

Senate Bill 1531

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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**.

Makes corrections to and updates tax statutes. Requires averaging of household incomes of property occupants in determination of household income for property tax exemption, in conformity with federal provisions. Applies to housing for which application is filed on or after effective date of Act.

Aligns provision for calculating interest paid by Department of Revenue if refund is owed with similar interest provisions. Applies to tax refunds owing as of January 1, 2018.

Allows tax credit for contribution to Oregon Production Investment Fund for tax year immediately preceding current tax year. Applies to tax years beginning on or after January 1, 2020, and before January 1, 2024.

Provides that infrastructure for which tax credit for short line railroad rehabilitation is allowed may be leased. Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; amending ORS 307.517, 307.518, 307.521, 307.541,
3 307.545, 314.415, 315.514, 315.591, 315.593, 315.595 and 317.710; and prescribing an effective date.

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

5 **SECTION 1.** ORS 307.517 is amended to read:

6 307.517. (1) Property or a portion of *[the]* property is exempt from taxation as provided under
7 ORS 307.515 to 307.523 if:

8 (a) The property is:

9 (A) Offered for rent; or

10 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
11 reasonable maximum period, if any, adopted by the governing body;

12 (b) The **housing units on the** property, if occupied, *[is]* **are** occupied solely by *[low income*
13 *persons]* **households with incomes that, when averaged with the incomes of all other house-**
14 **holds occupying the other housing units, meet the definition of "low income";**

15 (c) The required rent payment reflects the full value of the property tax exemption;

16 (d) The exemption has been approved as provided in ORS 307.523, pursuant to an application
17 filed before July 1, 2030;

18 (e) The housing units on the property were constructed after the local governing body adopted
19 the provisions of ORS 307.515 to 307.523; and

20 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
21 criteria adopted by the governing body.

22 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
23 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
24 this section.

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 (3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest
 2 in property is deemed to be a purchaser of that property if:

3 (a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real
 4 and personal property used in this activity on that property; or

5 (b) The rent payable has been established to reflect the savings resulting from the exemption
 6 from taxation.

7 **SECTION 2.** ORS 307.518 is amended to read:

8 307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS
 9 307.515 to 307.523 if:

10 (a) The property, if unoccupied, is:

11 (A) Offered for rental solely as a residence for [*low income*] persons **whose household incomes**
 12 **can be expected to meet the criteria for low income described in paragraph (b) of this sub-**
 13 **section;** or

14 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
 15 reasonable maximum period, if any, adopted by the governing body;

16 (b) The **housing units on the** property, if occupied, [*is occupied solely as a residence for low*
 17 *income persons*] **are occupied solely by households with incomes that, when averaged with the**
 18 **incomes of all other households occupying the other housing units, meet the definition of**
 19 **“low income”;**

20 (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant
 21 to an application filed before July 1, 2030;

22 (d) The property is owned or being purchased by a nonprofit corporation organized in a manner
 23 that meets the criteria for a public benefit corporation or a religious corporation, both terms as
 24 defined in ORS 65.001;

25 (e) The property is owned or being purchased by a nonprofit corporation that expends no more
 26 than 10 percent of the nonprofit corporation’s annual income from residential rentals for purposes
 27 other than the acquisition, maintenance or repair of residential rental property for low income per-
 28 sons or for the provision of on-site child care services for the residents of the rental property; and

29 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
 30 criteria adopted by the governing body.

31 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
 32 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
 33 this section.

34 (3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest
 35 in property is considered to be a purchaser of that property if:

36 (a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem
 37 taxes on the real and personal property used in the rental activity on that property; or

38 (b) The rent payable has been established to reflect the savings resulting from the exemption
 39 from taxation.

40 (4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

41 (a) A nonprofit corporation is a general partner of the partnership; and

42 (b) The nonprofit corporation is responsible for the day-to-day operation of the property that is
 43 the subject of the exemption under ORS 307.515 to 307.523.

44 **SECTION 3.** ORS 307.521 is amended to read:

45 307.521. (1) A person seeking the exemption granted under ORS 307.515 to 307.523 must file an

1 application for exemption with the governing body. The exemption, if granted, shall be for a period
 2 of 20 years.

3 (2) The application must be filed as set forth in ORS 307.523 and must include the following in-
 4 formation, as applicable:

5 (a) A description of the property or a portion of the property for which the exemption is re-
 6 quested;

7 (b) A description of the purpose of the project and whether all or a portion of the property is
 8 being used for that purpose;

9 (c) A certification of **the** income levels of [*low income*] **all** occupants;

10 (d) A description of how the tax exemption will benefit project residents;

11 (e) If the exemption is an exemption described in ORS 307.518, evidence satisfactory to the
 12 governing body that the corporation is a nonprofit corporation and meets the criteria for a public
 13 benefit corporation or a religious corporation;

14 (f) A description of the plans for development of the property if the property is being held for
 15 future low income rental housing development; and

16 (g) A description of how the applicant and the property, respectively, meet any additional cri-
 17 teria adopted by the governing body pursuant to ORS 307.517 (2) or 307.518 (2).

18 (3) The applicant shall verify the information in the application by oath or affirmation.

19 (4)(a) Prior to accepting an application under ORS 307.515 to 307.523, a local jurisdiction shall
 20 adopt standards and guidelines to establish the policies governing the consideration of applications
 21 under ORS 307.515 to 307.523.

22 (b) Policies considered may include, but are not limited to:

23 (A) Rent regulatory agreements or other enforcement mechanisms to demonstrate that the re-
 24 quired rent payment reflects the full value of the property tax exemption.

25 (B) Enforcement mechanisms to ensure that housing that is exempt under ORS 307.515 to 307.523
 26 is maintained in decent, safe and sanitary conditions for the occupants.

27 (C) Methodology and timing for submitting evidence of use of rentals received from low income
 28 persons.

29 **SECTION 4. The amendments to ORS 307.517, 307.518 and 307.521 by sections 1 to 3 of this**
 30 **2020 Act apply to housing for which an application is filed under ORS 307.521 and 307.523 on**
 31 **or after the effective date of this 2020 Act.**

32 **SECTION 5.** ORS 307.541 is amended to read:

33 307.541. (1) Property is exempt from taxation as provided under ORS 307.540 to 307.548 if:

34 (a) The property is owned or being purchased by a corporation described in section 501(c)(3) or
 35 (4) of the Internal Revenue Code that is exempt from income taxation under section 501(a) of the
 36 Internal Revenue Code;

37 (b) Upon liquidation, the assets of the corporation are required to be applied first in payment
 38 of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to
 39 corporations exempt from taxation and operated exclusively for religious, charitable, scientific, lit-
 40 erary or educational purposes or to the State of Oregon;

41 [*c) The property is:*]

42 [*A) Occupied by low income persons; or*]

43 **(c)(A) The housing units on the property are occupied solely by households with incomes**
 44 **that, when averaged with the incomes of all other households occupying the other housing**
 45 **units, meet the definition of “low income”; or**

1 (B) **The property is** held for the purpose of developing low income housing, for a period not
 2 exceeding a reasonable maximum period, if any, adopted by the governing body;

3 (d) The property or portion of the property receiving the exemption, if occupied, is actually and
 4 exclusively used for the purposes described in section 501(c)(3) or (4) of the Internal Revenue Code;

5 (e) The exemption has been approved as provided in ORS 307.547; and

6 (f) The information disclosed on the application filed pursuant to ORS 307.545 meets any other
 7 criteria adopted by the governing body.

8 (2) A governing body that adopts the provisions of ORS 307.540 to 307.548 may adopt additional
 9 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
 10 this section.

11 (3) For the purposes of subsection (1) of this section, a corporation that has only a leasehold
 12 interest in property is deemed to be a purchaser of that property if:

13 (a) The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the
 14 real and personal property used in this activity on that property; or

15 (b) The rent payable by the corporation has been established to reflect the savings resulting
 16 from the exemption from taxation.

17 (4) A partnership shall be treated the same as a corporation to which this section applies if the
 18 corporation is:

19 (a) A general partner of the partnership; and

20 (b) Responsible for the day-to-day operation of the property that is the subject of the exemption.

21 **SECTION 6.** ORS 307.545 is amended to read:

22 307.545. (1) A corporation seeking the exemption granted under ORS 307.540 to 307.548 must file
 23 an application for exemption with the governing body for each assessment year the corporation
 24 wants the exemption. The application must be filed on or before March 1 of the assessment year for
 25 which the exemption is sought, except that when the property designated is acquired after March
 26 1 and before July 1, the application for that year must be filed within 30 days after the date of ac-
 27 quisition.

28 (2) The application must include the following information, as applicable:

29 (a) A description of the property for which the exemption is requested;

30 (b) A description of the charitable purpose of the project and whether all or a portion of the
 31 property is being used for that purpose;

32 (c) A certification of **the** income levels of [*low income*] **all** occupants;

33 (d) A description of how the tax exemption will benefit project residents;

34 (e) A description of the development of the property if the property is being held for future low
 35 income housing development;

36 (f) A declaration that the corporation has been granted exemption from income taxation under
 37 section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) or
 38 501(c)(4) of the Internal Revenue Code; and

39 (g) A description of how the corporation and the property, respectively, meet any additional
 40 criteria adopted by the governing body pursuant to ORS 307.541 (2).

41 (3) The applicant shall verify the information in the application by oath or affirmation.

42 **SECTION 7. The amendments to ORS 307.541 and 307.545 by sections 5 and 6 of this 2020**
 43 **Act apply to housing for which an application is filed under ORS 307.545 on or after the ef-**
 44 **fective date of this 2020 Act.**

45 **SECTION 8.** ORS 314.415 is amended to read:

1 314.415. (1) If the Department of Revenue determines pursuant to ORS 305.270 that the amount
2 of the tax due is less than the amount theretofore paid, the excess shall be refunded by the depart-
3 ment with interest at the rate established under ORS 305.220 for a period beginning 45 days after
4 the due date of the return or [or] the date the tax was paid, or, in the case of a return filed under
5 ORS 118.100, the date that the return is filed, whichever is later, and ending at the time the refund
6 is made.

7 (2)(a) The department may not allow or make a refund after three years from the time the return
8 was filed, or two years from the time the tax (or a portion of the tax) was paid, whichever period
9 expires later, unless before the expiration of this period a claim for refund is filed by the taxpayer
10 in compliance with ORS 305.270. In any case, if the original return is not filed within three years
11 of the due date, excluding extensions, of the return, the department may allow or make a refund only
12 of amounts paid within two years from the date of the filing of the claim for refund. If a refund is
13 disallowed for the tax year during which excess tax was paid for any reason set forth in this sub-
14 section, the department may not allow the excess as a credit against any tax occurring on a return
15 filed for a subsequent year.

16 (b) The department may not make a refund if the tax owed, after offsets, is less than \$1.

17 (c) If a taxpayer would qualify under section 6511(h) of the Internal Revenue Code for a sus-
18 pension of the running of the periods specified for filing a claim for refund of federal income tax,
19 the period specified in paragraph (a) of this subsection shall also be suspended.

20 (d) The department may not pay an employee interest on a refund of a tax withheld by an em-
21 ployer if the interest would be for any period prior to the time the employee files a personal income
22 tax return for the tax year involved or for any period prior to the day that is 45 days after the date
23 when the employee's annual return for that year was filed or was due, whichever is later.

24 (e) The department may not pay interest on a refund of estimated tax paid under ORS 314.505
25 to 314.525 or 316.557 to 316.589 if the interest would be for any period prior to the time the taxpayer
26 files a tax return for the tax year involved or for any period prior to the day that is 45 days after
27 the date when the tax return for that year was filed or was due, whichever is later.

28 (f) The amount of the refund, exclusive of interest on the refund, may not exceed the portion
29 of the tax paid during the period preceding the filing of the claim or, if no claim is filed, then during
30 the period preceding the allowance of the refund during which a claim might have been filed. Where
31 there has been an overpayment of any tax imposed, the amount of the overpayment and interest on
32 the overpayment shall be credited against any tax, penalty or interest then due from the taxpayer,
33 and only the balance shall be refunded.

34 (g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of deficiency or assessment,
35 the taxpayer pays the amount specified in the notice, or any part thereof, and if, upon appeal, the
36 Oregon Tax Court or the Oregon Supreme Court orders that all or any part of the deficiency amount
37 specified in the notice and paid by the taxpayer be refunded, the amount so ordered to be refunded
38 shall bear interest at the rate established for refunds in ORS 305.220. Interest shall be computed
39 from the date of payment to the department. Nothing in this subsection shall require that interest
40 be paid upon any amount for any period for which interest upon the same amount for the same pe-
41 riod is required to be paid under ORS 305.419.

42 (3)(a) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or subsection (1)
43 or (2) of this section, if, prior to the expiration of the period prescribed in subsection (2) of this
44 section, the department and the taxpayer consent in writing to the refund of tax after the expiration
45 of the period prescribed:

1 (A) The department shall make the refund prior to the expiration of the period agreed upon; and

2 (B) The department may not make or allow a refund after the expiration of the period agreed
3 upon unless a claim for refund is filed by the taxpayer before the expiration of the period agreed
4 upon in compliance with the manner prescribed by the department. The period so agreed upon may
5 be extended by subsequent agreements in writing made before the expiration of the period previ-
6 ously agreed upon.

7 (b) The department may consent to extend the period during which a refund may be made only
8 if the taxpayer has consented to the assessment of additional tax, if additional taxes are determined
9 upon audit, after the expiration of the applicable period prescribed in ORS 314.410 (1) to (3).

10 (4)(a) If the claim for credit or refund relates to an overpayment on account of the deductibility
11 by the taxpayer, or by a partnership, of the worthlessness of a share of stock in a corporation, of
12 the right to subscribe for or to receive a share of stock in a corporation, or of a debt, in lieu of the
13 three-year period of limitation prescribed in subsection (2) of this section, the period shall be seven
14 years from the date prescribed by law for the filing of the return for the year with respect to which
15 the claim is made.

16 (b) If the claim described in paragraph (a) of this subsection is made after the expiration of the
17 three-year period prescribed in subsection (2) of this section, the department may not allow interest
18 with respect to any credit or refund determined to be due upon the claim for the period beginning
19 at the close of the three-year period prescribed in subsection (2) of this section and ending at the
20 expiration of six months after the date on which the claim is filed.

21 (5)(a) If the claim for credit or refund relates to an overpayment attributable to a net operating
22 loss carryback or a net capital loss carryback, in lieu of the three-year period of limitation pre-
23 scribed in subsection (2) of this section, the period shall be the period that ends three years after
24 the time prescribed by law for filing the return (including extensions) for the taxable year of the
25 net operating loss or net capital loss that results in such carryback. In the case of such a claim, the
26 amount of the credit or refund may exceed the portion of the tax paid within the period provided
27 in subsection (1), (2) or (3) of this section, whichever is applicable, to the extent of the amount of
28 the overpayment attributable to the carryback. If the allowance of a credit or refund of an over-
29 payment of tax attributable to a net operating loss carryback or a net capital loss carryback is
30 otherwise prevented by the operation of any law or rule of law other than ORS 305.150, relating to
31 closing agreements, the credit or refund may be allowed or made if the claim for credit or refund
32 is filed within the period provided in this subsection. To the extent that the carryback was not an
33 issue in any proceeding in which the determination of a court, including the Oregon Tax Court, has
34 become final, the claimed credit or refund applicable to that carryback may be allowed or made
35 under this subsection.

36 (b) For purposes of subsection (1) or (2) of this section, if any overpayment of tax results from
37 a carryback of a net operating loss or net capital loss, the overpayment shall be deemed not to have
38 been made prior to the later of:

39 (A) The due date of the return for the taxable year in which such net operating loss or net
40 capital loss arises;

41 (B) The date the return for the year in which the net operating loss or net capital loss arises
42 is filed; or

43 (C) The date of filing of the return for the year to which the net operating loss or net capital
44 loss is carried back.

45 (6) Notwithstanding any provision to the contrary in ORS 305.265 or 305.270 or this section, if

1 the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension,
 2 or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income
 3 tax for any year, the period within which a claim for credit or refund may be filed or credit or re-
 4 fund allowed or made if no claim is filed shall be the period provided within subsections (1) to (5)
 5 of this section or six months after the date of the expiration of the agreed period for assessing de-
 6 ficiency in federal income tax, whichever period expires later.

7 (7) If a joint return is filed, the department may make separate refunds at the request of either
 8 spouse. The separate refunds shall bear the same proportion to the total refund as the adjusted gross
 9 income of each spouse bears to the adjusted gross income of both spouses, or as otherwise deter-
 10 mined by the department.

11 (8) If a taxpayer entitled to a refund under subsection (1) of this section dies, the department
 12 may issue a draft for payment of such refund under the terms and conditions set out in ORS 293.490
 13 to 293.500 exercising the same powers and subject to the same restrictions pursuant to which the
 14 State Treasurer is authorized to pay the amounts of warrants, checks or orders under those statutes.

15 **SECTION 9.** ORS 315.514 is amended to read:

16 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
 17 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film
 18 production development contributions made by the taxpayer during the tax year to the Oregon
 19 Production Investment Fund established under ORS 284.367.

20 (2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,
 21 conduct an auction of tax credits under this section. The auction may be conducted no later than
 22 April 15 following December 31 of any tax year for which the credit is allowed. The department may
 23 conduct the auction in the manner that it determines is best suited to maximize the return to the
 24 state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting
 25 the auction. The reserve amount shall be at least 90 percent of the total amount of the tax credit.
 26 Moneys necessary to reimburse the department for the actual costs incurred by the department in
 27 administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appro-
 28 priated to the department. The department shall deposit net receipts from the auction required un-
 29 der this section in the Oregon Production 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 may issue a certification for a credit under this**
 45 **section, and a credit may be allowed, for tax years ending in the fiscal year immediately**

1 **preceding the fiscal year in which a contribution is made.**

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

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

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

11 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
12 particular tax 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 the 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 but may not
16 be carried forward for any tax year thereafter.

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

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

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

24 **SECTION 10.** ORS 315.591 is amended to read:

25 315.591. As used in ORS 315.591 to 315.606:

26 (1) "Infrastructure" includes tracks, switches, sidings, roadbeds, railroad bridges and industrial
27 leads owned **or leased** by a short line railroad.

28 (2) "Short line railroad" means a class II or class III railroad as defined in 49 C.F.R. 1201.

29 (3) "Short line railroad rehabilitation project" means a project that involves the maintenance,
30 reconstruction or replacement of infrastructure.

31 (4) "Short line railroad rehabilitation project costs" means costs that are directly related to the
32 work necessary to maintain, reconstruct or replace infrastructure. "Short line railroad rehabilitation
33 project costs" does not include costs that are funded by or used to qualify for any state or federal
34 grants, or costs that are used to claim a federal tax credit.

35 (5) "Tier I short line railroad" means a short line railroad owned or leased by a person for
36 whom the total length of short line railroad track owned or leased in Oregon is equal to or greater
37 than 200 miles. The total amount of short line railroad track in Oregon calculated under this sub-
38 section includes any short line railroad track owned or leased by the person, or if the person is a
39 corporation, by the person's parent corporation or subsidiaries, regardless of whether the track is
40 owned or leased by one or more railroads.

41 (6) "Tier II short line railroad" means a short line railroad that is not a tier I short line railroad
42 or is a short line railroad owned or leased by the state, a city, a county, a port or any other public
43 or municipal corporation.

44 **SECTION 11. (1) The amendments to ORS 314.415 by section 8 of this 2020 Act apply to**
45 **tax refunds owing as of January 1, 2018.**

1 **(2) The amendments to ORS 315.514 by section 9 of this 2020 Act apply to tax years be-**
 2 **ginning on or after January 1, 2020, and before January 1, 2024.**

3 **(3) The amendments to ORS 315.591 by section 10 of this 2020 Act apply to tax years be-**
 4 **ginning on or after January 1, 2020, and before January 1, 2026.**

5 **SECTION 12.** ORS 315.593 is amended to read:

6 315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corpo-
 7 ration, under ORS chapter 317 or 318) is allowed to a taxpayer, based upon short line railroad re-
 8 habilitation project costs actually paid or incurred by the taxpayer during the tax year for which
 9 the credit is claimed.

10 (2) The credit allowed under this section shall be the least of:

11 (a) In the case of a tier I short line railroad, \$1,000 multiplied by the number of miles of short
 12 line railroad track the taxpayer owns or leases in this state on the day the short line railroad re-
 13 habilitation project is completed;

14 (b) In the case of a tier II short line railroad, \$3,500 multiplied by the number of miles of short
 15 line railroad track the taxpayer owns or leases in this state on the day the short line railroad re-
 16 habilitation project is completed; or

17 (c) Fifty percent of the short line railroad rehabilitation project costs paid or incurred by the
 18 taxpayer during the tax year in which the credit is claimed.

19 (3) For the credit to be allowed under this section:

20 (a) The infrastructure must be located in Oregon; and

21 (b) The taxpayer must:

22 (A) Own or lease the infrastructure;

23 (B) Be a short line railroad; and

24 (C) Receive a final written certification from the Department of Transportation before claiming
 25 the credit.

26 (4) The amount of the credit claimed under this section for any one tax year may not exceed the
 27 tax liability of the taxpayer.

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

37 (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-
 38 duction for the short line railroad rehabilitation project to which the taxpayer otherwise may be
 39 entitled for purposes of ORS chapter 316, 317 or 318 for the tax year.

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

42 (8)(a) The Department of Revenue may by rule require that the Department of Transportation
 43 provide information about a certification issued under ORS [315.595] **315.597**, including the name and
 44 taxpayer identification number of the taxpayer or other person receiving certification, the date the
 45 certification was issued in its final form, the approved amount of credit and the first tax year for

1 which the credit may be claimed.

2 (b) A taxpayer that is a pass-through entity that has received certification under ORS [315.595]
 3 **315.597** shall provide to the Department of Revenue, within two months after the close of the tax
 4 year in which the certification was issued, the name, taxpayer identification number and any other
 5 information required by the department of each owner receiving a distributive share of the credit,
 6 in a manner prescribed by the department.

7 (9) The Department of Revenue shall prescribe by rule the manner and the timing of submission
 8 of the information described in subsection (8) of this section to the department.

9 (10) The credit shall be claimed on a form prescribed by the Department of Revenue that con-
 10 tains the information required by the department.

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

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

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

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

20 **SECTION 13.** ORS 315.595 is amended to read:

21 315.595. (1) Prior to construction of a short line railroad rehabilitation project, a taxpayer may
 22 apply to the Department of Transportation for preliminary certification of the project in the manner
 23 prescribed by rules adopted under this section, which must include:

24 (a) Timelines and deadlines for submission of application materials;

25 (b) A description of the information required by the department to determine that the taxpayer
 26 qualifies for the credit allowed under ORS 315.593;

27 (c) Criteria for determining the amount of the tax credit allowed under ORS 315.593, including
 28 standards for what constitutes completion of a short line railroad rehabilitation project;

29 (d) The process by which an applicant will be notified of an incomplete application and the time
 30 allowed for the applicant to provide the missing information; and

31 (e) The month and date by which the department must notify an applicant of the preliminary
 32 certification decision and the potential amount of the tax credit for which the applicant has received
 33 preliminary certification.

34 (2) If the total amount of potential tax credits allowed under ORS 315.593 for all taxpayers that
 35 have applied for preliminary certification exceeds the limit in ORS [315.593] **315.603**, the department
 36 shall allocate the tax credits allowed under ORS 315.593 as follows:

37 (a) By giving first priority to all tier II short line railroads that own or lease less than 75 miles
 38 of short line railroad track in this state; and

39 (b) By giving second priority to all tier II short line railroads not described in paragraph (a) of
 40 this subsection.

41 (3) If the department must allocate tax credits to a group of taxpayers in an amount that is less
 42 than the amount the taxpayers would otherwise receive under ORS 315.593, the department shall
 43 divide the available tax credits among the group proportionally, based on the amount each taxpayer
 44 would have otherwise received under ORS 315.593.

45 **SECTION 14.** ORS 317.710 is amended to read:

1 317.710. (1) A corporation shall make a return with respect to the tax imposed by this chapter
2 as provided in this section.

3 (2) If the corporation is a member of an affiliated group of corporations making a consolidated
4 federal return, it shall file a return and determine its Oregon taxable income as provided in ORS
5 317.715. The corporation's tax liability shall be joint and several with any other corporation that is
6 included in a consolidated state return with the corporation under subsection (5) of this section.

7 (3) If the corporation makes a separate return for federal income tax purposes, it shall file a
8 separate return under this chapter. The corporation shall determine its Oregon taxable income and
9 tax liability separately from any other corporation.

10 (4) For purposes of subsection (3) of this section, if the corporation is not subject to taxation
11 under the Internal Revenue Code a return for federal income tax purposes includes any form of re-
12 turn required to be made in lieu of an income tax return under the Internal Revenue Code or reg-
13 ulations thereunder.

14 (5)(a) Except as otherwise provided in this section, if two or more corporations subject to taxa-
15 tion under this chapter are members of the same affiliated group making a consolidated federal re-
16 turn and are members of the same unitary group, they shall file a consolidated state return.

17 (b) If any corporation that is a member of an affiliated group is permitted or required to deter-
18 mine its Oregon taxable income on a separate basis under ORS 314.667, or if any corporation is
19 permitted or required by statute or rule to use different apportionment factors than a corporation
20 with which it is affiliated, the corporation may not be included in a consolidated state return under
21 paragraph (a) of this subsection.

22 (c) Whenever two or more corporations are required to file a consolidated state return under
23 paragraph (a) of this subsection, any reference in this chapter to a corporation for purposes of de-
24 riving Oregon taxable income shall be treated as a reference to all corporations that are included
25 in the consolidated state return.

26 (d) A corporation that would not be a member of an affiliated group filing a consolidated state
27 return based solely on the application of section [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code
28 must be included in the consolidated state return filed by the affiliated group.

29 (6) If so directed by the department, by rule or instructions on the state tax return form, every
30 corporation required to make a return under this chapter shall also file with the return a true copy
31 of the corporation's federal income tax return for the same taxable year. For purposes of this sub-
32 section, the corporation's federal income tax return includes a consolidated federal return for an
33 affiliated group of which the corporation is a member. The department may, by rule or instructions,
34 permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy
35 of the entire federal return. The federal return or any part thereof required to be filed with the state
36 return is incorporated in and shall be a part of the state return.

37 (7)(a) Each foreign or alien insurer and each domestic insurer owned and controlled, directly
38 or indirectly, by one or more foreign insurers:

39 (A) Shall determine its Oregon taxable income under ORS 317.650 to 317.665;

40 (B) Shall make a return of the tax imposed by this chapter on a separate basis; and

41 (C) May not be included in a consolidated state return.

42 (b) An interinsurance and reciprocal exchange and its attorney in fact with respect to its at-
43 torney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS
44 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a con-
45 solidated return under the circumstances in the manner and subject to the rules adopted by the

1 department.

2 (8) The Department of Revenue may prescribe by rule the method by which a consolidated state
3 return shall be filed under this section.

4 **SECTION 15. This 2020 Act takes effect on the 91st day after the date on which the 2020**
5 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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