Chapter 315

2013 EDITION

Personal and Corporate Income or Excise Tax Credits

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GENERAL PROVISIONS

315.004 Definitions; adoption of parts of Internal Revenue Code and application of federal laws and regulations; technical corrections. (1) Except when the context requires otherwise, the definitions contained in ORS chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of the personal and corporate income and excise tax credits contained in this chapter.

(2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined for purposes of construing, interpreting and applying the credit.

(b) With respect to the tax credits contained in this chapter, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before January 3, 2013, even when the amendments take effect or become operative after that date.

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

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

(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section are later corrected by an Act or a Title within an Act of the United States Congress designated as an Act or Title making technical corrections, then notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title), as if originally included in the provisions of the Act being technically corrected. If, on account of this subsection, any adjustment is required to an Oregon return that would otherwise be prevented by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the manner provided under ORS 314.135.

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title. [1993 c.730 §2; 1995 c.556 §34; 1997 c.839 §64; 1999 c.90 §7; 2001 c.660 §34; 2003 c.77 §11; 2005 c.832 §24; 2007 c.614 §11; 2008 c.45 §12; 2009 c.5 §22; 2009 c.909 §23; 2010 c.82 §23; 2011 c.7 §22; 2012 c.31 §21; 2013 c.377 §21]

315.005 [Repealed by 1965 c.26 §6]

315.010 [Amended by 1953 c.325 §3; repealed by 1965 c.26 §6]

315.015 [Repealed by 1965 c.26 §6]

315.020 [Repealed by 1965 c.26 §6]

315.025 [Repealed by 1965 c.26 §6]

315.030 [Repealed by 1965 c.26 §6]

315.035 [Repealed by 1965 c.26 §6]

315.040 [Repealed by 1965 c.26 §6]

315.045 [Repealed by 1965 c.26 §6]

315.050 Tax expenditures applicable for limited time. (1) As used in this section, "tax expenditure" has the meaning given that term in ORS 291.201.

(2) Any tax credit enacted by the Legislative Assembly on or after January 1, 2010, shall apply for a maximum of six tax years beginning with the initial tax year for which the credit is applicable, unless the Legislative Assembly expressly provides for another period of applicability.

(3) Any tax expenditure enacted by the Legislative Assembly on or after January 1, 2014, shall apply for a maximum of six tax years beginning with the initial tax year for which the tax expenditure is applicable, unless the Legislative Assembly expressly provides for another period of applicability. [2009 c.913 §53; 2013 c.750 §45]

Note: 315.050 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

315.051 Report by Legislative Revenue Officer. (1) Prior to the beginning of each odd-numbered year regular session, the Legislative Revenue Officer shall submit a report addressing each income or excise tax credit that is scheduled to expire during the next even-numbered year. The Legislative Revenue Officer shall submit the report to a committee of the Legislative Assembly related to revenue, and may include information related to other tax credits in the report at the direction of an interim committee related to revenue. In preparing the report, the Legislative Revenue Officer shall seek input from the Department of Revenue, the Legislative Fiscal Officer and state agencies involved in administering any given credit.

(2) The report required in subsection (1) of this section shall set forth:

(a) The stated public policy purpose, if any, of the credit.

(b) The expected timeline for achieving the public policy purpose, if a timeline exists.

(c) The best means of measuring achievement of the public policy purpose.

(d) The taxpayers or other entities or individuals that directly benefit from allowance of the credit and whether the credit is intended to benefit particular targets.

(e) The effectiveness of the credit in benefiting its targets and any evidence that demonstrates its impact on its targets.

(f) The expected results if the credit is allowed to expire under current law and any potential results of making incremental changes in the value of the credit rather than allowing it to expire.

(g) Background information on the effect of similar credits allowed in other states.

(h) Information regarding whether use of a tax credit is an effective and efficient way to achieve the stated policy goal.

(i) The administrative and compliance costs associated with the credit.

(j) Analysis of whether a direct appropriation might achieve the stated public policy purpose of the credit more efficiently.

(k) What other incentives, including state or local subsidies or federal tax expenditures or subsidies, are available in this state that have a similar policy purpose. [2013 c.676 §2]

315.052 Limitation on transfer or sale of credit. An income tax credit that is allowed under this chapter or ORS chapter 316, 317 or 318 and that is transferable may be transferred or sold only once, unless expressly provided otherwise by statute. [2009 c.288 §3]

315.053 Restriction on types of transferees. An income tax credit allowed under ORS 315.141, 315.331, 315.336, 315.341 or 315.354 or section 12, chapter 855, Oregon Laws 2007, may be transferred or sold only to one or more of the following:

(1) A C corporation.

(2) An S corporation.

(3) A personal income taxpayer. [2009 c.288 §2; 2011 c.83 §12; 2011 c.474 §33; 2011 c.730 §21]

315.054 Federal tax credits allowable only as specified. No credits applied directly to the income tax calculated for federal purposes pursuant to the Internal Revenue Code shall be applied in calculating the tax due under ORS chapter 314, 316, 317 or 318 except those prescribed in this chapter or ORS chapter 314, 316, 317 or 318. [1993 c.730 §4 (enacted in lieu of 316.107)]

315.055 [Repealed by 1965 c.26 §6]

315.060 [Repealed by 1965 c.26 §6]

315.063 Waiver of substantiation by Department of Revenue; rules. The Department of Revenue, by rule, may waive partially, conditionally or absolutely requirements for proof or substantiation of claims for subtractions, exclusions, exemptions or credits allowable for purposes of taxes imposed upon or measured by net income. [1995 c.54 §2]

315.065 [Repealed by 1965 c.26 §6]

315.068 Claim of right income repayment adjustments. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed to a taxpayer for a claim of right income repayment adjustment.

(2) The credit shall be allowed under this section only if the taxpayer's federal tax liability is determined under section 1341(a) of the Internal Revenue Code.

(3) The amount of the credit shall equal the difference between:

(a) The taxpayer's actual Oregon state tax liability for the tax year for which the claim of right income was included in gross income for federal tax purposes; and

(b) The taxpayer's Oregon state tax liability for that tax year, had the claim of right income not been included in gross income for federal tax purposes.

(4) A credit under this section shall be allowed only for the tax year for which the taxpayer's federal tax liability is determined under section 1341 of the Internal Revenue Code for federal tax purposes.

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 and

316.583, other payments of tax and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 to 318 (reduced by any nonrefundable credits allowed for the tax year), the excess shall be treated as an overpayment of tax and shall be refunded or applied in the same manner as other tax overpayments.

(6) As used in this section, "claim of right income" means:

(a) An item included in federal gross income for a prior tax year because it appeared that the taxpayer had an unrestricted right to the item; and

(b) An item for which the taxpayer's federal tax liability is adjusted under section 1341 of the Internal Revenue Code because the taxpayer did not have an unrestricted right to the item of gross income. [1999 c.1007 §2; 2001 c.660 §19]

315.070 [Repealed by 1965 c.26 §6]

315.075 [Repealed by 1965 c.26 §6]

315.080 [Repealed by 1965 c.26 §6]

315.085 [Repealed by 1965 c.26 §6]

315.090 [Repealed by 1965 c.26 §6]

315.095 [Repealed by 1965 c.26 §6]

AGRICULTURE; FISHERIES; FORESTRY

315.104 Reforestation; rules. (1) A credit against the taxes otherwise due under ORS chapter 316 (or if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed in an amount equal to 50 percent of reforestation project costs actually paid or incurred to reforest underproductive Oregon forestlands. Such costs include, but are not limited to, any fees established by the State Forester under ORS 315.106 (4), site preparation, tree planting and other silviculture treatments considered necessary by the State Forester to establish commercial, hardwood or softwood stands on appropriate sites. Subject to subsection (5) of this section:

(a) One-half of the credit shall be taken in the tax year for which the State Forester, after physical inspection of the forestland, issues a preliminary certificate under ORS 315.106 certifying that the land qualifies as underproductive Oregon forestland and that the reforestation project undertaken meets the requirements of this section and the specifications established by the State Forester and the costs appear to be reasonable; and

(b) One-half of the credit shall be taken in the tax year for which the State Forester, after further physical inspection of the land and project, certifies that the new forest is established in accordance with the specifications of the State Forester.

(2) No credit shall be allowed under either subsection (1)(a) or (b) of this section unless written certification containing the following statements accompanies the claim for the credit or is otherwise filed with the Department of Revenue:

(a) A preliminary certificate issued by the State Forester under ORS 315.106 that the land and project meet the preliminary specifications established by the State Forester or that the new forest is established, whichever is applicable at the time.

(b) A statement by the landowner or person in possession of the land that the land within the project area will be used for the primary purpose of growing and harvesting trees of an acceptable species.

(c) A statement that the landowner or person in possession of the land is aware that maintenance practices, including release, may be needed to insure that a new forest is established and will remain established.

(3) For purposes of this section, reforestation project costs shall not include:

(a) Costs paid or incurred to reforest any forestland that has been commercially logged to the extent that reforestation is required under the Oregon Forest Practices Act, except costs paid or incurred to reforest forestland following a hardwood harvest, conducted for the purposes of converting underproductive forestlands, as determined by administrative rule.

(b) That portion of costs or expenses paid through a federal or state cost share, financial assistance or other incentive program.

(c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants, or those costs paid or incurred to grow hardwood timber described under ORS 321.267 (3) or 321.824 (3).

(d) Any costs paid or incurred to purchase or otherwise acquire the land.

(e) The cost of purchase or other acquisition of tools and equipment with a useful life of more than one year.

(4) To qualify for the credit:

(a) The project must be completed to specifications approved by the State Forester.

(b) The taxpayer's portion of the project costs must be $500 or more.

(c) The taxpayer must be a private individual, corporation, group, Indian tribe or other native group, association or other nonpublic legal entity owning, purchasing under recorded contract of sale or leasing at least five acres of Oregon commercial forestland.

(d) Prior to December 31, 2012, the taxpayer must file with the State Forester a

written request for preliminary certification under ORS 315.106.

(5) Any tax credit otherwise allowable under this section which 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 credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that 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. In all cases the taxpayer must be the person who made the investment into the project.

(6) The credit provided by this section shall be in addition to and not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled with respect to the reforestation project and the credit shall not affect the computation of basis for the property.

(7) In compliance with ORS chapter 183, the Department of Revenue and the State Forestry Department may adopt rules consistent with law for carrying out the provisions of this section.

(8) As used in this section, "underproductive Oregon forestlands" means Oregon commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

(9) If, for any reason other than those specified in subsection (10) of this section, a new forest is not established by the last day of the second taxable year following the taxable year for which the preliminary certificate was issued, the State Forester shall so report to the Department of Revenue. The report filed under this subsection shall be the basis for the department to recover any credit granted under subsection (1)(a) of this section. If, however, the new forest is not established within the time required by this subsection on account of the reasons specified in subsection (10) of this section, any credit allowed under subsections (1)(a) and (5) of this section shall not be recovered but no further credit as provided under subsections (1)(b) and (5) of this section shall be allowed.

(10) Subject to requalification under this section in the manner applicable for the original claim, including obtaining a new preliminary certificate, a taxpayer may claim an additional credit or credits for reestablishing a new planting in the event that the new forest is destroyed by a natural disaster or is not established for reasons beyond the control of the taxpayer, if the measures taken in completing the original or earlier project would normally have resulted in establishing the minimum number of trees per acre anticipated by the project.

(11) Any owner affected by a determination, regarding the reforestation tax credit made by:

(a) The State Forester, except for a denial of a request for a preliminary certificate due to the annual reforestation credit cost limitation calculated under ORS 315.108, may appeal that determination in the manner provided for in ORS 526.475 (1).

(b) The Department of Revenue, may appeal that determination in the manner provided for in ORS 526.475 (2). [1993 c.730 §8 (enacted in lieu of 316.094, 317.102 and 318.110); 1995 c.746 §23; 2001 c.359 §1; 2003 c.454 §122; 2003 c.621 §97a; 2007 c.883 §1; 2009 c.913 §19]

Note: Section 5, chapter 605, Oregon Laws 1987, provides:

Sec. 5. No tax credit shall be allowed under ORS 315.104 based upon reforestation project costs if the preliminary certificate is not issued on or before December 31, 2011. [1987 c.605 §5; 1989 c.887 §4; 1995 c.746 §28; 2001 c.359 §3]

Note: 315.104 is repealed January 2, 2028. See section 9, chapter 883, Oregon Laws 2007.

315.105 [Repealed by 1965 c.26 §6]

315.106 Reforestation credit preliminary certificate; application; limitation calculation; rules; fee. (1) A taxpayer claiming the credit provided under ORS 315.104 shall file a written request with the State Forester for a preliminary certificate. The request shall contain:

(a) Information that is required by the State Forester by rule;

(b) An estimate of the amount of the credit the taxpayer expects to claim under ORS 315.104 (1)(a); and

(c) Payment of any fee required by the State Forester by rule adopted under subsection (4) of this section.

(2) The State Forester shall consider requests for preliminary certificates in the chronological order in which the requests are filed with the State Forester. If the State Forester determines that the request complies with ORS 315.104 (1)(a), the State Forester shall issue the preliminary certificate to the taxpayer, to the extent the total amount of estimated claims for credit under ORS 315.104 (1)(a) for all preliminary certificates issued for the calendar year do not exceed the annual reforestation credit cost limitation calculated under ORS 315.108.

(3) The State Forester may not issue a preliminary certificate to a taxpayer to the extent the estimated claim for credit under ORS 315.104 (1)(a) contained in the request for a preliminary certificate, when added to the total of estimated claims for credit under ORS 315.104 (1)(a) for all preliminary certif-

icates issued by the State Forester for the calendar year, exceeds the annual reforestation credit cost limitation calculated under ORS 315.108.

(4) The State Forester shall establish by rule a fee for filing a written request for a preliminary certificate under this section. The fee shall be adequate to recover the costs incurred by the State Forestry Department in administering the reforestation tax credit program established under this section and ORS 315.104 and 315.108.

(5) Moneys collected from fees established by the State Forester under rules adopted under this section shall be deposited in the State Forestry Department Account to be used for the purposes of administering the reforestation tax credit program. [1995 c.746 §25; 2005 c.796 §3]

Note: 315.106 is repealed January 2, 2028. See section 9, chapter 883, Oregon Laws 2007.

315.108 Annual reforestation credit cost limitation. (1) On or before January 1, 1996, the State Forester shall determine an average annual amount of estimated reforestation project costs for which credit was claimed under ORS 315.104 (1)(a) during the period from July 1, 1992, to July 1, 1994.

(2) The annual reforestation credit cost limitation shall be:

(a) Equal to the average annual amount of estimated reforestation project costs determined under subsection (1) of this section for the calendar year beginning January 1, 1996.

(b) Twice the average annual amount of estimated reforestation project costs determined under subsection (1) of this section for years beginning on or after January 1, 1997. [1995 c.746 §26]

Note: 315.108 is repealed January 2, 2028. See section 9, chapter 883, Oregon Laws 2007.

315.110 [Amended by 1953 c.665 §2; repealed by 1965 c.26 §6]

315.111 Legislative declarations regarding riparian land conservation. The Legislative Assembly declares that the purpose of ORS 315.113 is to encourage taxpayers that have riparian land in farm production to voluntarily remove the riparian land from farm production and employ conservation practices applicable to the riparian land that minimize contributions to undesirable water quality, habitat degradation and stream bank erosion. [2001 c.912 §2]

315.113 Voluntary removal of riparian land from farm production; rules. (1) As used in this section:

(a) "Crop" means the total yearly production of an agricultural commodity, not including livestock, that is harvested from a specified area.

(b) "Riparian land" means land in this state that:

(A) Borders both a river, stream or other natural watercourse and land that is in farm production; and

(B) Does not exceed a width of 35 feet between the land that is in farm production and the bank of the river, stream or other natural watercourse.

(c) "Share-rent agreement" means an agreement in which the person who engages in farming operations and the person who owns the land where the farming operations are conducted share the crop grown on that land or the profits from that crop.

(2) A taxpayer may claim a credit against the taxes otherwise due under ORS chapter 316, 317 or 318 for 75 percent of the market value of crops forgone when riparian land is voluntarily taken out of farm production.

(3) A credit under this section may be claimed only if:

(a) The taxpayer owns the riparian land that is the basis of the credit;

(b) The taxpayer is actively engaged in farming operations on land adjacent to the riparian land;

(c) The riparian land was in farm production for the previous tax year or a credit under this section was claimed during the previous tax year;

(d) The conservation practices employed on the riparian land are consistent with the agricultural water quality management plan administered by the State Department of Agriculture in the applicable river basin management area; and

(e) The decision to remove the riparian land from farm production was a voluntary decision and not the result of a federal, state or local law or government decision requiring the riparian land to be taken out of farm production. For purposes of this paragraph, action taken by a taxpayer under an agricultural water quality management plan administered by the State Department of Agriculture is not the result of a government decision requiring the land to be taken out of farm production.

(4)(a) The amount of the credit shall be calculated by multiplying the market value per acre of the forgone crop by the acreage of the riparian land that is not in farm production and multiplying that product by 75 percent.

(b) For the first tax year for which a credit is claimed under this section, the forgone crop for which a value is determined under this section shall be the crop grown on the land in the previous tax year.

(c) For a tax year following the first tax year for which a credit is claimed under this section, the forgone crop for which a value is determined under this section shall be the crop for which the value was determined for the previous tax year.

(d) If a taxpayer does not claim a credit under this section for a tax year, any credit claimed in a subsequent tax year shall be treated as the first tax year for which a credit is claimed under this section.

(5) Notwithstanding subsection (3)(a) and (b) of this section, if the riparian land that is the basis of a credit under this section is adjacent to land that is in farm production under a share-rent agreement, the taxpayer that is engaged in farming operations and the taxpayer that is the landowner may each claim a credit under this section. The amount of the credit shall be allocated to each taxpayer in the proportion that the share-rent agreement allocates crop proceeds to each of those taxpayers. The total amount of credit allowed to both taxpayers under this subsection may not exceed the amount of the credit otherwise allowable under this section if the farming operations were not subject to a share-rent agreement.

(6) Notwithstanding subsections (3)(a) and (5) of this section, if the taxpayer is actively engaged in farming operations and pays the landowner in cash, the taxpayer may claim all of the credit available under this section.

(7) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer.

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

(9) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(10) If a taxpayer that has claimed a credit under this section places the riparian land for which the credit is claimed back in farm production, the taxpayer may not claim a credit under this section for five tax years following the year the riparian land was placed back in farm production.

(11) The Department of Revenue may adopt rules prescribing procedures for identifying forgone crops and for establishing the market value of forgone crops. [2001 c.912 §3; 2003 c.46 §32]

Note: Section 6, chapter 913, Oregon Laws 2009, provides:

Sec. 6. Except as provided in ORS 315.113 (8), a credit may not be claimed under ORS 315.113 for tax years beginning on or after January 1, 2012. [2009 c.913 §6]

315.115 [Repealed by 1965 c.26 §6]

315.117 Legislative findings and declarations regarding on-farm processing. The Legislative Assembly finds that farming and related agricultural activities make significant contributions to the economy of this state and that the contributions of family farms are important in maintaining the agricultural diversity upon which consistent economic performance is based. The Legislative Assembly further finds that changes in the marketplace and in the expectations of consumers of agricultural products have resulted in a need for greater vertical integration and on-farm processing of agricultural commodities. The Legislative Assembly declares that an income tax credit for property taxes paid on on-farm processing machinery and equipment encourages the continued operation and expansion of on-farm processing and results in a greater share of the value of agricultural products being retained by the farms in this state. The Legislative Assembly further declares that an incentive in the form of an income tax credit does not adversely impact the revenues of local governments in this state. [2001 c.725 §2]

315.119 On-farm processing facilities. (1) As used in this section:

(a) "Effective property tax rate" means:

(A) The ratio of the total amount of property taxes imposed on the account that contains the machinery and equipment for which a credit is being claimed (after application of ORS 310.150 but prior to discount under ORS 311.505) over the assessed value of the property tax account; and

(B) The ratio determined under subparagraph (A) of this paragraph for the property tax year that begins in the income tax year for which the credit is claimed.

(b) "Farm operator" means a person that operates a farming business as defined in section 263A of the Internal Revenue Code.

(c) "Machinery and equipment" means machinery and equipment that meets the definition of section 1245 property in section 1245 of the Internal Revenue Code.

(d) "Processing":

(A) Means any activity that is directly related and necessary to clean, sort, grade, produce, prepare, manufacture, handle, package, store or ship a farm crop or livestock product after the point of harvest and before the point of sale, in a modified state or altered form.

(B) Does not include an activity primarily associated with the promotion or retail sale of a product for personal or household use that is normally sold through consumer retail distribution.

(e) "Qualified machinery and equipment" means machinery and equipment used in processing that meets the requirements of subsections (3) and (4) of this section for the tax year.

(2) A taxpayer who is a farm operator may claim a credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for ad valorem property taxes paid or incurred on qualified machinery and equipment.

(3) A credit under this section may be claimed only if:

(a) The machinery and equipment is owned by the farm operator or by a person who is related to the farm operator under section 267 of the Internal Revenue Code;

(b) The machinery and equipment is used for processing primarily occurring on land described in subsection (4) of this section; and

(c)(A) The farm operator has grown or raised at least one-half of the total volume of farm crop or livestock products processed with the machinery and equipment for which the credit is being claimed in three of the five previous income tax years; or

(B)(i) The farm operator has grown or raised at least one-tenth of the total volume of farm crop or livestock products processed with the machinery and equipment for which the credit is being claimed in three of the five previous income tax years; and

(ii) The farm operator has used the machinery and equipment to process at least one-half of the volume of the applicable farm crop or livestock products grown or raised by the farm operator in three of the five previous income tax years.

(4) In addition to the requirements under subsection (3) of this section, a credit under this section may be claimed only if:

(a) The machinery and equipment is located on land that is specially assessed for farm use under ORS 308A.050 to 308A.128 and the machinery and equipment is owned or otherwise controlled by the farm operator; or

(b) The machinery and equipment is located on land that is contiguous to land that is specially assessed for farm use under ORS 308A.050 to 308A.128 and the machinery and equipment is owned or otherwise controlled by the farm operator.

(5) A credit may be claimed under this section only for qualified machinery and equipment that was subject to assessment and property taxation for the property tax year beginning in the income tax year for which the credit is being claimed.

(6) The amount of the credit shall be the lesser of:

(a) The effective property tax rate multiplied by the adjusted basis of the qualified machinery and equipment; or

(b) $30,000.

(7) The adjusted basis of the qualified machinery and equipment shall be the adjusted basis of the qualified machinery and equipment for personal income or corporate excise or income tax purposes as of the last day of the income tax year for which the credit is being claimed, except that the adjusted basis shall be increased by the cost of any qualified machinery and equipment that the taxpayer elected to expense under section 179 of the Internal Revenue Code, until the qualified machinery and equipment is fully depreciated for personal income or corporate excise or income tax purposes. The adjusted basis shall reflect any depreciation allowable for the current tax year. A credit under this section may not be allowed for a tax year in which the qualified machinery and equipment is fully depreciated for personal income or corporate excise or income tax purposes.

(8) The credit allowed under this section for any one tax year may not exceed the tax liability of the taxpayer.

(9) 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 credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(10) The credit allowed under this section is not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for the tax year.

(11) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any amount of credit allowed under this section.

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

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

(14) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085. [2001 c.725 §3]

Note: Section 5, chapter 725, Oregon Laws 2001, provides:

Sec. 5. (1) Sections 3 and 4 of this 2001 Act [315.119 and 315.123] apply to tax years beginning on or after January 1, 2002.

(2) Except as provided in section 3 (9) of this 2001 Act [315.119 (9)], credits allowed under section 3 of this 2001 Act apply to tax years beginning before January 1, 2008. [2001 c.725 §5]

315.120 [Amended by 1953 c.132 §3; repealed by 1965 c.26 §6]

315.123 Minimum production and processing volume requirements; recordkeeping requirements. (1) For the first three tax years in which a taxpayer claims a credit under ORS 315.119, a taxpayer shall be deemed to have complied with the applicable minimum production and processing volume requirements of ORS 315.119 (3)(c) if the taxpayer has satisfied these requirements for the preceding tax year.

(2) For the fourth tax year in which a taxpayer claims a credit under ORS 315.119, the taxpayer shall be deemed to have complied with the applicable minimum production and processing volume requirements of ORS 315.119 (3)(c) if the taxpayer has satisfied these requirements for the preceding tax year and at least one of the three tax years immediately prior to the preceding tax year.

(3) For each tax year in which a credit is claimed under ORS 315.119, the taxpayer shall maintain records sufficient to determine the taxpayer's production and processing volume for purposes of ORS 315.119 (3)(c). A taxpayer shall maintain the records required under this subsection for at least 10 years. [2001 c.725 §4]

Note: See note under 315.119.

315.125 [Enacted as 1953 c.197 §2; repealed by 1965 c.26 §6]

315.134 [1993 c.730 §10 (enacted in lieu of 316.084, 317.133 and 318.080); 1995 c.54 §3; repealed by 2011 c.83 §13]

315.138 Screening devices, by-pass devices or fishways; rules. (1) There shall be allowed a credit against tax due under ORS chapter 316, or if the taxpayer is a corporation, under ORS chapter 317, for taxpayers that install screening devices, by-pass devices or fishways, pursuant to ORS 498.306 or 509.585, and the diversion is not part of a hydroelectric project required to be licensed under the Federal Energy Regulatory Commission. Except as allowed in subsection (4) of this section, the credit shall be taken in the tax year in which the final certification is issued under subsection (10) of this section.

(2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a screening device, by-pass device or fishway. The total credit allowed shall not exceed $5,000 per device installed.

(3) The credit allowed in any one year shall not exceed the tax liability of the taxpayer.

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

may be carried forward and used in the fourth succeeding tax year. Any credit remaining unused in such fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year thereafter.

(5) The credit provided by this section shall be in addition to and not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled with respect to the installation of a screening device, by-pass device or fishway. The taxpayer's adjusted basis for determining gain or loss shall not be further decreased by any tax credits allowed under this section.

(6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(7) To qualify for the credit the taxpayer must be issued a certificate by the State Department of Fish and Wildlife.

(8) To obtain credit under subsection (1) of this section, any person proposing to apply for certification of a screening device, by-pass device or fishway, before installing the screening device, by-pass device or fishway, shall file a request for preliminary certification with the State Department of Fish and Wildlife. The request shall be in a form prescribed by the State Department of Fish and Wildlife. The following conditions shall apply:

(a) Within 30 days of the receipt of a request for preliminary certification, the State Department of Fish and Wildlife may require, as a condition precedent to issuance of a preliminary certificate of approval, the submission of plans and specifications. After examination thereof, the State Department of Fish and Wildlife may request corrections and revisions to the plans and specifications. The State Department of Fish and Wildlife may also require any pertinent information necessary to determine whether the proposed screening device, by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements.

(b) If the State Department of Fish and Wildlife determines that the proposed screening device, by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements, it shall issue a preliminary certificate approving the screening device, by-pass device or fishway. If the State Department of Fish and Wildlife determines that the screening device, by-pass device or fishway does not comply with State Department of Fish and Wildlife requirements, the State Department of Fish and Wildlife shall issue an order denying certification.

(c) If within 90 days of the receipt of plans, specifications or any subsequently requested revisions or corrections to the plans and specifications or any other information required pursuant to this section, the State Department of Fish and Wildlife fails to issue a preliminary certificate of approval and the State Department of Fish and Wildlife fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The capital investment must comply with the plans, specifications and any corrections or revisions thereto, if any, previously submitted.

(d) Within 30 days from the date of mailing of the order, any person against whom an order is directed pursuant to paragraph (b) of this subsection may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the State Fish and Wildlife Director. The hearing shall be conducted in accordance with the applicable provisions of ORS chapter 183.

(9) A screening device, by-pass device or fishway that is installed by the State Department of Fish and Wildlife pursuant to ORS 498.306 (8) in response to noncompliance by the person responsible for the water diversion is not eligible for the credit provided in subsection (1) of this section.

(10) Upon completion and pursuant to application for final certification, final certification shall be issued by the State Department of Fish and Wildlife if the screening device, by-pass device or fishway was constructed and installed in accordance with State Department of Fish and Wildlife requirements. Final certification shall include a statement of the costs of installation as verified by the State Department of Fish and Wildlife. The credit allowed under this section shall be claimed first for the tax year of the taxpayer in which final certification is issued.

(11) Pursuant to the procedures for a contested case under ORS chapter 183, the

State Department of Fish and Wildlife may order the revocation of the certificate issued under this section of any taxpayer, if it finds that:

(a) The certificate was obtained by fraud or misrepresentation; or

(b) The holder of the certificate fails to meet State Department of Fish and Wildlife requirements.

(12) As soon as the order of revocation under this section has become final the State Department of Fish and Wildlife shall notify the Department of Revenue of such order.

(13) If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant to subsection (11) of this section, all prior tax relief provided to the holder of the certificate by virtue of the certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder.

(14) If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant to subsection (11) of this section, the certificate holder shall be denied any further relief provided under this section in connection with the screening device, by-pass device or fishway, as the case may be, from and after the date that the order of revocation becomes final.

(15) In the event that the screening device, by-pass device or fishway is destroyed by flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place.

(16) Screening devices, by-pass devices or fishways that are financed by funds obtained from the Water Development Fund, pursuant to ORS 541.700 to 541.855, shall not be eligible for the credit under any circumstances.

(17) The State Department of Fish and Wildlife shall adopt rules for carrying out the provisions of this section and report to the interim committee created under ORS 171.605 to 171.640 to make studies of and inquiries into state revenue matters. [1993 c.730 §12 (enacted in lieu of 316.139 and 317.145); 2001 c.923 §5; 2007 c.625 §2]

Note: Section 11, chapter 913, Oregon Laws 2009, provides:

Sec. 11. The State Department of Fish and Wildlife may not issue a preliminary certificate of approval under ORS 315.138 after January 1, 2018. [2009 c.913 §11; 2011 c.730 §18a]

315.141 Biomass production or collection; fee; rules; list of taxpayers allowed credit; documentation. (1) As used in this section:

(a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.

(c) "Biofuel producer" means a person that through activities in Oregon:

(A) Alters the physical makeup of biomass to convert it into biofuel;

(B) Changes one biofuel into another type of biofuel; or

(C) Uses biomass in Oregon to produce energy.

(d) "Biomass" means organic matter that is available on a renewable or recurring basis and that is derived from:

(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(B) Wood material from hardwood timber described in ORS 321.267 (3);

(C) Agricultural residues;

(D) Offal and tallow from animal rendering;

(E) Food wastes collected as provided under ORS chapter 459 or 459A;

(F) Wood debris collected as provided under ORS chapter 459 or 459A;

(G) Wastewater solids; or

(H) Crops grown solely to be used for energy.

(e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds or waste, other than matter described in paragraph (d) of this subsection.

(f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon, as biofuel or to produce biofuel.

(g) "Canola" means plants of the genus Brassica:

(A) In which seeds having a high oil content are the primary economically valuable product; and

(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

(h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them into meal and oil by mechanical or chemical means.

(i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.

(2) The Director of the State Department of Energy may adopt rules to define criteria, only as the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes of this section.

(3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

(A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel; or

(B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) A credit under this section may be claimed in the tax year in which the credit is certified under subsection (5) of this section.

(c) A taxpayer may be allowed a credit under this section for more than one of the roles defined in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or a biomass collector may not claim a credit under this section.

(d) A credit under this section may be claimed only once for each unit of biomass.

(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

(A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

(B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

(4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

(5)(a) The State Department of Energy may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403. The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

(b) The State Department of Energy may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of determining the amount of certified cost.

(c) The State Department of Energy shall provide to the Department of Revenue a list, by tax year, of taxpayers for which a credit is certified under this section, upon request of the Department of Revenue.

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

(7) Each agricultural producer or biomass collector shall maintain the written documentation of the amount certified for tax credit under this section in its records for a period of at least five years after the tax year in which the credit is claimed and provide the written documentation to the Department of Revenue upon request.

(8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

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

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

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

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

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085. [2007 c.739 §2; 2007 c.590 §4; 2009 c.909 §49; 2011 c.730 §2a; 2012 c.45 §15; 2013 c.750 §40]

Note: Section 6, chapter 739, Oregon Laws 2007, provides:

Sec. 6. (1) ORS 315.141, 315.144 and 469.790 [renumbered 469B.403] apply to tax credits for tax years beginning on or after January 1, 2007, and before January 1, 2018.

(2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain (other than nongrain wheat material) for tax years beginning before

January 1, 2009, or on or after January 1, 2018. [2007 c.739 §6; 2007 c.590 §5; 2009 c.913 §18; 2011 c.730 §2]

315.144 Transfer of biomass credit; rules. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

(2) A tax credit allowed under ORS 315.141 may be transferred on or before the date on which the return is due for the tax year in which the credit may first be claimed. After that date, no portion of a credit allowed under ORS 315.141 may be transferred.

(3) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim the credit shall, on or before the date prescribed in subsection (2) of this section, jointly file a notice of tax credit transfer with the Department of Revenue. The notice shall be given on a form prescribed by the department that contains all of the following:

(a) The name and address of the transferor and transferee;

(b) The amount of the tax credit that is being transferred;

(c) The amount of the tax credit that is being retained by the transferor; and

(d) Any other information required by the department.

(4) The State Department of Energy may establish by rule a minimum discounted value of a tax credit under this section.

(5) The Department of Revenue, in consultation with the State Department of Energy, may by rule establish procedures for the transfer of tax credits provided by this section. [2007 c.739 §3; 2009 c.909 §50]

Note: See note under 315.141.

315.148 [1993 c.730 §14 (enacted in lieu of 316.098, 317.150 and 318.102); 1995 c.54 §4; repealed by 1999 c.21 §38]

315.154 Definitions for crop donation credit. As used in this section and ORS 315.156:

(1) "Apparently wholesome food" means:

(a) Food fit for human consumption; and

(b) Food that meets all quality and labeling standards imposed by federal, state or local laws, even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus or other condition.

(2) "Crop" means an agricultural crop producing food for human consumption and includes, but is not limited to, bedding plants that produce food, orchard stock intended for the production of food and livestock that may be processed into food for human consumption.

(3) "Food bank or other charitable organization" means any organization located in this state, including but not limited to a gleaning cooperative, that is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code and that has as a principal or ongoing purpose the distribution of food to children or homeless, unemployed, elderly or low-income individuals.

(4) "Grower" includes a person who raises livestock.

(5) "Qualified donation" means the harvest or post-harvest contribution in Oregon of a crop or a portion of a crop grown primarily to be sold for cash that is donated by the grower of the crop to a gleaning cooperative, food bank or other charitable organization engaged in the distribution of food without charge, at such a time that the crop is still usable as food for human consumption and:

(a) The grower of the crop has supplied any crop contract quota with the wholesale or retail buyer;

(b) If the grower of the crop is a party to a contingent supply contract, the wholesale or retail buyer reduces the crop quota that was reasonably anticipated to be supplied by the grower; or

(c) The grower of the crop otherwise determines to make a donation of apparently wholesome food.

(6) "Wholesale market price" means the market price for the produce determined either by:

(a) The amount paid to the grower by the last previous cash buyer of the particular crop; or

(b) In the event there is no previous cash buyer, a market price based upon the market price of the nearest regional wholesale buyer or the regional u-pick market price. [1993 c.730 §16 (enacted in lieu of 316.089); 1999 c.21 §39; 2001 c.222 §1]

315.155 [Repealed by 1965 c.26 §6]

315.156 Crop donation; forms. (1) A taxpaying individual or corporation that is a grower of a crop and that makes a qualified donation of the crop shall be allowed a credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, as follows:

(a) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(a) or (b), the amount of the credit shall be 10 percent of the value of the quan-

tity of the crop donated computed at the wholesale market price.

(b) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(c), the amount of the credit shall be 10 percent of the value of the quantity of the crop donated computed at the wholesale market price that the grower would have received had the quantity of the crop donated been sold or salable.

(2) At the time of donation, the director, supervisor or other appropriate official of the entity to which a qualified donation is made shall supply to the grower of the crop donated two copies of a form prescribed by the Department of Revenue. The forms shall contain:

(a) The name and address of the grower;

(b) The description and quantity of the donated crop;

(c) The signature of the director, supervisor or other appropriate official of the entity receiving the donated crop verifying that the produce was or will be distributed to children or homeless, unemployed, elderly or low-income individuals;

(d) The wholesale market price; and

(e) Other information required by the Department of Revenue by rule.

(3) Tax claim for tax credit shall be substantiated by submission with the tax return, of the form described in subsection (2) of this section, a statement verified by the taxpayer that the qualified donation was made under circumstances described in ORS 315.154 (5) and a copy of an invoice or other statement identifying the price received by the grower for the crops of comparable grade or quality if there is a previous cash buyer. The requirement for substantiation may be waived partially, conditionally or absolutely, as provided under ORS 315.063.

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that 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)(a) A nonresident individual shall be allowed the credit computed under this section in the same manner and subject to the same limitations as the credit allowed a resident by this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117. [1993 c.730 §18 (enacted in lieu of 316.091, 317.148 and 318.104); 1995 c.54 §5; 1999 c.21 §40; 2001 c.222 §2]

Note: Section 5, chapter 913, Oregon Laws 2009, provides:

Sec. 5. Except as provided in ORS 315.156 (4), a credit may not be claimed under ORS 315.156 for tax years beginning on or after January 1, 2012. [2009 c.913 §5]

315.160 [Repealed by 1965 c.26 §6]

315.163 Definitions for ORS 315.163 to 315.172. As used in ORS 315.163 to 315.172:

(1)(a) "Acquisition costs" means the cost of acquiring buildings, structures and improvements that constitute or will constitute agriculture workforce housing.

(b) "Acquisition costs" does not include the cost of acquiring land on which agriculture workforce housing is or will be located.

(2) "Agricultural worker" means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the:

(a) Production of agricultural or aquacultural crops or products;

(b) Handling of agricultural or aquacultural crops or products in an unprocessed stage;

(c) Processing of agricultural or aquacultural crops or products;

(d) Planting, cultivating or harvesting of seasonal agricultural crops; or

(e) Forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(3) "Agriculture workforce housing" means housing:

(a) Limited to occupancy by agricultural workers, including agricultural workers who are retired or disabled, and their immediate families; and

(b) No dwelling unit of which is occupied by a relative of the owner or operator of the agriculture workforce housing, except in the case of a manufactured dwelling in a manu-

factured dwelling park nonprofit cooperative as defined in ORS 62.803.

(4) "Agriculture workforce housing project" means the acquisition, construction, installation or rehabilitation of agriculture workforce housing.

(5) "Condition of habitability" means a condition that is in compliance with:

(a) The applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder; or

(b) If determined on or before December 31, 1995, sections 12 and 13, chapter 964, Oregon Laws 1989.

(6) "Contributor" means a person:

(a) That acquired, constructed, manufactured or installed agriculture workforce housing or contributed money to finance an agriculture workforce housing project; or

(b) That has purchased or otherwise received via transfer a credit as provided in ORS 315.169 (2).

(7) "Eligible costs" includes acquisition costs, finance costs, construction costs, excavation costs, installation costs and permit costs and excludes land costs.

(8)(a) "Owner" means a person that owns agriculture workforce housing.

(b) "Owner" does not include a person that only has an interest in the agriculture workforce housing as a holder of a security interest.

(9) "Rehabilitation" means to make repairs or improvements to a building that improve its livability and are consistent with applicable building codes.

(10) "Relative" means a brother or sister (whether by the whole or by half blood), spouse, ancestor (whether by law or by blood), or lineal descendant of an individual.

(11) "Taxpayer" includes a nonprofit corporation, a tax-exempt entity or any other person not subject to tax under ORS chapter 316, 317 or 318. [2003 c.588 §1; 2011 c.471 §1; 2013 c.750 §19]

315.164 Agriculture workforce housing projects; rules. (1) A taxpayer who is the owner or operator of agriculture workforce housing is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a corporation. The total amount of the credit shall be equal to 50 percent of the eligible costs actually paid or incurred by the taxpayer to complete an agriculture workforce housing project, to the extent the eligible costs actually paid or incurred by the taxpayer do not exceed the estimate of eligible costs approved by the Housing and Community Services Department under ORS 315.167.

(2) A taxpayer who is otherwise eligible to claim a credit under this section may elect to transfer all or a portion of the credit to a contributor in the manner provided in ORS 315.169.

(3)(a) The credit allowed under this section may be taken for the tax year in which the agriculture workforce housing project is completed or in any of the nine tax years succeeding the tax year in which the project is completed.

(b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined under subsection (1) of this section.

(4)(a) To claim a credit under this section, a taxpayer must show in each year following the completion of an agriculture workforce housing project that the housing continues to be operated as agriculture workforce housing.

(b) A taxpayer need not make the showing required in paragraph (a) of this subsection if the Housing and Community Services Department waives the requirement after the taxpayer has successfully met the requirement for the first five years after completion of the agriculture workforce housing project.

(c) The Housing and Community Services Department shall determine by rule the factors necessary to grant a waiver. Such factors may include a documented decline in a particular area for agriculture workforce housing.

(5) The credit shall apply only to an agriculture workforce housing project that is located within this state and physically begun on or after January 1, 1990.

(6)(a) A credit may not be allowed under this section unless the taxpayer claiming credit under this section:

(A) Obtains a letter of credit approval from the Housing and Community Services Department pursuant to ORS 315.167; and

(B) Files with the Department of Revenue an annual certification providing that all occupied units for which credit is being claimed are occupied by agricultural workers, including agricultural workers who are retired or disabled, and their immediate families.

(b) The certification described under this subsection shall be made on the form and in the time and manner prescribed by the Department of Revenue.

(7) Except as provided under subsection (8) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

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

(9)(a) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the agriculture workforce housing project to which the taxpayer otherwise may be entitled under ORS chapter 316 or 317 for the year.

(b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(10) For a taxpayer to receive a credit under this section, the agriculture workforce housing must:

(a) Comply with all occupational safety or health laws, rules, regulations and standards;

(b) If registration is required, be registered as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

(c) Upon occupancy and if an indorsement is required, be operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730; and

(d) Continue to be operated as agriculture workforce housing for a period of at least 10 years after the completion of the agriculture workforce housing project, unless a waiver has been granted under subsection (4) of this section.

(11)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department of Revenue may order the disallowance of the credit allowed under this section if it finds, by order, that:

(A) The credit was obtained by fraud or misrepresentation; or

(B) In the event that an owner or operator claims or claimed the credit:

(i) The taxpayer has failed to continue to substantially comply with the occupational safety or health laws, rules, regulations or standards;

(ii) After occupancy and if registration is required, the agriculture workforce housing is not registered as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

(iii) After occupancy and if an indorsement is required, the agriculture workforce housing is not operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730; or

(iv) The taxpayer has failed to make a showing that the housing continues to be operated as agriculture workforce housing as required under subsection (4)(a) of this section and the taxpayer has not been granted a waiver by the Housing and Community Services Department under subsection (4)(b) of this section.

(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section, in connection with the agriculture workforce housing project, as the case may be, from and after the date that the order of disallowance becomes final.

(12) In the event that the agriculture workforce housing is destroyed by fire, flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection district or unit determines that the fire was caused by arson, as defined in ORS 164.315 and 164.325, by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the Department of Revenue. Upon conviction of arson, the Department of Revenue shall disallow the credit in accordance with subsection (11) of this section.

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

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

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

(14) The Department of Revenue may adopt rules for carrying out the provisions of this section. [1993 c.730 §20 (enacted in lieu of 316.154 and 317.146); 1993 c.730 §20a; 1995 c.500 §10; 1995 c.746 §52; 2001 c.613 §13a; 2001 c.625 §2; 2001 c.868 §1; 2003 c.588 §§3,5; 2011 c.471 §2; 2013 c.750 §20]

Note: Section 28, chapter 913, Oregon Laws 2009, provides:

Sec. 28. Except as provided in ORS 315.164 (8), a credit may not be claimed under ORS 315.164 for tax years beginning on or after January 1, 2020. [2009 c.913 §28; 2013 c.750 §18]

315.165 [Repealed by 1965 c.26 §6]

315.167 Agriculture workforce housing credit application; procedure; limitation; rules. (1) Prior to the completion of an agriculture workforce housing project for which credit under ORS 315.164 will be claimed, an owner or operator of agriculture workforce housing shall apply to the Housing and Community Services Department for a letter of credit approval.

(2) The application shall be on such form as is prescribed by the Housing and Community Services Department and shall provide:

(a) The name, address and taxpayer identification number of the taxpayer;

(b) The location of the proposed agriculture workforce housing;

(c) A description of the project identifying the type of housing that is the subject of the agriculture workforce housing project;

(d) An estimate of the eligible costs of the agriculture workforce housing project;

(e) The number of units in the project dedicated to agriculture workforce housing and the eligible costs associated with the units;

(f) The amount of credit to be claimed by the owner or operator of agriculture workforce housing, and the amount of credit, if any, to be claimed by a contributor under ORS 315.169; and

(g) Any other information as the Housing and Community Services Department may require.

(3) The Housing and Community Services Department may review applications using any reasonable system of prioritizing review established by department rule.

(4) Applications filed in compliance with this section shall be approved by the Housing and Community Services Department to the extent that the total of estimated eligible costs for all approved agriculture workforce housing projects for the calendar year is equal to or less than $7.25 million. No application shall be approved if the addition of the estimated eligible costs of the project to the estimated eligible costs for all approved projects for the calendar year would exceed $7.25 million.

(5) Upon approval of an application, the Housing and Community Services Department shall prepare a letter of credit approval. The letter shall state the approved amount of estimated eligible costs for the agriculture workforce housing project and, if applicable, the portion of credit to be claimed by an owner or operator of agriculture workforce housing under ORS 315.164 and the portion of credit to be claimed by a contributor under ORS 315.169. The letter shall be sent:

(a) To the owner or operator of agriculture workforce housing, if any credit is to be claimed under ORS 315.164; and

(b) To the contributor, if any credit is to be claimed under ORS 315.169 and if the contributor has been identified at the time of approval.

(6) At the conclusion of each calendar year, the Housing and Community Services Department shall send a list of the names, addresses and taxpayer identification numbers of taxpayers to whom a letter of credit approval has been issued under this section during the calendar year, along with approved amounts of estimated eligible costs for each agriculture workforce housing project, to the Department of Revenue.

(7) Notwithstanding that a letter of credit approval has been issued to a taxpayer under this section, the Department of Revenue may disallow, in whole or in part, a claim for credit under ORS 315.164 upon the Department of Revenue's determination that under the provisions of ORS 315.164 the taxpayer is not entitled to the credit or is only entitled to a portion of the amount claimed. [1995 c.746 §52a; 2001 c.613 §14; 2001 c.625 §3; 2001 c.868 §5; 2003 c.588 §§6a,7; 2011 c.471 §3; 2013 c.750 §21]

315.169 Agriculture workforce housing contributor credit; transfer of agriculture workforce housing owner or operator credit; continued eligibility; rules. (1) A taxpayer that is a contributor is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or ORS chapter 317, if the taxpayer is a corporation, to the extent the owner or operator of agriculture workforce housing transferred all or a portion of the credit allowed to the owner or operator under ORS 315.164.

(2) An owner or operator of agriculture workforce housing may transfer all or a portion of the credit allowed to the owner or operator under ORS 315.164 to one or more contributors but the amount transferred may not total more than the total credit the owner or operator may claim.

(3) To receive a credit under this section:

(a) The contributor must obtain a letter of credit approval from the Housing and Community Services Department under ORS 315.167; or

(b) If the owner or operator of agriculture workforce housing elects to transfer all or a portion of the credit allowed under ORS 315.164 after the date that a letter of credit approval has been issued to the owner or operator, the owner or operator and the contributor must jointly file a statement with the Department of Revenue stating the portion of the credit the contributor is allowed to claim and any other information the department may require by rule.

(4) A contributor remains eligible to receive a credit under this section even if the owner or operator of the agriculture workforce housing becomes ineligible for the credit as a result of:

(a) Failure to file the annual certification under ORS 315.164 (6);

(b) Failure to continue to substantially comply with occupational safety or health laws, rules, regulations or standards under ORS 315.164 (10);

(c) Failure to register as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

(d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under ORS 658.730; or

(e) Failure to comply with any other rules or provisions relating to the operation or maintenance of the agriculture workforce housing after work on the agriculture workforce housing project has been completed.

(5)(a) A contributor does not remain eligible to receive a credit under this section if the Department of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for a contested case under ORS chapter 183, that the contributor obtained the credit by fraud or misrepresentation, including a finding that the housing did not comply with all occupational safety or health laws, rules, regulations and standards applicable for agriculture workforce housing at the time the housing was completed.

(b) If the credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the department shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

(c) If the credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section, in connection with the agriculture workforce housing project, as the case may be, from and after the date that the order of disallowance becomes final.

(6)(a) The credit allowed under this section may be taken for the tax year in which the agriculture workforce housing project is completed or in any of the nine tax years succeeding the tax year in which the project is completed.

(b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined under subsection (2) of this section that was transferred to the contributor claiming the credit.

(7) Except as provided under subsection (8) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

(8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and any credit not used in that seventh succeed-

ing tax year may be carried forward and used in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may be carried forward and used in the ninth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

(10) The department may adopt rules for carrying out the provisions of this section. [2001 c.868 §3; 2003 c.588 §§9,11; 2011 c.471 §4; 2013 c.750 §22]

315.170 [Repealed by 1965 c.26 §6]

315.172 Collection of taxes upon disallowance of agriculture workforce housing credit. Upon an order of the disallowance of a credit for agriculture workforce housing under ORS 315.164 (11) or 315.169 (5), the Department of Revenue immediately shall collect any taxes due by reason of the disallowance and shall have the benefit of all the laws of this state pertaining to the collection of income and excise taxes. An assessment of the taxes is not necessary and a statute of limitation shall not preclude the collection of the taxes. [2001 c.868 §4; 2003 c.588 §15; 2013 c.750 §23]

315.174 Livestock killed by wolf. (1) As used in this section, "livestock" has the meaning given that term in ORS 610.150.

(2) A credit against taxes imposed under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed for the current market value of any livestock that belongs to the taxpayer and that is killed during the tax year by a wolf.

(3) In order to qualify for the credit allowed under this section, the taxpayer must obtain written certification from the State Department of Fish and Wildlife as provided in subsection (4) of this section.

(4)(a) The State Department of Fish and Wildlife shall issue written certification to taxpayers that are eligible to claim the credit allowed under this section. Before issuing a certification under this subsection, the department must possess evidence that the loss to a taxpayer's livestock is due to wolf depredation. The evidence must include a finding by the department or by a peace officer, as defined in ORS 161.015, that wolf depredation was the probable cause of the loss.

(b) The department may not issue certifications for more than $37,500 in tax credits for any tax year. The department shall issue certifications to taxpayers in the order in which completed applications for certification are received by the department.

(5) A credit allowed under this section shall be reduced by any amount that a taxpayer has already received as compensation for the killed livestock, including compensation pursuant to ORS 610.150.

(6) A taxpayer may not claim a credit under this section for:

(a) Any tax year that ends after the date on which the State Fish and Wildlife Commission has, by rule, removed the wolf from the list of endangered species established pursuant to ORS 496.172 (2); or

(b) A loss to livestock killed after June 30, 2018.

(7) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

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

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

(a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

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

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated or computed in a manner consistent with ORS 314.085. [2012 c.65 §2]

Note: Section 3, chapter 65, Oregon Laws 2012, provides:

Sec. 3. Section 2 of this 2012 Act [315.174] applies to tax years beginning on or after January 1, 2012, and before January 1, 2019. [2012 c.65 §3]

315.175 [Repealed by 1965 c.26 §6]

315.180 [Repealed by 1965 c.26 §6]

315.185 [Repealed by 1965 c.26 §6]

315.190 [Repealed by 1965 c.26 §6]

315.195 [Repealed by 1965 c.26 §6]

315.200 [Repealed by 1965 c.26 §6]

CHILDREN AND FAMILIES; POVERTY RELIEF

315.204 Dependent care assistance; rules. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed to a resident employer or to a corporation that is an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to an employee if the assistance is furnished pursuant to a program which meets the requirements of section 129(d) of the Internal Revenue Code and if the employer has received a certificate as provided in subsection (2) of this section.

(2)(a) Each employer that elects to receive a credit allowed under subsection (1) of this section must submit an application to the Office of Child Care each year the employer wishes to receive the credit. The Early Learning Council shall prescribe by rule the form of the application and the information required to be given on the application.

(b) The Office of Child Care shall issue a certificate to each employer that submits an application under this subsection.

(3) The amount of the credit allowed under subsection (1) of this section shall be 50 percent of the amount so paid or incurred by the employer during the taxable year but shall not exceed $2,500 of dependent care assistance actually provided to the employee.

(4)(a) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed to a resident employer, or to a corporation that is an employer, based upon amounts paid or incurred by the employer during the taxable year to provide information and referral services to assist employees of the employer employed within this state to obtain dependent care.

(b) The amount of the credit allowed under this subsection shall be 50 percent of the amounts paid or incurred during the taxable year.

(5) No amount paid or incurred during the taxable year of an employer in providing dependent care assistance to any employee shall qualify for the credit allowed under subsection (1) of this section if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(6) No amount paid or incurred by an employer to provide dependent care assistance to an employee shall qualify for the credit allowed under subsection (1) of this section if the amount paid or incurred is paid or incurred pursuant to a salary reduction plan or is not paid or incurred for services performed within this state.

(7) If the credit allowed under subsection (1) or (4) of this section is claimed, the amount of any deduction allowed or allowable under ORS chapter 316, 317 or 318 for the amount that qualifies for the credit (or upon which the credit is based) shall be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section shall be made at the time of filing the tax return in accordance with any rules adopted by the Department of Revenue.

(8) The amount upon which the credit allowed under subsection (1) of this section is based shall not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section shall not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of ORS 316.162, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. Amounts excluded under this subsection shall not qualify as expenses for which a credit is allowed to the employee under ORS 316.078.

(9) A nonresident shall be allowed the credit allowed under subsection (1) or (4) of this section. The credit shall be computed in the same manner and be subject to the same

limitations as the credit granted to a resident.

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

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

(12) Any tax credit otherwise allowable under this section which 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 credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(13) For purposes of the credit allowed under subsection (1) or (4) of this section:

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code shall apply to the extent applicable.

(b) "Employer" means an employer carrying on a business, trade, occupation or profession in this state.

(14) In the case of an on-site facility, in accordance with any rules adopted by the department, the amount upon which the credit allowed under subsection (1) of this section is based, with respect to any dependent, shall be based upon utilization and the value of the services provided. [1993 c.730 §22 (enacted in lieu of 316.134, 317.135 and 318.175); 1995 c.79 §163; 1997 c.839 §65; 2001 c.674 §14; 2013 c.624 §77]

Note: Section 10, chapter 682, Oregon Laws 1987, provides:

Sec. 10. Except as provided in ORS 315.204 (12), ORS 315.204 applies to tax years beginning on or after January 1, 1988, and before January 1, 2016. [1987 c.682 §10; 1991 c.929 §3; 2001 c.674 §1; 2005 c.485 §1; 2009 c.913 §46]

315.205 [Repealed by 1965 c.26 §6]

315.208 Dependent care facilities. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation that is an employer, under ORS chapter 317 or 318) is allowed to an employer, based upon costs actually paid or incurred by the employer, to acquire, construct, reconstruct, renovate or otherwise improve real property so that the property may be used primarily as a dependent care facility.

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

(a) $2,500 multiplied by the number of full-time equivalent employees employed by the employer (on the property or within such proximity to the property that any dependents of the employees may be cared for in the facility) on any date within the two years immediately preceding the end of the first tax year for which credit is first claimed;

(b) Fifty percent of the cost of the acquisition, construction, reconstruction, renovation or other improvement; or

(c) $100,000.

(3) To qualify for the credit allowed under subsection (1) of this section:

(a) The amounts paid or incurred by the employer for the acquisition, construction, reconstruction, renovation or other improvement to real property may be paid or incurred either:

(A) To another to be used to acquire, construct, reconstruct, renovate or otherwise improve real property to the end that it may be used as a dependent care facility with which the employer contracts to make dependent care assistance payments which payments are wholly or partially entitled to exclusion from income of the employee for federal tax purposes under section 129 of the Internal Revenue Code; or

(B) To acquire, construct, reconstruct, renovate or otherwise improve real property to the end that it may be operated by the employer, or a combination of employers, to provide dependent care assistance to the employees of the employer under a program or programs under which the assistance is, under section 129 of the Internal Revenue Code, wholly or partially excluded from the income of the employee.

(b) The property must be in actual use as a dependent care facility on the last day of the tax year for which credit is claimed and dependent care services assisted by the employer must take place on the acquired, constructed, reconstructed, renovated or improved property and must be entitled to an exclusion (whole or partial) from the income of the employee for federal tax purposes under section 129 of the Internal Revenue Code on the last day of the tax year for which credit is claimed.

(c) The person or persons operating the dependent care facility on the property acquired, constructed, reconstructed, renovated or improved must hold a certification (temporary or not) issued under ORS 329A.030 and 329A.250 to 329A.450 by the Office of Child Care to operate the facility on the property on the last day of the tax year of any tax year in which credit under this section is claimed.

(d) The dependent care facility acquired, constructed, reconstructed, renovated or otherwise improved must be located in Oregon. No credit shall be allowed under this section if the dependent care facility is not acquired, constructed, reconstructed, renovated or improved to accommodate six or more children.

(e) The employer must meet any other requirements or furnish any information, including information furnished by the employees or person operating the dependent care facility, to the Department of Revenue that the department requires under its rules to carry out the purposes of this section.

(f) The dependent care facility, the costs of the acquisition, construction, reconstruction, renovation or improvement upon which the credit granted under this section is based, must be placed in operation before January 1, 2002.

(4) The total amount of the costs upon which the credit allowable under this section is based, and the total amount of the credit, shall be determined by the employer, subject to any rules adopted by the department, during the tax year in which the property acquired, constructed, reconstructed, renovated or otherwise improved is first placed in operation as a dependent care facility certified by the Office of Child Care under ORS 329A.030 and 329A.250 to 329A.450. One-tenth of the total credit is allowable in that tax year and one-tenth of the total credit is allowable in each succeeding tax year, not to exceed nine tax years, thereafter. No credit shall be allowed under this section for any tax year at the end of which the dependent care facility is not in actual operation under a current certification (temporary or not) issued by the Office of Child Care nor shall any credit be allowed for any tax year at the end of which the employer is not providing dependent care assistance entitled to exclusion (whole or partial) from employee income for federal tax purposes under section 129 of the Internal Revenue Code for dependent care on the property. Any tax credit allowable under this section in a tax year may be carried forward in the same manner and to the same tax years as if it were a tax credit described in ORS 315.204.

(5) Nothing in this section shall affect the computation of depreciation or basis of a dependent care facility. If a deduction is allowed for purposes of ORS chapter 316, 317 or 318 for the amounts paid or incurred upon which the credit under this section is based, the deduction shall be reduced by the dollar amount of the credit granted under this section.

(6) For purposes of the credit allowed under this section:

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code shall apply to the extent applicable.

(b) "Employer" means a resident, part-year resident or full-year nonresident employer carrying on a business, trade, occupation or profession in this state.

(7) The department shall require that evidence that the person operating the dependent care facility on the date that the taxpayer's tax year ends holds a current certification (temporary or otherwise) to operate the facility accompany the tax return on which any amount of tax credit granted under this section is claimed, or that such evidence be separately furnished. If the evidence is not so furnished, no credit shall be allowed for the tax year for which the evidence is not furnished. The Office of Child Care shall cooperate by making such evidence, in an appropriate form, available to the person operating the facility, if the person is currently certified (temporary or not) so that, if necessary, it may be made available to the taxpayer. [1993 c.730 §24 (enacted in lieu of 316.132, 317.114 and 318.160); 1997 c.325 §37; 1997 c.839 §66; 1999 c.743 §21; 2009 c.33 §18; 2013 c.624 §78]

315.210 [Repealed by 1965 c.26 §6]

315.213 Contributions to Office of Child Care. (1) A credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for certified contributions made to the Office of Child Care under ORS 329A.706.

(2) The amount of a tax credit available to a taxpayer for a tax year under this section shall equal the amount stated in the tax credit certificate received under ORS 329A.706.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year in which the credit is claimed.

(4) If the amount claimed as a credit under this section is allowed as a deduction for federal tax purposes, the amount allowed as a credit under this section shall be added to federal taxable income for Oregon tax purposes.

(5) A credit under this section may be claimed by a nonresident or part-year resident without proration.

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

(7) The definitions in ORS 329A.700 apply to this section. [2001 c.674 §10; 2003 c.473 §8; 2013 c.624 §79]

Note: Section 13, chapter 674, Oregon Laws 2001, provides:

Sec. 13. ORS 315.213 applies to tax years beginning on or after January 1, 2002, and before January 1, 2016. [2001 c.674 §13; 2003 c.473 §9; 2007 c.880 §1; 2009 c.913 §47]

315.215 [Repealed by 1965 c.26 §6]

315.234 [1993 c.730 §26 (enacted in lieu of 316.133 and 317.134); 1995 c.54 §6; 1995 c.746 §49; repealed by 2005 c.94 §81]

315.237 Employee and dependent scholarship program payments. (1) As used in this section, "qualified scholarship" means a scholarship that meets the criteria set forth or incorporated into the letter of employee and dependent scholarship program certification issued by the Oregon Student Access Commission under ORS 348.618.

(2) A credit against the taxes otherwise due under ORS chapter 316 is allowed to a resident employer (or, if the taxpayer is a corporation that is an employer, under ORS chapter 317 or 318) that has received:

(a) Program certification from the commission under ORS 348.618; and

(b) Tax credit certification under ORS 348.621 for the calendar year in which the tax year of the taxpayer begins.

(3) The amount of the credit allowed to a taxpayer under this section shall equal 50 percent of the amount of qualified scholarship funds actually paid to or on behalf of qualified scholarship recipients during the tax year.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year.

(5) The credit allowed to a taxpayer for a tax year under this section may not exceed $50,000.

(6) 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 credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) In the case of a credit allowed under this section for purposes of ORS chapter 316:

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

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

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

(8) The credit shall be claimed on the form and in the time and manner in which the department shall prescribe. If the taxpayer is required to do so by the department, the taxpayer shall file a copy of the letter of tax credit certification issued by the commission with the taxpayer's return for the tax year in which a credit under this section is claimed. [2001 c.475 §8; 2011 c.637 §102]

Note: Section 24, chapter 913, Oregon Laws 2009, provides:

Sec. 24. Except as provided in ORS 315.237 (6), a credit may not be claimed under ORS 315.237 for tax years beginning on or after January 1, 2020. [2009 c.913 §24; 2013 c.750 §17]

315.254 [1993 c.730 §28 (enacted in lieu of 316.151, 317.141 and 318.085); repealed by 2009 c.33 §19]

315.255 [Repealed by 1965 c.26 §6]

315.259 [1995 c.648 §2; 1997 c.325 §38; 1999 c.59 §78; 1999 c.741 §1; 2012 c.37 §83; repealed by 2013 c.176 §7]

315.260 [Repealed by 1965 c.26 §6]

315.262 Working family child care; rules. (1) As used in this section:

(a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of allowing the taxpayer to be

gainfully employed, to seek employment or to attend school on a full-time or part-time basis, except that the term does not include care provided by:

(A) The child's parent or guardian, unless the care is provided in a certified or registered child care facility; or

(B) A person who has a relationship to the taxpayer that is described in section 152(a) of the Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

(b) "Child care expenses" means the costs associated with providing child care to a qualifying child of a qualified taxpayer.

(c) "Disability" means a physical or cognitive condition that results in a person requiring assistance with activities of daily living.

(d) "Earned income" has the meaning given that term in section 32 of the Internal Revenue Code.

(e) "Qualified taxpayer" means a taxpayer:

(A) Who is an Oregon resident with at least $6,000 of earned income for the tax year or who is a nonresident of Oregon with at least $6,000 of earned income from Oregon sources for the tax year;

(B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the federal poverty level;

(C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the federal poverty level; and

(D) Who does not have more than the maximum amount of disqualified income under section 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax credit for federal tax purposes.

(f) "Qualifying child" has the meaning given that term in section 152(c) of the Internal Revenue Code, determined without regard to section 152(c)(1)(D) of the Internal Revenue Code or section 152(e) of the Internal Revenue Code, except that it is limited to an individual who is under 13 years of age, or who is a child with a disability, as that term is defined in ORS 316.099.

(2) A taxpayer is not disqualified from claiming the credit under this section solely because the taxpayer's spouse has a disability, if the disability is such that it prevents the taxpayer's spouse from providing child care, being gainfully employed, seeking employment and attending school. The Department of Revenue may require that a physician verify the existence of the disability and its severity.

(3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 equal to the applicable percentage of the qualified taxpayer's child care expenses (rounded to the nearest $50).

(4) The applicable percentage to be used in calculating the amount of the credit provided in this section shall be determined in accordance with the following table:

Applicable Percentage	Greater of Oregon Adjusted Gross Income or Federal Adjusted Gross Income, as Percent of Federal Poverty Level
40	200 or less
36	Greater than 200 and less than or equal to 210
32	Greater than 210 and less than or equal to 220
24	Greater than 220 and less than or equal to 230
16	Greater than 230 and less than or equal to 240
8	Greater than 240 and less than or equal to 250
0	Greater than 250 percent of federal poverty level

(5) The department may:

(a) Adopt rules for carrying out the provisions of this section; and

(b) Prescribe the form used to claim a credit and the information required on the form. The form may provide for verification of an individual's disability by a physician, if applicable, as described in subsection (2) of this section.

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

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

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

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

(d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this section only if:

(A) The taxpayer files a joint return;

(B) The taxpayer files a separate return and is legally separated or subject to a separate maintenance agreement; or

(C) The taxpayer files a separate return and the taxpayer and the taxpayer's spouse reside in separate households on the last day of the tax year with the intent of remaining in separate households in the future.

(7) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(8)(a) The minimum amount of earned income a taxpayer must earn in order to be a qualified taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying $6,000 by the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year over the monthly averaged index for the second quarter of the calendar year 1998.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of $50, the adjustment shall be rounded to the nearest multiple of $50.

(d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of earned income a taxpayer must earn may not exceed the amount an individual would earn if the individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next lower multiple of $50. [1997 c.692 §2; 1999 c.998 §1; 2001 c.114 §32; 2001 c.660 §10; 2001 c.867 §1; 2003 c.46 §33; 2003 c.473 §11; 2005 c.49 §1; 2005 c.832 §25; 2007 c.70 §83; 2007 c.868 §1; 2009 c.909 §41]

Note: 315.262 is repealed January 2, 2016. See section 3, chapter 868, Oregon Laws 2007, as amended by section 45, chapter 913, Oregon Laws 2009.

315.265 [Repealed by 1965 c.26 §6]

315.266 Earned income; rules. (1) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to eight percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

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

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

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

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(6) The Department of Revenue may adopt rules for purposes of this section, including but not limited to rules relating to proof of eligibility and the furnishing of information regarding the federal earned income credit claimed by the taxpayer for the tax year.

(7) Refunds attributable to the earned income credit allowed under this section shall not bear interest. [1997 c.692 §3; 2001 c.114 §33; 2001 c.660 §56; 2003 c.77 §12; 2005 c.832 §§54,57,59; 2007 c.880 §2; 2013 s.s.1 c.5 §6d]

Note: Section 7 (2), chapter 5, Oregon Laws 2013 (first special session), provides:

Sec. 7. (2) The amendments to ORS 315.266 by section 6d of this 2013 special session Act apply to tax years beginning on or after January 1, 2014. [2013 s.s.1 c.5 §7(2)]

Note: Section 6, chapter 880, Oregon Laws 2007, provides:

Sec. 6. ORS 315.266 applies to tax years beginning before January 1, 2020. [2007 c.880 §6; 2013 c.750 §1]

315.270 [Repealed by 1965 c.26 §6]

315.271 Individual development accounts. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary or-

ganization for distribution to individual development accounts established under ORS 458.685. The credit shall equal the lesser of $75,000 or 75 percent of the donation amount. To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, 2016.

(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 75 percent.

(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. [1999 c.1000 §12; 2001 c.648 §1; 2007 c.765 §1; 2009 c.913 §48]

Note: 315.271 is repealed January 2, 2016. See section 9, chapter 765, Oregon Laws 2007.

315.272 Certain individual development account withdrawals. (1) An individual taxpayer shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 if, during the tax year:

(a) The taxpayer purchased a primary residence;

(b) All or a part of the usual and reasonable settlement, financing or other closing costs for the purchase were funded from a withdrawal from an individual development account in which the taxpayer is the account holder; and

(c) An approved purpose of the account is the purpose described in ORS 458.685 (1)(d).

(2) The amount of the tax credit shall be the lesser of:

(a) The amount of the withdrawal from the individual development account that is for the purpose described in ORS 458.685 (1)(d);

(b) The amount of usual and reasonable settlement, financing and other closing costs incurred in the purchase of the primary residence;

(c) $2,000; or

(d) The tax liability of the taxpayer.

(3) A tax credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

(4) A tax credit under this section may be claimed by a nonresident or a part-year resident without proration.

(5) The definitions in ORS 458.670 apply to this section. [2005 c.575 §2]

Note: Section 49, chapter 913, Oregon Laws 2009, provides:

Sec. 49. A credit may not be claimed under ORS 315.272 for tax years beginning on or after January 1, 2016. [2009 c.913 §49]

315.274 [1999 c.1088 §2; 2001 c.660 §57; 2003 c.77 §13; repealed by 2011 c.83 §13]

315.275 [Repealed by 1965 c.26 §6]

315.280 [Amended by 1953 c.148 §3; repealed by 1965 c.26 §6]

315.285 [Repealed by 1965 c.26 §6]

315.290 [Repealed by 1965 c.26 §6]

315.295 [Repealed by 1965 c.26 §6]

ENVIRONMENT AND ENERGY

315.304 Pollution control facilities. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) for a pollution control facility or facilities certified under ORS 468.170 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

(2) For a facility certified under ORS 468.170, the maximum credit allowed in any one tax year shall be the lesser of the tax liability of the taxpayer or the applicable percentage of the certified cost of the facility, as determined under ORS 468.173 or 468.183, multiplied by the certified percentage allocable to pollution control, divided by the number of years of the facility's useful life. The number of years of the facility's useful life used in this calculation shall be the remaining number of years of useful life at the time the facility is certified but not less than one year nor more than 10 years.

(3) To qualify for the credit the pollution control facility must be erected, constructed or installed in accordance with the provisions of ORS 468.165 (1) and must be certified for tax relief under ORS 468.155 to 468.190.

(4) To qualify for a tax credit under this section:

(a) The taxpayer who is allowed the credit must be:

(A) The owner, including a contract purchaser, of the trade or business that utilizes

Oregon property requiring a pollution control facility to prevent or minimize pollution;

(B) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or

(C) A person who, as an owner, including a contract purchaser, or lessee, owns or leases a pollution control facility that is used:

(i) In a business that is engaged in a production activity described in 40 C.F.R. 430.20 (as of July 1, 1998); or

(ii) For recycling, material recovery or energy recovery as defined in ORS 459.005; and

(b) The facility must be owned or leased during the tax year by the taxpayer claiming the credit and must have been in use and operation during the tax year for which the credit is claimed.

(5) Regardless of when the facility is erected, constructed or installed, a credit under this section may be claimed by a taxpayer:

(a) For a facility qualifying under ORS 468.165 (1)(a) or (b), only in those tax years which begin on or after January 1, 1967.

(b) For a facility qualifying under ORS 468.165 (1)(c), in those tax years which begin on or after January 1, 1973.

(c) For a facility qualifying under ORS 468.165 (1)(d), in those tax years which begin on or after January 1, 1984.

(6) For a facility certified under ORS 468.170, the maximum total credit allowable shall not exceed one-half of the certified cost of the facility multiplied by the certified percentage allocable to pollution control.

(7) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for such year.

(8) Upon any sale, exchange or other disposition of a facility, notice thereof shall be given to the Environmental Quality Commission who shall revoke the certification covering such facility as of the date of such disposition. Notwithstanding ORS 468.170 (4)(c), the transferee may apply for a new certificate under ORS 468.170, but the tax credit available to such transferee shall be limited to the amount of credit not claimed by the transferor. The sale, exchange or other disposition of shares in an S corporation as defined in section 1361 of the Internal Revenue Code or of a partner's interest in a partnership shall not be deemed a sale, exchange or other disposition of a facility for purposes of this subsection.

(9) Any tax credit otherwise allowable under this section which 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 credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that 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. Credits may be carried forward to and used in a tax year beyond the years specified in ORS 468.170.

(10) The taxpayer's adjusted basis for determining gain or loss shall not be further decreased by any tax credits allowed under this section.

(11) A person described in subsection (4)(a)(C) of this section may, but need not, operate the facility or conduct a trade or business that utilizes property requiring the facility. If more than one person has an interest under subsection (4)(a)(C) of this section in the facility, only one person may claim the credit allowed under this section. However, portions of the facility may be certified separately in the same manner as provided in ORS 468.170 (8) if ownership of the portions is in more than one person. The person claiming the credit as between an owner, including a contract purchaser, and lessee under this subsection shall be designated in a written statement signed by both the lessor and lessee of the facility. This statement shall be filed with the Department of Revenue not later than the final day of the first tax year for which a tax credit is claimed.

(12)(a) A taxpayer may not be allowed a tax credit under this section for any tax year during which the taxpayer is convicted of a felony under ORS 468.922 to 468.956 that is related to the facility for which the tax credit would otherwise be claimed, or for the four tax years succeeding the tax year during which the taxpayer is convicted.

(b) The amount of any tax credit that is otherwise allowable under this section but for paragraph (a) of this subsection shall be considered to be claimed by the taxpayer for purposes of determining the amount of tax credit that may be claimed in a tax year in which paragraph (a) of this subsection permits the taxpayer to claim the credit. [1993 c.730 §30 (enacted in lieu of 316.097 and 317.116); 1993 c.560 §110a; 1995 c.746 §1; 1997 c.99 §5; 1997 c.325 §39; 1999 c.1101 §1; 2001 c.928 §4]

Note: Section 3, chapter 928, Oregon Laws 2001, provides:

Sec. 3. (1) Notwithstanding ORS 315.304 (9), in the case of a pollution control facility for which unexpired tax credits exist as of the tax year of the taxpayer that

begins in the 2001 calendar year, if the facility is in use and operation during the tax year immediately following the third succeeding tax year described in ORS 315.304 (9), any credit under ORS 315.304 remaining unused may be carried forward to that fourth succeeding tax year. If the facility is in use and operation during the tax year immediately following the fourth succeeding tax year, any credit under ORS 315.304 remaining unused may be carried forward to that fifth succeeding tax year. If the facility is in use and operation during the tax year immediately following the fifth succeeding tax year, any credit under ORS 315.304 remaining unused may be carried forward to that sixth succeeding tax year, but may not be carried forward to any tax year thereafter.

(2) For purposes of this section, unexpired tax credits include credits claimed pursuant to ORS 315.304 (2) and credits carried over from previous tax years pursuant to ORS 315.304 (9). [2001 c.928 §3]

315.305 [Repealed by 1965 c.26 §6]

315.310 [Repealed by 1965 c.26 §6]

315.311 [1995 c.746 §33; 1997 c.325 §40; repealed by 2011 c.83 §13]

315.315 [Repealed by 1965 c.26 §6]

315.320 [Repealed by 1965 c.26 §6]

315.324 [1993 c.730 §32 (enacted in lieu of 316.103 and 317.106); 1995 c.746 §7; repealed by 2011 c.83 §13]

315.325 [Repealed by 1965 c.26 §6]

315.326 Renewable energy development contributions; auction of tax credits; certification; rules. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified renewable energy development contributions made by the taxpayer during the tax year to the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800.

(2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy, conduct an auction of tax credits under this section. The auction may be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department of Revenue shall deposit net receipts from the auction required under this section in the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800. Net receipts from the auction required under this section shall be used only for purposes related to renewable energy development.

(b) The State Department of Energy shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of $1.5 million are certified for each fiscal year;

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

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

(3) Contributions made under this section shall be deposited in the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800.

(4)(a) Upon receipt of a contribution, the State Department of Energy shall, except as provided in ORS 315.329, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed $1.5 million for the fiscal year in which certification is made.

(b) The State Department of Energy and the Department of Revenue are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) The tax credit allowed under this section for any one tax year may not exceed the tax liability of the taxpayer.

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

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

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes. [2011 c.730 §23; 2012 c.45 §2]

Note: Sections 25 and 33a, chapter 730, Oregon Laws 2011, provide:

Sec. 25. A taxpayer may not be allowed a credit under section 23 of this 2011 Act [315.326] for any tax year that begins on or after January 1, 2018. [2011 c.730 §25]

Sec. 33a. Sections 23, 24 and 27 to 33 of this 2011 Act [315.326, 315.329 and 469B.250 to 469B.265] apply to applications for grants submitted under section 29 of this 2011 Act [469B.253] after July 1, 2011, and to tax years beginning on or after January 1, 2011. [2011 c.730 §33a]

315.329 Funding in lieu of tax credit certification. (1) In any fiscal year, the amount of tax credits allowed under ORS 315.326 may be reduced or eliminated, and the Legislative Assembly may, no later than 30 days prior to the end of each fiscal year, in lieu of the issuance of certifications for tax credit under ORS 315.326 by the State Department of Energy, make an appropriation to the State Department of Energy for deposit into the Renewable Energy Development Subaccount, established in ORS 470.805, of the Clean Energy Deployment Fund established in ORS 470.800. Moneys deposited under this section are to be used only for purposes related to renewable energy development.

(2) After a tax credit certificate has been sold as provided in ORS 315.326, the State Department of Energy may not revoke the certificate. [2011 c.730 §24; 2012 c.45 §3]

Note: See note under 315.326.

315.330 [Repealed by 1965 c.26 §6]

315.331 Energy conservation projects. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for an energy conservation project that is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the certified cost of the facility does not exceed $20,000, the total amount of the credit allowable under subsection (3) of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

(2) In order for a tax credit to be allowable under this section:

(a) The project must be located in Oregon.

(b) The project must have received final certification from the Director of the State Department of Energy under ORS 469B.270 to 469B.306.

(c) If the project is a research and development project, it must receive, prior to certification under ORS 469B.288, a recommendation from a qualified third party selected by the director.

(d) If the project is new construction or a total building retrofit, then the project must achieve, at a minimum, the energy efficiency standards required for:

(A) LEED Platinum certification;

(B) A four globes rating from the Green Globes program;

(C) A nationally or regionally recognized and appropriate sustainable building program whose performance standards are equivalent to the standards required for LEED Platinum certification or a four globes rating from the Green Globes program, as determined by the department; or

(D) Verification that the construction conformed to the standards of the Reach Code adopted pursuant to ORS 455.500.

(3) The total amount of credit allowable to an eligible taxpayer under this section may not exceed 35 percent of the certified cost of the project.

(4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the project, notice thereof shall be given to the director, who shall revoke the certificate covering the project as of the date of such disposition.

(b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner or lessee to the State of Oregon have been paid, if the project continues to operate and if all conditions in the final certification are met. The tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit not claimed by the lessee under all previous leases. The State Department of Energy may waive the requirement that a new owner or lessee apply for a new certificate under ORS 469B.291 if the remaining credit is less than $20,000.

(c) The department may not revoke the certificate covering a project under paragraph (a) of this subsection if the tax credit associated with the project has been transferred to a taxpayer who is an eligible applicant under ORS 469B.285.

(5) The tax credit allowed under this section for any one tax year may not exceed the tax liability of the taxpayer.

(6) 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 credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

(7) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

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

(9) The definitions in ORS 469B.270 apply to this section. [2011 c.730 §35]

Note: Sections 36 and 51, chapter 730, Oregon Laws 2011, provide:

Sec. 36. (1) A taxpayer may not be allowed a credit under section 35 of this 2011 Act [315.331] if the first tax year for which the credit would otherwise be allowed, with respect to an energy conservation project certified under section 45 of this 2011 Act [469B.291], begins on or after January 1, 2018.

(2) A taxpayer may not be allowed a credit for an energy conservation project that is a cogeneration facility as that term is defined in ORS 758.505 for a tax year that begins before January 1, 2013. [2011 c.730 §36]

Sec. 51. Sections 35 [315.331], 36 and 38 to 50 [469B.270 to 469B.306] of this 2011 Act apply to applications for preliminary certification submitted under section 43 of this 2011 Act [469B.285] after July 1, 2011, and to tax years beginning on or after January 1, 2011. [2011 c.730 §51]

315.335 [Repealed by 1965 c.26 §6]

315.336 Transportation projects. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation project, based upon the certified cost of the project during the period for which the project is certified under ORS 469B.320 to 469B.347.

(2) The credit allowed for a project other than an alternative fuel vehicle infrastructure project shall be as follows:

(a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maximum allowed credit shall be:

(A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior to July 1, 2011; or

(B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on or after July 1, 2011, and before January 1, 2012.

(b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maximum allowed credit shall be 25 percent of certified cost.

(c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maximum allowed credit shall be 20 percent of certified cost.

(d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maximum allowed credit shall be 15 percent of certified cost.

(e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the maximum allowed credit shall be 10 percent of certified cost.

(3) The total amount of the credit allowable for an alternative fuel vehicle infrastructure project under this section may not exceed 35 percent of the certified cost of the project.

(4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the project, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the amount of the credit allowed under this section is less than 35 percent of the certified cost of the project, the credit allowed in any tax year may not exceed five percent of the certified cost of the project, and may not exceed the tax liability of the taxpayer.

(5) In order for a tax credit to be allowable under this section:

(a) The project must be located in Oregon.

(b) The project must have received final certification from the Director of the State Department of Energy under ORS 469B.320 to 469B.347.

(6) 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 credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (2) of this section only as provided in this subsection.

(7) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the transportation project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

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

(9) The definitions in ORS 469B.320 apply to this section. [2011 c.730 §53; 2012 c.45 §6]

Note: The amendments to 315.336 by section 14, chapter 774, Oregon Laws 2013, apply to tax years beginning on or after January 1, 2015. See section 17, chapter 774, Oregon Laws 2013. The text that applies to tax years beginning on or after January 1, 2015, is set forth for the user's convenience.

315.336. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for a transportation project, based upon the certified cost of the project during the period for which the project is certified under ORS 469B.320 to 469B.347.

(2) The credit allowed for a project other than an alternative fuel vehicle project shall be as follows:

(a) For tax years beginning on or after January 1, 2011, and before January 1, 2012, the maximum allowed credit shall be:

(A) 35 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 prior to July 1, 2011; or

(B) 25 percent of certified cost, if a preliminary certification is issued under ORS 469B.329 on or after July 1, 2011, and before January 1, 2012.

(b) For tax years beginning on or after January 1, 2012, and before January 1, 2013, the maximum allowed credit shall be 25 percent of certified cost.

(c) For tax years beginning on or after January 1, 2013, and before January 1, 2014, the maximum allowed credit shall be 20 percent of certified cost.

(d) For tax years beginning on or after January 1, 2014, and before January 1, 2015, the maximum allowed credit shall be 15 percent of certified cost.

(e) For tax years beginning on or after January 1, 2015, and before January 1, 2016, the maximum allowed credit shall be 10 percent of certified cost.

(3) The total amount of the credit allowable for an alternative fuel vehicle project under this section may not exceed 35 percent of the certified cost of the project.

(4)(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the project, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the amount of the credit allowed under this section is less than 35 percent of the certified cost of the project, the credit allowed in any tax year may not exceed five percent of the certified cost of the project, and may not exceed the tax liability of the taxpayer.

(5) In order for a tax credit to be allowable under this section:

(a) The project must be located in Oregon.

(b) The project must have received final certification from the Director of the State Department of Energy under ORS 469B.320 to 469B.347.

(6) 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 credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (2) of this section only as provided in this subsection.

(7) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the transportation project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

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

(9) The definitions in ORS 469B.320 apply to this section.

Note: Sections 54 and 66, chapter 730, Oregon Laws 2011, provide:

Sec. 54. (1) A taxpayer may not be allowed a credit for a transportation project, other than an alternative fuel vehicle project, certified under ORS 469B.332 if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2016.

(2) A taxpayer may not be allowed a credit for an alternative fuel vehicle project certified under ORS 469B.332 if the first tax year for which the credit would

otherwise be allowed begins on or after January 1, 2018. [2011 c.730 §54; 2013 c.774 §16]

Sec. 66. Sections 53 and 56 to 65 of this 2011 Act [315.336 and 469B.320 to 469B.347] apply to applications for preliminary certification submitted under section 58 of this 2011 Act [469B.326] after July 1, 2011, and to tax years beginning on or after January 1, 2011. [2011 c.730 §66]

(Temporary provisions relating to the credit available for certified alternative fuel vehicle contributions)

Note: Sections 9 to 11, chapter 774, Oregon Laws 2013, provide:

Sec. 9. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified alternative fuel vehicle contributions made by the taxpayer during the tax year to the Alternative Fuel Vehicle Revolving Fund established under section 2 of this 2013 Act [469.961].

(2)(a) The Department of Revenue shall, in cooperation with the State Department of Energy, conduct an auction of tax credits under this section. The Department of Revenue may not auction more than $3 million of tax credits under this section. The department may conduct the auction in the manner that the department determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The Department of Revenue shall deposit net receipts from the auction required under this section in the Alternative Fuel Vehicle Revolving Fund established under section 2 of this 2013 Act. Net receipts from the auction required under this section shall be used to provide loans as described in section 3 of this 2013 Act [469.962].

(b) The State Department of Energy shall adopt rules for the administration and implementation of this section.

(3) Contributions made under this section shall be deposited in the Alternative Fuel Vehicle Revolving Fund.

(4)(a) Upon receipt of a contribution, the State Department of Energy shall issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed $3 million for the tax year beginning January 1, 2013.

(b) The State Department of Energy and the Department of Revenue are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) The tax credit allowed under this section for any one tax year may not exceed the tax liability of the taxpayer.

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

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

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes. [2013 c.774 §9]

Sec. 10. During the biennium beginning July 1, 2013, the limit imposed under ORS 469B.344 (1)(a) on the total amount of potential tax credits for all transportation projects in this state shall be reduced by the total amount of potential tax credits auctioned under section 9 of this 2013 Act during the biennium beginning July 1, 2013. [2013 c.774 §10]

Sec. 11. Section 9 of this 2013 Act applies to tax years beginning on or after January 1, 2013, and before January 1, 2015. [2013 c.774 §11]

315.340 [Repealed by 1965 c.26 §6]

315.341 Renewable energy resource equipment manufacturing facilities. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of a renewable energy resource equipment manufacturing facility during the period for which the facility is certified under ORS 285C.540 to 285C.559. The credit allowed under this section in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer.

(2) In order for a tax credit to be allowable under this section:

(a) The facility must be located in Oregon;

(b) The facility must have received:

(A) Final certification from the Director of the Oregon Business Development Department under ORS 285C.540 to 285C.559; or

(B) Final certification from the Director of the State Department of Energy under ORS 469B.130 to 469B.169, prior to January 1, 2012; and

(c) The taxpayer must be an eligible applicant under ORS 285C.547 (1)(b).

(3) The total amount of credit allowable to an eligible taxpayer under this section may not exceed 50 percent of the certified cost of a facility.

(4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the Director of the Oregon Business Development Department, who shall revoke the certificate covering the facility as of the date of such disposition.

(b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 285C.553. The new lessor or owner must meet the requirements of ORS 285C.540 to 285C.559 and may

claim a tax credit under this section only if all moneys owed to the State of Oregon have been paid, the facility continues to operate, unless continued operation is waived by the Oregon Business Development Department, and all conditions in the final certification are met. The tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

(5) 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 credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

(6) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

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

(8) The definitions in ORS 285C.540 apply to this section. [2011 c.474 §2; 2012 c.45 §17]

Note: Section 3, chapter 474, Oregon Laws 2011, provides:

Sec. 3. A taxpayer may not be allowed a credit under section 2 of this 2011 Act [315.341] unless the taxpayer receives preliminary certification under section 10 of this 2011 Act [285C.551] before January 1, 2014. [2011 c.474 §3]

315.345 [Repealed by 1965 c.26 §6]

315.350 [Repealed by 1965 c.26 §6]

315.354 Energy conservation facilities. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the facility during the period for which that facility is certified under ORS 469B.130 to 469B.169. The credit is allowed as follows:

(a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the certified cost of the facility does not exceed $20,000, the total amount of the credit allowable under subsection (4) of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

(c) If the facility uses or produces renewable energy resources, the credit allowed in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer.

(2) Notwithstanding subsection (1) of this section:

(a) If the facility is one or more renewable energy resource systems installed in a single-family dwelling, the amount of the credit for each system shall be determined as if the facility was considered a residential alternative energy device under ORS 316.116, but subject to the maximum credit amount under subsection (4)(b) of this section;

(b) If the facility is a high-performance home, the amount of the credit shall equal the amount determined under paragraph (a) of this subsection plus $3,000; and

(c) If the facility is a high-performance home or a homebuilder-installed renewable energy system, the total amount of the credit may be claimed in the first tax year for which the credit is claimed, but may not exceed the tax liability of the taxpayer.

(3) In order for a tax credit to be allowable under this section:

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the Director of the State Department of Energy under ORS 469B.130 to 469B.169;

(c) The taxpayer must be an eligible applicant under ORS 469B.145 (1)(c); and

(d) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric plug-in charging, it must be purchased before January 1, 2010.

(4) The total amount of credit allowable to an eligible taxpayer under this section may not exceed:

(a) 50 percent of the certified cost of a renewable energy resources facility or a high-efficiency combined heat and power facility;

(b) $9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

(c) $12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the dwelling also constitutes a high-performance home; or

(d) 35 percent of the certified cost of any other facility.

(5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the Director of the State Department of Energy, who shall revoke the certificate covering the facility as of the date of such disposition.

(b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469B.161. The new lessor or owner must meet the requirements of ORS 469B.130 to 469B.169 and may claim a tax credit under this section only if all moneys owed to the State of Oregon have been paid, the facility continues to operate, unless continued operation is waived by the State Department of Energy, and all conditions in the final certification are met. The tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

(c) The State Department of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under ORS 469B.145 (1)(c)(A).

(6) 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 credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

(7) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

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

(9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed renewable energy system or a high-performance home:

(a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy system and a high-performance home with respect to the same dwelling;

(b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a tax credit under this section with respect to the dwelling; and

(c) The buyer of the dwelling may not claim a credit under this section that is based on any facility for which the homebuilder has already claimed a credit.

(10) The definitions in ORS 469B.130 apply to this section. [1993 c.730 §34 (enacted in lieu of 316.140 and 317.104); 1995 c.746 §15; 1997 c.656 §4; 1999 c.365 §10; 2001 c.583 §1; 2001 c.660 §1a; 2007 c.843 §14; 2009 c.909 §48; 2010 c.76 §3; 2011 c.474 §23; 2011 c.693 §1]

315.355 [Repealed by 1965 c.26 §6]

315.356 Other grants as offset to cost of energy conservation facility; changes in eligibility for participation in other programs. (1) If a taxpayer obtains a grant from the federal government in connection with a facility that has been certified by the Director of the State Department of Energy, the total cost of the facility shall be reduced on a dollar for dollar basis. Any income or excise tax credits that the taxpayer would be entitled to under ORS 285C.540 to 285C.559,

315.341, 315.354 and 469B.130 to 469B.169 after any reduction described in this subsection may not be reduced by the federal grant. A taxpayer applying for a federal grant shall notify the Department of Revenue by certified mail within 30 days after each application, and after the receipt of any grant.

(2) A taxpayer, or an applicant who is otherwise eligible, is eligible to participate in both this tax credit program and low interest, government-sponsored loans.

(3) A taxpayer who receives a tax credit or property tax relief on a pollution control facility or an alternative energy device under ORS 307.405, 315.304 or 316.116 is not eligible for a tax credit on the same facility or device under ORS 285C.540 to 285C.559, 315.341, 315.354 and 469B.130 to 469B.169. [1993 c.730 §36 (enacted in lieu of 316.141, 316.142 and 317.103); 1995 c.556 §35; 1999 c.623 §3; 2001 c.583 §2; 2007 c.843 §15; 2011 c.83 §14; 2011 c.474 §34; 2011 c.693 §2]

(Temporary provisions relating to low emission truck engines)

Note: Sections 28, 29, 31 and 32, chapter 618, Oregon Laws 2003, provide:

Sec. 28. (1) As used in this section and section 29, chapter 618, Oregon Laws 2003:

(a) "Combined weight" has the meaning given that term in ORS 825.005.

(b) "Motor vehicle" has the meaning given that term in ORS 825.005.

(c) "Truck" means a motor vehicle or combination of vehicles that has a combined weight of more than 26,000 pounds.

(2) A taxpayer who owns a truck that is registered in Oregon under the provisions of ORS chapter 803 or 826 and that has a diesel engine that was purchased in Oregon on or after the effective date of this 2007 Act [September 27, 2007], and that is certified by the federal Environmental Protection Agency to emit particulate matter at the rate of 0.01 grams per brake horsepower-hour or less, is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer is a corporation. The total amount of the credit under this section depends on the number of trucks owned by the taxpayer prior to the purchase, as follows:

(a) 1 to 10 trucks, $925 for each qualifying engine purchased.

(b) 11 to 50 trucks, $705 for each qualifying engine purchased.

(c) 51 to 100 trucks, $525 for each qualifying engine purchased.

(d) More than 100 trucks, $400 for each qualifying engine purchased.

(3) Notwithstanding subsection (2) of this section, a taxpayer may not claim a credit under this section of more than $80,000 for purchases in any one year.

(4) A credit may not be allowed under this section unless the taxpayer claiming the credit complies with rules adopted by the Environmental Quality Commission and the Department of Revenue as provided in section 29, chapter 618, Oregon Laws 2003.

(5) Except as provided under subsection (6) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

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

(7)(a) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the truck to which the taxpayer otherwise may be entitled under ORS chapter 316 or 317 for the tax year.

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

(8)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department of Revenue may order the disallowance of the credit allowed under this section if it finds, by order, that the credit was obtained by fraud or misrepresentation.

(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section from and after the date that the order of disallowance becomes final.

(9) If the engine is destroyed by fire, flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection district or unit determines that the fire was caused by arson, as described in ORS 164.315 and 164.325, by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the Department of Revenue. If the taxpayer is convicted of arson, the Department of Revenue shall disallow the credit in accordance with subsection (8) of this section.

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

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

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117. [2003 c.618 §28; 2007 c.843 §53; 2007 c.855 §17]

Sec. 29. (1) The Environmental Quality Commission, after consultation with the Department of Revenue, shall adopt rules for implementing section 28, chapter 618, Oregon Laws 2003. Rules may include but need not be limited to rules specifying procedures for application, review and approval of the tax credit and rules for issuance and use of a certificate of credit approval.

(2) The application developed under subsection (1) of this section shall include:

(a) The name, address and taxpayer identification number of the taxpayer;

(b) The number of trucks owned by the taxpayer and the number of engines eligible for the tax credit that the taxpayer has purchased; and

(c) Any other information that the rules adopted under subsection (1) of this section may require.

(3) Applications filed in compliance with this section and section 28, chapter 618, Oregon Laws 2003, shall be approved to the extent that the total of estimated tax credits for all approved purchases of engines for the calendar year is equal to or less than $500,000. An application may not be approved if the addition of the amount of the tax credit to the amount of the tax credits for all approved purchases for the calendar year would exceed $500,000.

(4) Notwithstanding section 31, chapter 618, Oregon Laws 2003, the Department of Environmental Quality may approve applications for tax credits for qualifying engines purchased after December 31, 2003, and before July 1, 2011, although the taxpayer may not claim the credit until a tax year beginning on or after January 1, 2005.

(5) The Department of Revenue may disallow, in whole or in part, a claim for credit under section 28, chapter 618, Oregon Laws 2003, upon the Department of Revenue's determination that, under section 28, chapter 618, Oregon Laws 2003, the taxpayer is not entitled to the credit or is entitled to only a portion of the amount claimed.

(6) The Department of Environmental Quality shall charge a fee of $50 for each engine for which a taxpayer applies for a tax credit. The fee is payable to the department and may not be refunded to the applicant for any reason. [2003 c.618 §29; 2007 c.843 §54; 2007 c.855 §18; 2011 c.674 §1]

Sec. 31. The tax credit established in section 28, chapter 618, Oregon Laws 2003, applies to tax years beginning on and after January 1, 2005, and before January 1, 2012, and to engine model years 2003 through 2011. [2003 c.618 §31; 2007 c.843 §55; 2007 c.855 §19; 2009 c.865 §67a; 2011 c.674 §2]

Sec. 32. A certificate of credit approval may not be issued under section 29, chapter 618, Oregon Laws 2003, after June 30, 2011. [2003 c.618 §32; 2007 c.843 §56; 2007 c.855 §20; 2009 c.865 §67b; 2011 c.674 §3]

(Temporary provisions relating to diesel engines)

Note: Sections 12 to 14, chapter 855, Oregon Laws 2007, provide:

Sec. 12. (1) A personal income or corporate income or excise taxpayer is allowed a credit against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs of a repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine that occurs after the effective date of this 2007 Act [September 27, 2007] if:

(a) The repower or retrofit has been identified as qualifying for the credit under rules adopted by the Environmental Quality Commission under section 8 of this 2007 Act [468A.799];

(b) The engine will constitute an Oregon diesel engine; and

(c) The taxpayer has obtained a tax credit cost certification from the Department of Environmental Quality under section 16 of this 2007 Act for the cost of the repower or retrofit.

(2) The maximum amount of the tax credit allowed under this section is limited to:

(a) 25 percent of the certified cost of each qualifying repower; and

(b) 50 percent of the certified cost of each qualifying retrofit.

(3) The amount of the tax credit allowed to the taxpayer under this section in any one tax year may not exceed the tax liability of the taxpayer for the tax year.

(4) Any tax credit that is allowed under this section, but limited by subsection (3) of this section, and that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the engine to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318. The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section.

(6)(a) The Department of Revenue may disallow the credit allowed under this section if the department finds that the credit was obtained by fraud or misrepresentation, or if the department learns that the engine that was the subject of the qualifying repower or retrofit was destroyed by arson committed by the taxpayer, or if the engine no longer meets the requirements for obtaining the tax credit.

(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited, the department shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit and the taxpayer shall be denied any further credit provided under this section.

(c) The department may perform activities necessary to ensure that recipients of the tax credit comply with applicable requirements.

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

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

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

(8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue containing the information required by the Department of Revenue. The taxpayer shall maintain the tax credit cost certification issued by the Department of Environmental Quality under section 16 of this 2007 Act in the records of the taxpayer for the length of time prescribed by the Department of Revenue and shall provide a copy of the cost certification to the Department of Revenue if requested.

(9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and under ORS 469.185 to 469.225 [renumbered 469B.130 to 469B.169] with respect to the same diesel engine or group of diesel engines if

the taxpayer and diesel engines otherwise meet the requirements to be allowed a tax credit under ORS 469.185 to 469.225. [2007 c.855 §12]

Sec. 13. (1) A person that has obtained a tax credit cost certification from the Department of Environmental Quality under section 16 of this 2007 Act may transfer the cost certification to a personal income or corporate income or excise taxpayer in exchange for consideration from the taxpayer.

(2) In order for a credit under section 12 of this 2007 Act to be claimed by a person that does not own the repowered or retrofitted engine that qualifies for the credit, the person that received the tax credit cost certification and the taxpayer that will claim the credit must jointly file a cost certification transfer notice with the Department of Revenue to transfer the cost certification to the taxpayer. The transfer notice shall be on a form prescribed by the department and shall contain any information required by the department.

(3) The cost certification transfer notice shall be filed with the Department of Revenue prior to the first tax year for which a credit will be claimed under section 12 of this 2007 Act. A transfer is not allowed under this section if the transferor has claimed any portion of the credit allowed under section 12 of this 2007 Act. [2007 c.855 §13]

Sec. 14. Sections 12 and 13, chapter 855, Oregon Laws 2007, apply to diesel engine repower and retrofit tax credit cost certifications issued in tax years beginning on or after January 1, 2008, and before January 1, 2012. [2007 c.855 §14; 2009 c.865 §67d; 2009 c.913 §8]

315.357 Time limit applicable to energy conservation tax credit. (1) For a facility other than a renewable energy resource equipment manufacturing facility, a taxpayer may not be allowed a credit under ORS 315.354 unless the taxpayer:

(a) Files an application for preliminary certification under ORS 469B.145 on or before April 15, 2011;

(b) Receives preliminary certification under ORS 469B.157 before July 1, 2011; and

(c) Receives final certification under ORS 469B.161 before January 1, 2013, or has demonstrated, to the State Department of Energy, evidence of beginning construction before April 15, 2011.

(2) Any preliminary certification issued for a facility, other than a renewable energy resource equipment manufacturing facility, under ORS 469B.157 that remains outstanding as of July 1, 2011, shall expire on July 1, 2014. [2007 c.843 §24; 2009 c.913 §15; 2010 c.76 §5; 2011 c.474 §24; 2011 c.730 §1; 2012 c.45 §16]

315.360 [Amended by 1953 c.132 §3; repealed by 1965 c.26 §6]

315.365 [Repealed by 1965 c.26 §6]

315.455 [Repealed by 1965 c.26 §6]

315.460 [Repealed by 1965 c.26 §6]

315.465 Biofuels and fuel blends. (1) As used in this section and ORS 315.469:

(a) "Alternative fuel vehicle" means a motor vehicle that can operate on a fuel blend.

(b) "Biodiesel" has the meaning given that term in ORS 646.905.

(c) "Biomass" has the meaning given that term in ORS 315.141.

(d) "Bone dry ton" means matter that is dried to less than one percent moisture content and that weighs 2,000 pounds.

(e) "Fuel blend" means diesel fuel of blends equal to or exceeding 99 percent biodiesel or gasoline of a blend equal to or exceeding 85 percent methanol or ethanol.

(2)(a) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase fuel blends for use in an alternative fuel vehicle.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase forest, rangeland or agriculture waste or residue densified and dried prepared solid biofuel that contains 100 percent biomass.

(3) The amount of the credit shall be calculated as follows:

(a) Determine the quantity of fuel blend or solid biofuel purchased by the taxpayer during the tax year;

(b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469B.400; and

(c) Multiply the quantity of fuel blend or solid biofuel in a particular category by the appropriate credit rate for that category, expressed in dollars and cents.

(4) Notwithstanding subsection (3) of this section:

(a) The credit allowed under this section for diesel blended fuel is equal to $0.50 per gallon and in any one tax year may not exceed $200 per Oregon registered motor vehicle that is owned or leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

(b) The credit allowed for gasoline blended fuel is equal to $0.50 per gallon and in any one tax year may not exceed $200 per Oregon registered motor vehicle that is owned or leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

(c) The credit allowed for forest, rangeland or agriculture waste or residue densified and dried prepared solid biofuel is equal to $10 per bone dry ton of solid biofuel and in any one tax year may not exceed $200 per taxpayer.

(d) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and may not be carried forward to a subsequent tax year.

(5) For each tax year for which a credit is claimed under this section, the taxpayer shall maintain records sufficient to determine the taxpayer's purchase of qualifying fuel blends. A taxpayer shall maintain the records required under this subsection for at least five years.

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

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

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

(9) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. [2007 c.739 §27]

Note: Section 29, chapter 739, Oregon Laws 2007, provides:

Sec. 29. ORS 315.465 and 315.469 apply to tax years beginning on or after January 1, 2007, and before January 1, 2012. [2007 c.739 §29; 2009 c.913 §17]

315.469 Biodiesel used in home heating. (1) A resident individual shall be allowed a tax credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase fuel for primary home space heating that is at least 20 percent biodiesel. The credit allowed under this section is the lesser of five cents per gallon or $200.

(2) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and may not be carried forward to a subsequent tax year.

(3) For each tax year for which a credit is claimed under this section, the taxpayer shall maintain records sufficient to determine the taxpayer's purchase of qualifying fuel for primary home space heating. A taxpayer shall maintain the records required under this subsection for at least five years.

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

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

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

(7) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. [2007 c.739 §28]

Note: See note under 315.465.

315.504 [1993 c.730 §38 (enacted in lieu of 316.104 and 317.140); repealed by 2005 c.80 §7]

315.505 [Repealed by 1965 c.26 §6]

ECONOMIC DEVELOPMENT

315.507 Electronic commerce in designated enterprise zone. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, shall be allowed to a taxpayer that is:

(a) A business firm engaged or preparing to engage in electronic commerce in an enterprise zone that has been approved for electronic commerce designation under ORS 285C.095; or

(b) A business firm engaged or preparing to engage in electronic commerce in a city that has been designated for electronic commerce under ORS 285C.100.

(2) The credit shall equal 25 percent of the investments made by the business firm in capital assets:

(a) Located in the area designated for electronic commerce;

(b) Used or constructed, installed or otherwise prepared for use in electronic commerce operations within the area designated for electronic commerce that are related to electronic commerce sales, customer service, order fulfillment, broadband infrastructure or other electronic commerce operations; and

(c)(A) During the period that commences when the firm becomes an authorized business firm under ORS 285C.140 and ends on the last day of the income or corporate excise tax year in which begins the first property tax year in which qualified property of the firm used in eligible electronic commerce activities is exempt from property taxation under ORS 285C.175; or

(B) During any income or corporate excise tax year in which begins a property tax year in which qualified property of the firm used in eligible electronic commerce operations is exempt from property taxation under ORS 285C.175.

(3) Except as provided in subsection (5) of this section, the credit must be claimed for

the income or corporate excise tax year that is:

(a) The year in which the investment for which a credit is being claimed is made; and

(b) A year, all or part of which is described in subsection (2)(c) of this section.

(4) A credit allowed under this section for any one tax year may not exceed the lesser of $2 million or the tax liability of the taxpayer.

(5) 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 credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(6) The credit allowed under this section is not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for the tax year.

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

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

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

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

(9) As used in this section, "authorized business firm," "business firm," "electronic commerce" and "qualified property" have the meanings given those terms in ORS 285C.050. [2001 c.957 §8; 2003 c.65 §1; 2003 c.662 §64]

Note: Section 3, chapter 913, Oregon Laws 2009, provides:

Sec. 3. Except as provided in ORS 315.507 (5), a credit may not be claimed under ORS 315.507 for tax years beginning on or after January 1, 2018. [2009 c.913 §3; 2011 c.730 §5]

315.508 Recordkeeping requirements; disallowance of credit. (1) A taxpayer who has claimed a credit under ORS 315.507 shall maintain records sufficient to show:

(a) That within three years following the year in which a credit was claimed under ORS 315.507, property owned or operated by the taxpayer and used in electronic commerce operations was exempt from property taxation under ORS 285C.175; and

(b) That at no time was property described in paragraph (a) of this subsection disqualified from exemption pursuant to ORS 285C.240.

(2) The taxpayer shall provide these records to the Department of Revenue if requested by the department.

(3) The taxpayer shall maintain the records described in this section for at least five years following the last tax year for which the taxpayer claims any credit under ORS 315.507.

(4) If property owned or operated by the taxpayer is not both used in electronic commerce operations in an area designated for electronic commerce and exempt from property taxation under ORS 285C.175 within three years following the year in which a credit is first claimed under ORS 315.507, the department shall disallow the credit for the current or any prior tax year and collect any taxes that were not paid as a result of application of the credit.

(5) If property owned or operated by the taxpayer, used in electronic commerce operations in an area designated for electronic commerce and exempt from property taxation under ORS 285C.175 is disqualified from exemption under ORS 285C.240, the department shall disallow the credit for the current or any prior tax year and collect any taxes that were not paid as a result of application of the credit.

(6) For purposes of collecting taxes due under subsection (4) or (5) of this section, the department shall have the benefit of all laws of this state pertaining to the collection of income and corporate excise taxes. No assessment of these taxes shall be necessary and no statute of limitations shall preclude the collection of these taxes. [2003 c.65 §2 and 2003 c.662 §65]

315.510 [Repealed by 1965 c.26 §6]

315.511 [2001 c.957 §15; repealed by 2011 c.83 §15]

315.514 Film production development contributions; rules. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film

production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

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

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of $10 million are certified for each fiscal year;

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

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

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

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed $10 million for the fiscal year in which certification is made.

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

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

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

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2018.

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

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes. [2003 c.736 §76; 2007 c.843 §59; 2009 c.787 §2; 2011 c.730 §11; 2013 c.750 §50]

Note: Section 77, chapter 736, Oregon Laws 2003, provides:

Sec. 77. ORS 315.514 applies to tax years beginning on or after January 1, 2005, and before January 1, 2018, and to tax credit certifications issued by the Oregon Film and Video Office on or after July 1, 2005. [2003 c.736 §77; 2009 c.913 §1; 2011 c.730 §17]

315.515 [Repealed by 1965 c.26 §6]

315.516 Funding in lieu of tax credit certification. (1) In lieu of the issuance of certifications for tax credit under ORS 315.514 by the Oregon Film and Video Office, the Legislative Assembly may, no later than 30 days prior to the end of each fiscal year, appropriate to the Oregon Business Development Department for deposit into the Oregon Production Investment Fund an amount equal to the total amount that would otherwise be certified for tax credits during the upcoming fiscal year, based on the amount of contributions and accompanying applications for credit received by the office during the fiscal year.

(2) If the Legislative Assembly makes the election allowed in subsection (1) of this section:

(a) Any contributions to the Oregon Production Investment Fund made for the up-

coming fiscal year and for which an application for a credit under ORS 315.514 is pending shall, at the request of the taxpayer, be refunded by the Oregon Film and Video Office; and

(b) A credit under ORS 315.514 may not be claimed for any contribution made during the current fiscal year. [2011 c.730 §13]

Note: 315.516 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

315.517 Water transit vessels. (1) As used in this section, "water transit vessel" means a United States Coast Guard licensed and inspected vessel that is primarily designed to carry 50 or more passengers and vehicles or 50 or more passengers only for a published fee across a body of water between two or more fixed points on a regular schedule.

(2)(a) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a resident employer based upon wages actually paid by the taxpayer to a person employed in this state to assist in the manufacture of a water transit vessel.

(b) The credit allowed under this section:

(A) Must be claimed for the year in which the wages were paid;

(B) May not be claimed for wages paid to an employee who was employed by the employer during the previous tax year; and

(C) Must be for wages paid as a result of an increase in the number of full-time equivalent employees employed by the eligible taxpayer when compared to the previous tax year.

(3) The amount of the credit provided under this section shall be equal to the lesser of:

(a) $5,000; or

(b) 15 percent of the wages paid to employees during the tax year for which the credit is claimed.

(4) The tax credit available under this section may not exceed the tax liability of the taxpayer for the tax year.

(5)(a) Wages taken into account for the purposes of subsection (3) of this section may not include any amount paid by the employer to an employee for whom the employer receives federal funds for on-the-job training.

(b) A tax credit under this section is not in lieu of any deduction for payroll costs or any other expense to which the taxpayer may be entitled.

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

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

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117. [2005 c.677 §1]

Note: Section 2, chapter 677, Oregon Laws 2005, provides:

Sec. 2. ORS 315.517 applies to persons initially hired on or after January 1, 2006, and for which a credit is claimed for tax years beginning on or after January 1, 2006, and before January 1, 2012. [2005 c.677 §2; 2009 c.913 §4]

Note: 315.517 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

315.520 [Repealed by 1965 c.26 §6]

315.521 University venture development fund contributions. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for amounts contributed to a university venture development fund established under ORS 351.697, to the extent the university that established the fund issued a tax credit certificate to the taxpayer.

(2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the amount stated on the tax credit certificate. Except as provided in subsection (3) of this section, the amount of the credit allowed in any one tax year shall equal 20 percent of the amount actually contributed to the fund. The credit shall be claimed in three consecutive tax years beginning with the year in which the credit is initially allowed.

(3) The credit allowed under this section may not exceed $50,000 or the tax liability of the taxpayer for the tax year.

(4) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the

credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(5) A taxpayer claiming a credit under this section shall add to federal taxable income for Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as the basis for the credit allowed under this section. [2005 c.592 §5; 2013 c.750 §42]

Note: Section 27, chapter 913, Oregon Laws 2009, provides:

Sec. 27. A credit may not be claimed under ORS 315.521 if the initial tax year in which the credit would otherwise be allowed begins on or after January 1, 2016. [2009 c.913 §27; 2013 c.750 §43]

315.525 [Repealed by 1965 c.26 §6]

OREGON LOW INCOME COMMUNITY JOBS INITIATIVE

315.526 Short title. ORS 285C.650, 285C.653, 285C.656 and 315.529 to 315.536 shall be known and may be cited as the Oregon Low Income Community Jobs Initiative. [2011 c.732 §1]

Note: 315.526, 315.529 and 315.536 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

315.529 Definitions. As used in ORS 285C.650, 285C.653, 285C.656 and 315.529 to 315.536:

(1) "Credit allowance date" means, with respect to any qualified equity investment:

(a) The date on which the investment is initially made; and

(b) Each of the six yearly anniversary dates after that initial date.

(2) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or at a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date.

(3) "Purchase price" means the amount of cash paid to a qualified community development entity for a qualified equity investment.

(4) "Qualified active low-income community business" has the meaning given that term in section 45D of the Internal Revenue Code. "Qualified active low-income community business" does not include a business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by, or under common control with, another business that:

(a) Does not derive or project to derive 15 percent or more of its annual gross revenues from the rental or sale of real estate; and

(b) Is the primary tenant of real estate leased from the controlled business.

(5) "Qualified community development entity" has the meaning given that term in section 45D of the Internal Revenue Code, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code, and the State of Oregon is included within the service area set forth in the allocation agreement.

(6) "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity, that:

(a) Is acquired at its original issuance solely in exchange for cash after July 1, 2012, unless it was a qualified equity investment in the hands of a prior holder; and

(b) Has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(7) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after July 1, 2012. [2011 c.732 §2]

Note: See note under 315.526.

315.530 [Repealed by 1965 c.26 §6]

315.533 Qualified equity investments. (1) As used in this section, "applicable percentage" means zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date and eight percent for the next four credit allowance dates.

(2) A person that makes a qualified equity investment shall, at the time of investment, earn a vested credit against the taxes otherwise due under ORS chapter 316 or, if

the person is a corporation, under ORS chapter 317 or 318.

(3)(a) The total amount of the tax credit available to a taxpayer under this section shall equal 39 percent of the purchase price of the qualified equity investment.

(b) The taxpayer that holds a qualified equity investment on a particular credit allowance date of the qualified equity investment may claim a portion of the tax credit against its tax liability for the tax year that includes the credit allowance date equal to the applicable percentage for that credit allowance date multiplied by the purchase price of the qualified equity investment.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year in which the credit is claimed.

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

(6) The following conditions must exist for a taxpayer to be eligible for the credit allowed under this section:

(a) A qualified community development entity that issues a debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the sum of the cash interest payments and the cumulative operating income, as defined in the regulations promulgated under section 45D of the Internal Revenue Code, of the qualified community development entity for the same period. Neither this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way limits the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code.

(b) A business shall be considered a qualified active low-income community business for the duration of a qualified community development entity's investment in or loan to the business, if it is reasonable to expect that at the time of the qualified community development entity's investment in or loan to a qualified active low-income community business, the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(c) A qualified equity investment must be designated by the issuer as a qualified equity investment and be certified by the Oregon Business Development Department as not exceeding the limitation in ORS 285C.653. The qualified community development entity must keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of proceeds into qualified low-income community investments in qualified active low-income community businesses in this state.

(d) The qualified community development entity shall report annually to the department:

(A) The number of employment positions created and retained as a result of qualified low-income community investments by the qualified community development entity;

(B) The average annual salary of positions described in subparagraph (A) of this paragraph; and

(C) The number of positions described in subparagraph (A) of this paragraph that provide health benefits.

(e) The maximum amount of qualified low-income community investments that may be made in a qualified active low-income community business and all of its affiliates, with the proceeds of qualified equity investments that have been certified under ORS 285C.650, shall be $8 million, whether made by one or several qualified community development entities.

(f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a tax credit relating to that qualified equity investment for each applicable credit allowance date.

(7) A taxpayer claiming a credit under this section may not claim any other credit under this chapter or ORS chapter 285C during the same tax year based on activities related to the same qualified active low-income community business. [2011 c.732 §4; 2013 c.744 §1]

315.535 [Repealed by 1965 c.26 §6]

315.536 Transferability of credit. A tax credit allowed under ORS 315.533 may not be sold or transferred, with the exception that tax credits that a partnership, limited liability company, S corporation or other pass-through entity is entitled to claim may be allocated to the partners, members or shareholders of the entity for their direct use in accordance with the provisions of any agreement among the partners, members or shareholders. [2011 c.732 §5]

Note: See note under 315.526.

315.540 [Repealed by 1965 c.26 §6]

315.545 [Repealed by 1965 c.26 §6]

315.550 [Repealed by 1965 c.26 §6]

315.555 [Repealed by 1965 c.26 §6]

315.560 [Repealed by 1965 c.26 §6]

315.570 [Repealed by 1965 c.26 §6]

315.575 [Repealed by 1965 c.26 §6]

315.580 [Repealed by 1965 c.26 §6]

315.585 [Repealed by 1965 c.26 §6]

315.590 [Repealed by 1965 c.26 §6]

315.604 [1993 c.730 §40 (enacted in lieu of 316.155 and 317.149); 2009 c.595 §204; repealed by 2011 c.83 §15]

HEALTH

315.610 Long term care insurance. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) for premium costs actually paid or incurred during the tax year for a long term care insurance policy:

(a) For long term care coverage of the taxpayer or a dependent or parent of the taxpayer; or

(b) That is offered by the taxpayer to employees of the taxpayer that are employed in this state.

(2) The amount of the credit allowed under this section shall equal the lesser of:

(a) Fifteen percent of the total amount of long term care insurance premiums paid or incurred by the taxpayer during the tax year; or

(b)(A) If the long term care insurance coverage is for the taxpayer and the dependents or parents of the taxpayer, $500; or

(B) If the long term care insurance coverage is for Oregon-based employees of the taxpayer and their dependents or parents, $500 multiplied by the number of employees covered.

(3) A credit may not be allowed under this section if the policy was first issued prior to January 1, 2000.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer and may not be carried forward to another tax year.

(5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

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

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

(c) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

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

(6) As used in this section, "long term care insurance" has the meaning given that term in ORS 743.652. [1999 c.1005 §2]

Note: Section 38, chapter 913, Oregon Laws 2009, provides:

Sec. 38. A credit may not be claimed under ORS 315.610 for tax years beginning on or after January 1, 2016. [2009 c.913 §38]

315.613 Credit available to persons providing rural medical care and affiliated with certain rural hospitals. (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 in the sum of $5,000 during the time in which the individual retains such practice and membership if the individual is actively practicing in and is a member of the medical staff of one of the following hospitals:

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

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

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

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

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

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

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

(e) A rural critical access hospital.

(2) In order to claim the credit allowed under this section, the individual must remain willing during the tax year to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the individual's total number of patients as the Medicare and medical assistance populations represent of the total number of persons determined by the Office of Rural Health to be in need of care in the county served by the practice, not to exceed 20 percent Medicare patients or 15 percent medical assistance patients.

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

(4) 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.

(5) As used in this section:

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

(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. [Formerly 316.143; 2009 c.595 §205; 2013 c.750 §11]

Note: Section 25, chapter 913, Oregon Laws 2009, provides:

Sec. 25. (1) Except as provided in subsection (2) of this section, a credit may not be claimed under ORS 315.613 for tax years beginning on or after January 1, 2016.

(2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning on or after January 1, 2013, and before January 1, 2014, shall be allowed the credit under ORS 315.613 for any tax year:

(a) That begins on or before January 1, 2023; and

(b) For which the taxpayer meets the eligibility requirements of ORS 315.613. [2009 c.913 §25; 2013 c.750 §10]

315.616 Additional providers who may qualify for credit. A resident or nonresident individual who is certified as eligible under ORS 442.561, 442.562, 442.563 or 442.564, and is licensed as a physician under ORS chapter 677, licensed as a physician assistant under ORS chapter 677, licensed as a nurse practitioner under ORS chapter 678, licensed as a certified registered nurse anesthetist under ORS chapter 678, licensed as a dentist under ORS chapter 679 or licensed as an optometrist under ORS 683.010 to 683.340 is entitled to the tax credit described in ORS 315.613 even if not a member of the hospital medical staff if the Office of Rural Health certifies that the individual:

(1) Is engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice; and

(2)(a) If a physician or a physician assistant, can cause a patient to be admitted to the hospital;

(b) If a certified registered nurse anesthetist, is employed by or has a contractual relationship with one of the hospitals described in ORS 315.613 (1); or

(c) If an optometrist, has consulting privileges with a hospital listed in ORS 315.613 (1). This paragraph does not apply to an optometrist who qualifies as a "frontier rural practitioner," as defined by the Office of Rural Health. [Formerly 316.144; 2013 c.129 §25; 2013 c.750 §12]

315.619 Credit for medical staff at type C hospital. A member of the medical staff of a type C hospital who meets the requirements of ORS 315.616 (1) and (2)(a) is entitled to the tax credit described in ORS 315.613 if:

(1) The hospital is isolated due to geographic conditions, complies with rules relating to emergency response and is subject to such other special factors as the Office of Rural Health may prescribe; and

(2) The hospital is designated by the Office of Rural Health as being subject to particular problems in recruiting and retaining medical staff and is located in an area that is medically underserved. [Formerly 316.146]

315.622 Rural emergency medical services providers. (1) A resident or nonresident individual who is certified as eligible under ORS 442.561 to 442.570 and who is licensed as an emergency medical services provider under ORS chapter 682 shall be al-

lowed a credit against the taxes that are otherwise due under ORS chapter 316 if the Office of Rural Health certifies that the individual provides volunteer emergency medical services in a rural area that comprise at least 20 percent of the total emergency medical services provided by the individual in the tax year.

(2) The amount of the credit shall equal $250.

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

(4) As used in this section, "rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more. [2005 c.832 §63; 2011 c.703 §31]

Note: Section 66, chapter 832, Oregon Laws 2005, provides:

Sec. 66. ORS 315.622 applies to tax credit certifications issued by the Office of Rural Health on or after January 1, 2006, and before January 1, 2020. [2005 c.832 §66; 2009 c.913 §26; 2013 c.750 §16]

315.624 Medical care to residents of Oregon Veterans' Home. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who is engaged in the practice of medicine qualifies for an annual credit against the taxes that are otherwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon Veterans' Home.

(2) The amount of the credit allowed under this section shall be equal to the lesser of:

(a) $1,000 for every eight residents to whom the physician provides care at an Oregon Veterans' Home; or

(b) $5,000.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year, and a credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

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

(5) In order to qualify for the tax credit allowed under this section, the physician claiming the credit must submit with the physician's tax return a letter from the Oregon Veterans' Home at which the physician provided care to residents, confirming that the physician missed no more than five percent of the physician's scheduled visits with residents of the home during the tax year.

(6) In the case of a shareholder of a corporation or a member of a partnership, only the care provided by 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) The Director of Veterans' Affairs shall assist the Department of Revenue in determining if a taxpayer claiming a credit under this section qualifies for the credit. [2007 c.843 §3]

Note: Section 9 (1), chapter 843, Oregon Laws 2007, provides:

Sec. 9. (1) ORS 315.624 applies to tax years beginning on or after January 1, 2008, and before January 1, 2016. [2007 c.843 §9; 2009 c.913 §52(1)]

315.628 Health care services under TRICARE contract. (1) A health care provider who enters into a contract for the first time on or after January 1, 2007, to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a one-time credit against taxes otherwise due under ORS chapter 316 in the amount of $2,500.

(2) A health care provider who has a contract to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a credit each tax year against taxes otherwise due under ORS chapter 316 in the amount of $1,000 if the health care provider actively participates in the TRICARE military health care system and each tax year provides health care services to at least 10 patients enrolled in the TRICARE military health care system. A health care provider who serves patients in a rural community, as defined by the Office of Rural Health, may provide health care services to fewer than 10 patients in a tax year and qualify for the credit.

(3) A health care provider may not receive a credit under subsections (1) and (2) of this section in the same tax year.

(4) A nonresident shall be allowed a credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be

determined in a manner consistent with ORS 316.117. [2007 c.843 §5]

Note: Section 8, chapter 843, Oregon Laws 2007, provides:

Sec. 8. ORS 315.628 and 315.631 apply to tax years beginning on or after January 1, 2008, and before January 1, 2016. [2007 c.843 §8; 2009 c.913 §51]

315.631 Certification of health care providers; reports. (1) The Office of Rural Health shall establish criteria for certifying health care providers as eligible for a tax credit authorized by ORS 315.628 or a deduction from federal taxable income under ORS 316.680. Upon finding that a health care provider meets the eligibility criteria established by the office, the office shall certify the provider for a tax credit under ORS 315.628 or the tax deduction under ORS 316.680. The office may issue no more than:

(a) 500 certifications for tax years beginning on or after January 1, 2008, and before January 1, 2009;

(b) 1,000 certifications for tax years beginning on or after January 1, 2009, and before January 1, 2010;

(c) 1,500 certifications for tax years beginning on or after January 1, 2010, and before January 1, 2011; and

(d) 2,000 certifications for tax years beginning on or after January 1, 2011, and before January 1, 2012.

(2) Prior to October 1 of each year, the office shall report to the legislative interim committees on revenue regarding the number of health care providers who qualify for the tax credit under ORS 315.628 (2).

(3) Prior to December 31 of each year, the administrator of the TRICARE contracts with health care providers who provide health care services to patients in Oregon shall make a report to the office regarding the number of patients that each health care provider has contracted to provide health care services. [2007 c.843 §6; 2008 c.3 §1]

Note: See note under 315.628.

Note: 315.631 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

CULTURE

315.675 Trust for Cultural Development Account contributions. (1) As used in this section, "cultural organization" means an entity that is:

(a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

(b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage, programs and humanities to the public or organized primarily for identifying, documenting, interpreting and preserving cultural resources.

(2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(4) The credit is allowable under this section only to the extent the taxpayer has contributed an equal amount to an Oregon cultural organization during the tax year.

(5) The amount of the credit shall equal 100 percent of the amount contributed to the Trust for Cultural Development Account, but may not exceed the lesser of the tax liability of the:

(a) Taxpayer under ORS chapter 316 for the tax year or $500.

(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or $2,500.

(6) The credit allowed under this section may not be carried over to another tax year.

(7) The credit allowed under this section is in addition to any charitable contribution deduction allowable to the taxpayer.

(8) In the case of a credit allowed under this section for purposes of ORS chapter 316:

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

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

(c) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085. [2001 c.954 §18]

Note: Section 19, chapter 954, Oregon Laws 2001, provides:

Sec. 19. ORS 315.675 applies to tax years beginning on or after January 1, 2002, and before January 1, 2020. [2001 c.954 §19; 2009 c.913 §35; 2013 c.750 §8]