

D R A F T

SUMMARY

Makes corrections to provisions for tax credits allowed for rural medical practice. Limits amount of credit allowed per taxpayer for donation to individual development account. Applies to tax years beginning on or after January 1, 2016.

Modifies provisions allowing for election to donate surplus refund credit to education funding. Applies to surplus refund credits allowed after effective date of Act.

Makes corrections to provisions for tax credits allowed for alternative energy devices. Applies to alternative energy devices certified on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to tax credits; creating new provisions; amending ORS 305.792, 315.271, 315.613 and 316.116; and prescribing an effective date.

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

SECTION 1. ORS 315.613 is amended to read:

315.613. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed under ORS chapter 677, who is engaged in the practice of medicine, and who is engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice, shall be allowed an annual credit against taxes otherwise due under ORS chapter 316.

(2) The amount of credit allowed shall be based on the distance[, *in highway miles,*] from a major population center in a qualified metropolitan statistical area at which the taxpayer maintains a practice or hospital membership:

(a) If at least 10 miles but fewer than 20 miles, \$3,000.

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 (b) If at least 20 miles but fewer than 50 miles, \$4,000.

2 (c) If 50 or more miles, \$5,000.

3 (3) The credit shall be allowed during the time in which the individual
4 retains such practice and membership if the individual is actively practicing
5 in and is a member of the medical staff of one of the following hospitals:

6 (a) A type A hospital designated as such by the Office of Rural Health;

7 (b) A type B hospital designated as such by the Office of Rural Health if
8 the hospital is:

9 (A) Not within the boundaries of a metropolitan statistical area;

10 (B) Located 30 or more [*highway*] miles from the closest hospital within
11 the major population center in a metropolitan statistical area; or

12 (C) Located in a county with a population of less than 75,000;

13 (c) A type C rural hospital, if the Office of Rural Health makes the
14 findings required by ORS 315.619;

15 (d) A rural hospital that was designated a rural referral center by the
16 federal government before January 1, 1989, and that serves a community with
17 a population of at least 14,000 but not more than 19,000; or

18 (e) A rural critical access hospital.

19 (4) In order to claim the credit allowed under this section, the individual
20 must remain willing during the tax year to serve patients with Medicare
21 coverage and patients receiving medical assistance in at least the same pro-
22 portion to the individual's total number of patients as the Medicare and
23 medical assistance populations represent of the total number of persons de-
24 termined by the Office of Rural Health to be in need of care in the county
25 served by the practice, not to exceed 20 percent Medicare patients or 15
26 percent medical assistance patients.

27 (5) A nonresident individual shall be allowed the credit under this section
28 in the proportion provided in ORS 316.117. If a change in the status of a
29 taxpayer from resident to nonresident or from nonresident to resident occurs,
30 the credit allowed by this section shall be determined in a manner consistent
31 with ORS 316.117.

(6) For purposes of this section, an “individual’s practice” shall be determined on the basis of actual time spent in practice each week in hours or days, whichever is considered by the Office of Rural Health to be more appropriate. In the case of a shareholder of a corporation or a member of a partnership, only the time of the individual shareholder or partner shall be considered and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) As used in this section:

(a) “Qualified metropolitan statistical area” means only those counties of a metropolitan statistical area that are located in Oregon if the largest city within the metropolitan statistical area is located in Oregon.

(b) “Rural critical access hospital” means a facility that meets the criteria set forth in 42 U.S.C. 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health and the Oregon Health Authority.

(c) “Type A hospital,” “type B hospital” and “type C hospital” have the meaning for those terms provided in ORS 442.470.

SECTION 2. ORS 315.271 is amended to read:

315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal a percentage of the taxpayer’s donation amount, as determined by the fiduciary organization, but not to exceed 70 percent of any donation amount. To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, 2022.

(2) If a credit allowed under this section is claimed, the amount upon which the credit is based that is allowed or allowable as a deduction from federal taxable income under section 170 of the Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable income. As used in this subsection, the amount upon which a credit is based is the allowed credit divided by the applicable percentage, as determined by the

fiduciary organization.

(3) The allowable tax credit that may be used in any one tax year shall not exceed the tax liability of the taxpayer.

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690 may not exceed \$7.5 million. **The total credit allowed to a taxpayer in any tax year under this section and ORS 458.690 may not exceed \$500,000.**

SECTION 3. ORS 305.792 is amended to read:

305.792. (1) The Department of Revenue shall provide a means by which personal income tax return filers may indicate that a surplus refund credit *[to which the taxpayer may otherwise be entitled to]* under ORS 291.349 shall instead be used for funding education.

(2)(a) A personal income taxpayer may elect not to claim a surplus refund credit *[that the taxpayer would otherwise be entitled to pursuant to]* **under ORS 291.349, after offset of any outstanding debt or liability**, in order to achieve a corresponding transfer of such moneys from the General Fund to the State School Fund for the support of public elementary and secondary school education. The taxpayer may make the election in the form and manner prescribed by the department by rule.

(b) A taxpayer that indicates that the credit will not be claimed but that nevertheless claims the credit in determining the taxpayer's tax liability shall be considered to not have made the election under this subsection.

(c) The election not to claim a credit under this subsection may not be

1 revoked by filing an amended return.

2 (3) Following the determination to credit personal income taxes pursuant
3 to ORS 291.349, the department shall annually certify to the State Treasurer
4 the total amount of allowable credits that have not been claimed pursuant
5 to an election made under subsection (2) of this section. The certification
6 shall be made on or before December 31 of each year, until the tax year for
7 which the credit would otherwise be claimed becomes a closed tax year.

8 **SECTION 4.** ORS 316.116 is amended to read:

9 316.116. (1)(a) A resident individual shall be allowed a credit against the
10 taxes otherwise due under this chapter for costs paid or incurred for con-
11 struction or installation of each of one or more alternative energy devices
12 in or at a dwelling.

13 (b) A credit against the taxes otherwise due under this chapter is not al-
14 lowed for an alternative energy device that does not meet or exceed all ap-
15 plicable federal, state and local requirements for energy efficiency, including
16 equipment codes, state and federal appliance standards, the state building
17 code, specialty codes and any other standards.

18 (2)(a) For each category one alternative energy device other than an al-
19 ternative fuel device or an alternative energy device that uses solar radiation
20 for domestic water heating or swimming pool heating, the credit allowed
21 under this section may not exceed the lesser of 50 percent of the cost of the
22 alternative energy device or \$1,500, and shall be computed as follows:

23 (A) For a category one alternative energy device that is not an alterna-
24 tive fuel device, the credit shall be based upon the first year energy yield
25 of the alternative energy device that qualifies under ORS 469B.100 to
26 469B.118. The amount of the credit shall be the same whether for collective
27 or noncollective investment.

28 (B) For each category one alternative energy device for a dwelling, the
29 credit shall be based upon the first year energy yield in kilowatt hours per
30 year multiplied by 60 cents per dwelling utilizing the alternative energy de-
31 vice used for space heating, cooling, electrical energy or domestic water

heating.

(C) Except as provided in paragraph (c) of this subsection, for each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the first year energy yield in kilowatt hours per year multiplied by 15 cents.

(b) For each alternative fuel device, the credit allowed under this section may not exceed the lesser of 50 percent of the cost of the alternative fuel device or \$750.

(c) For each category one alternative energy device that uses solar radiation for:

(A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to \$6,000.

(B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20 cents, whichever is lower, up to \$2,500.

(d)(A) For each category two alternative energy device that is a solar electric system or fuel cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000.

(B) For each category two alternative energy device that is a wind electric system, the credit allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in kilowatt hours per year multiplied by \$2.

[(C)] **(3)(a)** Notwithstanding *[subparagraph (A) or (B) of this paragraph]* **subsection (2)(a), (c) or (d) of this section**, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection [(7)] **(8)** of this section, but may not be carried forward to a tax year that is more than five

1 tax years following the first tax year for which any credit was allowed with
2 respect to the category two alternative energy device that is the basis for
3 the credit.

4 [(D)] (b) Notwithstanding [*subparagraph (A) or (B) of this paragraph*]
5 **subsection (2)(d) of this section**, the total amount of the credit for each
6 device allowed under [*this paragraph*] **subsection (2)(d) of this section** may
7 not exceed 50 percent of the total installed cost of the category two alter-
8 native energy device.

9 [(3)] (4) The State Department of Energy may by rule provide for a lesser
10 amount of incentive for each type of alternative energy device as market
11 conditions warrant.

12 [(4)] (5) To qualify for a credit under this section, all of the following are
13 required:

14 (a) The alternative energy device must be purchased, constructed, in-
15 stalled and operated in accordance with ORS 469B.100 to 469B.118 and a
16 certificate issued thereunder.

17 (b) The taxpayer who is allowed the credit must be the owner or contract
18 purchaser of the dwelling or dwellings served by the alternative energy de-
19 vice or the tenant of the owner or of the contract purchaser and must:

20 (A) Use the dwelling or dwellings served by the alternative energy device
21 as a principal or secondary residence; or

22 (B) Rent or lease, under a residential rental agreement, the dwelling or
23 dwellings to a tenant who uses the dwelling or dwellings as a principal or
24 secondary residence.

25 (c) The credit must be claimed for the tax year in which the alternative
26 energy device was purchased if the device is operational by April 1 of the
27 next following tax year.

28 [(5)] (6) The credit provided by this section does not affect the computa-
29 tion of basis under this chapter.

30 [(6)] (7) The total credits allowed under this section in any one year may
31 not exceed the tax liability of the taxpayer.

1 [(7)] **(8)** Any tax credit otherwise allowable under this section that is not
2 used by the taxpayer in a particular year may be carried forward and offset
3 against the taxpayer's tax liability for the next succeeding tax year. Any
4 credit remaining unused in the next succeeding tax year may be carried
5 forward and used in the second succeeding tax year, and likewise any credit
6 not used in that second succeeding tax year may be carried forward and used
7 in the third succeeding tax year, and any credit not used in that third suc-
8 ceeding tax year may be carried forward and used in the fourth succeeding
9 tax year, and any credit not used in that fourth succeeding tax year may be
10 carried forward and used in the fifth succeeding tax year, but may not be
11 carried forward for any tax year thereafter.

12 [(8)] **(9)** A nonresident shall be allowed the credit under this section in
13 the proportion provided in ORS 316.117.

14 [(9)] **(10)** If a change in the taxable year of a taxpayer occurs as described
15 in ORS 314.085, or if the Department of Revenue terminates the taxpayer's
16 taxable year under ORS 314.440, the credit allowed by this section shall be
17 prorated or computed in a manner consistent with ORS 314.085.

18 [(10)] **(11)** If a change in the status of a taxpayer from resident to non-
19 resident or from nonresident to resident occurs, the credit allowed by this
20 section shall be determined in a manner consistent with ORS 316.117.

21 [(11)] **(12)** Spouses in a marriage who file separate returns for a taxable
22 year may each claim a share of the tax credit that would have been allowed
23 on a joint return in proportion to the contribution of each. However, a
24 spouse living in a separate principal residence may claim the tax credit in
25 the same amount as permitted a single person.

26 [(12)] **(13)** As used in this section, unless the context requires otherwise:

27 (a) "Collective investment" means an investment by two or more taxpay-
28 ers for the acquisition, construction and installation of an alternative energy
29 device for one or more dwellings.

30 (b) "Noncollective investment" means an investment by an individual
31 taxpayer for the acquisition, construction and installation of an alternative

energy device for one or more dwellings.

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

[(13)] (14) Notwithstanding any provision of subsections (1) to [(3)] (4) of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes may not exceed the cost for the acquisition, construction and installation of the alternative energy device.

SECTION 5. (1) The amendments to ORS 315.613 and 315.271 by sections 1 and 2 of this 2016 Act apply to tax years beginning on or after January 1, 2016.

(2) The amendments to ORS 305.792 by section 3 of this 2016 Act apply to surplus refund credits allowed after the effective date of this 2016 Act.

(3) The amendments to ORS 316.116 by section 4 of this 2016 Act apply to alternative energy devices certified under ORS 469B.106 on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

SECTION 6. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.