

# D R A F T

## SUMMARY

Increases maximum amount of corporate excise tax credit allowed for qualified research activities. Provides for refundability of credit.

Applies to tax years beginning on or after January 1, 2017.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax credits for qualified research facilities; creating new pro-  
3 visions; amending ORS 317.152, 317.154 and 317.850; and prescribing an  
4 effective date.

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

6 **SECTION 1. Section 2 of this 2016 Act is added to and made a part**  
7 **of ORS chapter 317.**

8 **SECTION 2. If a taxpayer that claims a credit under ORS 317.152**  
9 **or 317.154 has Oregon sales for the tax year that do not exceed \$1**  
10 **million and if the amount allowable as a credit under ORS 317.152 or**  
11 **317.154, when added to the sum of the amount of estimated tax paid**  
12 **under ORS 314.515 and any other tax prepayment amounts, exceeds the**  
13 **taxes imposed by this chapter and ORS chapter 314 for the tax year**  
14 **(reduced by any nonrefundable credits allowable for purposes of this**  
15 **chapter for the tax year), the amount of the excess shall be refunded**  
16 **to the taxpayer as provided in ORS 314.415.**

17 **SECTION 3. ORS 317.152 is amended to read:**

18 317.152. (1) A credit against taxes otherwise due under this chapter shall  
19 be allowed to eligible taxpayers for increases in qualified research expenses  
20 and basic research payments. The credit shall be determined in accordance

1 with section 41 of the Internal Revenue Code, except as follows:

2 (a) The applicable percentage specified in section 41(a) of the Internal  
3 Revenue Code shall be five percent.

4 (b) “Qualified research” and “basic research” shall consist only of re-  
5 search conducted in Oregon.

6 (c) The following do not apply to the credit allowable under this section:

7 (A) Section 41(c)(4) of the Internal Revenue Code (relating to the alter-  
8 native incremental credit).

9 (B) Section 41(h) of the Internal Revenue Code (relating to termination  
10 of the federal credit).

11 (2) For purposes of this section, “eligible taxpayer” means a corporation,  
12 other than a corporation excluded under Internal Revenue Code section  
13 41(e)(7)(E).

14 (3) The Income Tax Regulations as prescribed by the Secretary of the  
15 Treasury under authority of section 41 of the Internal Revenue Code apply  
16 for purposes of this section, except as modified by this section or as provided  
17 in rules adopted by the Department of Revenue.

18 (4) The maximum credit under this section may not exceed [~~\$1~~] **\$2** million.

19 (5) A deduction may not be taken for the portion of expenses or payments,  
20 otherwise allowable as a deduction, that is equal to the amount of the credit  
21 claimed under this section.

22 (6) Any tax credit that is otherwise allowable under this section and that  
23 is not used by the taxpayer in that year may be carried forward and offset  
24 against the taxpayer’s tax liability for the next succeeding tax year. Any  
25 credit remaining unused in such next succeeding tax year may be carried  
26 forward and used in the second succeeding tax year, and likewise any credit  
27 not used in that second succeeding tax year may be carried forward and used  
28 in the third succeeding tax year, and any credit not used in that third suc-  
29 ceeding tax year may be carried forward and used in the fourth succeeding  
30 tax year, and any credit not used in that fourth succeeding tax year may be  
31 carried forward and used in the fifth succeeding tax year, but may not be

1 carried forward for any tax year thereafter.

2 **SECTION 4.** ORS 317.154 is amended to read:

3 317.154. (1) A credit against taxes otherwise due under this chapter shall  
4 be allowed for qualified research expenses that exceed 10 percent of Oregon  
5 sales.

6 (2) For purposes of this section:

7 (a) "Oregon sales" shall be computed using the laws and administrative  
8 rules for calculating the numerator of the Oregon sales factor under ORS  
9 314.665.

10 (b) "Qualified research" has the meaning given the term under section  
11 41(d) of the Internal Revenue Code and shall consist only of research con-  
12 ducted in Oregon.

13 (3) The credit under this section is equal to five percent of the amount  
14 by which the qualified research expenses exceed 10 percent of Oregon sales.

15 (4) The credit under this section [*shall*] **may** not exceed \$10,000 times the  
16 number of percentage points by which the qualifying research expenses ex-  
17 ceed 10 percent of Oregon sales.

18 (5) The maximum credit under this section may not exceed [~~\$1~~] **\$2** million.

19 (6) A deduction may not be taken for the portion of expenses or payments,  
20 otherwise allowable as a deduction, that is equal to the amount of the credit  
21 claimed under this section.

22 (7) Any tax credit that is otherwise allowable under this section and that  
23 is not used by the taxpayer in that year may be carried forward and offset  
24 against the taxpayer's tax liability for the next succeeding tax year. Any  
25 credit remaining unused in such next succeeding tax year may be carried  
26 forward and used in the second succeeding tax year, and likewise any credit  
27 not used in that second succeeding tax year may be carried forward and used  
28 in the third succeeding tax year, and any credit not used in that third suc-  
29 ceeding tax year may be carried forward and used in the fourth succeeding  
30 tax year, and any credit not used in that fourth succeeding tax year may be  
31 carried forward and used in the fifth succeeding tax year, but may not be

1 carried forward for any tax year thereafter.

2 **SECTION 5.** ORS 317.850 is amended to read:

3 317.850. (1) The net revenue from the tax imposed by this chapter, after  
4 deduction of refunds, shall be paid over to the State Treasurer and held in  
5 the General Fund as miscellaneous receipts available generally to meet any  
6 expense or obligation of the State of Oregon lawfully incurred.

7 (2) A working balance of unreceipted revenue from the tax imposed by  
8 this chapter may be retained for the payment of refunds, but such working  
9 balance [*shall*] **may** not at the close of any fiscal year exceed the sum of  
10 \$500,000.

11 (3) **Moneys are continuously appropriated to the Department of  
12 Revenue to make:**

13 (a) **The refunds authorized under subsection (2) of this section; and**

14 (b) **The refund payments in excess of tax liability authorized under  
15 section 2 of this 2016 Act.**

16 **SECTION 6.** Section 2 of this 2016 Act and the amendments to ORS  
17 317.152, 317.154 and 317.850 by sections 3 to 5 of this 2016 Act apply to  
18 tax years beginning on or after January 1, 2017.

19 **SECTION 7.** This 2016 Act takes effect on the 91st day after the date  
20 on which the 2016 regular session of the Seventy-eighth Legislative  
21 Assembly adjourns sine die.

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