Chapter 315

1999 EDITION

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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 December 31, 1998, even where 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 s.2; 1995 c.556 s.34; 1997 c.839 s.64; 1999 c.90 s.7]

315.005 [Repealed by 1965 c.26 s.6]

315.010 [Amended by 1953 c.325 s.3; repealed by 1965 c.26 s.6]

315.015 [Repealed by 1965 c.26 s.6]

315.020 [Repealed by 1965 c.26 s.6]

315.025 [Repealed by 1965 c.26 s.6]

315.030 [Repealed by 1965 c.26 s.6]

315.035 [Repealed by 1965 c.26 s.6]

315.040 [Repealed by 1965 c.26 s.6]

315.045 [Repealed by 1965 c.26 s.6]

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 s.4 (enacted in lieu of 316.107)]

315.055 [Repealed by 1965 c.26 s.6]

315.060 [Repealed by 1965 c.26 s.6]

315.063 Waiver of substantiation by Department of Revenue. 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 s.2]

315.065 [Repealed by 1965 c.26 s.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)(5) 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 s.2]

315.070 [Repealed by 1965 c.26 s.6]

315.075 [Repealed by 1965 c.26 s.6]

315.080 [Repealed by 1965 c.26 s.6]

315.085 [Repealed by 1965 c.26 s.6]

315.090 [Repealed by 1965 c.26 s.6]

315.095 [Repealed by 1965 c.26 s.6]

315.104 Reforestation. (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 30 percent of reforestation project costs actually paid or incurred to reforest underproductive Oregon forestlands. Such costs include, but are not limited to 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 program.

(c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants, or, except as provided under ORS 321.274 or 321.426, those costs paid or incurred to grow hardwood timber described under ORS 321.267 (1)(e) or 321.415 (5).

(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.

(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 183.310 to 183.550, 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 s.8 (enacted in lieu of 316.094, 317.102 and 318.110); 1995 c.746 s.23]

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, 2001. [1987 c.605 s.5; 1989 c.887 s.4; 1995 c.746 s.28]

315.105 [Repealed by 1965 c.26 s.6]

315.106 Reforestation credit preliminary certificate; application; limitation calculation. (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 such information as may be required by the State Forester by rule and shall contain an estimate of the amount of the credit the taxpayer expects to claim under ORS 315.104 (1)(a).

(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 shall 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 certificates issued by the State Forester for the calendar year, exceeds the annual reforestation credit cost limitation calculated under ORS 315.108. [1995 c.746 s.25]

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 s.26]

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

315.115 [Repealed by 1965 c.26 s.6]

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

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

315.134 Fish habitat improvement. (1) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 (or if the taxpayer is a corporation, the corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318), based upon the cost of a fish habitat improvement project certified under ORS 496.260. The amount of the credit shall be 25 percent of the amount certified.

(2) To qualify for the credit under this section:

(a) The fish habitat improvement project must have been given final certification by the State Department of Fish and Wildlife as provided in ORS 496.260.

(b) The credit must be claimed for the year in which final certification for the project is granted.

(c) The taxpayer who is allowed the credit must be the person or entity who actually expended funds for construction or installation of the project.

(d) The fish habitat improvement project must not be required by existing federal or state statute.

(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 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.

(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) The tax claim for tax credit shall be substantiated by submission, with the tax return, of the State Department of Fish and Wildlife notice of final project certification. The requirement for substantiation may be waived partially, conditionally or absolutely, as provided under ORS 315.063. [1993 c.730 s.10 (enacted in lieu of 316.084, 317.133 and 318.080); 1995 c.54 s.3]

315.138 Fish screening devices, by-pass devices or fishways. (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 fish screening devices, by-pass devices or fishways, when required to do so by ORS 498.306, 498.311 (1), 498.351 (1), 509.605 (1) or 509.615 (1), 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 fish 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 fish 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 fish screening device, by-pass device or fishway, before installing the fish 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 fish 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 fish 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 fish screening device, by-pass device or fishway. If the State Department of Fish and Wildlife determines that the fish 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 183.310 to 183.550.

(9) Any fish screening device, by-pass device or fishway that is installed pursuant to ORS 498.311 (2) or alterations made pursuant to ORS 498.351 (2) to (6) shall not be 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 fish 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 183.310 to 183.550, 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 fish 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 fish 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 fish 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 fish 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) Fish screening devices, by-pass devices or fishways which 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 s.12 (enacted in lieu of 316.139 and 317.145)]

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

315.154 Definitions for crop gleaning credit. As used in ORS 315.156:

(1) "Gleaning" means the harvesting in Oregon of an agricultural 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 at such a time that the crop is still usable as food for human beings and would otherwise go to waste because:

(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) Harvesting the crop for sale in the normal course of business is no longer economically feasible.

(2) "Gleaning cooperative" means a nonprofit federally tax exempt organization that is organized to provide and distribute produce to individuals who meet the low-income eligibility guidelines of the federal State Community Services Program established pursuant to the federal Community Services Act of 1974 (Public Law 93-744).

(3) "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 determined by the gleaning cooperative based upon the market price of the nearest regional wholesale buyer or the regional u-pick market price. [1993 c.730 s.16 (enacted in lieu of 316.089); 1999 c.21 s.39]

315.155 [Repealed by 1965 c.26 s.6]

315.156 Crop gleaning. (1) A taxpaying individual or corporation who is a grower of a crop and who permits the gleaning 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 donation made under circumstances described in ORS 315.154 (1)(a) and (b), 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.

(b) In the case of a donation made under circumstances described in ORS 315.154 (1)(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 salable.

(2) At the time of donation, the director, supervisor or other appropriate official of the gleaning cooperative to which a 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 gleaning cooperative verifying that the produce was or will be distributed to low-income individuals meeting the guidelines described in ORS 315.154 (2);

(d) The wholesale market price determined by the gleaning cooperative, in the event there is no previous cash buyer of the crop; 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 donation was made under circumstances described in ORS 315.154 (1) 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 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, 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. [1993 c.730 s.18 (enacted in lieu of 316.091, 317.148 and 318.104); 1995 c.54 s.5; 1999 c.21 s.40]

315.160 [Repealed by 1965 c.26 s.6]

315.164 Farmworker housing construction or rehabilitation. (1) As used in this section:

(a) "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.

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

(c) "Rehabilitation" means to restore and reinstate a building to a condition of habitability.

(d) "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.

(e) "Seasonal farmworker" means any person who, for an agreed remuneration or rate of pay, performs temporary labor for another in the production of farm products or in the planting, cultivating or harvesting of seasonal agricultural crops or in the 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.

(f) "Seasonal farmworker housing" means housing limited to occupancy by seasonal farmworkers and their immediate families which is occupied no more than nine months of the year.

(g) "Seasonal farmworker housing project" means construction, installation or rehabilitation of seasonal farmworker housing.

(h) "Year-round farmworker housing" means housing:

(A) Limited to occupancy by farmworkers and their immediate families;

(B) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing; and

(C) Consisting, if located in an exclusive farm use zone, of housing that is in compliance with any applicable local zoning ordinance and that is:

(i) A manufactured dwelling, as that term is defined in ORS 446.003; or

(ii) Any other dwelling unit, if the project for which credit under this section is being claimed consists of the rehabilitation of existing farmworker housing.

(i) "Year-round farmworker housing project" means construction, installation or rehabilitation of farmworker housing.

(2) A resident individual is allowed a credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, the credit shall be allowed against taxes otherwise due under ORS chapter 317. The amount of the credit shall be equal to 30 percent of the eligible costs actually paid or incurred to complete a seasonal or year-round farmworker housing project, to the extent the eligible costs actually paid or incurred do not exceed the estimate of eligible costs approved by the Department of Consumer and Business Services under ORS 315.167.

(3) The credit allowed under subsection (2) of this section shall be taken in five equal installments over a period of five consecutive tax years beginning in the tax year of the taxpayer during which the project is completed.

(4) The credit shall apply only to a seasonal or a year-round farmworker housing project that is located within this state and physically begun on or after January 1, 1990.

(5)(a) No credit shall be allowed under this section unless the taxpayer claiming credit under this section:

(A) Obtains a letter of credit approval from the Department of Consumer and Business Services 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 seasonal or year-round farmworkers 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.

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

(7) 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, but may not be carried forward for any tax year thereafter.

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

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

(9)(a) If the taxpayer is a person who is not, and will not be, the owner or operator of the seasonal or year-round farmworker housing, the taxpayer is entitled to the credit allowed under this section only if, upon completion of the seasonal or year-round farmworker housing project and first occupation by farmworkers, the housing complies with all safety or health laws, rules, regulations and standards applicable for farmworker housing.

(b) If the taxpayer is a person who is, or will be, the owner or operator of the seasonal or year-round farmworker housing at any time during the period for which the credit is claimed, the 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; and

(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.

(c) For purposes of this section, "owner" does not include a person whose only interest in the housing is as holder of a security interest.

(10)(a) Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, 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 substantially to comply with the occupational safety or health laws, rules, regulations or standards; or

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

(iii) After occupancy and if an indorsement is required, the seasonal or year-round farmworker housing is not operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730.

(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 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 seasonal or year-round farmworker housing project, as the case may be, from and after the date that the order of disallowance becomes final.

(11) In the event that the farmworker 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. Upon conviction of arson, the department shall disallow the credit in accordance with subsection (10) of this section.

(12)(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.

(13) The department may adopt rules for carrying out the provisions of this section. [1993 c.730 s.20 (enacted in lieu of 316.154 and 317.146); 1993 c.730 s.20a; 1995 c.500 s.10; 1995 c.746 s.52]

Note: Section 6 (1), chapter 963, Oregon Laws 1989, provides:

Sec. 6. (1) ORS 315.164 shall apply to seasonal or year-round farmworker housing projects completed in tax years that begin on or after the January 1 immediately following the date that both chapter 962, Oregon Laws 1989, and chapter 964, Oregon Laws 1989, have become both effective and operative and which are completed on or before December 31, 2001. [1989 c.963 s.6 (1); 1995 c.746 s.56 (1)]

Note: Section 5, chapter 766, Oregon Laws 1991, provides:

Sec. 5. ORS 315.164 shall apply to seasonal or year-round farmworker housing projects completed in tax years that begin on or after January 1, 1991, and that are completed on or before December 31, 2001. [1991 c.766 s.5; 1995 c.746 s.58]

315.165 [Repealed by 1965 c.26 s.6]

315.167 Farmworker housing credit application; procedure; limitation. (1) Prior to beginning a seasonal or year-round farmworker housing project for which credit under ORS 315.164 will be claimed, a taxpayer shall apply to the Department of Consumer and Business Services for a letter of credit approval.

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

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

(b) The location of the proposed farmworker housing;

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

(d) An estimate of the eligible costs of the project; and

(e) Any other information as the Department of Consumer and Business Services may require.

(3) The Department of Consumer and Business Services shall consider applications in the chronological order in which the applications are filed with the department.

(4) Applications filed in compliance with this section shall be approved by the Department of Consumer and Business Services to the extent that the total of estimated eligible costs for all approved projects for the calendar year is equal to or less than $3.3 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 $3.3 million.

(5) Upon approval of an application, the Department of Consumer and Business Services shall send a letter of credit approval to the taxpayer. The letter of credit approval shall state the approved amount of estimated eligible costs for the project.

(6) At the conclusion of each calendar year, the Department of Consumer and Business Services 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 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 s.52a]

Note: 315.167 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.

315.170 [Repealed by 1965 c.26 s.6]

315.175 [Repealed by 1965 c.26 s.6]

315.180 [Repealed by 1965 c.26 s.6]

315.185 [Repealed by 1965 c.26 s.6]

315.190 [Repealed by 1965 c.26 s.6]

315.195 [Repealed by 1965 c.26 s.6]

315.200 [Repealed by 1965 c.26 s.6]

CHILDREN AND FAMILIES; POVERTY RELIEF

315.204 Dependent care assistance. (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.

(2) 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.

(3)(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.

(4) 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.

(5) 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.

(6) If the credit allowed under subsection (1) or (3) 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.

(7) 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.

(8) A nonresident shall be allowed the credit allowed under subsection (1) or (3) 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.

(9) 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.

(10) 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.

(11) 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.

(12) For purposes of the credit allowed under subsection (1) or (3) 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.

(13) 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 s.22 (enacted in lieu of 316.134, 317.135 and 318.175); 1995 c.79 s.163; 1997 c.839 s.65]

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

Sec. 10. Sections 2, 5 and 8, chapter 682, Oregon Laws 1987 [316.134, 317.135 and 318.175 (315.204 was enacted in lieu of 316.134, 317.135 and 318.175 in 1993)], apply to tax years beginning on or after January 1, 1988, and prior to January 1, 2002. For all prior taxable years, the law in effect and applicable for those years shall continue to apply. [1987 c.682 s.10; 1991 c.929 s.3]

Note: Section 87, chapter 625, Oregon Laws 1989, provides:

Sec. 87. The amendments to ORS 316.134 and section 5, chapter 682, Oregon Laws 1987 [317.135 (315.204 was enacted in lieu of 316.134, 317.135 and 318.175 in 1993)], by sections 10 and 20, chapter 625, Oregon Laws 1989, (relating to dependent care assistance credit) apply to tax years beginning on or after January 1, 1988, and prior to January 1, 2002. [1989 c.625 s.87; 1991 c.929 s.4]

315.205 [Repealed by 1965 c.26 s.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; or

(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 657A.030 and 657A.250 to 657A.450 by the Child Care Division 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 Child Care Division under ORS 657A.030 and 657A.250 to 657A.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 Child Care Division 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 Child Care Division 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 s.24 (enacted in lieu of 316.132, 317.114 and 318.160); 1997 c.325 s.37; 1997 c.839 s.66; 1999 c.743 s.21]

315.210 [Repealed by 1965 c.26 s.6]

315.215 [Repealed by 1965 c.26 s.6]

315.234 Child development program or student-parent program contributions. (1) A tax 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 for contributions actually made during the tax year to:

(a) A school district child development program that has been approved by the Department of Education under ORS 329.385; or

(b) A school district student-parent program that has been approved by the Department of Education under ORS 329.385.

(2) The amount of the credit is 50 percent of the sum of the contributions made by the taxpayer during the tax year to both programs. The amount of the credit shall not exceed $5,000 for each program location. In the case of personal income tax, the credit is allowed to either a resident or a nonresident taxpayer, without proration. If separate returns are filed, each spouse may claim a share of the credit, determined as if a joint return were made, in proportion to the contribution of each.

(3) The credit is allowable only if the contributions are made exclusively for use by a program approved under ORS 329.385.

(4) The credit is allowable only for contributions made after the date the Department of Education approves the program.

(5) If, for the tax year, a deduction is allowable under ORS chapter 316, 317 or 318 for the same contributions that are used to determine the amount of the credit, the deduction shall be reduced by the amount of the credit allowed.

(6) The amount of the credit shall not exceed the tax liability of the taxpayer for the tax year for which the credit is claimed.

(7) The Department of Revenue, with the assistance of the Department of Education, shall adopt rules to carry out the purposes of this section, including but not limited to rules setting forth requirements for substantiation of contributions and use of contributions. The requirement for substantiation may be waived partially, conditionally or absolutely, as provided under ORS 315.063. [1993 c.730 s.26 (enacted in lieu of 316.133 and 317.134); 1995 c.54 s.6; 1995 c.746 s.49]

Note: Section 6, chapter 928, Oregon Laws 1991, provides:

Sec. 6. ORS 315.234 and the amendments to ORS 318.031 by section 5, chapter 928, Oregon Laws 1991, apply to tax years beginning on or after January 1, 1991, and on or before December 31, 2001. [1991 c.928 s.6; 1995 c.746 s.51]

315.254 Youth apprenticeship sponsorship. (1) A business tax 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 an eligible taxpayer who sponsors eligible students who began participation in the youth apprenticeship program established under ORS 344.745 and 344.750 prior to November 4, 1993. The amount of the credit shall be the wages paid to participating students by the sponsoring employer taxpayer during the tax year, excluding wages paid after the first year of participation, and in an amount not to exceed $2,500 in any one tax year.

(2)(a) A nonresident employer shall be allowed the credit provided under this section computed in the same manner and subject to the same limitations as the credit allowed to a resident of this state. 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.

(3) 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, but may not be carried forward for any tax year thereafter.

(4)(a) The credit allowed under this section is in addition to any deduction otherwise allowable under ORS chapter 316, 317 or 318.

(b) No other credit allowed under this chapter or ORS chapter 316, 317 or 318 shall be based upon all or any portion of amounts upon which the credit allowed under this section is based. [1993 c.730 s.28 (enacted in lieu of 316.151, 317.141 and 318.085)]

315.255 [Repealed by 1965 c.26 s.6]

315.259 First Break Program. (1) The tax credits provided under this section may be referred to as the First Break Program.

(2) As used in this section:

(a) "Certificate" means a certificate issued by a community-based organization under subsection (5) of this section that certifies an individual as a qualified youth.

(b) "Community-based organization" means an organization designated by the Employment Department by rule as an organization authorized to certify individuals as qualified youths for purposes of this section, including all local commissions on children and families, schools or class groups offering alternative education programs under ORS 336.615 to 336.665, the federal Job Corps, school districts and the Youth Employment and Empowerment Coalition.

(c) "Employer" means an employer subject to taxation under ORS chapter 316, 317 or 318.

(d) "Hiring date" means the date on which the individual begins work for the first employer after becoming a qualified youth.

(e) "Qualified youth" or "qualified youth employee" means an individual who is 14 to 23 years of age on the hiring date and who has received a certificate pursuant to subsection (5) of this section from a community-based organization identifying the youth as eligible to participate in the First Break Program according to rules adopted by the Employment Department.

(f) "Sustained employment" means employment:

(A)(i) Of at least six months during the 12-month period following the hiring date; and

(ii) By three or fewer employers during the 12-month period following the hiring date; or

(B) Of a full-time student for at least two months during the period between May 1 and September 15.

(3)(a) 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 a resident employer, based upon wages actually paid by the employer to a qualified youth employee.

(b) The credit allowed under this subsection shall be allowed for the tax year in which ends the 12-month period following the hiring date of the qualified youth employee. Nothing in this paragraph shall be interpreted to require the employer to employ the qualified youth for the entire 12-month period in order to be eligible for the credit under this subsection.

(4) The amount of the credit provided under subsection (3) of this section shall be equal to the lesser of:

(a) $1,000;

(b) The amount of credit provided for in paragraph (a) of this subsection that has not already been taken into account by a previous employer of the qualified youth employee; or

(c) 50 percent of the wages paid to the qualified youth employee during the 12-month period following the qualified youth employee's hiring date.

(5)(a) The Employment Department shall authorize each community-based organization to issue only a fixed number of certificates, the amount to be determined by the Employment Department, but not to exceed 1,500 certificates.

(b) Each certificate is valid only for a two-year period from the date it is issued to a qualified youth by a community-based organization.

(c) A community-based organization shall track the use of each certificate issued by it to a qualified youth and, if the youth is employed by more than one employer during the time the certificate is issued, shall calculate the amount of maximum credit allowable under subsection (4) of this section and shall inform each subsequent employer of the maximum amount of credit under this section to which the employer may be entitled.

(d) If the community-based organization determines that the qualified youth is unable or unwilling to find or maintain sustained employment, the community-based organization shall cancel the certificate and inform the Employment Department of the cancellation. Upon cancellation of a certificate, the Employment Department may authorize any community-based organization to issue a new certificate to a qualified youth, provided that the total number of outstanding certificates and unissued certificates authorized to be issued does not exceed 1,500.

(e) If the community-based organization determines that all of the employers of a qualified youth are collectively entitled to 80 percent or more of the tax credit provided under this section at the time the qualified youth becomes unemployed, the community-based organization shall withdraw the certificate, and any subsequent employer shall not be entitled to a credit under this section for employment of the qualified youth. A certificate that is withdrawn under

this paragraph shall not be reissued.

(f) No certificate may be issued under this subsection on or after January 1, 2005.

(6) Wages taken into account for purposes of subsection (4) of this section shall not include any amount paid by the employer to an individual for whom the employer receives federal funds for on-the-job training of the individual.

(7) Only one employer at a time shall be eligible for the credit provided under this section for the employment of a qualified youth employee.

(8)(a) A nonresident shall be allowed the credit provided under subsection (3) of this section computed in the same manner and subject to the same limitations as the credit allowed to a resident of this state. 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 subsection (3) of 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 subsection (3) of this section shall be determined in a manner consistent with ORS 316.117.

(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 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.

(10)(a) The credit allowed under subsection (3) of this section is in addition to any deduction otherwise allowable under ORS chapter 316, 317 or 318.

(b) No other credit allowed under this chapter or ORS chapter 316, 317 or 318 shall be based upon all or any portion of amounts upon which the credit allowed under subsection (3) of this section is based.

(11) An employer receiving a credit under subsection (3) of this section shall maintain records for each qualified youth employee establishing that the employee was certified by a community-based organization as a qualified youth on or before the hiring date. The records shall be retained for a period of four years after the tax year in which a credit provided under subsection (3) of this section is taken.

(12) The Employment Department shall adopt rules that:

(a) Provide the criteria by which a youth may be identified as eligible to participate in the First Break Program.

(b) Designate community-based organizations that may issue the certificates described in subsection (5) of this section, including all local commissions on children and families, schools and class groups offering alternative education programs, the federal Jobs Corps, school districts and the Youth Employment and Empowerment Coalition. [1995 c.648 s.2; 1997 c.325 s.38; 1999 c.59 s.78; 1999 c.741 s.1]

Note: Section 2, chapter 741, Oregon Laws 1999, provides:

Sec. 2. The amendments to ORS 315.259 by section 1 of this 1999 Act apply to First Break Program certificates issued on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.741 s.2]

315.260 [Repealed by 1965 c.26 s.6]

315.262 Child care. (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 by the parent in a licensed or registered child care facility; or

(B) A child of the taxpayer 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) "Earned income" has the meaning given that term in section 32 of the Internal Revenue Code.

(d) "Qualified taxpayer" means a taxpayer:

(A) With at least $6,000 of earned income 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; and

(C) 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.

(e) "Qualifying child" means a child of the taxpayer who is under 13 years of age, or who is a disabled child, as that term is defined in ORS 316.099.

(2) 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).

(3) 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	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

(4) The credit shall be claimed on such form and containing such information as may be prescribed by the Department of Revenue.

(5) 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.

(6) The credit allowed under this section shall not exceed the tax liability of the taxpayer and may not be carried forward to a succeeding tax year.

(7)(a) For tax years beginning on or after January 1, 1999, the minimum amount of earned income a taxpayer must earn in order to be a qualified taxpayer shall be adjusted by multiplying $6,000 by the ratio of the U.S. City Average Consumer Price Index for the average of the monthly indexes for the second quarter of the calendar year over the average of the monthly indexes of 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. [1997 c.692 s.2; 1999 c.998 s.1]

Note: Section 2, chapter 998, Oregon Laws 1999, provides:

Sec. 2. The amendments to ORS 315.262 by section 1 of this 1999 Act apply to tax years beginning on or after January 1, 2001. [1999 c.998 s.2]

315.265 [Repealed by 1965 c.26 s.6]

315.266 Earned income. (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 five 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) The credit allowed under this section shall not exceed the tax liability of the taxpayer and may not be carried forward to a succeeding tax year.

(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 s.3]

315.270 [Repealed by 1965 c.26 s.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 organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal the lesser of $25,000 or 25 percent of the donation amount.

(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 25 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 s.12]

Note: Sections 14 (2) and 15, chapter 1000, Oregon Laws 1999, provide:

Sec. 14. (2) Notwithstanding section 12 of this 1999 Act [315.271], if the Legislative Revenue Office reports under section 13 (3) of this 1999 Act that the revenue impact of tax credits under section 12 (1) of this 1999 Act [315.271 (1)] for the biennium ending June 30, 2001, is likely to exceed $500,000, a credit shall not be allowed under section 12 of this 1999 Act for donations made on or after January 1, 2001, and on or before December 31, 2002. [1999 c.1000 s.14(2)]

Sec. 15. Sections 8, 13 and 14 of this 1999 Act are repealed on January 1, 2004. The repeal of section 14 of this 1999 Act does not allow a taxpayer to file for any deduction or credit under section 10 [316.848] or 12 [315.271] of this 1999 Act that was prohibited under section 14 of this 1999 Act. [1999 c.1000 s.15]

315.274 Qualified adoption expenses. (1) For purposes of this section, "qualified adoption expenses" has the meaning given that term in section 23 of the Internal Revenue Code.

(2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 in an amount determined under subsection (3) of this section for qualified adoption expenses paid or incurred by the taxpayer during the tax year.

(3) The amount of the credit allowed under this section shall be equal to the lesser of:

(a) The qualified adoption expenses paid or incurred by the taxpayer during the tax year less the credit allowed to the taxpayer under section 23 of the Internal Revenue Code;

(b) $1,500; or

(c) The credit allowed to the taxpayer for qualified adoption expenses under section 23 of the Internal Revenue Code.

(4) 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.

(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 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, but may not be carried forward for any tax year thereafter. [1999 c.1088 s.2]

Note: Section 3, chapter 1088, Oregon Laws 1999, provides:

Sec. 3. Section 2 of this 1999 Act [315.274] applies to tax years beginning on or after January 1, 2000, and before January 1, 2006. [1999 c.1088 s.3]

315.275 [Repealed by 1965 c.26 s.6]

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

315.285 [Repealed by 1965 c.26 s.6]

315.290 [Repealed by 1965 c.26 s.6]

315.295 [Repealed by 1965 c.26 s.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 one-half of the certified cost of the facility 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. [1993 c.730 s.30 (enacted in lieu of 316.097 and 317.116); 1993 c.560 s.110a; 1995 c.746 s.1; 1997 c.99 s.5; 1997 c.325 s.39; 1999 c.1101 s.1]

Note: Section 3, chapter 1101, Oregon Laws 1999, provides:

Sec. 3. The amendments to ORS 315.304 and 468.190 made by sections 1 and 2 of this 1999 Act apply to applications for pollution control facility certification filed with the Environmental Quality Commission on or after

January 1, 1999. [1999 c.1101 s.3]

315.305 [Repealed by 1965 c.26 s.6]

315.310 [Repealed by 1965 c.26 s.6]

315.311 Emission reducing production technology. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 for the installation of a pollution-eliminating production technology or process certified under ORS 468A.098 shall be allowed, subject to the requirements of subsections (3) and (4) of this section.

(2) The maximum credit allowed in any one tax year shall be the lesser of the tax liability of the taxpayer or one-tenth of the cost certified under ORS 468A.098. A credit may be taken beginning with the tax year in which certification was issued by the Environmental Quality Commission.

(3) To qualify for the credit, the production technology or process must be installed on or after January 1, 1996, and on or before December 31, 1999.

(4) The business location where the production technology or process was installed 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) 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.

(6) Upon any sale, exchange or other disposition of a business location having a production technology or process certified under ORS 468A.098, or upon the removal, replacement, shutdown or other nonuse of a production technology or process certified under ORS 468A.098, notice thereof shall be given to the Environmental Quality Commission, which shall revoke the certification covering the production technology or process as of the date of such disposition or nonuse. The transferee may apply for a new certificate under ORS 468A.096, but the tax credit available to the 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 disposition of a business for purposes of this subsection.

(7) 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 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.

(8) The taxpayer's adjusted basis for determining gain or loss shall not be further decreased by any tax credits allowed under this section. [1995 c.746 s.33; 1997 c.325 s.40]

315.315 [Repealed by 1965 c.26 s.6]

315.320 [Repealed by 1965 c.26 s.6]

315.324 Plastics recycling. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317) for the investments certified under ORS 468.466 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

(2) A taxpayer shall be allowed a tax credit under this section each year for five tax years beginning in the tax year the investment receives final certification under ORS 468.466. The maximum credit allowed in any one tax year shall be the lesser of the tax liability of the taxpayer or 10 percent of the certified cost of the taxpayer's investment.

(3) To qualify for the credit the investment must be made in accordance with the provisions of ORS 468.461.

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

(A) The owner of the business that collects, transports or processes reclaimed plastic or manufactures a reclaimed plastic product;

(B) A person who, as a lessee or pursuant to an agreement, conducts the business that collects, transports or processes reclaimed plastic or manufactures a reclaimed plastic product; or

(C) A person who, as an owner, lessee or pursuant to an agreement, owns, leases or has a beneficial interest in a business that collects, transports or processes reclaimed plastic or manufactures a reclaimed plastic product. Such person may, but need not, operate or conduct such a business that collects, transports or processes reclaimed plastic or

manufactures a reclaimed plastic product. If more than one person has an interest under this subparagraph in a qualifying business and one or more persons receive a certificate, such person or persons may allocate all or any part of the certified investment cost among any persons and their successors or assigns having an interest under this subparagraph. Such allocation shall be evidenced by a written statement signed by the person or persons receiving the certificate and designating the persons to whom the certified investment costs have been allocated and the amount of certified investment cost allocated to each. 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 pursuant to such agreement. In no event shall the aggregate certified investment costs allocated between or among more than one person exceed the amount of the total certified cost of the investment. As used in this paragraph, "owner" includes a contract purchaser;

(b) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in paragraph (a)(C) of this subsection, and must have been collecting, transporting or processing reclaimed plastic or manufacturing a reclaimed plastic product during the tax year for which the credit is claimed; and

(c) The reclaimed plastic collected, transported, processed or used to manufacture the reclaimed plastic product must not be an industrial waste generated by the person claiming the tax credit, but must be purchased from a plastic recycler other than the person claiming the tax credit.

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

(6) Upon any sale, exchange, or other disposition of a qualifying business, notice thereof shall be given to the Environmental Quality Commission who shall revoke the certification covering the investment of such business as of the date of such disposition. Notwithstanding ORS 468.461 (6), the transferee may apply for a new certificate under ORS 468.466, 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 business for purposes of this subsection.

(7) 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. Credits may be carried forward to and used in a tax year beyond the years specified in ORS 468.461.

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

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

(10) 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.

(11) 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 under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(12) No credit shall be allowed under this section and under ORS 468.451 to 468.491 for any portion of a facility for which the taxpayer claims a tax credit or ad valorem tax relief under ORS 307.405, 315.304, 315.354, 315.356 and 469.185 to 469.225 or 316.116. [1993 c.730 s.32 (enacted in lieu of 316.103 and 317.106); 1995 c.746 s.7]

315.325 [Repealed by 1965 c.26 s.6]

315.330 [Repealed by 1965 c.26 s.6]

315.335 [Repealed by 1965 c.26 s.6]

315.340 [Repealed by 1965 c.26 s.6]

315.345 [Repealed by 1965 c.26 s.6]

315.350 [Repealed by 1965 c.26 s.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 469.185 to 469.225. 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 shall 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 shall not exceed the tax liability of the taxpayer.

(2) The facility must be in Oregon, and:

(a) Owned during the tax year by the taxpayer claiming the credit;

(b) If the facility is a qualified transit pass contract, the taxpayer must be the obligated purchaser of transit passes; or

(c) If the taxpayer is a corporation, financed by a public utility described in ORS 469.205 (1)(c)(B), that has been issued a certificate under ORS 469.215.

(3) A credit under this section may be claimed by a taxpayer for a facility only in those tax years which begin on and after January 1, 1980.

(4) The maximum total credit or credits allowed for a facility under this section to eligible taxpayers shall not exceed 35 percent of the certified cost of such facility.

(5) Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the administrator of the Office of Energy who shall revoke the certificate covering the facility as of the date of such disposition. The transferee, or upon re-leasing of the facility, the lessor, may apply for a new certificate under ORS 469.215, but the tax credit available to that transferee shall be limited to the amount of credit not claimed by the transferor or, for a lessor, the amount of credit not claimed by the lessor under all previous leases.

(6) 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 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 shall not be decreased by any tax credits allowed under this section.

(9) Except as provided in subsection (2)(c) of this section, a credit under the provisions of this section shall not be allowed to any of the following:

(a) A public utility, as defined in ORS 757.005, that retails electricity or natural gas to more than 100 customers or, if the taxpayer is a corporation, a public utility, as defined in ORS 757.005, that retails electricity or natural gas to more than 100 customers unless the credit is for a facility for commercial or residential property owned and managed by the utility;

(b) A people's utility district, as defined in ORS 261.010, a municipal utility or a cooperative utility that retails electricity or natural gas to more than 100 customers; or

(c) A subsidiary or an affiliated interest, as defined in ORS 757.015, of a public utility described in paragraph (a) of this subsection, or if the taxpayer is a corporation, a subsidiary or an affiliated interest, as defined in ORS 757.015, of a public utility described in paragraph (a) of this subsection unless the credit is for a facility for commercial or residential property owned and managed by the subsidiary or affiliated interest. [1993 c.730 s.34 (enacted in lieu of 316.140 and 317.104); 1995 c.746 s.15; 1997 c.656 s.4; 1999 c.365 s.10]

315.355 [Repealed by 1965 c.26 s.6]

315.356 Other grants or credits as offset to cost of energy conservation facility. (1) If a taxpayer obtains a grant or tax credit from the federal government other than an investment tax credit or a low income housing tax credit in connection with a facility which has been certified by the administrator of the Office of Energy, the certified cost of the facility shall be reduced on a dollar for dollar basis. Any income or excise tax credits which such taxpayer would be entitled to under ORS 315.354 and 469.185 to 469.225 after any such reduction shall not be reduced by such federal grants or tax credits. A taxpayer applying for a federal grant or credit shall notify the Department of Revenue by certified mail within 30 days after each application, and after the receipt of any grant.

(2) If a facility eligible for a credit under ORS 315.354 is financed in part by any governmental or quasi-governmental body or municipal corporation, as defined in ORS 297.405, a tax credit may be claimed only on the portion of the cost that is privately financed.

(3) A taxpayer is eligible to participate in both this tax credit program and low interest, government-sponsored loans.

(4) A taxpayer who receives a tax credit or ad valorem 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 315.354 and 469.185 to 469.225.

(5) No credit shall be allowed under ORS 315.354 if the taxpayer has received a tax credit on the same facility or device under ORS 315.324. [1993 c.730 s.36 (enacted in lieu of 316.141, 316.142 and 317.103); 1995 c.556 s.35; 1999 c.623 s.3]

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

315.365 [Repealed by 1965 c.26 s.6]

315.455 [Repealed by 1965 c.26 s.6]

315.460 [Repealed by 1965 c.26 s.6]

ECONOMIC DEVELOPMENT

315.504 Oregon Capital Corporation investments. (1) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 (or if the taxpayer is a corporation, the taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318) for the tax year, based upon the amount of the taxpayer's direct cash investment in the certified capitalization of the Oregon Capital Corporation. The amount of the credit shall be 20 percent of the amount of the cash investment.

(2) To qualify for the credit under this section:

(a) The Oregon Capital Corporation must have been certified by the Financial Institutions Division under section 7, chapter 911, Oregon Laws 1987.

(b) Not more than 50 percent of the tax credit provided for in this section may be claimed in the tax year in which the investment is made in the Oregon Capital Corporation.

(c) No taxpayer shall claim more than 50 percent of the tax credit provided for in this section:

(A) Before July 1, 1989; and

(B) Before the Oregon Capital Corporation is certified by the division as having met the investment requirements of ORS 284.775 (1)(a).

(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 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.

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

(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.

(8) 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) The amount of any tax credit allowed under this section shall be used to reduce the basis of the taxpayer's investment in the Oregon Capital Corporation. Federal taxable income shall be modified to the extent necessary to carry out the provisions of this subsection. [1993 c.730 s.38 (enacted in lieu of 316.104 and 317.140)]

315.505 [Repealed by 1965 c.26 s.6]

315.510 [Repealed by 1965 c.26 s.6]

315.515 [Repealed by 1965 c.26 s.6]

315.520 [Repealed by 1965 c.26 s.6]

315.525 [Repealed by 1965 c.26 s.6]

315.530 [Repealed by 1965 c.26 s.6]

315.535 [Repealed by 1965 c.26 s.6]

315.540 [Repealed by 1965 c.26 s.6]

315.545 [Repealed by 1965 c.26 s.6]

315.550 [Repealed by 1965 c.26 s.6]

315.555 [Repealed by 1965 c.26 s.6]

315.560 [Repealed by 1965 c.26 s.6]

315.570 [Repealed by 1965 c.26 s.6]

315.575 [Repealed by 1965 c.26 s.6]

315.580 [Repealed by 1965 c.26 s.6]

315.585 [Repealed by 1965 c.26 s.6]

315.590 [Repealed by 1965 c.26 s.6]

HEALTH

315.604 Bone marrow donor expense. (1) As used in this section:

(a) "Bone marrow donor expense" means the sum of the amounts paid or incurred during the tax year by an employer for the following:

(A) Development of an employee bone marrow donation program.

(B) Employee education related to bone marrow donation, including but not limited to the need for donors and an explanation of the procedures used to determine tissue type and donate bone marrow.

(C) Payments to a health care provider for determining the tissue type of an employee who agrees to register or registers as a bone marrow donor.

(D) Wages paid to an employee for time reasonably related to tissue typing and bone marrow donation.
(E) Transportation of an employee to the site of a donation or any other service which is determined by the Health Division by rule as essential for a successful bone marrow donation.
(b) "Employee" means an individual who:
(A) Is regularly employed by the taxpayer for more than 20 hours per week;
(B) Who is not a temporary or seasonal employee; and
(C) Whose wages are subject to withholding under ORS 316.162 to 316.212.
(c) "Wages" has the meaning given the term for purposes of ORS 316.162 to 316.212.
(2) A business tax credit against the taxes otherwise due under ORS chapter 316 for the tax year is allowed to a resident employer, or if the employer is a corporation, to the employer against the taxes otherwise due under ORS chapter 317. The amount of the credit is equal to 25 percent of the bone marrow donor expense paid or incurred during the tax year by an employer to provide a program for employees who are potential bone marrow donors or who actually become bone marrow donors.
(3)(a) Except as provided under paragraph (b) of this subsection, the allowance of a credit under this section shall not affect the computation of taxable income for purposes of ORS chapter 316 or 317.
(b) If in determining the amount of the credit for any tax year an amount allowed as a deduction under section 170 of the Internal Revenue Code is included in bone marrow donation expense, the amount allowed as a deduction shall be added to federal taxable income.
(4) The credit allowed under this section shall be allowed to a nonresident employer in the same manner as the credit is allowed to a resident employer.
(5) 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. [1993 c.730 s.40 (enacted in lieu of 316.155 and 317.149)]

Note: Section 12, chapter 652, Oregon Laws 1991, provides:

Sec. 12. ORS 315.604 and the amendments to ORS 318.031 by section 11, chapter 652, Oregon Laws 1991, apply to bone marrow donation expense incurred in tax years beginning on or after January 1, 1991, and on or before December 31, 2001. [1991 c.652 s.12; 1995 c.746 s.37]

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 s.2]

Note: Section 6, chapter 1005, Oregon Laws 1999, provides:

Sec. 6. Sections 2 and 5 of this 1999 Act [315.610 and 317.322] and the amendments to ORS 316.680 by section 3 of this 1999 Act apply to tax years beginning on or after January 1, 2000. [1999 c.1005 s.6]