

House Bill 2538

Sponsored by Representative EVANS (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 income tax credit for investment in community gardens and food banks. Applies to tax years beginning on or after January 1, 2019, and before January 1, 2025.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax incentives for investment in community food resources; creating new provisions;
3 amending ORS 314.752 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 2019 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) A credit against taxes that are otherwise due under ORS chapter 316**
7 **shall be allowed to a taxpayer who invests more than \$10,000 in one or more community food**
8 **resources in a tax year. The credit allowed is calculated by subtracting \$10,000 from the**
9 **amount invested and multiplying the result by 30 percent.**

10 **(2) As used in this section:**

11 **(a) "Community food resource" means a community garden or a food bank or other**
12 **charitable organization.**

13 **(b) "Community garden" means a parcel of public or private land located in this state**
14 **that is available to the general public for the noncommercial production of vegetables, fruits,**
15 **herbs, flowers, nuts, poultry or honey.**

16 **(c) "Food bank or other charitable organization" has the meaning given that term in ORS**
17 **315.154.**

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

22 **(4) The amount of the credit available under this section may not exceed the tax liability**
23 **of the taxpayer under ORS chapter 316 for the tax year.**

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

28 **(6) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,**
29 **or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,**
30 **the credit allowed by this section shall be prorated or computed in a manner consistent with**
31 **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 **(7) If a change in the status of a taxpayer from resident to nonresident or from nonres-**
 2 **ident to resident occurs, the credit allowed by this section shall be determined in a manner**
 3 **consistent with ORS 316.117.**

4 **SECTION 3.** ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended
 5 to read:

6 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 7 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 8 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 9 allowable to the shareholders of the S corporation.

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

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

19 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 20 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 21 316.117, then that provision shall apply to the nonresident shareholder.

22 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
 23 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 24 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture
 25 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
 26 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
 27 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
 28 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
 29 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
 30 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
 31 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
 32 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
 33 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
 34 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
 35 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
 36 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
 37 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
 38 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon
 39 Laws 2018 (Opportunity Grant Fund contributions) **and section 2 of this 2019 Act (community**
 40 **food resources).**

41 **SECTION 4.** ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended
 42 to read:

43 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 44 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 45 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-

1 incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
2 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section
3 2, chapter 108, Oregon Laws 2018, **and section 2 of this 2019 Act** (all only to the extent applicable
4 to a corporation) and ORS chapter 317.

5 **SECTION 5. Section 2 of this 2019 Act applies to tax years beginning on or after January**
6 **1, 2019, and before January 1, 2025.**

7 **SECTION 6. This 2019 Act takes effect on the 91st day after the date on which the 2019**
8 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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