

Senate Bill 364

Sponsored by Senator FREDERICK (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 refundable income tax credit for donating shipping container for storage of emergency supplies in or near public building. Applies to tax years beginning on or after January 1, 2017. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credit for shipping container donation; creating new provisions; amending ORS
3 314.752, 316.502 and 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) "Public building" means any building owned or occupied by a public entity.

8 (b) "Public entity" means a school district, public charter school, community college,
9 public university, branch of government, state agency or governmental subdivision.

10 (c) "Shipping container" means a standardized, reusable freight container designed to
11 withstand the shipping, storage and handling of goods.

12 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
13 payer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer that donates
14 a shipping container to a public entity for the storage of emergency supplies within 1,000 feet
15 of a public building. The credit shall be equal to 10 percent of the retail value of the donated
16 shipping container.

17 (3) For each tax year for which a credit is claimed under this section, the taxpayer shall
18 maintain records sufficient to prove the taxpayer's eligibility for the credit allowed under
19 this section. A taxpayer shall maintain the records required under this subsection for at
20 least five years.

21 (4) If the amount allowable as a credit under this section, when added to the sum of the
22 amounts allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 (withholding)
23 and 316.583 (estimated tax), other payments of tax and other refundable credit amounts, ex-
24 ceeds the taxes imposed by ORS chapters 314 to 318 for the tax year (reduced by any
25 nonrefundable credits allowed for the tax year), the excess shall be treated as an overpay-
26 ment of tax and shall be refunded or applied in the same manner as other tax overpayments.

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

31 (6) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,

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 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit
2 allowed by this section shall be prorated or computed in a manner consistent with ORS
3 314.085.

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

7 (8) Spouses who file separate returns for a taxable year may each claim a share of the
8 tax credit that would have been allowed on a joint return in proportion to the adjusted gross
9 income of each.

10 **SECTION 3.** ORS 316.502 is amended to read:

11 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
12 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held
13 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation
14 of the State of Oregon lawfully incurred.

15 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
16 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
17 exceed the sum of \$1 million.

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

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

20 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264
21 and 315.266 and section 17, chapter 906, Oregon Laws 2007, **and section 2 of this 2017 Act.**

22 **SECTION 4.** ORS 314.752 is amended to read:

23 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
24 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
25 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
26 allowable to the shareholders of the S corporation.

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

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

36 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
37 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
38 316.117, then that provision shall apply to the nonresident shareholder.

39 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
40 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
41 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
42 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
43 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
44 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
45 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141

1 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
2 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
3 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
4 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
5 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
6 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
7 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**
8 **(shipping container donation).**

9 **SECTION 5.** ORS 318.031 is amended to read:

10 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
11 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
12 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
13 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
14 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**
15 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

16 **SECTION 6. Section 2 of this 2017 Act and the amendments to ORS 314.752, 316.502 and**
17 **318.031 by sections 3, 4 and 5 of this 2017 Act apply to tax years beginning on or after January**
18 **1, 2017.**

19 **SECTION 7. This 2017 Act takes effect on the 91st day after the date on which the 2017**
20 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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