

Enrolled
Senate Bill 215

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CHAPTER

AN ACT

Relating to the correction of erroneous material in Oregon tax law; amending ORS 310.160, 310.165, 314.011, 314.085, 314.276 and 315.506; repealing ORS 314.265; and prescribing an effective date.

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

SECTION 1. ORS 310.160 is amended to read:

310.160. (1) For purposes of determining whether the taxes on property to be imposed on any property exceed the limits imposed by section 11b, Article XI of the Oregon Constitution, the unit of property to be considered shall consist of all contiguous property within a single code area in the county under common ownership that is used and appraised for a single integrated purpose, whether or not that property is taxed as a single account or multiple accounts.

(2) In the case of real property that is specially assessed under ORS 308A.107, 308A.256, 308A.315, [or] 321.257 to 321.390 **or 358.480 to 358.545** or any other law, or partially exempt from tax under ORS 307.250[,] **or 307.370 [or 358.480 to 358.545]** or any other law, the unit of property shall consist of all components of land and improvements in a single operating unit.

(3) In the case of timeshare properties, the unit of property shall consist of all real property components associated with all timeshare property within a timeshare plan as described in ORS 94.808.

(4) In the case of personal property that is not part of an operating unit consisting of both real and personal property, the unit of property shall consist of all items of personal property identified in a single property tax account.

(5) In the case of land upon which an improvement is located, and the land and the improvement are owned by different persons, if the land and improvements are a single operating unit, the unit of property shall consist of the entire improved parcel.

NOTE: Corrects misplacement of statutory series within statute in (2).

SECTION 2. ORS 310.165 is amended to read:

310.165. (1) For any unit of property partially exempt from tax under ORS 307.250, 307.370[,] **or 308.459 [or 358.480 to 358.545]** or any other law, the assessor shall determine the maximum amount of taxes on property to be imposed on such **unit of** property under ORS 310.150, by using the lesser of the real market value or the taxable value of the **unit of** property after the exemption has been applied.

(2) For any [land] **unit of property** that is specially assessed for ad valorem tax purposes under ORS 308A.050 to 308A.128, 308A.250 to 308A.259, 308A.315, 321.257 to 321.390, 321.700 to 321.754, [or] 321.805 to 321.855 **or 358.480 to 358.545**, the assessor shall determine the maximum amount of

taxes on property to be imposed on such property under ORS 310.150 by using the lesser of the real market value or the specially assessed value of the property.

(3) In the case of any unit of property of which a part of the unit is exempt from taxation, and that part may be identified both as to value and physical description, the real market value of the unit shall not include the value of the exempt part of the unit.

(4) *[If]* **This subsection applies to** any unit of property described in subsection (1) or (2) of this section for which the maximum amount of taxes imposed has been determined under this section. **If the unit of property** is subject to imposition of additional taxes due to disqualification from special assessment or partial exemption, the determination of the maximum amount of additional taxes that may be imposed due to disqualification shall be made on the basis of the real market value of the property for the year to which the additional taxes relate.

NOTE: Corrects misplacement of statutory series within statute in (1) and (2); corrects terminology in (1), (2) and (4); corrects syntax in (4).

SECTION 3. ORS 314.011, as amended by section 17, chapter 101, Oregon Laws 2018, is amended to read:

314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means the Department of Revenue.

(2) As used in this chapter:

(a) Any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter.

(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(A) On December 31, 2017; or

(B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260 (1)(b), *[314.265 (1)(b),]* 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, 2017, even when the amendments take effect or become operative after that date, except where the Legislative Assembly has specifically provided otherwise.

(3) Insofar as is practicable in the administration of this chapter, the department shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-

cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title.

NOTE: Deletes reference to repealed statute in (2)(c). See section 5.

SECTION 4. ORS 314.085 is amended to read:

314.085. (1) The taxable year of a partnership, REMIC (real estate mortgage investment conduit)[, *FASIT* (*financial asset securitization investment trust*)] or taxpayer shall be the same as its taxable year for federal income tax purposes.

(2) If the taxable year of a partnership, REMIC[, *FASIT*] or taxpayer is changed for federal income tax purposes, that change in taxable year shall also apply for purposes of state taxation. If a change in taxable year results in a taxable period of less than 12 months, the personal deductions and the personal exemption credits allowed by ORS chapter 316 shall be prorated under rules adopted by the Department of Revenue.

(3) Notwithstanding subsections (1) and (2) of this section, if the department terminates the taxable year of a taxpayer under ORS 314.440, the tax shall be computed for the period determined by such action.

NOTE: Deletes reference to repealed federal law in (1) and (2).

SECTION 5. ORS 314.265 is repealed.

NOTE: Repeals obsolete statute regarding repealed federal law.

SECTION 6. ORS 314.276 is amended to read:

314.276. (1) The method of accounting of a partnership, REMIC (real estate mortgage investment conduit)[, *FASIT* (*financial asset securitization investment trust*)] or taxpayer shall be the same as the method of accounting which the partnership, REMIC[, *FASIT*] or taxpayer uses for federal income tax purposes for the taxable year.

(2) Notwithstanding subsection (1) of this section, if the method of accounting used by the partnership, REMIC[, *FASIT*] or taxpayer does not clearly reflect income, the computation of taxable income shall be made under such method as the Department of Revenue may prescribe.

(3) If the method of accounting is changed for federal income tax purposes, the partnership, REMIC[, *FASIT*] or taxpayer shall adopt the same method of accounting for purposes of ORS chapter 316, 317 or 318 and shall use that method beginning with the return filed which corresponds to the first federal return filed which is required to use the new method. Any adjustments required to prevent amounts from being duplicated or omitted shall be taken into account for state tax purposes in the same manner as for federal tax purposes.

(4) Subsections (1) and (3) of this section shall not apply with respect to methods of accounting which are disallowed for purposes of ORS chapter 316, 317 or 318.

NOTE: Deletes reference to repealed federal law in (1) to (3).

SECTION 7. ORS 315.506 is amended to read:

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

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

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

(b) If the eligible business has not previously conducted business operations within the reservation enterprise zone or reservation partnership zone, the amount of tribal tax paid or incurred by the eligible business during the income or corporate excise tax year of the eligible business.

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

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

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

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

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

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

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

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

(11) **As used in this section, "eligible business," "new business facility," "reservation enterprise zone," "reservation partnership zone," "tribal government" and "tribal tax" have the meanings given those terms in ORS 285C.300.**

NOTE: Corrects syntax in (1); incorporates applicable definitions from statutory series that statute was a part of before 2017 renumbering.

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

Passed by Senate March 5, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State