

GENERAL PROVISIONS

- 315.004 Definitions; adoption of parts of Internal Revenue Code and application of federal laws and regulations; technical corrections
- 315.054 Federal tax credits allowable only as specified
- 315.063 Waiver of substantiation by Department of Revenue
- 315.068 Claim of right income repayment adjustments

AGRICULTURE; FISHERIES; FORESTRY

- 315.104 Reforestation
- 315.106 Reforestation credit preliminary certificate; application; limitation calculation
- 315.108 Annual reforestation credit cost limitation
- 315.111 Legislative declarations regarding riparian land conservation
- 315.113 Voluntary removal of riparian land from farm production
- 315.117 Legislative findings and declarations regarding on-farm processing
- 315.119 On-farm processing facilities
- 315.123 Minimum production and processing volume requirements; recordkeeping requirements
- 315.134 Fish habitat improvement
- 315.138 Fish screening devices, by-pass devices or fishways
- 315.154 Definitions for crop donation credit
- 315.156 Crop donation
- 315.164 Farmworker housing projects
- 315.167 Farmworker housing credit application; procedure; limitation
- 315.169 Transfer of farmworker housing credit; continued eligibility
- 315.172 Collection of taxes upon disallowance of farmworker housing credit

CHILDREN AND FAMILIES; POVERTY RELIEF

- 315.204 Dependent care assistance
- 315.208 Dependent care facilities
- 315.213 Child Care Division and community agency contributions
- 315.234 Child development program or student-parent program contributions
- 315.237 Employee and dependent scholarship program payments

315.254 Youth apprenticeship sponsorship

315.259 First Break Program

315.262 Working family child care

315.266 Earned income

315.271 Individual development accounts

315.274 Qualified adoption expenses

ENVIRONMENT AND ENERGY

315.304 Pollution control facilities

315.311 Emission reducing production technology or process

315.324 Plastics recycling

315.354 Energy conservation facilities

315.356 Other grants as offset to cost of energy conservation facility; changes in credit eligibility when taxpayer participates in other programs

ECONOMIC DEVELOPMENT

315.504 Oregon Capital Corporation investments

315.507 Electronic commerce in designated enterprise zone

315.511 Advanced telecommunications facilities

HEALTH

315.604 Bone marrow donor expense

315.610 Long term care insurance

CULTURE

315.675 Trust for Cultural Development Account contributions

315.001 [Enacted as 1953 c.308 §1; repealed by 1965 c.26 §6]

315.002 [Enacted as 1953 c.308 §2; repealed by 1965 c.26 §6]

315.003 [Enacted as 1953 c.308 §3; repealed by 1965 c.26 §6]

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, 2000, even when the amendments take effect or become operative after that date.

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

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

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

(b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an Act or Title. [1993 c.730 §2; 1995 c.556 §34; 1997 c.839 §64; 1999 c.90 §7; 2001 c.660 §34]

315.005 [Repealed by 1965 c.26 §6]

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

315.015 [Repealed by 1965 c.26 §6]

315.020 [Repealed by 1965 c.26 §6]

315.025 [Repealed by 1965 c.26 §6]

315.030 [Repealed by 1965 c.26 §6]

315.035 [Repealed by 1965 c.26 §6]

315.040 [Repealed by 1965 c.26 §6]

315.045 [Repealed by 1965 c.26 §6]

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

315.055 [Repealed by 1965 c.26 §6]

315.060 [Repealed by 1965 c.26 §6]

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

315.065 [Repealed by 1965 c.26 §6]

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

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

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

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

gross income for federal tax purposes; and

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

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

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 and 316.583, other payments of tax and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 to 318 (reduced by any nonrefundable credits allowed for the tax year), the excess shall be treated as an overpayment of tax and shall be refunded or applied in the same manner as other tax overpayments.

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

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

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

Note: Section 20, chapter 660, Oregon Laws 2001, provides:

Sec. 20. The amendments to ORS 315.068 by section 19 of this 2001 Act apply to tax years beginning on or after January 1, 1998. [2001 c.660 §20]

315.070 [Repealed by 1965 c.26 §6]

315.075 [Repealed by 1965 c.26 §6]

315.080 [Repealed by 1965 c.26 §6]

315.085 [Repealed by 1965 c.26 §6]

315.090 [Repealed by 1965 c.26 §6]

315.095 [Repealed by 1965 c.26 §6]

AGRICULTURE; FISHERIES; FORESTRY

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

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

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

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

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

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

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

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

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

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

(c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants, or, 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 §8 (enacted in lieu of 316.094, 317.102 and 318.110); 1995 c.746 §23; 2001 c.359 §1]

Note: Section 2, chapter 359, Oregon Laws 2001, provides:

Sec. 2. The amendments to ORS 315.104 by section 1 of this 2001 Act apply to reforestation credits first claimed in tax years beginning on or after January 1, 2001. [2001 c.359 §2]

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

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

315.105 [Repealed by 1965 c.26 §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 §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 §26]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: Section 4, chapter 912, Oregon Laws 2001, provides:

Sec. 4. Section 3 of this 2001 Act [315.113] applies to tax years beginning on or after January 1, 2004. [2001 c.912 §4]

315.115 [Repealed by 1965 c.26 §6]

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

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

(a) "Effective property tax rate" means:

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

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

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

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

(d) "Processing":

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

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

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

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

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

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

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

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

years; or

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

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

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

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

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

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

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

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

(b) \$30,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) For each tax year in which a credit is claimed under ORS 315.119, the taxpayer shall maintain records sufficient to determine the taxpayer's production and processing volume for purposes of ORS 315.119 (3)(c). A taxpayer shall maintain the

records required under this subsection for at least 10 years.
[2001 c.725 §4]

Note: See note under 315.119.

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

315.134 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 §10 (enacted in lieu of 316.084, 317.133 and 318.080); 1995 c.54 §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), 509.585 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) is not eligible for the credit provided in subsection (1) of this section.

(10) Upon completion and pursuant to application for final certification, final certification shall be issued by the State Department of Fish and Wildlife if the 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 that are financed by funds obtained from the Water Development Fund, pursuant to ORS 541.700 to 541.855, shall not be eligible for the credit under any circumstances.

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

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

(1) "Apparently wholesome food" means:

(a) Food fit for human consumption; and

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

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

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

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

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

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

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

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

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

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

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

Note: See note under 315.156.

315.155 [Repealed by 1965 c.26 §6]

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

(a) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(a) or (b), the amount of the credit shall be 10 percent of the value of the quantity of the crop donated computed at the wholesale market price.

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

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

(a) The name and address of the grower;

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

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

(d) The wholesale market price; and

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

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

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

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

provided in ORS 316.117.

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

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

Note: Section 3, chapter 222, Oregon Laws 2001, provides:

Sec. 3. The amendments to ORS 315.154 and 315.156 by sections 1 and 2 of this 2001 Act apply to tax years beginning on or after January 1, 2002. [2001 c.222 §3]

315.160 [Repealed by 1965 c.26 §6]

315.164 Farmworker housing projects. (1) As used in this section and ORS 315.169 and 315.172:

(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) "Contributor" means a person that constructed, manufactured, installed or contributed money to finance a farmworker housing project.

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

(d) "Farmworker" means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent 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.

(e) "Farmworker housing" means housing:

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

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

(f) "Farmworker housing project" means construction, installation or rehabilitation of farmworker housing.

(g) "Owner" means a person that owns farmworker housing and does not include a person that only has an interest in the housing as a holder of a security interest.

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

(i) "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.

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

(3) A taxpayer claiming a credit under this section may elect to transfer a portion of the credit to a contributor in the manner provided in ORS 315.169. No more than 80 percent of the credit may be transferred.

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

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

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

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

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

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

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

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

and

(B) Files with the Department of Revenue an annual certification providing that all occupied units for which credit is being claimed are occupied by 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.

(8) Except as provided under subsection (9) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

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

(10)(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 the year.

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

(11) For a taxpayer to receive a credit under this section, the farmworker housing must:

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

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

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

(d) Continue to be operated as farmworker housing for a period of at least 10 years after the completion of the farmworker housing project, unless a waiver has been granted under subsection (5) of this section.

(12)(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 to continue to substantially comply with the occupational safety or health laws, rules, regulations or standards;

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

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

(iv) The taxpayer has failed to make a showing that the housing continues to be operated as farmworker housing as required under subsection (5)(a) of this section and the taxpayer has not been granted a waiver by the Housing and Community Services Department under subsection (5)(b) of this section.

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

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

(13) 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 of Revenue. Upon conviction of arson, the Department of Revenue shall disallow the credit in accordance with subsection (12) of this section.

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

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

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

(15) The Department of Revenue may adopt rules for carrying out the provisions of this section. [1993 c.730 §20 (enacted

in lieu of 316.154 and 317.146); 1993 c.730 §20a; 1995 c.500 §10; 1995 c.746 §52; 2001 c.613 §13a; 2001 c.625 §2; 2001 c.868 §1]

Note: Section 10, chapter 868, Oregon Laws 2001, provides:

Sec. 10. Sections 3 and 4 of this 2001 Act [315.169 and 315.172] and the amendments to ORS 314.752, 315.164, 315.167 and 317.147 and section 6, chapter 963, Oregon Laws 1989, and section 5, chapter 766, Oregon Laws 1991, by sections 1, 5, 6, 7, 8 and 9 of this 2001 Act apply to farmworker housing completed in tax years beginning on or after January 1, 2002. [2001 c.868 §10]

315.165 [Repealed by 1965 c.26 §6]

315.167 Farmworker housing credit application; procedure; limitation. (1) Prior to beginning a farmworker housing project for which credit under ORS 315.164 will be claimed, an owner shall apply to the Housing and Community Services Department for a letter of credit approval.

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

- (a) The name, address and taxpayer identification number of the taxpayer;
- (b) The location of the proposed 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 Housing and Community Services Department may require.

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

(4) Applications filed in compliance with this section shall be approved by the Housing and Community Services Department to the extent that the total of estimated eligible costs for all approved projects for the calendar year is equal to or less than \$7.5 million. No application shall be approved if the addition of the estimated eligible costs of the project to the estimated eligible costs for all approved projects for the calendar year would exceed \$7.5 million.

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

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

Note: See note under 315.164.

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

(2) An owner or operator of farmworker housing may transfer a portion of the credit allowed to the owner or operator under ORS 315.164 to one or more contributors in portions that do not total more than 80 percent of the total credit the owner or operator may claim.

(3) To receive a credit under this section:

(a) The owner or operator and contributor must jointly file a statement with the Department of Revenue stating the portion of credit the contributor is allowed to claim and any other information the department may require by rule; and

(b) The contributor must show that upon completion of the farmworker housing project and first occupation by farmworkers, the housing complies with all occupational safety or health laws, rules, regulations and standards applicable for farmworker housing.

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

- (a) Failure to file the annual certification under ORS 315.164 (7);
- (b) Failure to continue to substantially comply with occupational safety or health laws, rules, regulations or standards under ORS 315.164 (11);
- (c) Failure to register as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;
- (d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under ORS 658.730; or
- (e) Failure to comply with any other rules or provisions relating to the operation or maintenance of the farmworker housing

after the contributor has completed work on the project.

(5)(a) A contributor does not remain eligible to receive a credit under this section if the Department of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for a contested case under ORS 183.310 to 183.550, that the contributor obtained the credit by fraud or misrepresentation, including a finding that the housing did not comply with all occupational safety or health laws, rules, regulations and standards applicable for farmworker housing at the time the housing was completed.

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

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

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

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

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

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

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

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

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

(10) The department may adopt rules for carrying out the provisions of this section. [2001 c.868 §3]

Note: See note under 315.164.

315.170 [Repealed by 1965 c.26 §6]

315.172 Collection of taxes upon disallowance of farmworker housing credit. Upon an order of the disallowance of a credit for farmworker housing under ORS 315.164 (12) or 315.169 (5), the Department of Revenue immediately shall collect any taxes due by reason of the disallowance and shall have the benefit of all the laws of this state pertaining to the collection of income and excise taxes. An assessment of the taxes is not necessary and a statute of limitation shall not preclude the collection of the taxes. [2001 c.868 §4]

Note: See note under 315.164.

315.175 [Repealed by 1965 c.26 §6]

315.180 [Repealed by 1965 c.26 §6]

315.185 [Repealed by 1965 c.26 §6]

315.190 [Repealed by 1965 c.26 §6]

315.195 [Repealed by 1965 c.26 §6]

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 and if the employer has received a certificate as provided in subsection (2) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 10. ORS 315.204 applies to tax years beginning on or after January 1, 1988, and prior to January 1, 2007. [1987 c.682 §10; 1991 c.929 §3; 2001 c.674 §1]

Note: Section 15, chapter 674, Oregon Laws 2001, provides:

Sec. 15. The amendments to ORS 315.204 by section 14 of this 2001 Act apply to dependent care assistance credits taken in tax years beginning on or after January 1, 2002. [2001 c.674 §15]

315.205 [Repealed by 1965 c.26 §6]

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

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

(a) \$2,500, multiplied by the number of full-time equivalent employees employed by the employer (on the property or within such proximity to the property that any dependents of the employees may be cared for in the facility) on any date within the two years immediately preceding the end of the first tax year for which credit is first claimed; 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 §24 (enacted in lieu of 316.132, 317.114 and 318.160); 1997 c.325 §37; 1997 c.839 §66; 1999 c.743 §21]

315.210 [Repealed by 1965 c.26 §6]

315.213 Child Care Division and community agency contributions. (1) A credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for certified contributions made to the Child Care Division or a selected community agency under ORS 657A.706.

(2) The amount of a tax credit available to a taxpayer for a tax year under this section shall equal the amount stated in the tax credit certificate received under ORS 657A.706.

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

(4) A taxpayer shall include the tax credit certificate received under ORS 657A.706 with the return filed with the Department of Revenue for the tax year to which the tax credit certificate applies.

(5) The credit allowed under this section is in addition to, and not in lieu of, any credit or deduction allowed under this chapter or ORS chapter 316, 317 or 318 for charitable contributions and contributions made in relation to child care.

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

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

(8) The definitions in ORS 657A.700 apply to this section. [2001 c.674 §10]

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

Sec. 13. Section 10 of this 2001 Act [315.213] applies to tax years beginning on or after January 1, 2002, and before January 1, 2007. [2001 c.674 §13]

315.215 [Repealed by 1965 c.26 §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 §26 (enacted in lieu of 316.133 and 317.134); 1995 c.54 §6; 1995 c.746 §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 §6; 1995 c.746 §51]

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

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

(a) Program certification from the Oregon Student Assistance Commission under ORS 348.618; and

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

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

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

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

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

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

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

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

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

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

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 §28 (enacted in lieu of 316.151, 317.141 and 318.085)]

315.255 [Repealed by 1965 c.26 §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 §2; 1997 c.325 §38; 1999 c.59 §78; 1999 c.741 §1]

315.260 [Repealed by 1965 c.26 §6]

315.262 Working family 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

(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 may not exceed the tax liability of the taxpayer and may not be carried forward to a succeeding tax year.

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

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

(c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50, the adjustment shall be rounded to the nearest multiple of \$50. [1997 c.692 §2; 1999 c.998 §1; 2001 c.114 §32; 2001 c.660 §10]

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 §2]

Note: Section 13, chapter 660, Oregon Laws 2001, provides:

Sec. 13. The amendments to ORS 315.262, 316.037 and 316.085 by sections 10 to 12 of this 2001 Act apply to tax years beginning on or after January 1, 2002. [2001 c.660 §13]

Note: The amendments to 315.262 by section 1, chapter 867, Oregon Laws 2001, apply to tax years beginning on or after January 1, 2003. See section 2, chapter 867, Oregon Laws 2001. The text that is applicable to tax years beginning on or after January 1, 2003, is set forth for the user's convenience.

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

(b) Except that refunds attributable to the child care tax credit shall be made from the moneys transferred under paragraph (c) of this subsection, any refund described in paragraph (a) of this subsection shall be paid from the Department of Revenue suspense account established under ORS 293.445.

(c) Moneys necessary to make refunds attributable to the child care tax credit shall be transferred from and are continuously appropriated from the General Fund to the Department of Revenue suspense account established under ORS 293.445 for the purpose of making the refunds required under this section.

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

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

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

(d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of earned income a taxpayer must earn may not exceed the amount an individual would earn if the individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next lower multiple of \$50.

315.265 [Repealed by 1965 c.26 §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 may 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.

(8) Notwithstanding ORS 315.004, as used in this section, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on June 8, 2001. [1997 c.692 §3; 2001 c.114 §33; 2001 c.660 §56]

315.270 [Repealed by 1965 c.26 §6]

315.271 Individual development accounts. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal the lesser of \$75,000 or 75 percent of the donation amount.

(2) If a credit allowed under this section is claimed, the amount upon which the credit is based that is allowed or allowable as a deduction from federal taxable income under section 170 of the Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable income. As used in this subsection, the amount upon which a credit is based is the allowed credit divided by 75 percent.

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter. [1999 c.1000 §12; 2001 c.648 §1]

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

Sec. 14. (2) Notwithstanding ORS 315.271, if the Legislative Revenue Officer reports under section 13 (3), chapter 1000, Oregon Laws 1999, that the revenue impact of tax credits under ORS 315.271 for the biennium ending June 30, 2001, is likely to exceed \$500,000, a credit may not be allowed under ORS 315.271 for donations made on or after January 1, 2001, and on or before December 31, 2002. [1999 c.1000 §14(2); 2001 c.114 §34(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 §15]

Note: Section 2, chapter 648, Oregon Laws 2001, provides:

Sec. 2. The amendments to ORS 315.271 by section 1 of this 2001 Act apply to tax years beginning on or after January 1, 2002. [2001 c.648 §2]

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.

(6) Notwithstanding ORS 315.004, as used in this section, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on June 8, 2001. [1999 c.1088 §2; 2001 c.660 §57]

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 §3]

315.275 [Repealed by 1965 c.26 §6]

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

315.285 [Repealed by 1965 c.26 §6]

315.290 [Repealed by 1965 c.26 §6]

315.295 [Repealed by 1965 c.26 §6]

ENVIRONMENT AND ENERGY

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

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

(3) To qualify for the credit the pollution control facility must be erected, constructed or installed in accordance with the provisions of ORS 468.165 (1) and must be certified for tax relief under ORS 468.155 to 468.190 and 468.962.

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

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

(A) The owner, including a contract purchaser, of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution;

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

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

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

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

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

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

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

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

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

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

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

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

(9) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in ORS 468.170.

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

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

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

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

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

Sec. 3. (1) Notwithstanding ORS 315.304 (9), in the case of a pollution control facility for which unexpired tax credits exist as of the tax year of the taxpayer that begins in the 2001 calendar year, if the facility is in use and operation during the tax year immediately following the third succeeding tax year described in ORS 315.304 (9), any credit under ORS 315.304 remaining unused may be carried forward to that fourth succeeding tax year. If the facility is in use and operation during the tax year immediately following the fourth succeeding tax year, any credit under ORS 315.304 remaining unused may be carried forward to that fifth succeeding tax year. If the facility is in use and operation during the tax year immediately following the fifth succeeding tax year, any credit under ORS 315.304 remaining unused may be carried forward to that sixth succeeding tax year, but may not be carried forward to any tax year thereafter.

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

315.305 [Repealed by 1965 c.26 §6]

315.310 [Repealed by 1965 c.26 §6]

315.311 Emission reducing production technology or process. (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 §33; 1997 c.325 §40]

315.315 [Repealed by 1965 c.26 §6]

315.320 [Repealed by 1965 c.26 §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 §32 (enacted in lieu of 316.103 and 317.106); 1995 c.746 §7]

315.325 [Repealed by 1965 c.26 §6]

315.330 [Repealed by 1965 c.26 §6]

315.335 [Repealed by 1965 c.26 §6]

315.340 [Repealed by 1965 c.26 §6]

315.345 [Repealed by 1965 c.26 §6]

315.350 [Repealed by 1965 c.26 §6]

315.354 Energy conservation facilities. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit is allowed as follows:

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

(b) If the application for certification under ORS 469.185 to 469.225 was filed with the Office of Energy on or after January 1, 2001, and the certified cost of the facility does not exceed \$20,000, the total amount of the credit allowable under subsection (3) of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

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

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the administrator of the Office of Energy under ORS 469.185 to 469.225; and

(c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c).

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

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

(b) The Office of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

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

succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

(6) The credit 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.

(7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section. [1993 c.730 §34 (enacted in lieu of 316.140 and 317.104); 1995 c.746 §15; 1997 c.656 §4; 1999 c.365 §10; 2001 c.583 §1; 2001 c.660 §1a]

Note: Section 3, chapter 583, Oregon Laws 2001, provides:

Sec. 3. The amendments to ORS 315.354 and 315.356 by sections 1 and 2 of this 2001 Act apply to tax years beginning on or after January 1, 2001. [2001 c.583 §3]

Note: Section 3, chapter 660, Oregon Laws 2001, provides:

Sec. 3. The amendments to ORS 315.354, 469.205 and 469.215 by sections 1, 1a, 1b and 2 of this 2001 Act apply to tax years beginning on or after January 1, 2001. [2001 c.660 §3]

315.355 [Repealed by 1965 c.26 §6]

315.356 Other grants as offset to cost of energy conservation facility; changes in credit eligibility when taxpayer participates in other programs. (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) A taxpayer is eligible to participate in both this tax credit program and low interest, government-sponsored loans.

(3) A taxpayer who receives a tax credit or 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.

(4) A credit may not 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 §36 (enacted in lieu of 316.141, 316.142 and 317.103); 1995 c.556 §35; 1999 c.623 §3; 2001 c.583 §2]

Note: See first note under 315.354.

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

315.365 [Repealed by 1965 c.26 §6]

315.455 [Repealed by 1965 c.26 §6]

315.460 [Repealed by 1965 c.26 §6]

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 §38 (enacted in lieu of 316.104 and 317.140)]

315.505 [Repealed by 1965 c.26 §6]

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

(a) A qualified business firm engaged in electronic commerce in an enterprise zone that has been approved for electronic commerce designation under ORS 285B.672; or

(b) A business firm engaged in electronic commerce in a city that has been designated for electronic commerce under ORS 285B.673.

(2) The credit shall equal 25 percent of the investments made by the business firm during the tax year in electronic commerce operations within the area designated for electronic commerce that are related to electronic commerce sales, customer service, order fulfillment or broadband infrastructure.

(3) A credit under this section may not be allowed for an income tax year beginning in a property tax year in which qualified property of the business firm is subject to property tax.

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

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

(6) As used in this section, "business firm," "electronic commerce," "qualified business firm" and "qualified property" have the meanings given those terms in ORS 285B.650. [2001 c.957 §8]

Note: See note under 315.511.

315.510 [Repealed by 1965 c.26 §6]

315.511 Advanced telecommunications facilities. (1) There shall be allowed a credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapters 317 and 318) for advanced telecommunications facilities, as defined in ORS 285B.486, that have been certified by the Economic and Community Development Department.

(2) The amount of the credit shall equal 20 percent of the certified cost of the facilities that was actually paid or incurred by the taxpayer, except that:

(a) The amount of the credit may not include facility costs that were paid using moneys withdrawn from the taxpayer's Telecommunications Infrastructure Account established pursuant to ORS 759.405; and

(b) Revenues forgone by the taxpayer upon the taxpayer's waiver of installation charges for advanced telecommunications facilities to schools, rural health clinics or libraries may be added to the amount of the credit.

(3) The credit may be claimed by the taxpayer for the tax year in which the advanced telecommunications facilities are placed in service.

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

(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.

(6) The credit shall be claimed on a form prescribed by the Department of Revenue and containing any information as may be required by the department. The taxpayer shall attach a copy of the certification to the return for the tax year for which the credit is claimed. [2001 c.957 §15]

Note: Section 20, chapter 957, Oregon Laws 2001, provides:

Sec. 20. Sections 8 and 15 of this 2001 Act [315.507 and 315.511] and the amendments to ORS 314.752 and 318.031 by sections 18 and 19 of this 2001 Act apply to tax years beginning on or after January 1, 2002. [2001 c.957 §20]

315.515 [Repealed by 1965 c.26 §6]

315.520 [Repealed by 1965 c.26 §6]

315.525 [Repealed by 1965 c.26 §6]

315.530 [Repealed by 1965 c.26 §6]

315.535 [Repealed by 1965 c.26 §6]

315.540 [Repealed by 1965 c.26 §6]

315.545 [Repealed by 1965 c.26 §6]

315.550 [Repealed by 1965 c.26 §6]

315.555 [Repealed by 1965 c.26 §6]

315.560 [Repealed by 1965 c.26 §6]

315.570 [Repealed by 1965 c.26 §6]

315.575 [Repealed by 1965 c.26 §6]

315.580 [Repealed by 1965 c.26 §6]

315.585 [Repealed by 1965 c.26 §6]

315.590 [Repealed by 1965 c.26 §6]

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 Department of Human Services 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 §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 §12; 1995 c.746 §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 §2]

CULTURE

315.675 Trust for Cultural Development Account contributions. (1) As used in this section, "cultural organization" means an entity that is:

(a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

(b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage, programs and humanities to the public or organized primarily for identifying, documenting, interpreting and preserving cultural resources.

(2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(4) The credit is allowable under this section only to the extent the taxpayer has contributed an equal amount to an Oregon cultural organization during the tax year.

(5) The amount of the credit shall equal 100 percent of the amount contributed to the Trust for Cultural Development Account, but may not exceed the lesser of the tax liability of the:

(a) Taxpayer under ORS chapter 316 for the tax year or \$500.

(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or \$2,500.

(6) The credit allowed under this section may not be carried over to another tax year.

(7) The credit allowed under this section is in addition to any charitable contribution deduction allowable to the taxpayer.

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

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

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

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

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085. [2001 c.954 §18]

Note: Sections 19 and 19a, chapter 954, Oregon Laws 2001, provide:

Sec. 19. Section 18 of this 2001 Act [315.675] applies to tax years beginning on or after January 1, 2002, and before January 1, 2013. [2001 c.954 §19]

Sec. 19a. Notwithstanding section 19 of this 2001 Act, for a tax year beginning on or after January 1, 2002, and before January 1, 2003, a credit may be allowed under section 18 of this 2001 Act [315.675] only if the contribution on which the credit is based is made on or after December 1, 2002. [2001 c.954 §19a]