Chapter 315

2009 EDITION

Personal and Corporate Income or Excise Tax Credits

GENERAL PROVISIONS

315.004 Definitions; adoption of parts of Internal Revenue Code and application of federal laws and regulations; technical corrections

315.050 Credits applicable for limited time

315.052 Limitation on transfer or sale of credit

315.053 Restriction on types of transferees

315.054 Federal tax credits allowable only as specified

315.063 Waiver of substantiation by Department of Revenue; rules

315.068 Claim of right income repayment adjustments

AGRICULTURE; FISHERIES; FORESTRY

315.104 Reforestation; rules

315.106 Reforestation credit preliminary certificate; application; limitation calculation; rules; fee

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; rules

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 Screening devices, by-pass devices or fishways; rules

315.141 Biomass production or collection; fee; rules; list of taxpayers allowed credit; documentation

315.144 Transfer of biomass credit; rules

315.154 Definitions for crop donation credit

315.156 Crop donation; forms

315.163 Definitions for ORS 315.163 to 315.172

315.164 Farmworker housing projects; rules

315.167 Farmworker housing credit application; procedure; limitation; rules

315.169 Farmworker housing contributor credit; transfer of farmworker housing owner or operator credit; continued eligibility; rules

315.172 Collection of taxes upon disallowance of farmworker housing credit

CHILDREN AND FAMILIES; POVERTY RELIEF

315.204 Dependent care assistance; rules

315.208 Dependent care facilities

315.213 Child Care Division contributions

315.237 Employee and dependent scholarship program payments

315.259 First Break Program; rules

315.262 Working family child care; rules

315.266 Earned income; rules

315.271 Individual development accounts

315.272 Certain individual development account withdrawals

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

(Temporary provisions relating to low emission truck engines are compiled as notes following ORS 315.356)

(Temporary provisions relating to diesel engines are compiled as notes following ORS 315.356)

315.357 Time limit applicable to energy conservation tax credit

315.465 Biofuels and fuel blends

315.469 Biodiesel used in home heating

ECONOMIC DEVELOPMENT

315.507 Electronic commerce in designated enterprise zone

315.508 Recordkeeping requirements for electronic commerce credit; disallowance of credit

315.511 Advanced telecommunications facilities

315.514 Film production development contributions; rules

315.517 Water transit vessels

315.521 University venture development fund contributions

HEALTH

315.604 Bone marrow donor expense

315.610 Long term care insurance

315.613 Credit available to persons providing rural medical care and affiliated with certain rural hospitals

315.616 Additional providers who may qualify for credit

315.619 Credit for medical staff at type C hospital

315.622 Rural emergency medical technicians

315.624 Medical care to residents of Oregon Veterans′ Home

315.628 Health care services under TRICARE contract

315.631 Certification of health care providers; reports

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 May 1, 2009, even when the amendments take effect or become operative after that date.

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

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

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

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

315.005 [Repealed by 1965 c.26 §6]

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

315.015 [Repealed by 1965 c.26 §6]

315.020 [Repealed by 1965 c.26 §6]

315.025 [Repealed by 1965 c.26 §6]

315.030 [Repealed by 1965 c.26 §6]

315.035 [Repealed by 1965 c.26 §6]

315.040 [Repealed by 1965 c.26 §6]

315.045 [Repealed by 1965 c.26 §6]

315.050 Credits applicable for limited time. Any tax credit enacted by the Legislative Assembly on or after January 1, 2010, shall apply for a maximum of six tax years beginning with the initial tax year for which the credit is applicable, unless the Legislative Assembly expressly provides for another period of applicability. [2009 c.913 §53]

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

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

315.053 Restriction on types of transferees. An income tax credit allowed under ORS 315.141, 315.354 or 315.514 or section 47, chapter 843, Oregon Laws 2007, or section 12, chapter 855, Oregon Laws 2007, may be

transferred or sold only to one or more of the following:

(1) A C corporation.

(2) An S corporation.

(3) A personal income taxpayer. [2009 c.288 §2]

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

315.055 [Repealed by 1965 c.26 §6]

315.060 [Repealed by 1965 c.26 §6]

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

315.065 [Repealed by 1965 c.26 §6]

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

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

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

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

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

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

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

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

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

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

315.070 [Repealed by 1965 c.26 §6]

315.075 [Repealed by 1965 c.26 §6]

315.080 [Repealed by 1965 c.26 §6]

315.085 [Repealed by 1965 c.26 §6]

315.090 [Repealed by 1965 c.26 §6]

315.095 [Repealed by 1965 c.26 §6]

AGRICULTURE; FISHERIES; FORESTRY

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

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

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

(2) No credit shall be allowed under either subsection (1)(a) or (b) of this section unless written certification containing the

following statements accompanies the claim for the credit or is otherwise filed with the Department of Revenue:

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

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

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

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

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

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

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

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

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

(4) To qualify for the credit:

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

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

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

(d) Prior to December 31, 2012, the taxpayer must file with the State Forester a written request for preliminary certification under ORS 315.106.

(5) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter. In all cases the taxpayer must be the person who made the investment into the project.

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

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

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

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

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

the minimum number of trees per acre anticipated by the project.

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

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

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

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

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

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

315.105 [Repealed by 1965 c.26 §6]

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

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

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

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

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

(3) The State Forester may not issue a preliminary certificate to a taxpayer to the extent the estimated claim for credit under ORS 315.104 (1)(a) contained in the request for a preliminary certificate, when added to the total of estimated claims for credit under ORS 315.104 (1)(a) for all preliminary certificates issued by the State Forester for the calendar year, exceeds the annual reforestation credit cost limitation calculated under ORS 315.108.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the

credit shall be prorated using the proportion provided in ORS 316.117.

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

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

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

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

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

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

315.115 [Repealed by 1965 c.26 §6]

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

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

(a) "Effective property tax rate" means:

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

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

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

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

(d) "Processing":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) $30,000.

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

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

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

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

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

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

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

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

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

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

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

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

315.123 Minimum production and processing volume requirements; recordkeeping requirements. (1) For the first three tax years in which a taxpayer claims a credit under ORS 315.119, a taxpayer shall be deemed to have complied with the appli-

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

(2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a screening device, by-pass device

or fishway. The total credit allowed shall not exceed $5,000 per device installed.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A screening device, by-pass device or fishway that is installed by the State Department of Fish and Wildlife pursuant to ORS 498.306 (8) in response to noncompliance by the person responsible for the water

diversion is not eligible for the credit provided in subsection (1) of this section.

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

(11) Pursuant to the procedures for a contested case under ORS chapter 183, the State Department of Fish and Wildlife may order the revocation of the certificate issued under this section of any taxpayer, if it finds that:

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

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

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

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

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

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

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

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

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

Sec. 11. The State Department of Fish and Wildlife may not issue a preliminary certificate of approval under ORS 315.138 after January 1, 2012. [2009 c.913 §11]

Note: 315.138 is repealed January 2, 2014. See sections 2a and 2b, chapter 625, Oregon Laws 2007.

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

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

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

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

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

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

(C) Uses biomass in Oregon to produce energy.

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

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

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

(C) Agricultural residues;

(D) Offal and tallow from animal rendering;

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

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

(G) Wastewater solids; or

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

(e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or

other inorganic chemical compounds or waste, other than matter described in paragraph (d) of this subsection.

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

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

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

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

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

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

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

(d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

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

(5)(a) The State Department of Energy may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section, consistent with ORS 469.790. The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. (1) ORS 315.141, 315.144 and 469.790 apply to tax credits for tax years beginning on or after January 1, 2007, and before January 1, 2012.

(2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain (other than nongrain wheat material) before tax years beginning on or after January 1, 2009, or on or after January 1, 2012. [2007 c.739 §6; 2007 c.590 §5; 2009 c.913 §18]

315.144 Transfer of biomass credit; rules. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the

credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

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

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

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

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

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

(d) Any other information required by the department.

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

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

Note: See note under 315.141.

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

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

(1) "Apparently wholesome food" means:

(a) Food fit for human consumption; and

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

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

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

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

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

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

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

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

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

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

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

315.155 [Repealed by 1965 c.26 §6]

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

(a) In the case of a qualified donation made under circumstances described in ORS 315.154 (5)(a) or (b), the amount of the credit shall be 10 percent of the value of the 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 5, chapter 913, Oregon Laws 2009, provides:

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

315.160 [Repealed by 1965 c.26 §6]

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

(1) "Acquisition costs" means the cost of acquiring buildings, structures and improvements that constitute or will constitute farmworker housing. "Acquisition costs" does not include the cost of acquiring land on which farmworker housing is or will be located.

(2) "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.

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

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

(5) "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.

(6) "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.

(7) "Farmworker housing project" means the acquisition, construction, installation or rehabilitation of farmworker housing.

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

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

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

(11) "Taxpayer" includes a nonprofit corporation or other person not subject to tax under ORS chapter 316, 317 or 318. [2003 c.588 §1]

315.164 Farmworker housing projects; rules. (1) 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 by the taxpayer to complete a farmworker housing project, to the extent the eligible costs actually paid or incurred by the taxpayer do not exceed the estimate of eligible costs approved by the Housing and Community Services Department under ORS 315.167.

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

(3)(a) The credit allowed under this section may be taken for the tax year in which the 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 (1) of this section.

(4)(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.

(5) 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.

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

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

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

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

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

(9)(a) The credit provided by this section is not in lieu of any depreciation or amorti-

zation 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.

(10) 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 (4) of this section.

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

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

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

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

(ii) After occupancy and if registration is required, the 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 (4)(a) of this section and the taxpayer has not been granted a waiver by the Housing and Community Services Department under subsection (4)(b) of this section.

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

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

(12) In the event that the 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 (11) of this section.

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

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

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

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

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

Sec. 28. Except as provided in ORS 315.164 (8), a credit may not be claimed under ORS 315.164 for tax years beginning on or after January 1, 2014. [2009 c.913 §28]

315.165 [Repealed by 1965 c.26 §6]

315.167 Farmworker housing credit application; procedure; limitation; rules. (1)(a) Prior to six months after beginning a farmworker housing project:

(A) For which credit under ORS 315.164 will be claimed, an owner or operator of farmworker housing shall apply to the Housing and Community Services Department for a letter of credit approval.

(B) For which credit under ORS 315.169 will be claimed, a contributor shall apply to the Housing and Community Services Department for a letter of credit approval.

(b) If a portion of credit for a farmworker housing project is to be claimed by the owner or operator of farmworker housing under ORS 315.164 and the remainder is to be claimed by a contributor under ORS 315.169, the application described in this section shall be filed jointly by the owner or operator of farmworker housing and the contributor.

(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 $7.25 million. No application shall be approved if the addition of the estimated eligible costs of the project to the estimated eligible costs for all approved projects for the calendar year would exceed $7.25 million.

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

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

(b) To the contributor, if any credit is to be claimed under ORS 315.169.

(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; 2003 c.588 §§6a,7]

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

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

(3) To receive a credit under this section:

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

(b) If the owner or operator of farmworker housing elects to transfer all or a portion of the credit allowed under ORS 315.164 after the date that a letter of credit approval has been issued to the owner or operator, the owner or operator and the contributor must jointly file a statement with the Department of Revenue stating the portion of the credit the contributor is allowed

to claim and any other information the department may require by rule.

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

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

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

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

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

(e) Failure to comply with any other rules or provisions relating to the operation or maintenance of the 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 chapter 183, that the contributor obtained the credit by fraud or misrepresentation, including a finding that the housing did not comply with all occupational safety or health laws, rules, regulations and standards applicable for 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; 2003 c.588 §§9,11]

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 (11) or 315.169 (5), the Department of Re-

venue immediately shall collect any taxes due by reason of the disallowance and shall have the benefit of all the laws of this state pertaining to the collection of income and excise taxes. An assessment of the taxes is not necessary and a statute of limitation shall not preclude the collection of the taxes. [2001 c.868 §4; 2003 c.588 §15]

315.175 [Repealed by 1965 c.26 §6]

315.180 [Repealed by 1965 c.26 §6]

315.185 [Repealed by 1965 c.26 §6]

315.190 [Repealed by 1965 c.26 §6]

315.195 [Repealed by 1965 c.26 §6]

315.200 [Repealed by 1965 c.26 §6]

CHILDREN AND FAMILIES; POVERTY RELIEF

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

(2)(a) Each employer that elects to receive a credit allowed under subsection (1) of this section must submit an application to the 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. Except as provided in ORS 315.204 (12), ORS 315.204 applies to tax years beginning on or after January 1, 1988, and before January 1, 2016. [1987 c.682 §10; 1991 c.929 §3; 2001 c.674 §1; 2005 c.485 §1; 2009 c.913 §46]

315.205 [Repealed by 1965 c.26 §6]

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

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

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

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

(c) $100,000.

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

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

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

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

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

(c) The person or persons operating the dependent care facility on the property acquired, constructed, reconstructed, renovated or improved must hold a certification (temporary or not) issued under ORS 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; 2009 c.33 §18]

315.210 [Repealed by 1965 c.26 §6]

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

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

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

succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) The definitions in ORS 657A.700 apply to this section. [2001 c.674 §10; 2003 c.473 §8]

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

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

315.215 [Repealed by 1965 c.26 §6]

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

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

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

Sec. 24. Except as provided in ORS 315.237 (6), a credit may not be claimed under ORS 315.237 for tax years beginning on or after January 1, 2014. [2009 c.913 §24]

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

315.255 [Repealed by 1965 c.26 §6]

315.259 First Break Program; rules. (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 336.375, 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; rules. (1) As used in this section:

(a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-time or part-time basis, except that the term does not include care provided by:

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

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

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

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

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

(e) "Qualified taxpayer" means a taxpayer:

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

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

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

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

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

(2) A taxpayer is not disqualified from claiming the credit under this section solely because the taxpayer's spouse has a disability, if the disability is such that it prevents

the taxpayer's spouse from providing child care, being gainfully employed, seeking employment and attending school. The Department of Revenue may require that a physician verify the existence of the disability and its severity.

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

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

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

(5) The department may:

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

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

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

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

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

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

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

(A) The taxpayer files a joint return;

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

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

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

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

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

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

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

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

315.265 [Repealed by 1965 c.26 §6]

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

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

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

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

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

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

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

Note: 315.266 is repealed January 1, 2014, and the repeal applies to tax years beginning on or after January 1, 2014. See sections 5 and 6, chapter 880, Oregon Laws 2007.

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. To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, 2016.

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

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter. [1999 c.1000 §12; 2001 c.648 §1; 2007 c.765 §1; 2009 c.913 §48]

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

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

(a) The taxpayer purchased a primary residence;

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

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

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

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

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

(c) $2,000; or

(d) The tax liability of the taxpayer.

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

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

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

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

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

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

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

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

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

(b) $1,500; or

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

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

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

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

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

(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter. [1999 c.1088 §2; 2001 c.660 §57; 2003 c.77 §13]

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.

(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 col-

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

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

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

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

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

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

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

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

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the Director of the State Department of Energy under ORS 469.185 to 469.225;

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

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

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

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

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

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

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

(5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the Director of the State Department of Energy who shall revoke the certificate covering the facility as of the date of such disposition. 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 State Department of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

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

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

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

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

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

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

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

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

(10) The definitions in ORS 469.185 apply to this section. [1993 c.730 §34 (enacted in lieu of 316.140 and 317.104); 1995 c.746 §15; 1997 c.656 §4; 1999 c.365 §10; 2001 c.583 §1; 2001 c.660 §1a; 2007 c.843 §14; 2009 c.909 §48]

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 from the federal government in connection with a facility that has been certified by the Director of the State Department of Energy, the certified cost of the facility shall be reduced on a dollar for dollar basis. Any income or excise tax credits that the taxpayer would be entitled to under ORS 315.354 and 469.185 to 469.225 after any reduction described in this subsection may not be reduced by the federal grant. A taxpayer applying for a federal grant shall notify the Department of Revenue by certified mail within 30 days after each application, and after the receipt of any grant.

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

(3) A taxpayer who receives a tax credit or property tax relief on a pollution control facility or an alternative energy device under ORS 307.405, 315.304 or 316.116 is not eligible for a tax credit on the same facility or device under ORS 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; 2007 c.843 §15]

(Temporary provisions relating to low emission truck engines)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and used in the fourth succeeding tax year but may not be carried forward for any tax year thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Notwithstanding section 31, chapter 618, Oregon Laws 2003, the Department of Environmental Quality may approve applications for tax credits for qualifying engines purchased in calendar years 2004 through 2011, although the taxpayer may not claim the credit until a tax year beginning on or after January 1, 2005.

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

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

Sec. 31. The tax credit established in section 28, chapter 618, Oregon Laws 2003, applies to tax years beginning on and after January 1, 2005, and to engine model years 2003 through 2013. [2003 c.618 §31; 2007 c.843 §55; 2007 c.855 §19; 2009 c.865 §67a]

Sec. 32. A certificate of credit approval may not be issued under section 29, chapter 618, Oregon Laws 2003, after December 31, 2013. [2003 c.618 §32; 2007 c.843 §56; 2007 c.855 §20; 2009 c.865 §67b]

(Temporary provisions relating to diesel engines)

Note: Section 47, chapter 843, Oregon Laws 2007, and section 12, chapter 855, Oregon Laws 2007, are substantially the same and provide:

Sec. 47. (1) A personal income or corporate income or excise taxpayer is allowed a credit against the taxes that are otherwise due under ORS chapter 316, 317 or 318 for the certified costs of a repower of a nonroad Oregon diesel engine or retrofit of an Oregon diesel engine that occurs after the effective date of this 2007 Act [September 27, 2007] if:

(a) The repower or retrofit has been identified as qualifying for the credit under rules adopted by the Environmental Quality Commission under section 44 of this 2007 Act;

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

(c) The taxpayer has obtained a tax credit cost certification from the Department of Environmental Quality under section 51 of this 2007 Act for the cost of the repower or retrofit.

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

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

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

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

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

liability as prescribed in subsection (3) of this section for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and offset against the taxpayer's tax liability as prescribed in subsection (3) of this section for the third succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

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

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

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

(8) The taxpayer shall claim the credit on a form prescribed by the Department of Revenue containing the information required by the Department of Revenue. The taxpayer shall maintain the tax credit cost certification issued by the Department of Environmental Quality under section 51 of this 2007 Act in the records of the taxpayer for the length of time prescribed by the Department of Revenue and shall provide a copy of the cost certification to the Department of Revenue if requested.

(9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and under ORS 469.185 to 469.225 with respect to the same diesel engine or group of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed a tax credit under ORS 469.185 to 469.225. [2007 c.843 §47]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A taxpayer may not claim a credit under this section and ORS 315.304 with respect to the same diesel engine or group of diesel engines. A taxpayer may claim a credit under this section and under ORS 469.185 to 469.225 with respect to the same diesel engine or group of diesel engines if the taxpayer and diesel engines otherwise meet the requirements to be allowed a tax credit under ORS 469.185 to 469.225. [2007 c.855 §12]

Note: Section 48, chapter 843, Oregon Laws 2007, and section 13, chapter 855, Oregon Laws 2007, are substantially the same and provide:

Sec. 48. (1) A person that has obtained a tax credit cost certification from the Department of Environmental Quality under section 51 of this 2007 Act may transfer the cost certification to a personal income or corporate income or excise taxpayer in exchange for consideration from the taxpayer.

(2) In order for a credit under section 47 of this 2007 Act to be claimed by a person that does not own the repowered or retrofitted engine that qualifies for the credit, the person that received the tax credit cost certification and the taxpayer that will claim the credit must jointly file a cost certification transfer notice with the Department of Revenue to transfer the cost certification to the taxpayer. The transfer notice shall be on a form prescribed by the department and shall contain any information required by the department.

(3) The cost certification transfer notice shall be filed with the Department of Revenue prior to the first tax year for which a credit will be claimed under section 47 of this 2007 Act. A transfer is not allowed under this section if the transferor has claimed any portion of the credit allowed under section 47 of this 2007 Act. [2007 c.843 §48]

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

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

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

Note: Section 49, chapter 843, Oregon Laws 2007, and section 14, chapter 855, Oregon Laws 2007, are substantially the same and provide:

Sec. 49. Sections 47 and 48, chapter 843, Oregon Laws 2007, apply to diesel engine repower and retrofit tax credit cost certifications issued in tax years beginning on or after January 1, 2008, and before January 1, 2012. [2007 c.843 §49; 2009 c.865 §67c; 2009 c.913 §7]

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

Note: Section 58, chapter 843, Oregon Laws 2007, and section 22, chapter 855, Oregon Laws 2007, are substantially the same and provide:

Sec. 58. (1) Sections 47 and 48 of this 2007 Act and section 28, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 315.

(2) Sections 50 and 51 of this 2007 Act and section 29, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 468A. [2007 c.843 §58]

Sec. 22. (1) Sections 12 and 13 of this 2007 Act and section 28, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 315.

(2) Sections 15 and 16 of this 2007 Act and section 29, chapter 618, Oregon Laws 2003, are added to and made a part of ORS chapter 468A. [2007 c.855 §22]

Note: Section 52, chapter 843, Oregon Laws 2007, and section 16a, chapter 855, Oregon Laws 2007, are substantially the same and provide:

Sec. 52. Sections 47, 48, 50 and 51, chapter 843, Oregon Laws 2007, are repealed on January 2, 2012. [2007 c.843 §52; 2009 c.913 §9]

Sec. 16a. Sections 12 to 16, chapter 855, Oregon Laws 2007, are repealed on January 2, 2012. [2007 c.855 §16a; 2009 c.913 §10]

315.357 Time limit applicable to energy conservation tax credit. A taxpayer may not be allowed a credit under ORS 315.354 if the first tax year for which the credit with respect to a facility certified under ORS 469.215 would otherwise be allowed begins on or after January 1, 2012. [2007 c.843 §24; 2009 c.913 §15]

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

315.365 [Repealed by 1965 c.26 §6]

315.455 [Repealed by 1965 c.26 §6]

315.460 [Repealed by 1965 c.26 §6]

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

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

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

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

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

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

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

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

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

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

(b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469.785; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: See note under 315.465.

ECONOMIC DEVELOPMENT

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

315.505 [Repealed by 1965 c.26 §6]

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

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

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

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

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

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

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

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

(3) Except as provided in subsection (5) of this section, the credit must be claimed for the income or corporate excise tax year that is:

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Except as provided in ORS 315.507 (5), a credit may not be claimed under ORS 315.507 for tax years beginning on or after January 1, 2012. [2009 c.913 §3]

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

(a) That within three years following the year in which a credit was claimed under ORS 315.507, property owned or operated by the taxpayer and used in electronic com-

merce operations was exempt from property taxation under ORS 285C.175; and

(b) That at no time was property described in paragraph (a) of this subsection disqualified from exemption pursuant to ORS 285C.240.

(2) The taxpayer shall provide these records to the Department of Revenue if requested by the department.

(3) The taxpayer shall maintain the records described in this section for at least five years following the last tax year for which the taxpayer claims any credit under ORS 315.507.

(4) If property owned or operated by the taxpayer is not both used in electronic commerce operations in an area designated for electronic commerce and exempt from property taxation under ORS 285C.175 within three years following the year in which a credit is first claimed under ORS 315.507, the department shall disallow the credit for the current or any prior tax year and collect any taxes that were not paid as a result of application of the credit.

(5) If property owned or operated by the taxpayer, used in electronic commerce operations in an area designated for electronic commerce and exempt from property taxation under ORS 285C.175 is disqualified from exemption under ORS 285C.240, the department shall disallow the credit for the current or any prior tax year and collect any taxes that were not paid as a result of application of the credit.

(6) For purposes of collecting taxes due under subsection (4) or (5) of this section, the department shall have the benefit of all laws of this state pertaining to the collection of income and corporate excise taxes. No assessment of these taxes shall be necessary and no statute of limitations shall preclude the collection of these taxes. [2003 c.65 §2 and 2003 c.662 §65]

315.510 [Repealed by 1965 c.26 §6]

315.511 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 285C.530, that have been certified by the Oregon Business 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]

315.514 Film production development contributions; rules. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The amount of the tax credit shall equal the amount certified for credit by the Oregon Film and Video Office, except that a contribution must equal at least 90 percent of the tax credit.

(b) The Oregon Film and Video Office shall adopt rules for determining the amount of tax credit to be certified by the office. The rules shall be adopted in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of $7.5 million are certified for each fiscal year;

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

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

(3) A taxpayer seeking a tax credit under this section shall apply for tax credit certification to the Oregon Film and Video Office on a form supplied by the office. The taxpayer shall include payment of the contribution at the time of application.

(4) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(5)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed $7.5 million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office is not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(6) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(7)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2012.

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

(9) A taxpayer who has received a tax credit certificate under this section may sell the certificate to another taxpayer. The sale is effective only if a notice of tax credit certificate sale is filed with the Department of Revenue. The notice shall be filed on a form prescribed by the department on or before the date on which the income or corporate excise tax return of the buyer for the first year for which the credit could be claimed is filed or due, whichever is earlier. The notice form shall include the following information:

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

(b) The name and taxpayer identification number of the buyer;

(c) The amount of the tax credit certificate that is being sold to the buyer;

(d) The amount of the tax credit certificate that is being retained by the seller; and

(e) Any other information required by the department.

(10) If requested by the Department of Revenue, the Oregon Film and Video Office shall supply a list of taxpayers that have obtained tax credit certification under this section, and for each listed taxpayer disclose:

(a) The amount of contribution made by the taxpayer; and

(b) The amount certified for tax credit under this section.

(11) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes. [2003 c.736 §76; 2007 c.843 §59; 2009 c.787 §2]

Note: Section 77, chapter 736, Oregon Laws 2003, provides:

Sec. 77. ORS 315.514 applies to tax years beginning on or after January 1, 2005, and before January 1, 2012, and to tax credit certifications issued by the Oregon Film and Video Office on or after July 1, 2005. [2003 c.736 §77; 2009 c.913 §1]

315.515 [Repealed by 1965 c.26 §6]

315.517 Water transit vessels. (1) As used in this section, "water transit vessel" means a United States Coast Guard licensed and inspected vessel that is primarily designed to carry 50 or more passengers and vehicles or 50 or more passengers only for a published fee across a body of water between

two or more fixed points on a regular schedule.

(2)(a) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a resident employer based upon wages actually paid by the taxpayer to a person employed in this state to assist in the manufacture of a water transit vessel.

(b) The credit allowed under this section:

(A) Must be claimed for the year in which the wages were paid;

(B) May not be claimed for wages paid to an employee who was employed by the employer during the previous tax year; and

(C) Must be for wages paid as a result of an increase in the number of full-time equivalent employees employed by the eligible taxpayer when compared to the previous tax year.

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

(a) $5,000; or

(b) 15 percent of the wages paid to employees during the tax year for which the credit is claimed.

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

(5)(a) Wages taken into account for the purposes of subsection (3) of this section may not include any amount paid by the employer to an employee for whom the employer receives federal funds for on-the-job training.

(b) A tax credit under this section is not in lieu of any deduction for payroll costs or any other expense to which the taxpayer may be entitled.

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

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

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117. [2005 c.677 §1]

Note: Section 2, chapter 677, Oregon Laws 2005, provides:

Sec. 2. ORS 315.517 applies to persons initially hired on or after January 1, 2006, and for which a credit is claimed for tax years beginning on or after January 1, 2006, and before January 1, 2012. [2005 c.677 §2; 2009 c.913 §4]

Note: 315.517 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

315.520 [Repealed by 1965 c.26 §6]

315.521 University venture development fund contributions. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for amounts contributed to a university venture development fund established under ORS 351.697, to the extent the university that established the fund issued a tax credit certificate to the taxpayer.

(2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the amount stated on the tax credit certificate. Except as provided in subsection (3) of this section, the amount of the credit allowed in any one tax year shall equal 20 percent of the amount actually contributed to the fund.

(3) The credit allowed under this section may not exceed $50,000 or the tax liability of the taxpayer for the tax year.

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

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

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

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

(5) A taxpayer claiming a credit under this section shall add to federal taxable income for Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as the basis for the credit allowed under this section. [2005 c.592 §5]

Note: Section 27, chapter 913, Oregon Laws 2009, provides:

Sec. 27. A credit may not be claimed under ORS 315.521 for tax years beginning on or after January 1, 2016. [2009 c.913 §27]

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 Oregon Health Authority 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 316.221.

(c) "Wages" has the meaning given the term for purposes of ORS 316.162 to 316.221.

(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); 2009 c.595 §204]

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]

Note: Section 38, chapter 913, Oregon Laws 2009, provides:

Sec. 38. A credit may not be claimed under ORS 315.610 for tax years beginning on or after January 1, 2016. [2009 c.913 §38]

315.613 Credit available to persons providing rural medical care and affiliated with certain rural hospitals. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed under ORS chapter 677, who is engaged in the practice of medicine, and who has a rural practice that amounts to 60 percent of the individual's practice, shall be allowed an annual credit against taxes otherwise due under this chapter in the sum of $5,000 during the time in which the individual retains such practice and membership if the individual is actively practicing in and is a member of the medical staff of one of the following hospitals:

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

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

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

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

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

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

(d) A rural critical access hospital.

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

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

(4) As used in this section:

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

(b) "Rural critical access hospital" means a facility that meets the criteria set forth in 42 U.S.C. 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health and the Oregon Health Authority. [Formerly 316.143; 2009 c.595 §205]

Note: Section 25, chapter 913, Oregon Laws 2009, provides:

Sec. 25. (1) Except as provided in subsection (2) of this section, a credit may not be claimed under ORS 315.613 for tax years beginning on or after January 1, 2014.

(2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning on or after January 1, 2013, and before January 1, 2014, shall be allowed the credit under ORS 315.613 for any tax year:

(a) That begins on or before January 1, 2023; and

(b) For which the taxpayer meets the eligibility requirements of ORS 315.613. [2009 c.913 §25]

315.616 Additional providers who may qualify for credit. A resident or nonresident individual who is certified as eligible under ORS 442.561, 442.562, 442.563 or 442.564, and is licensed as a physician or podiatric physician and surgeon under ORS chapter 677, licensed as a physician assistant under ORS chapter 677, licensed as a nurse practitioner under ORS chapter 678, licensed as a certified registered nurse anesthetist under ORS chapter 678, licensed as a dentist under ORS chapter 679 or licensed as an optometrist under ORS 683.010 to 683.340 is entitled to the tax credit described in ORS 315.613 even if not a member of the hospital medical staff if the Office of Rural Health certifies that the individual:

(1) Has a rural practice that amounts to 60 percent of the individual's practice; and

(2)(a) If a physician or a physician assistant, can cause a patient to be admitted to the hospital;

(b) If a certified registered nurse anesthetist, is employed by or has a contractual relationship with one of the hospitals described in ORS 315.613 (1); or

(c) If an optometrist, has consulting privileges with a hospital listed in ORS 315.613 (1). This paragraph does not apply to an optometrist who qualifies as a "frontier rural practitioner," as defined by the Office of Rural Health. [Formerly 316.144]

315.619 Credit for medical staff at type C hospital. A member of the medical staff of a type C hospital who meets the requirements of ORS 315.616 (1) and (2)(a) is entitled to the tax credit described in ORS 315.613 if:

(1) The hospital is isolated due to geographic conditions, complies with rules relating to emergency response and is subject to such other special factors as the Office of Rural Health may prescribe; and

(2) The hospital is designated by the Office of Rural Health as being subject to particular problems in recruiting and retaining medical staff and is located in an area that is medically underserved. [Formerly 316.146]

315.622 Rural emergency medical technicians. (1) A resident or nonresident individual who is certified as eligible under ORS 442.550 to 442.570 and who is certified as an emergency medical technician under ORS chapter 682 shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 if the Office of Rural Health certifies that the individual provides volunteer emergency medical technician services in a rural area that comprise at least 20 percent of the total emergency medical technician services provided by the individual in the tax year.

(2) The amount of the credit shall equal $250.

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

(4) As used in this section, "rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more. [2005 c.832 §63]

Note: Section 66, chapter 832, Oregon Laws 2005, provides:

Sec. 66. ORS 315.622 applies to tax credit certifications issued by the Office of Rural Health on or after January 1, 2006, and before January 1, 2014. [2005 c.832 §66; 2009 c.913 §26]

315.624 Medical care to residents of Oregon Veterans' Home. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who is engaged in the practice of medicine qualifies for an annual credit against the taxes that are otherwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon Veterans' Home.

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

(a) $1,000 for every eight residents to whom the physician provides care at an Oregon Veterans' Home; or

(b) $5,000.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year, and a credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

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

(5) In order to qualify for the tax credit allowed under this section, the physician claiming the credit must submit with the physician's tax return a letter from the Oregon Veterans' Home at which the physician provided care to residents, confirming that the physician missed no more than five percent of the physician's scheduled visits with residents of the home during the tax year.

(6) In the case of a shareholder of a corporation or a member of a partnership, only the care provided by the individual shareholder or partner shall be considered, and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) The Director of Veterans' Affairs shall assist the Department of Revenue in determining if a taxpayer claiming a credit under this section qualifies for the credit. [2007 c.843 §3]

Note: Section 9 (1), chapter 843, Oregon Laws 2007, provides:

Sec. 9. (1) ORS 315.624 applies to tax years beginning on or after January 1, 2008, and before January 1, 2016. [2007 c.843 §9; 2009 c.913 §52(1)]

315.628 Health care services under TRICARE contract. (1) A health care provider who enters into a contract for the first time on or after January 1, 2007, to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a one-time credit against taxes otherwise due under ORS chapter 316 in the amount of $2,500.

(2) A health care provider who has a contract to provide health care services permitted under a TRICARE contract to patients enrolled in the TRICARE military health care system shall be allowed a credit each tax year against taxes otherwise due under ORS chapter 316 in the amount of $1,000 if the health care provider actively participates in the TRICARE military health care system and each tax year provides health care services to at least 10 patients enrolled in the TRICARE military health care system. A health care provider who serves patients in a rural community, as defined by the Office of Rural Health, may provide health care services to fewer than 10 patients in a tax year and qualify for the credit.

(3) A health care provider may not receive a credit under subsections (1) and (2) of this section in the same tax year.

(4) A nonresident shall be allowed a credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117. [2007 c.843 §5]

Note: Section 8, chapter 843, Oregon Laws 2007, provides:

Sec. 8. ORS 315.628 and 315.631 apply to tax years beginning on or after January 1, 2008, and before January 1, 2016. [2007 c.843 §8; 2009 c.913 §51]

315.631 Certification of health care providers; reports. (1) The Office of Rural Health shall establish criteria for certifying health care providers as eligible for a tax credit authorized by ORS 315.628 or a deduction from federal taxable income under ORS 316.680. Upon finding that a health care provider meets the eligibility criteria established by the office, the office shall certify the provider for a tax credit under ORS 315.628 or the tax deduction under ORS 316.680. The office may issue no more than:

(a) 500 certifications for tax years beginning on or after January 1, 2008, and before January 1, 2009;

(b) 1,000 certifications for tax years beginning on or after January 1, 2009, and before January 1, 2010;

(c) 1,500 certifications for tax years beginning on or after January 1, 2010, and before January 1, 2011; and

(d) 2,000 certifications for tax years beginning on or after January 1, 2011, and before January 1, 2012.

(2) Prior to October 1 of each year, the office shall report to the legislative interim committees on revenue regarding the number of health care providers who qualify for the tax credit under ORS 315.628 (2).

(3) Prior to December 31 of each year, the administrator of the TRICARE contracts with health care providers who provide health care services to patients in Oregon shall make a report to the office regarding the number of patients that each health care provider has contracted to provide health care services. [2007 c.843 §6; 2008 c.3 §1]

Note: See note under 315.628.

Note: 315.631 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 315 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

CULTURE

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

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

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

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

opment Account established under ORS 359.405.

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

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

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

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

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

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

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

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

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

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

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

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

Note: Section 19, chapter 954, Oregon Laws 2001, provides:

Sec. 19. ORS 315.675 applies to tax years beginning on or after January 1, 2002, and before January 1, 2014. [2001 c.954 §19; 2009 c.913 §35]