of mailing of the notice of the order  
6 to the taxpayer, whichever is applicable.

7 (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does  
8 not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a  
9 written decision rejecting the petition and shall set forth in the decision the reasons the tax court  
10 considered the appeal to be defective.

11 **SECTION 87.** ORS 305.380 is amended to read:

12 305.380. As used in ORS 305.385:

13 (1) "Agency" means any department, board, commission, division or authority of the State of  
14 Oregon, or any political subdivision of this state which imposes a local tax administered by the  
15 Department of Revenue under ORS 305.620.

16 (2) "License" means any written authority required by law or ordinance as a prerequisite to the  
17 conduct of a business, trade or profession.

18 (3) "Provider" means any person who contracts to supply goods, services or real estate space  
19 to an agency.

20 (4) "Tax" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS  
21 chapters 118, 314, 316, [317, 318,] 321 and 323 and local taxes administered by the Department of  
22 Revenue under ORS 305.620.

23 **SECTION 88.** ORS 305.565 is amended to read:

24 305.565. (1) Except as provided in subsection (2) of this section, proceedings for the collection  
25 of any taxes, interest or penalties resulting from an assessment of additional taxes imposed by ORS  
26 chapter 118, 310, 314, 316, [317, 318,] 321 or this chapter **or sections 1 to 31 of this 2017 Act** shall  
27 be stayed by the taking or pendency of any appeal to the tax court.

28 (2) Notwithstanding subsection (1) of this section, the Department of Revenue may proceed to  
29 collect any taxes, interest or penalties described in subsection (1) of this section if the department  
30 determines that collection will be jeopardized if collection is delayed or that the taxpayer has taken  
31 a frivolous position in the appeal. For purposes of this subsection:

32 (a) Collection of taxes, interest or penalties will be jeopardized if the taxpayer designs quickly  
33 to depart from the state or to remove the taxpayer's property from the state, or to do any other act  
34 tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax.

35 (b) A taxpayer's position in an appeal is frivolous if that position is of the kind described in ORS  
36 316.992 (5).

37 (3) No proceeding for the apportionment, levy or collection of taxes on any property shall be  
38 stayed by the taking or pendency of any appeal to the tax court, or from an order of the county  
39 board of property tax appeals or the Oregon Tax Court, unless the assessor or tax collector either  
40 as a party to the suit or an intervenor, requests a stay and it appears to the satisfaction of the court  
41 that a substantial public interest requires the issuance of a stay.

42 (4) The tax court may, as a condition of a stay, require the posting of a bond sufficient to  
43 guarantee payment of the tax. Payment of taxes while appeal is pending shall not operate as a  
44 waiver of the appeal or of a right to refund of taxes found to be excessively charged or assessed.

45 **SECTION 89.** ORS 305.645 is amended to read:

1 305.645. If a political subdivision of this state imposes a tax on or measured by income as de-  
 2 termined under ORS chapter 316, [317 or 318,] the Department of Revenue shall provide to the pol-  
 3 itical subdivision, at the request of the political subdivision, collection, enforcement, administration  
 4 and distribution services for the tax in the manner provided in ORS 305.620.

5 **SECTION 90.** ORS 305.850 is amended to read:

6 305.850. (1) Notwithstanding any provision to the contrary in ORS 9.320 and 305.610, the Direc-  
 7 tor of the Department of Revenue may engage the services of a collection agency to collect any  
 8 taxes, interest and penalties resulting from an assessment of taxes or additional taxes imposed by  
 9 ORS chapter 118, 310, 314, 316, [317, 318,] 321 or 323 or ORS 320.005 to 320.150 **or sections 1 to**  
 10 **31 of this 2017 Act** and any other tax laws administered by the Department of Revenue. The di-  
 11 rector may engage the services of a collection agency by entering into an agreement to pay rea-  
 12 sonable charges on a contingent fee or other basis.

13 (2) The director shall cause to be collected, in the same manner as provided in subsection (1)  
 14 of this section, assessments, taxes and penalties due under ORS chapter 656. All amounts collected  
 15 pursuant to this subsection shall be credited as provided in ORS 293.250.

16 (3) The director may assign to the collection agency, for collection purposes only, any of the  
 17 taxes, penalties, interest and moneys due the state.

18 (4) The collection agency may bring such action or take such proceedings, including but not  
 19 limited to attachment and garnishment proceedings, as may be necessary.

20 **SECTION 91.** ORS 305.992 is amended to read:

21 305.992. (1) If any returns required to be filed under ORS 475B.700 to 475B.760 or ORS chapter  
 22 118, 314, 316, [317, 318,] 321 or 323 **or sections 1 to 31 of this 2017 Act** or under a local tax ad-  
 23 ministered by the Department of Revenue under ORS 305.620 are not filed for three consecutive  
 24 years by the due date (including extensions) of the return required for the third consecutive year,  
 25 there shall be a penalty for each year of 100 percent of the tax liability determined after credits and  
 26 prepayments for each such year.

27 (2) The penalty imposed under this section is in addition to any other penalty imposed by law.  
 28 However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265  
 29 (13), 314.400, 323.403, 323.585 or 475B.755 may not exceed 100 percent of the tax liability.

30 **SECTION 92.** ORS 308A.071 is amended to read:

31 308A.071. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a farm parcel that is not  
 32 within an area zoned for exclusive farm use is not used exclusively for farm use unless all of the  
 33 prerequisites of subsections (2) to (5) of this section are met.

34 (2)(a) Except as provided in subsection (6) of this section, in three out of the five full calendar  
 35 years immediately preceding the assessment date, the farmland or farm parcel was operated as a  
 36 part of a farm unit that has produced a gross income from farm uses in the following amount for a  
 37 calendar year:

38 (A) If the farm unit consists of 6-1/2 acres or less, the gross income from farm use shall be at  
 39 least \$650.

40 (B) If the farm unit consists of more than 6-1/2 acres but less than 30 acres, the gross income  
 41 from farm use shall be at least equal to the product of \$100 times the number of acres and any  
 42 fraction of an acre of land included.

43 (C) If the farm unit consists of 30 acres or more, the gross income from farm use shall be at least  
 44 \$3,000.

45 (b) For purposes of determining the number of acres to be considered under paragraph (a) of this

1 subsection, the land described in ORS 308A.056 (3) and the land, not exceeding one acre, used as a  
 2 homestead shall not be included.

3 (c) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not  
 4 all under the same ownership, the gross income requirements applicable to the farm parcel shall be  
 5 as provided under paragraph (a) of this subsection. In addition, the gross income from farm use of  
 6 a farm parcel described under this paragraph must be at least:

7 (A) One-half of the gross income requirements described under paragraph (a) of this subsection  
 8 that would be required if the farm parcel were the only farmland of the farm unit; or

9 (B) A cash or net share crop rental of one-quarter of the gross income requirements described  
 10 under paragraph (a) of this subsection that would be required if the farm parcel were the only  
 11 farmland of the farm unit. For purposes of this subparagraph, "net share crop rental" means the  
 12 value of any crop received by the owner of the farm parcel less any costs borne by the owner of the  
 13 farm parcel.

14 (3) Excise, [or] income **or commercial activity** tax returns are filed with the Department of  
 15 Revenue for purposes of ORS chapter 316[ 317 or 318] **or sections 1 to 31 of this 2017 Act** by the  
 16 farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the  
 17 owner of a farm parcel that include a schedule or schedules showing rental income received by the  
 18 owner of the farm parcel, during the years to which the income requirements of this section apply.

19 (4) Upon request, a copy of the returns or the schedules of the returns showing the gross income  
 20 received from farm use is furnished by the taxpayer to the county assessor.

21 (5) The burden of proving the gross income of the farm unit for the years described in subsection  
 22 (2) of this section is upon the person claiming special assessment for the land.

23 (6) The failure of a farm unit to produce the amount of gross income required by subsection (2)  
 24 of this section shall not prevent the farm unit from meeting the qualifications of this section if:

25 (a) The failure is because:

26 (A) The effect of flooding substantially precludes normal and reasonable farming during the  
 27 year; or

28 (B) Severe drought conditions are declared under ORS 536.700 to 536.780; and

29 (b) The farm unit produces the required amount of gross income in three out of the last five  
 30 nonflood or nondrought years.

31 (7) As used in this section:

32 (a) "Farm parcel" means the contiguous land under the same ownership, whether assessed as  
 33 one or more than one tax lot.

34 (b) "Gross income" includes the value of any crop or livestock that is used by the owner per-  
 35 sonally or in the farming operation of the owner, but does not include:

36 (A) The value of any crop or livestock so used unless records accurately reflecting both value  
 37 and use of the crop or livestock are kept by the owner in a manner consistent with generally ac-  
 38 cepted accounting principles; and

39 (B) The purchase cost of livestock.

40 (c) "Owner" or "ownership" means any person described under ORS 308A.077 (2)(b)(A), (B), (D)  
 41 or (E) and spouse or other person who is also an owner as tenant in common or other joint owner-  
 42 ship interest.

43 **SECTION 93.** ORS 311.473 is amended to read:

44 **311.473. (1) As used in this section:**

45 (a) "**Financial institution**" means a person, corporation or other business entity that is

1 any of the following:

2 (A) A bank holding company under the laws of this state or under the federal Bank  
3 Holding Company Act of 1956, 12 U.S.C. 1841 et seq., as amended.

4 (B) A savings and loan holding company under the National Housing Act, 12 U.S.C. 1701  
5 et seq., as amended.

6 (C) A national bank organized and existing as a national bank association under the Na-  
7 tional Bank Act, 12 U.S.C. 21 et seq., as amended.

8 (D) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

9 (E) A bank or thrift institution incorporated or organized under the laws of any state.

10 (F) An entity organized under the provisions of 12 U.S.C. 611 to 631, as amended.

11 (G) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101, as amended.

12 (H) A state credit union with loan assets that exceed \$50,000,000 as of the first day of the  
13 taxable year of the state credit union.

14 (I) A production credit association subject to 12 U.S.C. 2071 et seq., as amended.

15 (J) A corporation, more than 50 percent of the voting stock of which is owned, directly  
16 or indirectly, by a person, corporation or other business entity described in subparagraphs  
17 (A) to (I) of this paragraph.

18 (K) An entity that is not otherwise described in this subsection and that derives more  
19 than 50 percent of its gross income from activities that a person, corporation or entity de-  
20 scribed in subparagraph (C), (D), (E), (F), (G), (H), (I) or (L) of this paragraph is authorized  
21 to conduct, not taking into account any income derived from nonrecurring extraordinary  
22 sources.

23 (L) A person that derives at least 50 percent of the person's annual average gross in-  
24 come, for financial accounting purposes for the current tax year and the two preceding tax  
25 years, from finance leases, excluding any gross income from incidental or occasional trans-  
26 actions. For purposes of this subparagraph, "finance lease" means:

27 (i) A lease transaction that is the functional equivalent of an extension of credit and that  
28 transfers substantially all of the benefits and risks of the ownership of the leased property;

29 (ii) A direct financing lease or a leverage lease that meets the criteria of Financial Ac-  
30 counting Standards Board Statement No. 13; or

31 (iii) Any other lease that is accounted for as a financing by a lessor under generally ac-  
32 cepted accounting principles.

33 (b) "Financial institution" does not include a credit union as defined in ORS 723.006, an  
34 interstate credit union as defined in ORS 723.001 or a federal credit union.

35 [(1)] (2) Any financial institution[, as defined in ORS 317.010,] or agent or representative of a  
36 financial institution, that, in the process of foreclosing any security interest or other lien on taxable  
37 personal property, including property classified as real property machinery and equipment, or after  
38 the lien is foreclosed, causes the property to be removed, or is knowledgeable that the property will  
39 be removed by another after the foreclosure sale, from the county in which the property is assessed  
40 or seized, shall notify the tax collector of that county prior to the removal. The notice shall be  
41 mailed to the tax collector, return receipt requested, and shall contain a description of the property  
42 that is the subject of the foreclosure, together with the name and address of the owner or owners  
43 of the property.

44 [(2)] (3) Failure to give the notice required under subsection [(1)] (2) of this section shall not  
45 affect the foreclosure, but the tax collector shall have recourse against the financial institution on

1 behalf of the taxing units for any damages sustained on account of failure to mail the notice.

2 **SECTION 94.** ORS 314.011, as amended by section 17, chapter 33, Oregon Laws 2016, is  
3 amended to read:

4 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means  
5 the Department of Revenue.

6 (2) As used in this chapter:

7 (a) Any term has the same meaning as when used in a comparable context in the laws of the  
8 United States relating to federal income taxes, unless a different meaning is clearly required or the  
9 term is specifically defined in this chapter.

10 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of  
11 the United States or to the Internal Revenue Code refers to the laws of the United States or to the  
12 Internal Revenue Code as they are amended and in effect:

13 (A) On December 31, 2015; or

14 (B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

15 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260  
16 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412,  
17 [314.525, 314.742 (7),] 314.750 and 314.752 and other provisions of this chapter, except those described  
18 in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal  
19 Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue  
20 Code as they are amended on or before December 31, 2015, even when the amendments take effect  
21 or become operative after that date, except where the Legislative Assembly has specifically provided  
22 otherwise.

23 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and  
24 follow the administrative and judicial interpretations of the federal income tax law. When a pro-  
25 vision of the federal income tax law is the subject of conflicting opinions by two or more federal  
26 courts, the department shall follow the rule observed by the United States Commissioner of Internal  
27 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of  
28 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-  
29 ability of any taxpayer.

30 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-  
31 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,  
32 then such rules or regulations shall be regarded as rules adopted by the department under and in  
33 accordance with the provisions of this chapter, whenever they are prescribed or amended.

34 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in  
35 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United  
36 States Congress designated as an Act or Title making technical corrections, then notwithstanding  
37 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so  
38 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided  
39 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title  
40 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-  
41 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any  
42 adjustment is required to an Oregon return that would otherwise be prevented by operation of law  
43 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the  
44 manner provided under ORS 314.135.

45 (b) As used in this subsection, “Act or Title” includes any subtitle, division or other part of an

1 Act or Title.

2 **SECTION 95.** ORS 314.135 is amended to read:

3 314.135. (1)(a) In computing the amount of an adjustment under ORS 314.105 to 314.135 there  
4 shall first be ascertained the tax previously determined for the taxable year with respect to which  
5 the error was made. The amount of the tax previously determined shall be the excess of:

6 (A) The sum of the amount shown as the tax by the taxpayer on the return of the taxpayer, if  
7 a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon,  
8 plus the amounts previously assessed (or collected without assessment) as a deficiency, over

9 (B) The amount of refunds (as defined in ORS 314.415) made.

10 (b) There shall then be ascertained the increase or decrease in tax previously determined which  
11 results solely from the correct treatment of the item in the computation of gross income, taxable  
12 income, and other matters under ORS 316.317 or [ORS chapter 317 or 318] **sections 1 to 31 of this**  
13 **2017 Act.** A similar computation shall be made for any other taxable year affected, or treated as  
14 affected, by an Oregon net loss for prior years [(as provided by ORS 317.476 or 317.478 and section  
15 45b, chapter 293, Oregon Laws 1987)], by a net operating loss deduction (as defined in the federal  
16 Internal Revenue Code) or by a capital loss carryback or carryover (as defined in the federal  
17 Internal Revenue Code) determined with reference to the taxable year with respect to which the  
18 error was made. The amount so ascertained (together with any amounts wrongfully collected as  
19 additions to the tax or interest, as a result of such error) for each taxable year shall be the amount  
20 of the adjustment for that taxable year.

21 (2) The adjustment authorized in ORS 314.115 (1) shall be made by assessing and collecting, or  
22 refunding or crediting, the amount thereof in the same manner as if it were a deficiency determined  
23 by the Department of Revenue with respect to the taxpayer as to whom the error was made or an  
24 overpayment claimed by such taxpayer, as the case may be, for the taxable year or years with re-  
25 spect to which an amount is ascertained under subsection (1) of this section and as if on the date  
26 of the determination one year remained before the expiration of the periods of limitation upon as-  
27 sessment or filing claim for refund for such taxable year or years. If, as a result of a determination  
28 described in ORS 314.105 (1)(d), an adjustment has been made by the assessment and collection of  
29 a deficiency of the refund or credit of an overpayment, and subsequently such determination is al-  
30 tered or revoked, the amount of the adjustment ascertained under subsection (1) of this section shall  
31 be redetermined on the basis of such alteration or revocation and any overpayment or deficiency  
32 resulting from such redetermination shall be refunded or credited, or assessed and collected, as the  
33 case may be, as an adjustment under this part. In the case of an adjustment resulting from an in-  
34 crease or decrease in a net operating loss or net capital loss which is carried back to the year of  
35 adjustment, interest shall not be collected or paid for any period prior to the close of the taxable  
36 year in which the net operating loss or net capital loss arises.

37 (3) The amount to be assessed and collected in the same manner as a deficiency, or to be re-  
38 funded or credited in the same manner as an overpayment, under ORS 314.105 to 314.135, shall not  
39 be diminished by any credit or setoff based upon any item other than the one which was the subject  
40 of the adjustment. The amount of the adjustment under ORS 314.105 to 314.135, if paid, shall not be  
41 recovered by a claim or suit for refund or suit for erroneous refund based upon any item other than  
42 the one which was the subject of the adjustment.

43 **SECTION 96.** ORS 314.256 is amended to read:

44 314.256. (1) If a tax is imposed upon an organization under section 6033(e) of the Internal Re-  
45 venue Code (proxy tax on lobbying expenditures) for any tax year, a like tax is imposed for the tax

1 year upon the same amount as taxed for federal tax purposes, as allocated or apportioned to Oregon.  
2 The rate of the tax shall be the rate specified in [ORS 317.061] **section 8 of this 2017 Act**. The tax  
3 shall be assessed and collected under the applicable provisions of this chapter and ORS chapter 305.

4 (2) Any organization that is required to include on a federal return the information described  
5 in section 6033(e)(1) of the Internal Revenue Code shall file a copy of the federal return containing  
6 the information with the Department of Revenue.

7 (3) The department may determine by rule the method by which the tax described in subsection  
8 (1) of this section is allocated and apportioned to Oregon.

9 (4) If section 6033(e) of the Internal Revenue Code (relating to the proxy tax on lobbying  
10 expenditures) is repealed or otherwise eliminated by Act of the United States, this section is re-  
11 pealed as of the applicable date of the repeal or elimination of the proxy tax under section 6033(e)  
12 of the Internal Revenue Code.

13 **SECTION 97.** ORS 314.260 is amended to read:

14 314.260. (1)(a) An entity described in section 860D of the Internal Revenue Code (a real estate  
15 mortgage investment conduit or REMIC) is not subject to a tax under ORS chapter 316[, 317 or  
16 318] (and may not be treated as a corporation, partnership or trust for purposes of ORS chapter  
17 316[, 317 or 318] **or sections 1 to 31 of this 2017 Act**).

18 (b) If a REMIC engages in a prohibited transaction as defined in section 860F(a)(2) of the  
19 Internal Revenue Code, the REMIC shall be subject to a tax equal to six and six-tenths percent of  
20 the net income derived from the prohibited transaction. The tax imposed under this paragraph shall  
21 be assessed and collected under this chapter and ORS chapter 305 and shall be credited to the  
22 General Fund to be made available for general governmental expenses.

23 (2) The income of any REMIC shall be taxable to the holders of the interests in the REMIC  
24 under ORS chapter 316[, 317 or 318,] **or sections 1 to 31 of this 2017 Act**, whichever is applicable.

25 (3) Taxable income or loss with respect to income received as the holder of any interest in a  
26 REMIC shall be determined under sections 860A to 860G of the Internal Revenue Code.

27 (4) To determine the portion of the income of a REMIC that is taxable to a nonresident holder  
28 of an interest in the REMIC, there shall be included only that part derived from or connected with  
29 sources in this state, as such part is determined under rules adopted by the Department of Revenue  
30 in accordance with the general rules in ORS 316.352 (1987 Replacement Part).

31 **SECTION 98.** ORS 314.265 is amended to read:

32 314.265. (1)(a) An entity described in section 860L of the Internal Revenue Code (a financial  
33 asset securitization investment trust, or FASIT) shall not be subject to a tax under ORS chapter  
34 316[, 317 or 318] (and shall not be treated as a corporation, partnership, trust or mortgage pool for  
35 purposes of ORS chapter 316[, 317 or 318]).

36 (b) If a FASIT engages in a prohibited transaction as defined in section 860L(e)(2) of the Internal  
37 Revenue Code, the FASIT shall be subject to a tax equal to 6.6 percent of the net income derived  
38 from the prohibited transaction. The tax shall be paid by the holder of the ownership interest in the  
39 FASIT. The tax imposed under this paragraph shall be assessed and collected under the applicable  
40 provisions of this chapter and ORS chapter 305 and shall be credited to the General Fund to be  
41 made available for general governmental expenses.

42 (2) The income of any FASIT shall be taxable to the holders of the ownership interests in the  
43 FASIT under ORS chapter 316[, 317 or 318], whichever is applicable.

44 (3) Taxable income or loss, with respect to income received as the holder of any interest in a  
45 FASIT, shall be determined under sections 860H to 860L of the Internal Revenue Code, as defined



1 in ORS 316.012 or [317.010 and 317.018] **sections 1 to 31 of this 2017 Act**, and section 1621(e) of  
 2 the Small Business Job Protection Act of 1996 (P.L. 104-188), as otherwise determined and modified  
 3 under ORS chapter 316[, 317 or 318], whichever is applicable, to the FASIT interest holder.

4 (4) To determine the portion of the income of a FASIT that is taxable to a nonresident holder  
 5 of an interest in the FASIT, there shall be included only that part derived from or connected with  
 6 sources in this state.

7 **SECTION 99.** ORS 314.276 is amended to read:

8 314.276. (1) The method of accounting of a partnership, REMIC (real estate mortgage investment  
 9 conduit), FASIT (financial asset securitization investment trust) or taxpayer shall be the same as the  
 10 method of accounting which the partnership, REMIC, FASIT or taxpayer uses for federal income tax  
 11 purposes for the taxable year.

12 (2) Notwithstanding subsection (1) of this section, if the method of accounting used by the  
 13 partnership, REMIC, FASIT or taxpayer does not clearly reflect income, the computation of taxable  
 14 income shall be made under such method as the Department of Revenue may prescribe.

15 (3) If the method of accounting is changed for federal income tax purposes, the partnership,  
 16 REMIC, FASIT or taxpayer shall adopt the same method of accounting for purposes of ORS chapter  
 17 316[, 317 or 318] **or sections 1 to 31 of this 2017 Act** and shall use that method beginning with the  
 18 return filed which corresponds to the first federal return filed which is required to use the new  
 19 method. Any adjustments required to prevent amounts from being duplicated or omitted shall be  
 20 taken into account for state tax purposes in the same manner as for federal tax purposes.

21 (4) Subsections (1) and (3) of this section [*shall*] **do** not apply with respect to methods of ac-  
 22 counting which are disallowed for purposes of ORS chapter 316[, 317 or 318] **or sections 1 to 31**  
 23 **of this 2017 Act.**

24 **SECTION 100.** ORS 314.280 is amended to read:

25 314.280. (1) If a taxpayer has income from business activity as a financial institution or as a  
 26 public utility (as defined respectively in ORS 314.610 (4) and (6)) which is taxable both within and  
 27 without this state (as defined in ORS 314.610 (8) and 314.615), the determination of net income shall  
 28 be based upon the business activity within the state, and the Department of Revenue shall have  
 29 power to permit or require either the segregated method of reporting or the apportionment method  
 30 of reporting, under rules and regulations adopted by the department, so as fairly and accurately to  
 31 reflect the net income of the business done within the state.

32 (2) The provisions of subsection (1) of this section dealing with the apportionment of income  
 33 earned from sources both within and without the State of Oregon are designed to allocate to the  
 34 State of Oregon on a fair and equitable basis a proportion of such income earned from sources both  
 35 within and without the state. Any taxpayer may submit an alternative basis of apportionment with  
 36 respect to the income of the taxpayer and explain that basis in full in the return of the taxpayer.  
 37 If approved by the department that method will be accepted as the basis of allocation.

38 (3)(a) Apportionment rules adopted by the department under this section must apply the  
 39 weightings used in ORS 314.650 (**2015 Edition**) to comparable factors used to apportion income from  
 40 business activity of taxpayers subject to this section.

41 (b) Notwithstanding paragraph (a) of this subsection, a taxpayer primarily engaged in utilities  
 42 or telecommunications may elect to have income from business activity apportioned by applying the  
 43 weightings used in ORS 314.650 (1999 Edition) to comparable factors used to apportion such income.

44 (c) The election shall be made in the time and manner prescribed by the department by rule.  
 45 The election shall continue in force and effect for the tax year for which the election is made and

1 for each subsequent tax year until the year in which the taxpayer revokes the election.

2 (d) An electing taxpayer may revoke the taxpayer's election by filing a revocation of election  
3 in the time and manner prescribed by the department. The revocation shall apply to the tax year  
4 following the year in which the election is made and to each subsequent tax year.

5 (e) As used in this subsection:

6 (A) "Telecommunications" means business operations that conduct, maintain or provide for the  
7 transmission of voice data and text between network termination points and telecommunications  
8 reselling. Transmission facilities may be based on one technology or a combination of technologies.

9 (B) "Utilities" means business operations that provide electric power, natural gas, steam supply,  
10 water supply or sewage removal through a permanent infrastructure of lines, mains and pipes.

11 **SECTION 101.** ORS 314.287 is amended to read:

12 314.287. (1) In the computation of state taxable income, costs allocable to inventory shall be the  
13 same as those allocable to inventory under section 263A of the Internal Revenue Code as of the  
14 close of the tax year for which a return is filed and shall not be adjusted for any addition, sub-  
15 traction, modification or other adjustment contained in this chapter or ORS chapter 316[, 317 or  
16 318] or other law governing the imposition of state taxes imposed upon or measured by net income.

17 (2) If any provision of ORS chapter 316[, 317 or 318] appears to require an adjustment to in-  
18 ventory costs contrary to the provisions of this section, that adjustment shall not be made.

19 (3) The additions, subtractions, modifications or other adjustments to federal taxable income  
20 required in determining Oregon taxable income under ORS chapter 316[, 317 or 318] shall be made  
21 to federal taxable income notwithstanding that such adjustments are properly attributable to costs  
22 allocable to inventory.

23 **SECTION 102.** ORS 314.300 is amended to read:

24 314.300. For purposes of applying section 469 of the Internal Revenue Code to the laws of this  
25 state imposing taxes upon or measured by income:

26 (1) Passive activity loss shall be determined with respect to the activities of the taxpayer under  
27 section 469 of the Internal Revenue Code and related federal law and then shall be adjusted by the  
28 additions, subtractions, modifications and other adjustments as allocated to passive activity loss  
29 under subsection (2) of this section.

30 (2) Those additions, subtractions, modifications and other adjustments required to be made to  
31 federal taxable income under this chapter or ORS **chapter 316** [*chapters 316, 317 and 318*], or other  
32 law governing the imposition of state taxes imposed upon or measured by income, shall be allocated  
33 to passive activity loss as provided by rule of the Department of Revenue.

34 (3) Passive activity loss, as determined under subsections (1) and (2) of this section, shall not  
35 be allowed for the taxable year of the taxpayer. Passive activity loss shall be treated as a deduction  
36 allocable to passive activity in the next succeeding year, and except as otherwise adjusted under  
37 subsection (1) of this section, shall be treated in the same manner as passive activity loss is treated  
38 under section 469 of the Internal Revenue Code, and related sections.

39 (4) For state personal income tax purposes, in the case of a nonresident, passive activity loss  
40 attributable to Oregon sources shall be treated in the same manner as described under subsections  
41 (1) to (3) of this section.

42 **SECTION 103.** ORS 314.302 is amended to read:

43 314.302. (1) Subject to subsections (2) to (4) of this section, if interest on deferred tax liability  
44 with respect to an installment obligation is required to be paid for federal income tax purposes un-  
45 der section 453A of the Internal Revenue Code, then interest on that same deferred tax liability

1 shall be paid in the same manner (including the pledging rules under section 453A(d) of the Internal  
2 Revenue Code) for state tax purposes and shall, in the amount added, increase the tax imposed under  
3 ORS chapter 316[, 317 or 318, whichever is appropriate].

4 (2) Interest added to tax pursuant to subsection (1) of this section shall be determined in the  
5 same manner as interest is determined under section 453A(c) of the Internal Revenue Code except  
6 that in determining the interest to be added using section 453A(c) of the Internal Revenue Code:

7 (a) The interest rate in effect under ORS 305.220 for deficiencies for the month with or within  
8 which the taxable year of the taxpayer ends shall be substituted for the underpayment rate referred  
9 to in section 453A(c)(2)(B); and

10 (b) The maximum rate of tax in effect under ORS chapter 316[, 317 or 318, whichever is appro-  
11 priate,] shall be substituted for the federal rates of tax referred to in section 453A(c)(3)(B).

12 (3) The Department of Revenue shall adopt rules consistent with those adopted under section  
13 453A of the Internal Revenue Code and with laws of this state as may be necessary to carry out the  
14 provisions of this section, including rules providing for the application of this subsection in the case  
15 of contingent payments, short taxable years, pass-through entities and derivation, attribution or ap-  
16 portionment of installment obligations or income from installment obligations.

17 (4) In the case of a nonresident subject to taxation under ORS chapter 316, in determining  
18 whether or not interest is to be added to tax under this section, and the amount of interest to be  
19 added, only those installment obligations that arise from dispositions of property in this state shall  
20 be taken into consideration.

21 (5) For purposes of determining interest under ORS 314.395 or penalties under ORS 314.400 or  
22 other law, and for purposes of refund, estimated and other prepayments of tax, credits and all other  
23 purposes, the interest added under this section shall be considered as any other increase in the tax  
24 imposed under ORS chapter 316[, 317 or 318, whichever is appropriate].

25 (6) The interest added to tax imposed under this section shall be assessed and collected under  
26 the applicable provisions of this chapter and ORS chapters 305[,] **and** 316[, 317 and 318] and shall  
27 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-  
28 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

29 **SECTION 104.** ORS 314.364 is amended to read:

30 314.364. (1) As used in this section:

31 (a) "Electronic means" includes computer-generated electronic or magnetic media, Internet-  
32 based applications or similar computer-based methods or applications.

33 (b) "Paid tax preparer" means a person who prepares a tax return for another or advises or  
34 assists in the preparation of a tax return for another, or who employs or authorizes another to do  
35 the same, for valuable consideration.

36 (c) "Tax return" means a return filed under ORS chapter 314[,] **or** 316[, 317 or 318] **or sections**  
37 **1 to 31 of this 2017 Act.**

38 (2) The Department of Revenue may by rule require a paid tax preparer to file tax returns by  
39 electronic means if the paid tax preparer is required to file federal tax returns by electronic means.

40 (3) The department may by rule require a corporation to file tax returns by electronic means if  
41 the corporation is required to file federal tax returns by electronic means.

42 (4) The department may by rule establish exceptions to the electronic filing requirements of this  
43 section.

44 **SECTION 105.** ORS 314.385, as amended by section 17a, chapter 33, Oregon Laws 2016, is  
45 amended to read:

1 314.385. (1)(a) For purposes of ORS chapter 316, returns shall be filed with the Department of  
2 Revenue on or before the due date of the corresponding federal return for the tax year as prescribed  
3 under the Internal Revenue Code and the regulations adopted pursuant thereto.

4 *[(b) For purposes of ORS chapters 317 and 318, returns shall be filed with the department on or*  
5 *before the 15th day of the month following the due date of the corresponding federal return for the tax*  
6 *year, as prescribed under the Internal Revenue Code and the regulations adopted pursuant thereto.]*

7 *[(c)]* (b) The department may allow further time for filing returns equal in length to the exten-  
8 sion periods allowed under the Internal Revenue Code and its regulations.

9 *[(d)]* (c) If no return is required to be filed for federal income tax purposes, the due date or  
10 extension period for a return shall be the same as the due date, or extension period, would have  
11 been if the taxpayer had been required to file a return for federal income tax purposes for the tax  
12 year. *[However, the due date for returns filed for purposes of ORS chapter 317 or 318 shall be on or*  
13 *before the 15th day of the month following what would have been the federal return due date for the*  
14 *tax year.]*

15 (2) There shall be annexed to the return a statement verified as provided under ORS 305.810 by  
16 a declaration of the taxpayer making the return to the effect that the statements contained therein  
17 are true.

18 (3) Returns shall be in the form the department may, from time to time, prescribe. The depart-  
19 ment shall prepare blank forms for the returns and distribute them throughout the state. The forms  
20 shall be furnished the taxpayer upon request, but failure to receive or secure a form does not relieve  
21 the taxpayer from the obligation of making any return required by law.

22 (4)(a) The department may by rule authorize the filing of a return in alternative formats to those  
23 described in subsection (3) of this section and may prescribe the conditions, requirements and tech-  
24 nical standards for a filing under this subsection.

25 (b) Notwithstanding subsections (1) to (3) of this section, the department may by rule prescribe  
26 a different due date for a return filed in an alternative format.

27 (c) The policy of the Legislative Assembly in granting the department rulemaking authority un-  
28 der paragraph (b) of this subsection is to have the department prescribe due dates that mirror the  
29 due dates that apply to federal returns filed in alternative formats for federal tax purposes.

30 **SECTION 106.** ORS 314.400 is amended to read:

31 314.400. (1) If a taxpayer fails to file a report or return or fails to pay a tax by the date on which  
32 the filing or payment is due, the Department of Revenue shall add to the amount required to be  
33 shown as tax on the report or return a delinquency penalty of five percent of the amount of the  
34 unpaid tax.

35 (2) In the case of a report or return that is required to be filed annually or for a one-year period,  
36 if the failure to file the report or return continues for a period in excess of three months after the  
37 due date:

38 (a) There shall be added to the amount of tax required to be shown on the report or return a  
39 failure to file penalty of 20 percent of the amount of the tax; and

40 (b) Thereafter the department may send a notice and demand to the person to file a report or  
41 return within 30 days of the mailing of the notice. If after the notice and demand no report or return  
42 is filed within the 30 days, the department may determine the tax according to the best of its in-  
43 formation and belief, assess the tax with appropriate penalty and interest plus an additional penalty  
44 of 25 percent of the tax deficiency determined by the department and give written notice of the de-  
45 termination and assessment to the person required to make the filing.

1 (3) In the case of a report or return that is required to be filed more frequently than annually  
2 and the failure to file the report or return continues for a period in excess of one month after the  
3 due date:

4 (a) There shall be added to the amount of tax required to be shown on the report or return a  
5 failure to file penalty of 20 percent of the amount of the tax; and

6 (b) Thereafter the department may send a notice and demand to the person to file a report or  
7 return within 30 days of the mailing of the notice. If after the notice and demand no report or return  
8 is filed within the 30 days, the department may determine the tax according to the best of its in-  
9 formation and belief, assess the tax with appropriate penalty and interest plus an additional penalty  
10 of 25 percent of the tax deficiency determined by the department and give written notice of the de-  
11 termination and assessment to the person required to make the filing.

12 (4) Notwithstanding subsections (2) and (3) of this section, if a taxpayer is required to file a  
13 federal income tax return for a period of less than 12 months under section 443 of the Internal Re-  
14 venue Code, the Oregon personal income or corporate excise or income tax return required to be  
15 filed for that period shall be subject to subsection (2) of this section.

16 (5) If a report or return that is subject to a failure to file penalty described in subsection (2)  
17 or (3) of this section is filed before a notice of determination and assessment is issued by the de-  
18 partment, the failure to file penalty referred to in subsection (2)(a) or (3)(a) of this section shall be  
19 added to the amount of tax shown on the report or return.

20 (6) A penalty equal to 100 percent of any deficiency determined by the department shall be as-  
21 sessed and collected if:

22 (a) There is a failure to file a report or return with intent to evade the tax; or

23 (b) A report or return was falsely prepared and filed with intent to evade the tax.

24 (7) Interest shall be collected on the unpaid tax at the rate established under ORS 305.220 for  
25 each month or fraction of a month, computed from the time the tax became due, during which the  
26 tax remains unpaid.

27 (8) Each penalty imposed under this section is in addition to any other penalty imposed under  
28 this section. However, the total amount of penalty imposed under this section and ORS 305.265 (13)  
29 with respect to any deficiency shall not exceed 100 percent of the deficiency.

30 (9) For purposes of subsections (1) to (3) of this section, the amount of tax required to be shown  
31 or that is shown on the report or return shall be reduced by the amount that is paid on or before  
32 the date prescribed for payment of the tax and by the amount of any credit against the tax that is  
33 claimed on the report or return. If the amount required to be shown as tax on the report or return  
34 is less than the amount that is actually shown as tax on the report or return, this subsection shall  
35 be applied by substituting the lower amount.

36 (10) Notwithstanding subsection (1) of this section, the five percent penalty for failure to file a  
37 report or return or pay a tax at the time the tax becomes due may not be imposed if:

38 (a) The taxpayer pays the full amount of the tax plus accrued interest within 30 days of the date  
39 shown on the department's notice sent to the taxpayer; and

40 (b)(A) The taxpayer had filed an amended individual tax return or an amended [*corporate return*  
41 *of income or excise tax*] **commercial activity tax return** accompanied by less than full payment of  
42 the tax shown on the return plus accrued interest; or

43 (B) The department issues a notice of tax deficiency to the taxpayer under ORS 305.265.

44 **SECTION 107.** ORS 314.403 is amended to read:

45 314.403. (1) If a taxpayer has a listed transaction understatement for a tax year, there shall be

1 added to the tax liability of the taxpayer for the tax year a penalty equal to 60 percent of the  
 2 amount of the understatement.

3 (2) The penalty imposed under this section applies to listed transaction understatements dis-  
 4 covered or reported on or after January 1, 2008, and is in addition to and not in lieu of any other  
 5 penalty.

6 (3) As used in this section, “listed transaction understatement” means the sum of:

7 (a) The amount determined by multiplying the highest rate of tax imposed on the taxpayer under  
 8 ORS chapter 316 [*or, if the taxpayer is a corporation, under ORS chapter 317 or 318,*] by any net in-  
 9 crease in taxable income that results from a difference between the proper tax treatment of a listed  
 10 transaction and the treatment of the transaction on the return of the taxpayer; and

11 (b) The amount of any decrease in the aggregate amount of credits determined for purposes of  
 12 ORS chapter 316 [*or, if the taxpayer is a corporation, for purposes of ORS chapter 317 or 318,*] that  
 13 results from the taxpayer’s treatment of a listed transaction and the proper tax treatment of that  
 14 transaction.

15 (4) The Department of Revenue may by rule further define “listed transaction understatement”  
 16 consistent with ORS 314.307 and subsection (3) of this section.

17 **SECTION 108.** ORS 314.430 is amended to read:

18 314.430. (1) If any tax imposed under ORS chapter 118[,] **or 316[, 317 or 318]** **or sections 1 to**  
 19 **31 of this 2017 Act** or any portion of the tax is not paid within 30 days after the date that the  
 20 written notice and demand for payment required under ORS 305.895 is mailed (or within five days  
 21 after the tax becomes due, in the case of the termination of the tax year by the Department of Re-  
 22 venue under the provisions of ORS 314.440), or any amount payable by a transferee under ORS  
 23 311.695 is not paid as required under ORS 311.686, and no provision is made to secure the payment  
 24 thereof by bond, deposit or otherwise, pursuant to regulations promulgated by the department, the  
 25 department may issue a warrant for the payment of the amount of the tax or amount payable under  
 26 ORS 311.695, with the added penalties, interest and any collection charge incurred. A copy of the  
 27 warrant shall be mailed or delivered to the taxpayer or transferee by the department at the  
 28 taxpayer’s or transferee’s last-known address.

29 (2) At any time after issuing a warrant under this section, the department may record the war-  
 30 rant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the  
 31 effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff  
 32 for the county in which the warrant is recorded to levy upon and sell the real and personal property  
 33 of the taxpayer or transferee found within that county, and to levy upon any currency of the tax-  
 34 payer or transferee found within that county, for the application of the proceeds or currency against  
 35 the amount reflected in the warrant and the sheriff’s cost of executing the warrant. The sheriff shall  
 36 proceed on the warrant in the same manner prescribed by law for executions issued against property  
 37 pursuant to a judgment, and is entitled to the same fees as provided for executions issued against  
 38 property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part  
 39 of the warrant liability.

40 (3) In the discretion of the department a warrant under this section may be directed to any  
 41 agent authorized by the department to collect taxes, and in the execution of the warrant the agent  
 42 has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in  
 43 excess of actual expenses paid in the performance of such duty.

44 (4) Until a warrant issued under this section is satisfied in full, the department has the same  
 45 remedies to enforce the claim for taxes against the taxpayer or for amounts payable by the

1 transferee as if the state had recovered judgment against the taxpayer for the amount of the tax or  
2 against the transferee for the amount payable under ORS 311.695.

3 **SECTION 109.** ORS 314.466 is amended to read:

4 314.466. The provisions of ORS chapter 305 as to the audit and examination of reports and re-  
5 turns, determination of deficiencies, assessments, claims for refund, conferences and appeals to the  
6 Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes,  
7 penalties and interest imposed under this chapter and ORS chapters 315[,] **and** 316[, 317 and 318]  
8 **and sections 1 to 31 of this 2017 Act**, except where the context requires otherwise.

9 **SECTION 110.** ORS 314.671 is amended to read:

10 314.671. (1) The Governor, in consultation with the Director of the Oregon Business Develop-  
11 ment Department and the Director of the Department of Revenue, may enter into, on behalf of the  
12 State of Oregon, a qualifying investment contract with any taxpayer according to the provisions of  
13 ORS 314.668 to 314.673.

14 (2) Any contract executed pursuant to subsection (1) of this section on or after December 14,  
15 2012, and before March 15, 2013, that meets the requirements of a qualifying investment contract is  
16 ratified by ORS 314.668 to 314.673.

17 (3) A taxpayer may not satisfy the requirement that a qualifying investment result in an increase  
18 in the number of employees of the taxpayer by gain of another entity's existing Oregon employees  
19 through a merger or acquisition of any portion of that entity.

20 (4) A qualifying investment contract executed under ORS 314.668 to 314.673 may not be less than  
21 five years' duration and may not exceed 30 years' duration.

22 (5) The obligations of the State of Oregon under a qualifying investment contract:

23 (a) Include the promise of this state that, if the taxpayer commences a qualifying investment, the  
24 taxpayer's Oregon business income tax liability may not exceed the amount the taxpayer would pay  
25 or owe under the single sales factor method for each tax year that ends during the term of the  
26 qualifying investment contract; and

27 (b) May not be abridged, impaired, limited or modified by any subsequent law.

28 (6) If a taxpayer [*that*] **who** has executed a qualifying investment contract files a report or re-  
29 turn with the Department of Revenue for a tax year ending during the term of the qualifying in-  
30 vestment contract and reporting personal income taxes [*or corporate excise or income taxes*] imposed  
31 under ORS chapter 316, [*317 or 318,*] that are determined in whole or part by apportioning business  
32 income using the single sales factor method, the department may not assess a deficiency against the  
33 taxpayer that is attributable to the use of a different method of apportionment.

34 (7) An action for a breach of a qualifying investment contract may be brought against the State  
35 of Oregon.

36 (8) The sole and exclusive remedies for the State of Oregon in an action for breach of a quali-  
37 fying investment contract brought by the state shall be:

38 (a) A judgment rescinding the qualifying investment contract; and

39 (b) A judgment awarding an amount equal to the difference, if any, between:

40 (A) The amount of taxes due from the taxpayer under the single sales factor method from the  
41 date of breach through termination of the qualifying investment contract; and

42 (B) The amount of taxes due from the taxpayer during the same period using the method of ap-  
43 portioning business income:

44 (i) Under the tax laws that would have applied to the taxpayer but for the qualifying investment  
45 contract; or

1 (ii) Identified in the judgment as fairly representing the extent of the taxpayer's business activ-  
2 ity in this state.

3 **SECTION 111.** ORS 314.673 is amended to read:

4 314.673. (1) The Oregon Business Development Department may, after consultation with the  
5 Department of Revenue, adopt rules to implement ORS 314.668 to 314.673, including rules that define  
6 terms consistently with ORS 314.668 to 314.673. Rules adopted under this section apply only to  
7 qualifying investment contracts executed on or after the date the rule is adopted.

8 (2) On or before February 15 of each odd-numbered year, the Oregon Business Development  
9 Department shall report to the Legislative Assembly in the manner provided in ORS 192.245 re-  
10 garding the progress of qualifying investment contracts executed under ORS 314.668 to 314.673, in-  
11 cluding whether each taxpayer subject to a qualifying investment contract has complied with the  
12 employment requirement under ORS 314.668 (4) **(2015 Edition)**.

13 **SECTION 112.** ORS 314.690 is amended to read:

14 314.690. The provisions of ORS 314.680 to 314.688 are not intended to change the meaning of the  
15 terms "income-producing activity," "sources within this state," "business activity" taxable in this  
16 state or "doing business" in this state contained in this chapter or [*ORS chapter 317 or 318*]  
17 **sections 1 to 31 of this 2017 Act.**

18 **SECTION 113.** ORS 314.712 is amended to read:

19 314.712. (1) Except as provided in ORS 314.722 or 314.723, a partnership as such is not subject  
20 to the tax imposed by ORS chapter 316[, *317 or 318*]. Partnership income shall be computed pursuant  
21 to section 703 of the Internal Revenue Code, with the modifications, additions and subtractions  
22 provided in this chapter and ORS chapter 316. Persons carrying on business as partners are liable  
23 for the tax imposed by ORS chapter 316[, *317 or 318*] **or sections 1 to 31 of this 2017 Act** on their  
24 distributive shares of partnership income only in their separate or individual capacities.

25 (2) If a partner engages in a transaction with a partnership other than in the partner's capacity  
26 as a member of the partnership, the transaction shall be treated in the manner described in section  
27 707 of the Internal Revenue Code.

28 (3) If a partnership is an electing large partnership under section 775 of the Internal Revenue  
29 Code, the modifications of law applicable to an electing large partnership for federal tax purposes  
30 are applicable to the electing large partnership for purposes of the tax imposed by this chapter or  
31 ORS chapter 316[, *317 or 318*] **or sections 1 to 31 of this 2017 Act.**

32 **SECTION 114.** ORS 314.714 is amended to read:

33 314.714. (1) Each item of partnership income, gain, loss or deduction has the same character for  
34 a partner as it has for federal income tax purposes. If an item is not characterized for federal income  
35 tax purposes, it has the same character for a partner as if realized directly from the source from  
36 which realized by the partnership or incurred in the same manner as incurred by the partnership.

37 (2) A partner's distributive share of an item of partnership income, gain, loss or deduction (or  
38 item thereof) shall be that partner's distributive share of partnership income, gain, loss or deduction  
39 (or item thereof) for federal income tax purposes as determined under section 704 of the Internal  
40 Revenue Code and adjusted for the modifications, additions and subtractions provided in this chapter  
41 and ORS [*chapters*] **chapter** 316[, *317 and 318*].

42 (3) A partner shall, on the partner's return, treat a partnership item in a manner that is con-  
43 sistent with the treatment of the partnership item on the partnership return, unless the partner  
44 notifies the Department of Revenue of the inconsistency. The department shall prescribe by rule the  
45 method for notification of an inconsistency. A partner of an electing large partnership under section



1 775 of the Internal Revenue Code must treat a partnership item in a manner that is consistent with  
2 the treatment of the partnership item on the partnership return.

3 **SECTION 115.** ORS 314.716 is amended to read:

4 314.716. (1) The adjusted basis of a partner's interest in a partnership shall be determined pur-  
5 suant to the method described in sections 704(c)(1)(B)(iii), 705 and 733 of the Internal Revenue Code,  
6 and shall be increased or decreased as provided in this chapter and ORS chapter 316[, 317 or 318]  
7 **or sections 1 to 31 of this 2017 Act**, whichever is applicable.

8 (2) Upon the sale or exchange of an interest in a partnership, gain or loss shall be recognized  
9 to the transferor partner pursuant to section 741 of the Internal Revenue Code.

10 (3) If a partnership elects to adjust the basis of its assets under section 754 of the Internal Re-  
11 venue Code, then upon a transfer of an interest in the partnership by sale or exchange or upon a  
12 death of a partner, that election shall also be effective for Oregon income tax purposes.

13 **SECTION 116.** ORS 314.722 is amended to read:

14 314.722. (1) As used in this section, "publicly traded partnership" means a partnership treated  
15 as a corporation for federal income tax purposes under section 7704 of the Internal Revenue Code  
16 for the tax year.

17 (2) Persons carrying on business as partners in a publicly traded partnership are not subject to  
18 tax under ORS chapter 316[, 317 or 318] **or sections 1 to 31 of this 2017 Act** on their distributive  
19 shares of partnership income, but the publicly traded partnership is taxable as a corporation under  
20 [ORS chapter 317 or 318 as provided under ORS chapter 317 or 318] **sections 1 to 31 of this 2017**  
21 **Act.**

22 **SECTION 117.** ORS 314.727 is amended to read:

23 314.727. The Department of Revenue may disclose to a partner of a partnership those items of  
24 partnership gain, loss or other particulars relating to the partnership that are necessary to deter-  
25 mine or administer the tax imposed by ORS chapter 316[, 317 or 318] if the department considers the  
26 disclosure necessary to facilitate the audit of the partner's income or excise tax return.

27 **SECTION 118.** ORS 314.730 is amended to read:

28 314.730. For purposes of this chapter and [ORS chapters 316, 317 and 318] **ORS chapter 316 and**  
29 **sections 1 to 31 of this 2017 Act:**

30 (1) "C corporation" means, with respect to any taxable year, a corporation which is not an S  
31 corporation for such year.

32 (2) "S corporation" means, with respect to any taxable year, a corporation for which an election  
33 under section 1362(a) of the Internal Revenue Code is in effect for such year.

34 **SECTION 119.** ORS 314.732 is amended to read:

35 314.732. (1) [Except as otherwise provided in ORS 314.740, 314.742 and 317.090,] An S corporation  
36 [shall] is not [be] subject to the taxes imposed by ORS chapter 316[, 317 or 318].

37 (2)(a) Subject to paragraphs (b) to (d) of this subsection, the taxable income of an S corporation  
38 shall be computed pursuant to section 1363(b) of the Internal Revenue Code, with the modifications,  
39 additions and subtractions provided in this chapter and ORS chapter 316.

40 (b) Except as otherwise provided under this chapter and ORS chapter 316[, 317 or 318], and ex-  
41 cept as inconsistent with ORS 314.730 to 314.752, subchapter C, chapter 1, Internal Revenue Code,  
42 shall apply to an S corporation and its shareholders for Oregon tax purposes. For Oregon tax pur-  
43 poses, the provisions of section 1371 of the Internal Revenue Code shall apply, subject to the mod-  
44 ifications, additions and subtractions under this chapter or ORS chapter 316[, 317 or 318] and any  
45 provisions to the contrary in this chapter or ORS chapter 316[, 317 or 318].

1 (c) [Notwithstanding ORS 317.476, 317.478 or 317.479,] No carryforward, arising for a taxable  
2 year for which a corporation is a C corporation, may be carried to a taxable year for which such  
3 corporation is an S corporation.

4 (d) [Notwithstanding ORS 317.476 or other law,] No carryforward, and no carryback, shall arise  
5 at the corporate level for a taxable year for which a corporation is an S corporation.

6 **SECTION 120.** ORS 314.736 is amended to read:

7 314.736. A distribution of property made by an S corporation with respect to its stock shall be  
8 treated in the manner provided under section 1368 of the Internal Revenue Code, subject to modifi-  
9 cations, additions and subtractions under ORS chapter 316[, 317 or 318].

10 **SECTION 121.** ORS 314.738 is amended to read:

11 314.738. (1) For purposes of employee fringe benefits, and subject to this chapter and ORS  
12 chapters 305[, 316, 317 and 318] **and 316** and ORS 314.712 to 314.722, 314.726 and 316.124, section  
13 1372 of the Internal Revenue Code shall apply to an S corporation and its shareholders.

14 (2) For purposes of foreign income, and subject to this chapter and ORS chapters 305[, 316, 317  
15 and 318] **and 316** and ORS 314.712 to 314.722, 314.726 and 316.124 **and sections 1 to 31 of this 2017**  
16 **Act**, section 1373 of the Internal Revenue Code shall apply to an S corporation and its shareholders.

17 **SECTION 122.** ORS 314.744 is amended to read:

18 314.744. (1) Subject to subsection (2) of this section, if the Internal Revenue Code requires or  
19 permits an election or revocation to be made by an S corporation, then that election or revocation  
20 shall apply for Oregon tax purposes. If the Internal Revenue Code requires or permits an election  
21 or revocation to be made by a shareholder or shareholders of an S corporation, then that election  
22 or revocation shall apply for Oregon tax purposes.

23 (2) The Department of Revenue may adopt rules that contravene subsection (1) of this section  
24 if the election or revocation does not carry out the purposes of this chapter and ORS chapter  
25 305[,] **or 316[, 317 or 318] or sections 1 to 31 of this 2017 Act.**

26 **SECTION 123.** ORS 314.749 is amended to read:

27 314.749. The Department of Revenue may disclose to the shareholder of an S corporation those  
28 items of S corporation gain, loss or other particulars relating to the S corporation that are neces-  
29 sary to administer the tax imposed by ORS chapter 316[, 317 or 318] if the department considers the  
30 disclosure necessary to facilitate the audit of the shareholder's income tax return.

31 **SECTION 124.** ORS 314.752 is amended to read:

32 314.752. (1) [Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a  
33 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation.] The  
34 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
35 allowable to the shareholders of the S corporation.

36 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on  
37 income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
38 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
39 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
40 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
41 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

45 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax

1 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
2 316.117, then that provision shall apply to the nonresident shareholder.

3 (5) As used in this section, "business tax credit" means a tax credit granted to personal income  
4 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
5 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
6 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
7 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309  
8 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-  
9 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
10 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture  
11 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-  
12 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326  
13 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS  
14 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing  
15 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-  
16 merce) and ORS 315.533 (low income community jobs initiative).

17 **SECTION 125.** ORS 314.781 is amended to read:

18 314.781. (1) A pass-through entity shall withhold tax as prescribed in this section if:

19 (a) The pass-through entity has distributive income from Oregon sources; and

20 (b) One or more owners of the entity are nonresidents and do not have other Oregon source  
21 income.

22 (2) For each taxpayer described in subsection (1)(b) of this section who is subject to tax under  
23 ORS chapter 316, the entity shall withhold tax at the highest marginal rate applicable for the tax  
24 year under ORS 316.037. The withheld tax shall be computed based on the taxpayer's share of the  
25 entity's distributive income from Oregon sources for the entity's tax year.

26 (3) For each corporation described in subsection (1)(b) of this section, the entity shall withhold  
27 tax at the rate applicable for the tax year under [ORS 317.061 and 318.020] **section 8 of this 2017**  
28 **Act.** The tax shall be computed based on the corporation's share of the entity's distributive income  
29 from Oregon sources for the entity's tax year.

30 (4) A pass-through entity that is required to withhold tax under this section shall file a with-  
31 holding return or report with the Department of Revenue setting forth the share of Oregon source  
32 distributive income of each nonresident owner, the amount of tax withheld under this section and  
33 any other information required by the department. The return shall be filed with the department on  
34 the form and in the time and manner prescribed by the department. Taxes withheld under this  
35 section shall be paid to the department in the time and manner prescribed by the department.

36 (5) A pass-through entity that is required to withhold tax under this section shall furnish a  
37 statement to each owner on whose behalf tax is withheld. The statement shall state the amount of  
38 tax withheld on behalf of the owner for the tax year of the entity. The statement shall be made on  
39 a form prescribed by the department and shall contain any other information required by the de-  
40 partment.

41 (6) The department shall apply taxes withheld under this section by a lower-tier pass-through  
42 entity on distributions to an upper-tier pass-through entity to the withholding required by the  
43 upper-tier pass-through entity under this section.

44 (7) A pass-through entity is liable to the State of Oregon for amounts of tax required to be  
45 withheld and paid under this section. A pass-through entity is not liable to an owner of the pass-

1 through entity for amounts required to be withheld under this section that were paid to the de-  
2 partment as prescribed in this section.

3 **SECTION 126.** ORS 314.784 is amended to read:

4 314.784. (1) A pass-through entity is not required to withhold taxes under ORS 314.781 on behalf  
5 of a nonresident owner if:

6 (a) The nonresident owner has a share of distributive income that is less than \$1,000 for the tax  
7 year of the pass-through entity;

8 (b) Withholding is not required pursuant to a rule adopted under this section;

9 (c) The owner makes a timely election under ORS 314.778 to have taxes on the owner's distrib-  
10 utive share of income paid and reported on the composite return described in ORS 314.778, and the  
11 composite return is filed by the pass-through entity;

12 (d) The pass-through entity is a publicly traded partnership, as defined in section 7704(b) of the  
13 Internal Revenue Code, that is treated as a partnership for federal tax purposes and that agrees to  
14 file an annual information return on the form and in the time and manner prescribed by the De-  
15 partment of Revenue and containing the information required by the department, including but not  
16 limited to the name, address and taxpayer identification number of each person with an ownership  
17 interest in the entity that results in the person receiving Oregon source income of more than \$500;  
18 or

19 (e) The nonresident owner files an affidavit with the department, in the form and manner pre-  
20 scribed by the department, under which the nonresident owner agrees to allow the department and  
21 the courts of this state to have personal jurisdiction over the nonresident owner for the purpose of  
22 determining and collecting any taxes imposed under ORS chapter 316[, 317 or 318] **or sections 1**  
23 **to 31 of this 2017 Act** that are attributable to the nonresident owner's distributive share of taxable  
24 income from the pass-through entity. The department may reject the affidavit if the taxpayer fails  
25 to comply with Oregon law requiring the filing of a tax return or the payment of any tax.

26 (2) The department may adopt rules setting forth circumstances under which pass-through enti-  
27 ties are not required to withhold taxes under ORS 314.781.

28 **SECTION 127.** ORS 315.052 is amended to read:

29 315.052. An income tax credit that is allowed under this chapter or ORS chapter 316[, 317 or  
30 318] and that is transferable may be transferred or sold only once, unless expressly provided other-  
31 wise by statute.

32 **SECTION 128.** ORS 315.054 is amended to read:

33 315.054. No credits applied directly to the income tax calculated for federal purposes pursuant  
34 to the Internal Revenue Code shall be applied in calculating the tax due under ORS [*chapter*]  
35 **chapters** 314[,] **and** 316[, 317 or 318] except those prescribed in this chapter or ORS [*chapter*]  
36 **chapters** 314[,] **and** 316[, 317 or 318].

37 **SECTION 129.** ORS 315.068 is amended to read:

38 315.068. (1) A credit against the taxes otherwise due under ORS chapter 316 [*or, if the taxpayer*  
39 *is a corporation, under ORS chapter 317 or 318*] shall be allowed to a taxpayer for a claim of right  
40 income repayment adjustment.

41 (2) The credit shall be allowed under this section only if the taxpayer's federal tax liability is  
42 determined under section 1341(a) of the Internal Revenue Code.

43 (3) The amount of the credit shall equal the difference between:

44 (a) The taxpayer's actual Oregon state tax liability for the tax year for which the claim of right  
45 income was included in gross income for federal tax purposes; and

1 (b) The taxpayer's Oregon state tax liability for that tax year, had the claim of right income not  
2 been included in gross income for federal tax purposes.

3 (4) A credit under this section shall be allowed only for the tax year for which the taxpayer's  
4 federal tax liability is determined under section 1341 of the Internal Revenue Code for federal tax  
5 purposes.

6 (5) If the amount allowable as a credit under this section, when added to the sum of the amounts  
7 allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 and 316.583, other payments  
8 of tax and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 [to  
9 318] **and 316** (reduced by any nonrefundable credits allowed for the tax year), the excess shall be  
10 treated as an overpayment of tax and shall be refunded or applied in the same manner as other tax  
11 overpayments.

12 (6) As used in this section, "claim of right income" means:

13 (a) An item included in federal gross income for a prior tax year because it appeared that the  
14 taxpayer had an unrestricted right to the item; and

15 (b) An item for which the taxpayer's federal tax liability is adjusted under section 1341 of the  
16 Internal Revenue Code because the taxpayer did not have an unrestricted right to the item of gross  
17 income.

18 **SECTION 130.** ORS 315.113 is amended to read:

19 315.113. (1) As used in this section:

20 (a) "Crop" means the total yearly production of an agricultural commodity, not including live-  
21 stock, that is harvested from a specified area.

22 (b) "Riparian land" means land in this state that:

23 (A) Borders both a river, stream or other natural watercourse and land that is in farm pro-  
24 duction; and

25 (B) Does not exceed a width of 35 feet between the land that is in farm production and the bank  
26 of the river, stream or other natural watercourse.

27 (c) "Share-rent agreement" means an agreement in which the person who engages in farming  
28 operations and the person who owns the land where the farming operations are conducted share the  
29 crop grown on that land or the profits from that crop.

30 (2) A taxpayer may claim a credit against the taxes otherwise due under ORS chapter 316[, 317  
31 or 318] for 75 percent of the market value of crops forgone when riparian land is voluntarily taken  
32 out of farm production.

33 (3) A credit under this section may be claimed only if:

34 (a) The taxpayer owns the riparian land that is the basis of the credit;

35 (b) The taxpayer is actively engaged in farming operations on land adjacent to the riparian land;

36 (c) The riparian land was in farm production for the previous tax year or a credit under this  
37 section was claimed during the previous tax year;

38 (d) The conservation practices employed on the riparian land are consistent with the agricul-  
39 tural water quality management plan administered by the State Department of Agriculture in the  
40 applicable river basin management area; and

41 (e) The decision to remove the riparian land from farm production was a voluntary decision and  
42 not the result of a federal, state or local law or government decision requiring the riparian land to  
43 be taken out of farm production. For purposes of this paragraph, action taken by a taxpayer under  
44 an agricultural water quality management plan administered by the State Department of Agriculture  
45 is not the result of a government decision requiring the land to be taken out of farm production.

1 (4)(a) The amount of the credit shall be calculated by multiplying the market value per acre of  
2 the forgone crop by the acreage of the riparian land that is not in farm production and multiplying  
3 that product by 75 percent.

4 (b) For the first tax year for which a credit is claimed under this section, the forgone crop for  
5 which a value is determined under this section shall be the crop grown on the land in the previous  
6 tax year.

7 (c) For a tax year following the first tax year for which a credit is claimed under this section,  
8 the forgone crop for which a value is determined under this section shall be the crop for which the  
9 value was determined for the previous tax year.

10 (d) If a taxpayer does not claim a credit under this section for a tax year, any credit claimed  
11 in a subsequent tax year shall be treated as the first tax year for which a credit is claimed under  
12 this section.

13 (5) Notwithstanding subsection (3)(a) and (b) of this section, if the riparian land that is the basis  
14 of a credit under this section is adjacent to land that is in farm production under a share-rent  
15 agreement, the taxpayer that is engaged in farming operations and the taxpayer that is the land-  
16 owner may each claim a credit under this section. The amount of the credit shall be allocated to  
17 each taxpayer in the proportion that the share-rent agreement allocates crop proceeds to each of  
18 those taxpayers. The total amount of credit allowed to both taxpayers under this subsection may  
19 not exceed the amount of the credit otherwise allowable under this section if the farming operations  
20 were not subject to a share-rent agreement.

21 (6) Notwithstanding subsections (3)(a) and (5) of this section, if the taxpayer is actively engaged  
22 in farming operations and pays the landowner in cash, the taxpayer may claim all of the credit  
23 available under this section.

24 (7) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer.

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

33 (9) In the case of a credit allowed under this section for purposes of ORS chapter 316:

34 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-  
35 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS  
36 316.117.

37 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085 or if the  
38 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
39 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

40 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
41 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
42 ORS 316.117.

43 (10) If a taxpayer that has claimed a credit under this section places the riparian land for which  
44 the credit is claimed back in farm production, the taxpayer may not claim a credit under this section  
45 for five tax years following the year the riparian land was placed back in farm production.

1 (11) The Department of Revenue may adopt rules prescribing procedures for identifying forgone  
 2 crops and for establishing the market value of forgone crops.

3 **SECTION 131.** ORS 315.163 is amended to read:

4 315.163. As used in ORS 315.163 to 315.172:

5 (1)(a) "Acquisition costs" means the cost of acquiring buildings, structures and improvements  
 6 that constitute or will constitute agriculture workforce housing.

7 (b) "Acquisition costs" does not include the cost of acquiring land on which agriculture  
 8 workforce housing is or will be located.

9 (2) "Agricultural worker" means any person who, for an agreed remuneration or rate of pay,  
 10 performs temporary or permanent labor for another in the:

11 (a) Production of agricultural or aquacultural crops or products;

12 (b) Handling of agricultural or aquacultural crops or products in an unprocessed stage;

13 (c) Processing of agricultural or aquacultural crops or products;

14 (d) Planting, cultivating or harvesting of seasonal agricultural crops; or

15 (e) Forestation or reforestation of lands, including but not limited to the planting, transplanting,  
 16 tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal  
 17 of brush and slash and other related activities.

18 (3) "Agriculture workforce housing" means housing:

19 (a) Limited to occupancy by agricultural workers, including agricultural workers who are re-  
 20 tired or disabled, and their immediate families; and

21 (b) No dwelling unit of which is occupied by a relative of the owner or operator of the agricul-  
 22 ture workforce housing, except in the case of a manufactured dwelling in a manufactured dwelling  
 23 park nonprofit cooperative as defined in ORS 62.803.

24 (4) "Agriculture workforce housing project" means the acquisition, construction, installation or  
 25 rehabilitation of agriculture workforce housing.

26 (5) "Condition of habitability" means a condition that is in compliance with:

27 (a) The applicable provisions of the state building code under ORS chapter 455 and the rules  
 28 adopted thereunder; or

29 (b) If determined on or before December 31, 1995, sections 12 and 13, chapter 964, Oregon Laws  
 30 1989.

31 (6) "Contributor" means a person:

32 (a) That acquired, constructed, manufactured or installed agriculture workforce housing or  
 33 contributed money to finance an agriculture workforce housing project; or

34 (b) That has purchased or otherwise received via transfer a credit as provided in ORS 315.169  
 35 (2).

36 (7) "Eligible costs" includes acquisition costs, finance costs, construction costs, excavation costs,  
 37 installation costs and permit costs and excludes land costs.

38 (8)(a) "Owner" means a person that owns agriculture workforce housing.

39 (b) "Owner" does not include a person that only has an interest in the agriculture workforce  
 40 housing as a holder of a security interest.

41 (9) "Rehabilitation" means to make repairs or improvements to a building that improve its  
 42 livability and are consistent with applicable building codes.

43 (10) "Relative" means a brother or sister (whether by the whole or by half blood), spouse, an-  
 44 cestor (whether by law or by blood), or lineal descendant of an individual.

45 (11) "Taxpayer" includes a nonprofit corporation, a tax-exempt entity or any other person not

1 subject to tax under ORS chapter 316[, 317 or 318].

2 **SECTION 132.** ORS 315.271, as amended by section 2, chapter 29, Oregon Laws 2016, is  
3 amended to read:

4 315.271. (1) A credit against taxes otherwise due under ORS chapter 316[, 317 or 318] shall be  
5 allowed for donations to a fiduciary organization for distribution to individual development accounts  
6 established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation  
7 amount, as determined by the fiduciary organization, but not to exceed 70 percent of any donation  
8 amount. To qualify for a credit under this section, donations to a fiduciary organization must be  
9 made prior to January 1, 2022.

10 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based  
11 that is allowed or allowable as a deduction from federal taxable income under section 170 of the  
12 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-  
13 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-  
14 vided by the applicable percentage, as determined by the fiduciary organization.

15 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-  
16 ability of the taxpayer.

17 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
18 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
19 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-  
20 ried forward and used in the second succeeding tax year. Any tax credit not used in the second  
21 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
22 be carried forward for any tax year thereafter.

23 (5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690  
24 may not exceed \$7.5 million. The total credit allowed to a taxpayer in any tax year under this sec-  
25 tion and ORS 458.690 may not exceed \$500,000.

26 **SECTION 133.** ORS 316.127 is amended to read:

27 316.127. (1) The adjusted gross income of a nonresident derived from sources within this state  
28 is the sum of the following:

29 (a) The net amount of items of income, gain, loss and deduction entering into the nonresident's  
30 federal adjusted gross income that are derived from or connected with sources in this state including  
31 (A) any distributive share of partnership income and deductions and (B) any share of estate or trust  
32 income and deductions; and

33 (b) The portion of the modifications, additions or subtractions to federal taxable income provided  
34 in this chapter and other laws of this state that relate to adjusted gross income derived from sources  
35 in this state for personal income tax purposes, including any modifications attributable to the non-  
36 resident as a partner.

37 (2) Items of income, gain, loss and deduction derived from or connected with sources within this  
38 state are those items attributable to:

39 (a) The ownership or disposition of any interest in real or tangible personal property in this  
40 state;

41 (b) A business, trade, profession or occupation carried on in this state; and

42 (c) A taxable lottery prize awarded by the Oregon State Lottery, including a taxable lottery  
43 prize awarded by a multistate lottery association of which the Oregon State Lottery is a member if  
44 the ticket upon which the prize is awarded was sold in this state.

45 (3) Income from intangible personal property, including annuities, dividends, interest and gains



1 from the disposition of intangible personal property, constitutes income derived from sources within  
 2 this state only to the extent that such income is from property employed in a business, trade, pro-  
 3 fession or occupation carried on in this state.

4 (4) Deductions with respect to capital losses, net long-term capital gains, and net operating  
 5 losses shall be based solely on income, gains, losses and deductions derived from or connected with  
 6 sources in this state, under regulations to be prescribed by the Department of Revenue, but other-  
 7 wise shall be determined in the same manner as the corresponding federal deductions.

8 (5) Notwithstanding subsection (3) of this section:

9 (a) The income of an S corporation for federal income tax purposes derived from or connected  
 10 with sources in this state constitutes income derived from sources within this state for a nonresident  
 11 individual who is a shareholder of the S corporation; and

12 (b) A net operating loss of an S corporation derived from or connected with sources in this state  
 13 constitutes a loss or deduction connected with sources in this state for a nonresident individual who  
 14 is a shareholder of the S corporation.

15 (6) If a business, trade, profession or occupation is carried on partly within and partly without  
 16 this state, the determination of **situs of any** net income derived from or connected with sources  
 17 within this state shall be made *[by apportionment and allocation under ORS 314.605 to 314.675]* **as**  
 18 **provided in section 9 of this 2017 Act.**

19 (7) Compensation paid by the United States for service in the Armed Forces of the United States  
 20 performed by a nonresident does not constitute income derived from sources within this state.

21 (8) Compensation paid to a nonresident for services performed by the nonresident at a hydro-  
 22 electric facility does not constitute income derived from sources within this state if the hydroelec-  
 23 tric facility:

24 (a) Is owned by the United States;

25 (b) Is located on the Columbia River; and

26 (c) Contains portions located within both this state and another state.

27 (9)(a) Retirement income received by a nonresident does not constitute income derived from  
 28 sources within this state unless the individual is domiciled in this state.

29 (b) As used in this section, "retirement income" means retirement income as that term is defined  
 30 in 4 U.S.C. 114, as amended and in effect for the tax period.

31 (10) Compensation for the performance of duties described in this subsection that is paid to a  
 32 nonresident does not constitute income derived from sources within this state if the individual:

33 (a) Is engaged on a vessel to perform assigned duties in more than one state as a pilot licensed  
 34 under 46 U.S.C. 7101 or licensed or authorized under the laws of a state; or

35 (b) Performs regularly assigned duties while engaged as a master, officer or member of a crew  
 36 on a vessel operating in the navigable waters of more than one state.

37 **SECTION 134.** ORS 316.267 is amended to read:

38 316.267. The tax imposed by this chapter on individuals applies to the taxable income of estates  
 39 and trusts[, *except for trusts taxed as corporations under ORS chapter 317 or 318*].

40 **SECTION 135.** ORS 316.277 is amended to read:

41 316.277. (1) An association, trust or other unincorporated organization that is taxable as a cor-  
 42 poration for federal income tax purposes is not subject to tax under this chapter[, *but is taxable as*  
 43 *a corporation under ORS chapter 317 or 318, or both, as provided therein*].

44 (2) An association, trust or other unincorporated organization that is not taxable as a corpo-  
 45 ration for federal income tax purposes but by reason of its purposes or activities is exempt from

1 federal income tax except with respect to its unrelated business taxable income, is taxable under  
2 this chapter on such federally taxable income.

3 **SECTION 136.** ORS 316.695 is amended to read:

4 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,  
5 there shall be added to or subtracted from federal taxable income:

6 (a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions,  
7 as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of  
8 itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized  
9 deductions are reduced under section 68 of the Internal Revenue Code).

10 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-  
11 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount  
12 of the standard deduction deducted.

13 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's  
14 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,  
15 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-  
16 duction and the additional standard deduction.

17 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

18 (i) \$3,280, in the case of joint return filers or a surviving spouse;

19 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving  
20 spouse;

21 (iii) \$1,640, in the case of a married individual who files a separate return; or

22 (iv) \$2,640, in the case of a head of household.

23 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after  
24 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction  
25 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard  
26 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price  
27 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average  
28 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-  
29 tient by the amount listed under subparagraph (B) of this paragraph for each category of return  
30 filer.

31 (ii) If any change in the maximum household income determined under this subparagraph is not  
32 a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

33 (iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S.  
34 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau  
35 of Labor Statistics of the United States Department of Labor.

36 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the  
37 sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

38 (E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household"  
39 have the meanings given those terms in section 2 of the Internal Revenue Code.

40 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this  
41 paragraph shall be zero:

42 (i) One of the spouses in a marriage filing a separate return where the other spouse has claimed  
43 itemized deductions under subparagraph (A) of this paragraph;

44 (ii) A nonresident alien individual;

45 (iii) An individual making a return for a period of less than 12 months on account of a change

1 in the individual's annual accounting period;

2 (iv) An estate or trust;

3 (v) A common trust fund; or

4 (vi) A partnership.

5 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions  
6 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-  
7 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)  
8 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-  
9 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears  
10 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal  
11 Revenue Code).

12 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of  
13 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-  
14 butions which were taxed by the State of Oregon but not taxed by the federal government under  
15 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which  
16 the amount that was contributed to the plan under the Internal Revenue Code was greater than the  
17 amount allowed under this chapter.

18 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock  
19 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection  
20 may not be added to federal taxable income in the year earned by the plan and may not be sub-  
21 tracted from federal taxable income in the year received by the taxpayer.

22 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable  
23 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)  
24 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,  
25 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-  
26 ceived.

27 (b) The limits applicable to this subsection are:

28 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than  
29 \$125,000, or, if reported on a joint return, less than \$250,000.

30 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or  
31 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
32 \$260,000.

33 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
34 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
35 \$270,000.

36 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
37 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
38 \$280,000.

39 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
40 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
41 \$290,000.

42 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or,  
43 if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a  
44 subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

45 (d) In the case of spouses in a marriage filing separate tax returns, the amount added shall be

1 in the amount of any federal income taxes in excess of 50 percent of the amount provided for indi-  
2 vidual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of  
3 federal taxes previously accrued for which a tax benefit was received.

4 (e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head  
5 of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

6 (f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue  
7 shall make a cost-of-living adjustment to the federal income tax threshold amounts described in  
8 paragraphs (b) and (d) of this subsection.

9 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
10 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
11 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
12 1, 2005, and ending August 31, 2006.

13 (C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City  
14 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
15 Labor Statistics of the United States Department of Labor.

16 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
17 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

18 (E) The adjustment shall apply to all tax years beginning in the calendar year for which the  
19 adjustment is made.

20 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual  
21 shall add to taxable income a proportion of any accrued federal income taxes as computed under  
22 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion  
23 provided in ORS 316.117.

24 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this  
25 subsection shall be computed in a manner consistent with the computation of the amount to be  
26 added in the case of spouses in a marriage filing separate returns under subsection (3) of this sec-  
27 tion. The method of computation shall be determined by the Department of Revenue by rule.

28 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart  
29 as defined in section 7703(b) of the Internal Revenue Code.

30 *[(6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income*  
31 *or loss taken into account in determining federal taxable income by a shareholder of an S corporation*  
32 *pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of de-*  
33 *termining Oregon taxable income, to the extent that as income or loss of the S corporation, they were*  
34 *required to be adjusted under the provisions of ORS chapter 317.]*

35 *[(b)]* **(6)(a)** For tax years beginning on or after January 1, 1983, items of income, loss or de-  
36 duction taken into account in determining federal taxable income by a shareholder of an S corpo-  
37 ration pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes  
38 of determining Oregon taxable income, to the extent that as items of income, loss or deduction of  
39 the shareholder the items are required to be adjusted under the provisions of this chapter.

40 *[(c)]* **(b)** The tax years referred to in *[paragraphs (a) and (b)]* **paragraph (a)** of this subsection  
41 are those of the S corporation.

42 *[(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small*  
43 *business corporation.]*

44 (7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection  
45 (1)(c)(A) and (D) of this section, of \$1,000:

1 (A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax  
2 year; and

3 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax  
4 year and an additional exemption is allowable to the taxpayer for such spouse for federal income  
5 tax purposes under section 151(b) of the Internal Revenue Code.

6 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)  
7 and (D) of this section, of \$1,000:

8 (A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

9 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an  
10 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes  
11 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse  
12 dies during the tax year, the determination of whether such spouse is blind shall be made imme-  
13 diately prior to death.

14 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)  
15 and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

16 (d) For purposes of this subsection, an individual is blind only if the individual's central visual  
17 acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual  
18 acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the  
19 widest diameter of the visual field subtends an angle no greater than 20 degrees.

20 (8) In the case of an individual with respect to whom a deduction under section 151 of the  
21 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax  
22 year beginning in the calendar year in which the individual's tax year begins, the basic standard  
23 deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such  
24 individual's tax year shall equal the lesser of:

25 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for  
26 federal income tax purposes for the tax year for which the deduction is being claimed; or

27 (b) The amount determined under subsection (1)(c)(B) of this section.

28 **SECTION 137.** ORS 316.749 is amended to read:

29 316.749. (1) In addition to the other modifications to federal taxable income contained in this  
30 chapter, there shall be subtracted from federal taxable income the amount of any dividend received  
31 by the taxpayer on or after January 1, 2013, from a domestic international sales corporation formed  
32 on or before January 1, 2014, and subject to the tax imposed under ORS 317.283 (2)(a) (**2015**  
33 **Edition**).

34 (2) As used in this section, "domestic international sales corporation" means a domestic inter-  
35 national sales corporation as defined in section 992 of the Internal Revenue Code.

36 **SECTION 138.** ORS 317.131 is amended to read:

37 317.131. (1) For each tax year in which a taxpayer is allowed a credit under ORS 317.124, the  
38 Department of Revenue shall distribute to the local taxing districts in which the facility that is the  
39 basis of the credit is located an amount of tax payments that corresponds to the amount of payments  
40 deposited under ORS 317.129 (**2015 Edition**).

41 (2)(a) Amounts to be distributed under subsection (1) of this section shall be distributed to the  
42 local taxing districts of the code area in which the facility is located that are not school districts,  
43 education service districts, community college districts or community college service districts.

44 (b) If the facility is located in more than one code area, amounts to be distributed under sub-  
45 section (1) of this section shall be allocated to each code area in which the facility is located, based

1 on the ratio of the real market value of the facility in each code area to the total real market value  
2 of the facility.

3 (c) The amount distributed to each district under subsection (1) of this section shall be the  
4 amount that bears the same proportion to the total amount to be distributed under this section as  
5 the proportion of the operating tax billing rate of the district receiving distribution bears to the  
6 total operating tax billing rate of all of the local taxing districts described in paragraph (a) of this  
7 subsection.

8 (d) Notwithstanding paragraph (b) of this subsection, the amount distributed to a local taxing  
9 district under subsection (1) of this section for a fiscal year may not exceed the amount of property  
10 taxes forgone by that district as a result of the exemption from property tax under ORS 285C.409  
11 in that year.

12 (3) If any moneys described in subsection (1) of this section remain following computation of the  
13 distributions to local taxing districts under subsection (2) of this section, the moneys shall be dis-  
14 tributed to the zone sponsor.

15 (4) Distributions shall be made under this section on or before June 1 of each fiscal year.

16 **SECTION 139.** ORS 317.716 is amended to read:

17 317.716. (1)(a) For purposes of determining Oregon taxable income, the taxable income or loss  
18 of any corporation that is a member of a unitary group or that is a corporation that files a separate  
19 return and that is incorporated in any of the jurisdictions listed in paragraph (b) of this subsection  
20 shall be added to the federal consolidated taxable income of the unitary group filing a consolidated  
21 Oregon return or to the federal taxable income of the corporation filing a separate return.

22 (b) This section applies to Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas,  
23 Bahrain, Barbados, Belize, Bermuda, Bonaire, the British Virgin Islands, the Cayman Islands, the  
24 Cook Islands, Curacao, Cyprus, Dominica, Gibraltar, Grenada, Guatemala, Guernsey-Sark-Alderney,  
25 the Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Malta, the Marshall Islands, Mauritius,  
26 Montserrat, Nauru, Niue, Saba, Samoa, San Marino, Seychelles, Sint Eustatius, Sint Maarten, St.  
27 Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, the Turks and  
28 Caicos Islands, the U.S. Virgin Islands and Vanuatu.

29 (2) Nothing in subsection (1)(a) of this section precludes either a taxpayer or the Department  
30 of Revenue from asserting that the provisions of ORS 314.667 (2015 Edition) apply.

31 (3) The department shall adopt rules:

32 (a) To determine the computation of income or loss for a corporation that is a member of a  
33 unitary group and that is not otherwise required to file a consolidated federal return.

34 (b) To prevent double taxation or double deduction of any amount included in the computation  
35 of income under this section.

36 (c) To implement this section.

37 **SECTION 140.** ORS 344.755 is amended to read:

38 344.755. Training agents who terminate youth apprentices without cause as determined by the  
39 appropriate apprenticeship committee prior to completion of training or who violate ORS 344.745  
40 or 344.750 or rules adopted pursuant thereto by the State Apprenticeship and Training Council or  
41 the Department of Education[, upon notice to the Department of Revenue,] may lose their eligibility  
42 [for tax credits pursuant to ORS 318.031 and their eligibility] to train and employ youth apprentices  
43 under ORS 344.745 to 344.757 for a period of one year.

44 **SECTION 141.** ORS 401.690 is amended to read:

45 401.690. (1) Disaster or emergency related work conducted by an out-of-state business may not

1 be used as the sole basis for:

2 (a) [*Notwithstanding ORS 317.018 and 317.080,*] A finding that the out-of-state business is doing  
3 business in this state;

4 (b) Imposition of the taxes imposed under ORS 314.725 or ORS chapter 316 [*or 317*];

5 (c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a requirement that the out-  
6 of-state business register with or obtain authority to transact business from the Secretary of State  
7 during the disaster response period; or

8 (d) A requirement that the out-of-state business or an out-of-state employee comply with state  
9 or local business or professional licensing or registration requirements or state and local taxes or  
10 fees including unemployment insurance, state or local occupational licensing fees and ad valorem  
11 tax on equipment brought into this state for use during the disaster response period and subse-  
12 quently removed from this state.

13 (2) For purposes of any state or local tax on or measured by, in whole or in part, net or gross  
14 income or receipts, all activity of the out-of-state business that is conducted in this state, or equip-  
15 ment brought into this state, pursuant to ORS 401.685 to 401.695 shall be disregarded with respect  
16 to [*the filing requirements of ORS 317.710 and 317.715 and*] the apportionment provisions of ORS  
17 314.605 to 314.675. Receipts from disaster or emergency related work may not be sourced to and  
18 may not otherwise impact or increase the amount of income, revenue or receipts apportioned to this  
19 state.

20 (3) For purposes of ORS chapter 316, an out-of-state employee is not taxed as a resident, non-  
21 resident or part-year resident and is not considered to have established domicile or residence in this  
22 state. Wages paid for disaster or emergency related work are not subject to the withholding pro-  
23 visions of ORS 316.162 to 316.221.

24 (4) Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes  
25 and fees including fuel taxes, transient lodging taxes, car rental taxes or applicable fees during the  
26 disaster response period, unless an exemption applies to the taxes or fees during the disaster re-  
27 sponse period.

28 (5) Any out-of-state business that transacts business in this state or out-of-state employee who  
29 remains in this state after the end of the disaster response period will become subject to this state's  
30 normal standards for establishing domicile or residency or doing business in this state and will be-  
31 come responsible for any business or employee tax requirements that ensue.

32 (6) ORS 401.990 does not apply to ORS 401.685 to 401.695.

33 **SECTION 142.** ORS 461.560 is amended to read:

34 461.560. (1) No state or local taxes shall be imposed upon the sale of lottery tickets or shares  
35 of the Oregon State Lottery established by this chapter or any prize awarded by the state lottery  
36 established by this chapter that does not exceed \$600. A prize awarded by the state lottery that is  
37 greater than \$600 shall be subject to tax under ORS chapters 314 [*to 318*] **and 316** and any other  
38 applicable state or local tax. For purposes of this section, "prize awarded by the state lottery" in-  
39 cludes a prize awarded by a multistate lottery association of which the Oregon State Lottery is a  
40 member if the ticket upon which the prize is awarded was sold in this state.

41 (2) A city, county or other political subdivision in this state may not impose, by charter pro-  
42 vision or ordinance, or collect a tax that is imposed on lottery game retailers only and that is  
43 measured by or based upon the amount of the commissions or other compensation received by lot-  
44 tery game retailers for selling tickets or shares in lottery games. However, if a city, county or other  
45 political subdivision levies or imposes generally on a nondiscriminatory basis throughout the juris-

1 diction of the taxing authority an income, gross income or gross receipts tax, as otherwise provided  
 2 by law, such tax may be levied or imposed upon lottery game retailers.

3 **SECTION 143.** ORS 469.685 is amended to read:

4 469.685. A dwelling owner served by an investor-owned utility, as defined in ORS 469.631, or a  
 5 publicly owned utility, as defined in ORS 469.649, who applies for financing under the provisions of  
 6 ORS 316.744[, 317.386] and 469.631 to 469.687, may use without obtaining a new energy audit an  
 7 energy audit obtained from an energy supplier under chapter 887, Oregon Laws 1977, or a public  
 8 utility under chapter 889, Oregon Laws 1977, before November 1, 1981.

9 **SECTION 144.** ORS 469.687 is amended to read:

10 469.687. ORS 316.744[, 317.386] and 469.631 to 469.687 shall be known as the Oregon Residential  
 11 Energy Conservation Act.

12 **SECTION 145.** ORS 526.450 is amended to read:

13 526.450. ORS 315.104[, 318.031] and 526.450 to 526.475 may be cited as the “Woodland Manage-  
 14 ment Act of 1979.”

15 **SECTION 146.** ORS 526.450, as amended by section 5, chapter 883, Oregon Laws 2007, is  
 16 amended to read:

17 526.450. ORS [318.031 and] 526.450 to 526.475 may be cited as the “Woodland Management Act  
 18 of 1979.”

19 **SECTION 147.** ORS 526.455 is amended to read:

20 526.455. As used in ORS 315.104[, 318.031] and 526.450 to 526.475, unless the context requires  
 21 otherwise:

22 (1) “Approved forest management practice” means and includes site preparation, tree planting,  
 23 precommercial thinning, release, fertilization, animal damage control, insect and disease manage-  
 24 ment or such other young growth management practices that increase wood growth as the State  
 25 Forester shall approve or determine proper generally with regard to any particular applicant.

26 (2) “Board” means State Board of Forestry.

27 (3) “Commercial forestland” means land for which a primary use is the growing and harvesting  
 28 of forest tree species and other forest resource values.

29 (4) “Eligible owner” means any private individual, group, Indian tribe or other native group,  
 30 association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commer-  
 31 cial forestland.

32 (5) “Forest management plan” means an operation plan to reach landowner objectives and as-  
 33 sures public benefits as they relate to producing timber and other values. It shall include a cover  
 34 map, basic forest stand description data, treatment opportunities, landowner objectives and a  
 35 schedule for implementing the forest management plan.

36 (6) “Forest management practices” means and includes site preparation, tree planting, precom-  
 37 mercial thinning, release, fertilization, animal damage control, insect and disease management and  
 38 other young growth management practices that increase wood growth.

39 (7) “Industrial private forestlands” means lands capable of producing crops of industrial wood,  
 40 greater than 10 acres and owned by other than an eligible owner.

41 (8) “Industrial wood” means forest products used to sustain a sawmill, plywood mill, pulp mill  
 42 or other forest industry related manufacturing facility.

43 (9) “Landowner” means any private individual, group, Indian tribe or other native group, asso-  
 44 ciation, corporation or other legal entity, owning both the forestland and any timber thereon.

45 (10) “Nonindustrial private forestlands” means lands capable of producing crops of industrial



1 wood and owned by an eligible owner.

2 (11) "State Forester" means the individual appointed pursuant to ORS 526.031, or the authorized  
3 representative of the State Forester.

4 (12) "Timber" means wood growth, mature or immature, growing or dead, standing or down of  
5 species acceptable for regeneration under the Oregon Forest Practices Act.

6 (13) "Underproductive forestlands" means commercial forestlands not meeting the minimum  
7 stocking standards of the Oregon Forest Practices Act.

8 **SECTION 148.** ORS 526.455, as amended by section 6, chapter 883, Oregon Laws 2007, is  
9 amended to read:

10 526.455. As used in ORS [318.031 and] 526.450 to 526.475, unless the context requires otherwise:

11 (1) "Approved forest management practice" means and includes site preparation, tree planting,  
12 precommercial thinning, release, fertilization, animal damage control, insect and disease manage-  
13 ment or such other young growth management practices that increase wood growth as the State  
14 Forester shall approve or determine proper generally with regard to any particular applicant.

15 (2) "Board" means State Board of Forestry.

16 (3) "Commercial forestland" means land for which a primary use is the growing and harvesting  
17 of forest tree species and other forest resource values.

18 (4) "Eligible owner" means any private individual, group, Indian tribe or other native group,  
19 association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commer-  
20 cial forestland.

21 (5) "Forest management plan" means an operation plan to reach landowner objectives and as-  
22 sures public benefits as they relate to producing timber and other values. It shall include a cover  
23 map, basic forest stand description data, treatment opportunities, landowner objectives and a  
24 schedule for implementing the forest management plan.

25 (6) "Forest management practices" means and includes site preparation, tree planting, precom-  
26 mercial thinning, release, fertilization, animal damage control, insect and disease management and  
27 other young growth management practices that increase wood growth.

28 (7) "Industrial private forestlands" means lands capable of producing crops of industrial wood,  
29 greater than 10 acres and owned by other than an eligible owner.

30 (8) "Industrial wood" means forest products used to sustain a sawmill, plywood mill, pulp mill  
31 or other forest industry related manufacturing facility.

32 (9) "Landowner" means any private individual, group, Indian tribe or other native group, asso-  
33 ciation, corporation or other legal entity, owning both the forestland and any timber thereon.

34 (10) "Nonindustrial private forestlands" means lands capable of producing crops of industrial  
35 wood and owned by an eligible owner.

36 (11) "State Forester" means the individual appointed pursuant to ORS 526.031, or the authorized  
37 representative of the State Forester.

38 (12) "Timber" means wood growth, mature or immature, growing or dead, standing or down of  
39 species acceptable for regeneration under the Oregon Forest Practices Act.

40 (13) "Underproductive forestlands" means commercial forestlands not meeting the minimum  
41 stocking standards of the Oregon Forest Practices Act.

42 **SECTION 149.** ORS 526.465 is amended to read:

43 526.465. The purpose of ORS 315.104[ 318.031] and 526.450 to 526.475 is to encourage long term  
44 forestry investments that lead to increased management of Oregon's forestlands by:

45 (1) Providing the forest owner with tax relief during the timber growth period.

1 (2) Promoting programs that provide forest credit on young stands and encourage harvesting of  
2 mature forest crops.

3 (3) Promoting the establishment of new forest crops on cutover, denuded or underproductive  
4 privately owned forestlands.

5 (4) Protecting the public interest by assuring that the citizens of the state and future gener-  
6 ations shall have the benefits to be derived from the continuous production of forest products from  
7 the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild  
8 game.

9 **SECTION 150.** ORS 526.465, as amended by section 7, chapter 883, Oregon Laws 2007, is  
10 amended to read:

11 526.465. The purpose of ORS [318.031 and] 526.450 to 526.475 is to encourage long term forestry  
12 investments that lead to increased management of Oregon's forestlands by:

13 (1) Promoting programs that provide forest credit on young stands and encourage harvesting of  
14 mature forest crops.

15 (2) Promoting the establishment of new forest crops on cutover, denuded or underproductive  
16 privately owned forestlands.

17 (3) Protecting the public interest by assuring that the citizens of the state and future gener-  
18 ations shall have the benefits to be derived from the continuous production of forest products from  
19 the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild  
20 game.

21 **SECTION 151.** ORS 526.475 is amended to read:

22 526.475. (1) Any owner affected by a determination of the State Forester made under ORS  
23 315.104[ 318.031] and 526.450 to 526.475 may appeal to the State Board of Forestry under such rules  
24 as it may adopt. An appeal to set aside any decision of the board with respect to ORS 315.104 [or  
25 318.031] may be taken within 60 days of the decision to the Oregon Tax Court in the manner pro-  
26 vided for tax cases under ORS chapter 305.

27 (2) Any owner affected by a determination of the Department of Revenue made under ORS  
28 315.104 [or 318.031] may appeal directly to the tax court under ORS 305.404 to 305.560.

29 **SECTION 152.** ORS 526.475, as amended by section 8, chapter 883, Oregon Laws 2007, is  
30 amended to read:

31 526.475. [(1)] Any owner affected by a determination of the State Forester made under ORS  
32 [318.031 and] 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it  
33 may adopt. [An appeal to set aside any decision of the board with respect to ORS 318.031 may be taken  
34 within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under  
35 ORS chapter 305.]

36 [(2) Any owner affected by a determination of the Department of Revenue made under ORS 318.031  
37 may appeal directly to the tax court under ORS 305.404 to 305.560.]

38 **SECTION 153.** ORS 701.106 is amended to read:

39 701.106. (1) A contractor that violates or fails to comply with any of the following provisions  
40 or any rules adopted under those provisions is subject to the suspension of, revocation of, refusal  
41 to issue or refusal to renew a license, imposition of a civil penalty under ORS 701.992, or a combi-  
42 nation of those sanctions:

43 (a) ORS 87.007 (2).

44 (b) ORS chapter 316 [or 317].

45 (c) ORS 446.225 to 446.285.

- 1 (d) ORS 446.395 to 446.420.
- 2 (e) ORS 447.010 to 447.156.
- 3 (f) ORS chapter 455.
- 4 (g) ORS 460.005 to 460.175.
- 5 (h) ORS 479.510 to 479.945.
- 6 (i) ORS 480.510 to 480.670.
- 7 (j) ORS chapter 656.
- 8 (k) ORS chapter 657.
- 9 (L) ORS 670.600.
- 10 (m) ORS 671.510 to 671.760.
- 11 (n) ORS chapter 693.

12 (2) The imposition of a sanction under this section is subject to ORS 183.413 to 183.497.

13 **SECTION 154.** ORS 731.840 is amended to read:

14 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and  
 15 731.859[, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter  
 16 317,] is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes  
 17 measured by income that might otherwise be imposed upon the foreign or alien insurer except the  
 18 fire insurance premiums tax imposed under ORS 731.820 and the tax imposed upon wet marine and  
 19 transportation insurers under ORS 731.824 and 731.828. However, all real and personal property, if  
 20 any, of the insurer shall be listed, assessed and taxed the same as real and personal property of like  
 21 character of noninsurers. Nothing in this subsection shall be construed to preclude the imposition  
 22 of the assessments imposed under ORS 656.612 upon a foreign or alien insurer.

23 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity  
 24 as such.

25 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien  
 26 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS  
 27 731.824 and 731.828.

28 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,  
 29 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers  
 30 and their insurance producers and other representatives as such, and:

31 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-  
 32 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any  
 33 such tax, license or fee; except that whenever a county, city, district or other political subdivision  
 34 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing  
 35 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or  
 36 imposed upon domestic insurers; and

37 (b) No county, city, district, political subdivision or agency in this state shall require of any  
 38 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-  
 39 ance Code, any additional authorization, license, or permit of any kind for conducting therein  
 40 transactions otherwise lawful under the authority or license granted under this code.

41 **SECTION 155.** ORS 743B.012 is amended to read:

42 743B.012. (1) As a condition of transacting business in the small employer health insurance  
 43 market in this state, a carrier shall offer small employers all of the carrier's health benefit plans,  
 44 approved by the Department of Consumer and Business Services for use in the small employer  
 45 market, for which the small employer is eligible.

1 (2) A carrier shall issue to a small employer any health benefit plan that is offered by the car-  
2 rier if the small employer applies for the plan and agrees to make the required premium payments  
3 and to satisfy the other provisions of the health benefit plan.

4 (3) A multiple employer welfare arrangement, professional or trade association or other similar  
5 arrangement established or maintained to provide benefits to a particular trade, business, profession  
6 or industry or their subsidiaries may not issue coverage to a group or individual that is not in the  
7 same trade, business, profession or industry as that covered by the arrangement. The arrangement  
8 shall accept all groups and individuals in the same trade, business, profession or industry or their  
9 subsidiaries that apply for coverage under the arrangement and that meet the requirements for  
10 membership in the arrangement. For purposes of this subsection, the requirements for membership  
11 in an arrangement may not include any requirements that relate to the actual or expected health  
12 status of the prospective enrollee.

13 (4) A carrier shall, pursuant to subsection (2) of this section, accept applications from and offer  
14 coverage to a small employer group covered under an existing health benefit plan regardless of  
15 whether a prospective enrollee is excluded from coverage under the existing plan because of late  
16 enrollment. When a carrier accepts an application for a small employer group, the carrier may  
17 continue to exclude the prospective enrollee excluded from coverage by the replaced plan until the  
18 prospective enrollee would have become eligible for coverage under that replaced plan.

19 (5) A carrier is not required to accept applications from and offer coverage pursuant to sub-  
20 section (2) of this section if the department finds that acceptance of an application or applications  
21 would endanger the carrier's ability to fulfill its contractual obligations or result in financial  
22 impairment of the carrier.

23 (6) A carrier shall actively market all health benefit plans that are offered by the carrier to  
24 small employers in the geographical areas in which the carrier makes coverage available or provides  
25 benefits.

26 (7)(a) Subsection (2) of this section does not require a carrier to offer coverage to or accept  
27 applications from:

28 (A) A small employer if the small employer is not physically located in the carrier's approved  
29 service area;

30 (B) An employee of a small employer if the employee does not work or reside within the carrier's  
31 approved service areas; or

32 (C) Small employers located within an area where the carrier reasonably anticipates, and dem-  
33 onstrates to the department, that it will not have the capacity in its network of providers to deliver  
34 services adequately to the enrollees of those small employer groups because of its obligations to  
35 existing small employer group contract holders and enrollees.

36 (b) A carrier that does not offer coverage pursuant to paragraph (a)(C) of this subsection may  
37 not offer coverage in the applicable service area to new employer groups other than small employers  
38 until the carrier resumes enrolling groups of new small employers in the applicable area.

39 (8) For purposes of ORS 743B.010 to 743B.013, except as provided in this subsection, carriers  
40 that are affiliated carriers or that are eligible to file a consolidated tax return pursuant to [ORS  
41 317.715] **section 3 of this 2017 Act** shall be treated as one carrier and any restrictions or limita-  
42 tions imposed by ORS 743B.010 to 743B.013 apply as if all health benefit plans delivered or issued  
43 for delivery to small employers in this state by the affiliated carriers were issued by one carrier.  
44 However, any insurance company or health maintenance organization that is an affiliate of a health  
45 care service contractor located in this state, or any health maintenance organization located in this

1 state that is an affiliate of an insurance company or health care service contractor, may treat the  
 2 health maintenance organization as a separate carrier and each health maintenance organization  
 3 that operates only one health maintenance organization in a service area in this state may be con-  
 4 sidered a separate carrier.

5 (9) A carrier that elects to discontinue offering all of its health benefit plans to small employers  
 6 under ORS 743B.013 (3)(e) or elects to discontinue renewing all such plans is prohibited from offer-  
 7 ing health benefit plans to small employers in this state for a period of five years from one of the  
 8 following dates:

9 (a) The date of notice to the department pursuant to ORS 743B.013 (3)(e); or

10 (b) If notice is not provided under paragraph (a) of this subsection, from the date on which the  
 11 department provides notice to the carrier that the department has determined that the carrier has  
 12 effectively discontinued offering health benefit plans to small employers in this state.

13 **SECTION 156.** ORS 314.520 is amended to read:

14 314.520. ORS [314.505,] 314.518 and 316.198 do not alter the authority under ORS 293.525 of a  
 15 state agency to require by rule that certain payments to the agency be made by electronic funds  
 16 transfer.

17 **SECTION 157.** ORS 314.610 is amended to read:

18 314.610. As used in ORS 314.605 to 314.675, unless the context otherwise requires:

19 (1) "Business income" means income arising from transactions and activity in the regular course  
 20 of the taxpayer's trade or business and includes income from tangible and intangible property if the  
 21 acquisition, the management, use or rental, and the disposition of the property constitute integral  
 22 parts of the taxpayer's regular trade or business operations.

23 (2) "Commercial domicile" means the principal place from which the trade or business of the  
 24 taxpayer is directed or managed.

25 (3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid  
 26 to employees for personal services.

27 (4) "Financial institution" means a person, corporation or other business entity that is any of  
 28 the following:

29 (a) A bank holding company under the laws of this state or under the federal Bank Holding  
 30 Company Act of 1956, 12 U.S.C. 1841 et seq., as amended.

31 (b) A savings and loan holding company under the National Housing Act, 12 U.S.C. 1701 et seq.,  
 32 as amended.

33 (c) A national bank organized and existing as a national bank association under the National  
 34 Bank Act, 12 U.S.C. 21 et seq., as amended.

35 (d) A savings association, as defined in 12 U.S.C. 1813(b)(1), as amended.

36 (e) A bank or thrift institution incorporated or organized under the laws of any state.

37 (f) An entity organized under the provisions of 12 U.S.C. 611 to 631, as amended.

38 (g) An agency or branch of a foreign bank, as defined in 12 U.S.C. 3101, as amended.

39 (h) A state credit union with loan assets that exceed \$50,000,000 as of the first day of the tax-  
 40 able year of the state credit union.

41 (i) A production credit association subject to 12 U.S.C. 2071 et seq., as amended.

42 (j) A corporation, more than 50 percent of the voting stock of which is owned, directly or indi-  
 43 rectly, by a person, corporation or other business entity described in paragraphs (a) to (i) of this  
 44 subsection[, *provided that the corporation is not an insurer taxable under ORS 317.655*].

45 (k) An entity that is not otherwise described in this subsection[, *that is not an insurer taxable*

1 *under ORS 317.655*] and that derives more than 50 percent of its gross income from activities that  
 2 a person, corporation or entity described in paragraph (c), (d), (e), (f), (g), (h), (i) or (L) of this sub-  
 3 section is authorized to conduct, not taking into account any income derived from nonrecurring  
 4 extraordinary sources.

5 (L) A person that derives at least 50 percent of the person's annual average gross income, for  
 6 financial accounting purposes for the current tax year and the two preceding tax years, from finance  
 7 leases, excluding any gross income from incidental or occasional transactions. For purposes of this  
 8 paragraph, "finance lease" means:

9 (A) A lease transaction that is the functional equivalent of an extension of credit and that  
 10 transfers substantially all of the benefits and risks of the ownership of the leased property;

11 (B) A direct financing lease or a leverage lease that meets the criteria of Financial Accounting  
 12 Standards Board Statement No. 13; or

13 (C) Any other lease that is accounted for as a financing by a lessor under generally accepted  
 14 accounting principles.

15 (5) "Nonbusiness income" means all income other than business income.

16 (6) "Public utility" means any business entity whose principal business is ownership and opera-  
 17 tion for public use of any plant, equipment, property, franchise, or license for the transmission of  
 18 communications, transportation of goods or persons, or the production, storage, transmission, sale,  
 19 delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

20 (7) "Sales" means all gross receipts of the taxpayer not allocated under ORS 314.615 to 314.645.

21 (8) "State" means any state of the United States, the District of Columbia, the Commonwealth  
 22 of Puerto Rico, any territory or possession of the United States, and any foreign country or political  
 23 subdivision thereof.

24 **SECTION 158.** ORS 314.615 is amended to read:

25 314.615. Any taxpayer having income from business activity which is taxable both within and  
 26 without this state, other than activity as a financial institution or public utility or the rendering of  
 27 purely personal services by an individual, shall allocate and apportion the net income of the tax-  
 28 payer as provided in ORS 314.605 to 314.675. Taxpayers engaged in activities as a financial institu-  
 29 tion or public utility shall report their income as provided in ORS 314.280 *[and 314.675]*.

30 **SECTION 159.** ORS 314.734 is amended to read:

31 314.734. (1) The shareholder's pro rata share of the income of an S corporation is subject to tax  
 32 under ORS chapter 316. In determining the tax imposed under ORS chapter 316 of a shareholder for  
 33 the shareholder's taxable year in which the taxable year of the S corporation ends (or for the final  
 34 taxable year of a shareholder who dies, or of a trust or estate that terminates, before the end of the  
 35 corporation's taxable year), there shall be taken into account the shareholder's pro rata share of the  
 36 corporation's separately stated items of income, loss or deduction and nonseparately computed in-  
 37 come or loss, as determined under or for purposes of section 1366 of the Internal Revenue Code  
 38 (including but not limited to section 1366(d) and (e) of the Internal Revenue Code), with the modifi-  
 39 cations, additions and subtractions provided under this chapter and ORS chapter 316.

40 (2) Each item of shareholder income, gain, loss or deduction has the same character for a  
 41 shareholder under this chapter and ORS chapter 316 as it has for federal income tax purposes. If  
 42 an item is not characterized for federal income tax purposes, it has the same character for a  
 43 shareholder as if realized directly from the source from which realized by the S corporation or in-  
 44 curred in the same manner as incurred by the S corporation.

45 (3) In any case where it is necessary to determine the gross income of a shareholder for pur-

1 poses of ORS chapter 316, such gross income shall include the shareholder's pro rata share of the  
 2 gross income of the S corporation.

3 [(4) If any tax is imposed under ORS 314.740 for any taxable year on an S corporation, for pur-  
 4 poses of subsection (1) of this section, the amount of each recognized built-in gain for such taxable year  
 5 shall be reduced by its proportionate share of such tax.]

6 [(5) If any tax is imposed under ORS 314.742 on an S corporation, for purposes of subsection (1)  
 7 of this section, each item of passive investment income shall be reduced by an amount which bears the  
 8 same ratio to the amount of such tax as the amount of such item bears to the total passive investment  
 9 income for the taxable year.]

10 **SECTION 160.** ORS 723.586 is amended to read:

11 723.586. A credit union may enter into cooperative marketing arrangements to facilitate its  
 12 members' voluntary purchases of such goods and services as are in the interest of improving eco-  
 13 nomic and social conditions of the members. Said investment shall not exceed one percent of the  
 14 credit union's assets. [Notwithstanding any other provision of law, the taxable income from such ac-  
 15 tivities which are conducted by the credit union shall be subject to tax pursuant to ORS 317.920.]

16 **SECTION 161.** ORS 314.505, 314.515, 314.525, 314.647, 314.650, 314.655, 314.660, 314.665,  
 17 314.667, 314.668, 314.669, 314.675, 314.740, 314.742, 316.279, 317.005, 317.010, 317.013, 317.018,  
 18 317.019, 317.025, 317.030, 317.035, 317.038, 317.063, 317.067, 317.070, 317.080, 317.090, 317.122,  
 19 317.129, 317.151, 317.154, 317.259, 317.267, 317.273, 317.283, 317.286, 317.301, 317.303, 317.304,  
 20 317.307, 317.309, 317.310, 317.311, 317.312, 317.314, 317.319, 317.322, 317.327, 317.329, 317.344,  
 21 317.349, 317.351, 317.356, 317.362, 317.374, 317.379, 317.386, 317.388, 317.391, 317.394, 317.398,  
 22 317.401, 317.476, 317.478, 317.479, 317.485, 317.488, 317.491, 317.625, 317.635, 317.650, 317.655,  
 23 317.660, 317.665, 317.667, 317.705, 317.710, 317.713, 317.715, 317.717, 317.720, 317.725, 317.850,  
 24 317.853, 317.920, 317.950, 317.991, 318.010, 318.020, 318.031, 318.040, 318.060, 318.070, 318.074,  
 25 318.106 and 318.130 are repealed.

26 **SECTION 162.** Sections 1 to 31 of this 2017 Act, the amendments to statutes and session  
 27 laws by sections 32 to 160 of this 2017 Act and the repeal of statutes by section 161 of this  
 28 2017 Act apply:

29 (1) For purposes of sections 1 to 31 of this 2017 Act, to calendar years and calendar  
 30 quarters beginning on or after January 1, 2019; and

31 (2) For purposes of ORS chapters 314, 315, 316, 317 and 318, to tax years beginning on or  
 32 after January 1, 2019.

33  
 34 **CAPTIONS**  
 35

36 **SECTION 163.** The unit and section captions used in this 2017 Act are provided only for  
 37 convenience in locating provisions of this 2017 Act and do not become part of the statutory  
 38 law of this state or express any legislative intent in the enactment of this 2017 Act.

39  
 40 **EFFECTIVE DATE**  
 41

42 **SECTION 164.** This 2017 Act does not become effective unless the amendment to the  
 43 Oregon Constitution proposed by House Joint Resolution 4 (2017) is approved by the people  
 44 at the next regular general election. This 2017 Act becomes effective on the effective date  
 45 of that amendment.

