

House Bill 2541

Sponsored by Representative HACK (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**.

Creates credit against income tax for replacement of certain trucks used by taxpayer in course of business.

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

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for truck replacement; creating new provisions; amending ORS 314.752 and
3 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Alternative fuel vehicle" has the meaning given that term in ORS 469.960.

8 (b) "Heavy-duty truck" and "medium-duty truck" have the meaning given those terms
9 in ORS 468A.795.

10 (c) "Qualifying vehicle" means a heavy-duty truck or a medium-duty truck that is pur-
11 chased new by the taxpayer, is used in the taxpayer's course of business and is not an al-
12 ternative fuel vehicle.

13 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
14 payer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for purchase
15 during the tax year of a qualifying vehicle that replaces a motor vehicle with a model year
16 of 2005 or earlier. The credit shall be 10 percent of the purchase price of the qualifying ve-
17 hicle.

18 (3) In order to qualify a taxpayer for the credit allowed under this section, the taxpayer
19 must:

20 (a) Purchase a new qualifying vehicle and use the vehicle in the taxpayer's course of
21 business;

22 (b) Drive or cause to be driven the qualifying vehicle not more than 100 miles in any of
23 12 consecutive months beginning with the month in which it is purchased; and

24 (c) Sell, donate or otherwise relinquish ownership or other property interest in a motor
25 vehicle with a model year of 2005 or earlier that is used in the taxpayer's course of business
26 and that is titled during the tax year.

27 (4) Prior to claiming the credit allowed under this section, a taxpayer is required to re-
28 ceive written certification of eligibility from the Department of Environmental Quality. The
29 taxpayer may claim the credit under this section for the year in which the vehicle is pur-
30 chased. If the purchase occurs later than the sixth month of the tax year, the taxpayer shall

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 submit supplemental information to the Department of Environmental Quality to verify that
2 the vehicle meets the mileage restriction in subsection (3)(b) of this section.

3 (5) The credit shall be claimed on a form prescribed by the Department of Revenue that
4 contains the information required by the department.

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

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

13 (8) A nonresident shall be allowed the credit under this section. The credit shall be
14 computed in the same manner and be subject to the same limitations as the credit granted
15 to a resident. However, the credit shall be prorated using the proportion provided in ORS
16 316.117.

17 (9) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
18 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit
19 allowed by this section shall be prorated or computed in a manner consistent with ORS
20 314.085.

21 (10) If a change in the status of a taxpayer from resident to nonresident or from non-
22 resident to resident occurs, the credit allowed by this section shall be determined in a man-
23 ner consistent with ORS 316.117.

24 (11) The Department of Environmental Quality shall adopt rules for the purposes of this
25 section, including policies and procedures for certifying taxpayers as eligible for the credit
26 allowed under this section as required in subsection (4) of this section.

27 **SECTION 3.** ORS 314.752 is amended to read:

28 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
29 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
30 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
31 allowable to the shareholders of the S corporation.

32 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
33 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
34 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
35 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
36 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
37 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

41 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
42 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
43 316.117, then that provision shall apply to the nonresident shareholder.

44 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
45 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive

1 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 2 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 3 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 4 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 5 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 6 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 7 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
 8 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
 9 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
 10 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
 11 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
 12 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**
 13 **(replacement vehicles).**

14 **SECTION 4.** ORS 318.031 is amended to read:

15 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 16 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 17 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 18 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
 19 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**
 20 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

21 **SECTION 5.** **Section 2 of this 2017 Act and the amendments to ORS 314.752 and 318.031**
 22 **by sections 3 and 4 of this 2017 Act apply to tax years beginning on or after January 1, 2018,**
 23 **and to motor vehicles of model year 2017 or later purchased new on or after January 1, 2018.**

24 **SECTION 6.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**
 25 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

26