

D R A F T

SUMMARY

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,
3 307.521, 307.541, 307.545, 314.415, 315.514, 315.591, 315.593, 315.595 and
4 317.710; and prescribing an effective date.

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

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

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

9 (a) The property is:

10 (A) Offered for rent; or

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

1 governing body;

2 (b) The **housing units on the** property, if occupied, [*is*] **are** occupied
3 solely by [*low income persons*] **households with incomes that, when av-**
4 **eraged with the incomes of all other households occupying the other**
5 **housing units, meet the definition of “low income”;**

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

8 (d) The exemption has been approved as provided in ORS 307.523, pursu-
9 ant to an application filed before July 1, 2030;

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

12 (f) The information disclosed on the application filed pursuant to ORS
13 307.521 meets any other criteria adopted by the governing body.

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

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

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

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

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

26 307.518. (1) Property or a portion of property is exempt from taxation as
27 provided under ORS 307.515 to 307.523 if:

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

29 (A) Offered for rental solely as a residence for [*low income*] persons
30 **whose household incomes can be expected to meet the criteria for low**
31 **income described in paragraph (b) of this subsection;** or

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

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

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

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

14 (e) The property is owned or being purchased by a nonprofit corporation
15 that expends no more than 10 percent of the nonprofit corporation’s annual
16 income from residential rentals for purposes other than the acquisition,
17 maintenance or repair of residential rental property for low income persons
18 or for the provision of on-site child care services for the residents of the
19 rental property; and

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

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

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

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

31 (b) The rent payable has been established to reflect the savings resulting

1 from the exemption from taxation.

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

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

5 (b) The nonprofit corporation is responsible for the day-to-day operation
6 of the property that is the subject of the exemption under ORS 307.515 to
7 307.523.

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

9 307.521. (1) A person seeking the exemption granted under ORS 307.515
10 to 307.523 must file an application for exemption with the governing body.
11 The exemption, if granted, shall be for a period of 20 years.

12 (2) The application must be filed as set forth in ORS 307.523 and must
13 include the following information, as applicable:

14 (a) A description of the property or a portion of the property for which
15 the exemption is requested;

16 (b) A description of the purpose of the project and whether all or a por-
17 tion of the property is being used for that purpose;

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

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

20 (e) If the exemption is an exemption described in ORS 307.518, evidence
21 satisfactory to the governing body that the corporation is a nonprofit cor-
22 poration and meets the criteria for a public benefit corporation or a religious
23 corporation;

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

26 (g) A description of how the applicant and the property, respectively, meet
27 any additional criteria adopted by the governing body pursuant to ORS
28 307.517 (2) or 307.518 (2).

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

31 (4)(a) Prior to accepting an application under ORS 307.515 to 307.523, a

1 local jurisdiction shall adopt standards and guidelines to establish the poli-
2 cies governing the consideration of applications under ORS 307.515 to
3 307.523.

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

5 (A) Rent regulatory agreements or other enforcement mechanisms to
6 demonstrate that the required rent payment reflects the full value of the
7 property tax exemption.

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

11 (C) Methodology and timing for submitting evidence of use of rentals re-
12 ceived from low income persons.

13 **SECTION 4. The amendments to ORS 307.517, 307.518 and 307.521 by**
14 **sections 1 to 3 of this 2020 Act apply to housing for which an applica-**
15 **tion is filed under ORS 307.521 and 307.523 on or after the effective date**
16 **of this 2020 Act.**

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

18 307.541. (1) Property is exempt from taxation as provided under ORS
19 307.540 to 307.548 if:

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

23 (b) Upon liquidation, the assets of the corporation are required to be ap-
24 plied first in payment of all outstanding obligations, and the balance re-
25 maining, in cash and in kind, to be distributed to corporations exempt from
26 taxation and operated exclusively for religious, charitable, scientific, literary
27 or educational purposes or to the State of Oregon;

28 [(c) *The property is:*]

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

30 (c)(A) **The housing units on the property are occupied solely by**
31 **households with incomes that, when averaged with the incomes of all**

1 **other households occupying the other housing units, meet the defi-**
2 **inition of “low income”; or**

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

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

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

10 (f) The information disclosed on the application filed pursuant to ORS
11 307.545 meets any other criteria adopted by the governing body.

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

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

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

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

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

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

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

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

29 307.545. (1) A corporation seeking the exemption granted under ORS
30 307.540 to 307.548 must file an application for exemption with the governing
31 body for each assessment year the corporation wants the exemption. The

1 application must be filed on or before March 1 of the assessment year for
2 which the exemption is sought, except that when the property designated is
3 acquired after March 1 and before July 1, the application for that year must
4 be filed within 30 days after the date of acquisition.

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

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

7 (b) A description of the charitable purpose of the project and whether all
8 or a portion of the property is 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) A description of the development of the property if the property is
12 being held for future low income housing development;

13 (f) A declaration that the corporation has been granted exemption from
14 income taxation under section 501(a) of the Internal Revenue Code as an
15 organization described in section 501(c)(3) or 501(c)(4) of the Internal Reve-
16 nue Code; and

17 (g) A description of how the corporation and the property, respectively,
18 meet any additional criteria adopted by the governing body pursuant to ORS
19 307.541 (2).

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

22 **SECTION 7. The amendments to ORS 307.541 and 307.545 by sections**
23 **5 and 6 of this 2020 Act apply to housing for which an application is**
24 **filed under ORS 307.545 on or after the effective date of this 2020 Act.**

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

26 314.415. (1) If the Department of Revenue determines pursuant to ORS
27 305.270 that the amount of the tax due is less than the amount theretofore
28 paid, the excess shall be refunded by the department with interest at the rate
29 established under ORS 305.220 for a period beginning 45 days after the due
30 date of the return or [*on*] the date the tax was paid, or, in the case of a re-
31 turn filed under ORS 118.100, the date that the return is filed, whichever is

1 later, and ending at the time the refund is made.

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

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

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

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

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

30 (f) The amount of the refund, exclusive of interest on the refund, may not
31 exceed the portion of the tax paid during the period preceding the filing of

1 the claim or, if no claim is filed, then during the period preceding the al-
2 lowance of the refund during which a claim might have been filed. Where
3 there has been an overpayment of any tax imposed, the amount of the over-
4 payment and interest on the overpayment shall be credited against any tax,
5 penalty or interest then due from the taxpayer, and only the balance shall
6 be refunded.

7 (g) Except as provided in ORS 305.265 (12), if, pursuant to a notice of
8 deficiency or assessment, the taxpayer pays the amount specified in the no-
9 tice, or any part thereof, and if, upon appeal, the Oregon Tax Court or the
10 Oregon Supreme Court orders that all or any part of the deficiency amount
11 specified in the notice and paid by the taxpayer be refunded, the amount so
12 ordered to be refunded shall bear interest at the rate established for refunds
13 in ORS 305.220. Interest shall be computed from the date of payment to the
14 department. Nothing in this subsection shall require that interest be paid
15 upon any amount for any period for which interest upon the same amount
16 for the same period is required to be paid under ORS 305.419.

17 (3)(a) Notwithstanding any provision to the contrary in ORS 305.265 or
18 305.270 or subsection (1) or (2) of this section, if, prior to the expiration of
19 the period prescribed in subsection (2) of this section, the department and
20 the taxpayer consent in writing to the refund of tax after the expiration of
21 the period prescribed:

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

24 (B) The department may not make or allow a refund after the expiration
25 of the period agreed upon unless a claim for refund is filed by the taxpayer
26 before the expiration of the period agreed upon in compliance with the
27 manner prescribed by the department. The period so agreed upon may be
28 extended by subsequent agreements in writing made before the expiration of
29 the period previously agreed upon.

30 (b) The department may consent to extend the period during which a re-
31 fund may be made only if the taxpayer has consented to the assessment of

1 additional tax, if additional taxes are determined upon audit, after the expi-
2 ration of the applicable period prescribed in ORS 314.410 (1) to (3).

3 (4)(a) If the claim for credit or refund relates to an overpayment on ac-
4 count of the deductibility by the taxpayer, or by a partnership, of the
5 worthlessness of a share of stock in a corporation, of the right to subscribe
6 for or to receive a share of stock in a corporation, or of a debt, in lieu of
7 the three-year period of limitation prescribed in subsection (2) of this section,
8 the period shall be seven years from the date prescribed by law for the filing
9 of the return for the year with respect to which the claim is made.

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

17 (5)(a) If the claim for credit or refund relates to an overpayment attrib-
18 utable to a net operating loss carryback or a net capital loss carryback, in
19 lieu of the three-year period of limitation prescribed in subsection (2) of this
20 section, the period shall be the period that ends three years after the time
21 prescribed by law for filing the return (including extensions) for the taxable
22 year of the net operating loss or net capital loss that results in such
23 carryback. In the case of such a claim, the amount of the credit or refund
24 may exceed the portion of the tax paid within the period provided in sub-
25 section (1), (2) or (3) of this section, whichever is applicable, to the extent
26 of the amount of the overpayment attributable to the carryback. If the al-
27 lowance of a credit or refund of an overpayment of tax attributable to a net
28 operating loss carryback or a net capital loss carryback is otherwise pre-
29 vented by the operation of any law or rule of law other than ORS 305.150,
30 relating to closing agreements, the credit or refund may be allowed or made
31 if the claim for credit or refund is filed within the period provided in this

1 subsection. To the extent that the carryback was not an issue in any pro-
2 ceeding in which the determination of a court, including the Oregon Tax
3 Court, has become final, the claimed credit or refund applicable to that
4 carryback may be allowed or made under this subsection.

5 (b) For purposes of subsection (1) or (2) of this section, if any overpay-
6 ment of tax results from a carryback of a net operating loss or net capital
7 loss, the overpayment shall be deemed not to have been made prior to the
8 later of:

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

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

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

15 (6) Notwithstanding any provision to the contrary in ORS 305.265 or
16 305.270 or this section, if the taxpayer has agreed with the United States
17 Commissioner of Internal Revenue for an extension, or a renewal of an ex-
18 tension, of the period for proposing and assessing deficiencies in federal in-
19 come tax for any year, the period within which a claim for credit or refund
20 may be filed or credit or refund allowed or made if no claim is filed shall
21 be the period provided within subsections (1) to (5) of this section or six
22 months after the date of the expiration of the agreed period for assessing
23 deficiency in federal income tax, whichever period expires later.

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

29 (8) If a taxpayer entitled to a refund under subsection (1) of this section
30 dies, the department may issue a draft for payment of such refund under the
31 terms and conditions set out in ORS 293.490 to 293.500 exercising the same

1 powers and subject to the same restrictions pursuant to which the State
2 Treasurer is authorized to pay the amounts of warrants, checks or orders
3 under those statutes.

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

5 315.514. (1) A credit against the taxes that are otherwise due under ORS
6 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
7 318, is allowed to a taxpayer for certified film production development con-
8 tributions made by the taxpayer during the tax year to the Oregon Pro-
9 duction Investment Fund established under ORS 284.367.

10 (2)(a) The Department of Revenue shall, in cooperation with the Oregon
11 Film and Video Office, conduct an auction of tax credits under this section.
12 The auction may be conducted no later than April 15 following December 31
13 of any tax year for which the credit is allowed. The department may conduct
14 the auction in the manner that it determines is best suited to maximize the
15 return to the state on the sale of tax credit certifications and shall announce
16 a reserve bid prior to conducting the auction. The reserve amount shall be
17 at least 90 percent of the total amount of the tax credit. Moneys necessary
18 to reimburse the department for the actual costs incurred by the department
19 in administering an auction, not to exceed 0.25 percent of auction proceeds,
20 are continuously appropriated to the department. The department shall de-
21 posit net receipts from the auction required under this section in the Oregon
22 Production Investment Fund.

23 (b) The Oregon Film and Video Office shall adopt rules in order to
24 achieve the following goals:

25 (A) Subject to paragraph (a) of this subsection, generate contributions for
26 which tax credits of \$14 million are certified for each fiscal year;

27 (B) Maximize income and excise tax revenues that are retained by the
28 State of Oregon for state operations; and

29 (C) Provide the necessary financial incentives for taxpayers to make
30 contributions, taking into consideration the impact of granting a credit upon
31 a taxpayer's federal income tax liability.

1 (3) Contributions made under this section shall be deposited in the
2 Oregon Production Investment Fund.

3 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
4 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-
5 tification of the amount certified for tax credit under this section to the
6 extent the amount certified for tax credit, when added to all amounts previ-
7 ously certified for tax credit under this section, does not exceed \$14 million
8 for the fiscal year in which certification is made.

9 **(b) The Oregon Film and Video Office may issue a certification for**
10 **a credit under this section, and a credit may be allowed, for tax years**
11 **ending in the fiscal year immediately preceding the fiscal year in**
12 **which a contribution is made.**

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

17 (5) To the extent the Oregon Film and Video Office does not certify con-
18 tributed amounts as eligible for a tax credit under this section, the taxpayer
19 may request a refund of the amount the taxpayer contributed, and the office
20 shall refund that amount.

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

24 (b) Any tax credit otherwise allowable under this section that is not used
25 by the taxpayer in a particular tax year may be carried forward and offset
26 against the taxpayer's tax liability for the next succeeding tax year. Any
27 credit remaining unused in the next succeeding tax year may be carried
28 forward and used in the second succeeding tax year, and likewise, any credit
29 not used in that second succeeding tax year may be carried forward and used
30 in the third succeeding tax year but may not be carried forward for any tax
31 year thereafter.

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

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

7 (8) If the amount of contribution for which a tax credit certification is
8 made is allowed as a deduction for federal tax purposes, the amount of the
9 contribution shall be added to federal taxable income for Oregon tax pur-
10 poses.

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

12 315.591. As used in ORS 315.591 to 315.606:

13 (1) “Infrastructure” includes tracks, switches, sidings, roadbeds, railroad
14 bridges and industrial leads owned **or leased** by a short line railroad.

15 (2) “Short line railroad” means a class II or class III railroad as defined
16 in 49 C.F.R. 1201.

17 (3) “Short line railroad rehabilitation project” means a project that in-
18 volves the maintenance, reconstruction or replacement of infrastructure.

19 (4) “Short line railroad rehabilitation project costs” means costs that are
20 directly related to the work necessary to maintain, reconstruct or replace
21 infrastructure. “Short line railroad rehabilitation project costs” does not in-
22 clude costs that are funded by or used to qualify for any state or federal
23 grants, or costs that are used to claim a federal tax credit.

24 (5) “Tier I short line railroad” means a short line railroad owned or
25 leased by a person for whom the total length of short line railroad track
26 owned or leased in Oregon is equal to or greater than 200 miles. The total
27 amount of short line railroad track in Oregon calculated under this sub-
28 section includes any short line railroad track owned or leased by the person,
29 or if the person is a corporation, by the person’s parent corporation or sub-
30 sidiaries, regardless of whether the track is owned or leased by one or more
31 railroads.

1 (6) “Tier II short line railroad” means a short line railroad that is not a
2 tier I short line railroad or is a short line railroad owned or leased by the
3 state, a city, a county, a port or any other public or municipal corporation.

4 **SECTION 11. (1) The amendments to ORS 314.415 by section 8 of this**
5 **2020 Act apply to tax refunds owing as of January 1, 2018.**

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

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

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

13 315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the
14 taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a
15 taxpayer, based upon short line railroad rehabilitation project costs actually
16 paid or incurred by the taxpayer during the tax year for which the credit is
17 claimed.

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

19 (a) In the case of a tier I short line railroad, \$1,000 multiplied by the
20 number of miles of short line railroad track the taxpayer owns or leases in
21 this state on the day the short line railroad rehabilitation project is com-
22 pleted;

23 (b) In the case of a tier II short line railroad, \$3,500 multiplied by the
24 number of miles of short line railroad track the taxpayer owns or leases in
25 this state on the day the short line railroad rehabilitation project is com-
26 pleted; or

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

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

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

1 (b) The taxpayer must:

2 (A) Own or lease the infrastructure;

3 (B) Be a short line railroad; and

4 (C) Receive a final written certification from the Department of Trans-
5 portation before claiming the credit.

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

8 (5) Any tax credit otherwise allowable under this section that is not used
9 by the taxpayer in a particular tax year may be carried forward and offset
10 against the taxpayer's tax liability for the next succeeding tax year. Any
11 credit remaining unused in that next succeeding tax year may be carried
12 forward and used in the second succeeding tax year, and likewise, any credit
13 not used in that second succeeding tax year may be carried forward and used
14 in the third succeeding tax year, and likewise, any credit not used in that
15 third succeeding tax year may be carried forward and used in the fourth
16 succeeding tax year, and likewise, any credit not used in that fourth suc-
17 ceeding tax year may be carried forward and used in the fifth succeeding tax
18 year but may not be carried forward for any tax year thereafter.

19 (6) The credit allowed under this section is not in lieu of any depreciation
20 or amortization deduction for the short line railroad rehabilitation project
21 to which the taxpayer otherwise may be entitled for purposes of ORS chapter
22 316, 317 or 318 for the tax year.

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

25 (8)(a) The Department of Revenue may by rule require that the Depart-
26 ment of Transportation provide information about a certification issued un-
27 der ORS [315.595] **315.597**, including the name and taxpayer identification
28 number of the taxpayer or other person receiving certification, the date the
29 certification was issued in its final form, the approved amount of credit and
30 the first tax year for which the credit may be claimed.

31 (b) A taxpayer that is a pass-through entity that has received certification

1 under ORS [315.595] **315.597** shall provide to the Department of Revenue,
2 within two months after the close of the tax year in which the certification
3 was issued, the name, taxpayer identification number and any other infor-
4 mation required by the department of each owner receiving a distributive
5 share of the credit, in a manner prescribed by the department.

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

9 (10) The credit shall be claimed on a form prescribed by the Department
10 of Revenue that contains 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
13 proportion provided in ORS 316.117.

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

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

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

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

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

27 (b) A description of the information required by the department to deter-
28 mine that the taxpayer qualifies for the credit allowed under ORS 315.593;

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

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

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

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

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

13 (b) By giving second priority to all tier II short line railroads not de-
14 scribed in paragraph (a) of this subsection.

15 (3) If the department must allocate tax credits to a group of taxpayers in
16 an amount that is less than the amount the taxpayers would otherwise re-
17 ceive under ORS 315.593, the department shall divide the available tax cred-
18 its among the group proportionally, based on the amount each taxpayer
19 would have otherwise received under ORS 315.593.

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

21 317.710. (1) A corporation shall make a return with respect to the tax
22 imposed by this chapter as provided in this section.

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

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

1 any other corporation.

2 (4) For purposes of subsection (3) of this section, if the corporation is not
3 subject to taxation under the Internal Revenue Code a return for federal
4 income tax purposes includes any form of return required to be made in lieu
5 of an income tax return under the Internal Revenue Code or regulations
6 thereunder.

7 (5)(a) Except as otherwise provided in this section, if two or more corpo-
8 rations subject to taxation under this chapter are members of the same af-
9 filiated group making a consolidated federal return and are members of the
10 same unitary group, they shall file a consolidated state return.

11 (b) If any corporation that is a member of an affiliated group is permitted
12 or required to determine its Oregon taxable income on a separate basis under
13 ORS 314.667, or if any corporation is permitted or required by statute or rule
14 to use different apportionment factors than a corporation with which it is
15 affiliated, the corporation may not be included in a consolidated state return
16 under paragraph (a) of this subsection.

17 (c) Whenever two or more corporations are required to file a consolidated
18 state return under paragraph (a) of this subsection, any reference in this
19 chapter to a corporation for purposes of deriving Oregon taxable income
20 shall be treated as a reference to all corporations that are included in the
21 consolidated state return.

22 (d) A corporation that would not be a member of an affiliated group filing
23 a consolidated state return based solely on the application of section
24 [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code must be included in the
25 consolidated state return filed by the affiliated group.

26 (6) If so directed by the department, by rule or instructions on the state
27 tax return form, every corporation required to make a return under this
28 chapter shall also file with the return a true copy of the corporation's federal
29 income tax return for the same taxable year. For purposes of this subsection,
30 the corporation's federal income tax return includes a consolidated federal
31 return for an affiliated group of which the corporation is a member. The

1 department may, by rule or instructions, permit a corporation to submit
2 specified excerpts from its federal return in lieu of submitting a copy of the
3 entire federal return. The federal return or any part thereof required to be
4 filed with the state return is incorporated in and shall be a part of the state
5 return.

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

8 (A) Shall determine its Oregon taxable income under ORS 317.650 to
9 317.665;

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

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

13 (b) An interinsurance and reciprocal exchange and its attorney in fact
14 with respect to its attorney in fact net income as a corporate attorney in fact
15 acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and
16 731.470 for the reciprocal or interinsurance exchange may file a consolidated
17 return under the circumstances in the manner and subject to the rules
18 adopted by the department.

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

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

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