Chapter 317

1999 EDITION

Corporation Excise Tax

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GENERAL PROVISIONS

317.005 Short title. This chapter may be cited as the Corporation Excise Tax Law of 1929.

317.010 Definitions. As used in this chapter, unless the context requires otherwise:
(1) "Centrally assessed corporation" means every corporation the property of which is assessed by the Department of Revenue under ORS 308.505 to 308.665.
(2) "Department" means the Department of Revenue.
(3)(a) "Consolidated federal return" means the return permitted or required to be filed by a group of affiliated corporations under section 1501 of the Internal Revenue Code.
(b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).
(4) "Doing business" means any transaction or transactions in the course of its activities conducted within the state by a national banking association, or any other corporation; provided, however, that a foreign corporation whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside the state, shall not be deemed to be doing business unless such foreign corporation is an affiliate of another foreign or domestic corporation which is doing business in Oregon. Whether or not corporations are affiliated shall be determined as provided in section 1504 of the Internal Revenue Code.
(5) "Excise tax" means a tax measured by or according to net income imposed upon national banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing and business corporations for the privilege of carrying on or doing business in this state.
(6) "Financial institution" or "financial corporation" means a bank or trust company organized under ORS chapter 707, national banking association or production credit association organized under federal statute, building and loan association, savings and loan association, mutual savings bank, and any other corporation whose principal business is in direct competition with national and state banks.
(7) "Internal Revenue Code" means:
(a) In the case of a reference relating to the definition of the income on, in respect to or by which the tax imposed by this chapter is imposed or measured, the laws of the United States relating to income taxes as they are in effect and applicable for the tax year of the taxpayer; or
(b) In the case of a reference for any other purpose, the laws of the United States relating to income taxes as they are amended and in effect on December 31, 1998, except where the Legislative Assembly has specifically provided otherwise.
(8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.
(9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers in subsection (11) of this section and ORS 317.650 to 317.665.
(10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a corporation for which no federal taxable income or loss is determined, as would be determined, under chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States relating to the determination of taxable income or loss of corporate taxpayers, with the additions, subtractions, adjustments and other modifications as are specifically prescribed by this chapter except that in determining taxable income or loss for any year, no deduction under ORS 317.476 or 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of income from transactions or activities carried on both within and without the state) applies, to derive taxable income or loss, the following shall occur:

(a) From the amount otherwise determined under this subsection, subtract nonbusiness income, or add nonbusiness loss, whichever is applicable.

(b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon apportionment percentage defined under ORS 314.280, 314.650 or 314.670, whichever is applicable. The resulting product shall be Oregon apportioned income or loss.

(c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to 314.645. The resulting figure is "taxable income or loss" for those corporations carrying on taxable transactions or activities both within and without Oregon.

(11) As used in ORS 317.122 and 317.650 to 317.665, " insurer" means any domestic, foreign or alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange. However, "insurer" does not include title insurers or health care service contractors operating pursuant to ORS 750.005 to 750.095. [Amended by 1953 c.385 s.9; 1959 c.631 s.1; 1963 c.571 s.1; subsection (18) enacted as 1969 c.600 s.2; 1975 c.368 s.4; 1977 c.866 s.2; 1983 c.162 s.3; 1984 c.1 s.5; 1985 c.802 s.20; 1987 c.293 s.31; 1989 c.625 s.15; 1991 c.457 s.8; 1993 c.726 s.38; 1995 c.556 s.12; 1995 c.786 s.12; 1997 c.154 s.49; 1997 c.839 s.26; 1999 c.224 s.8]

317.013 Adoption of parts of Internal Revenue Code and application of federal laws and regulations and technical corrections pertaining to corporate taxpayers. (1) Those portions of chapter 1 and subchapter A, chapter 6, Subtitle A and chapter 79, Subtitle F, Internal Revenue Code, and any other laws of the United States pertaining to the determination of taxable income of corporate taxpayers, are adopted by reference as a part of this chapter. Those portions of the Internal Revenue Code and other laws of the United States have full force and effect under this chapter unless modified by other provisions of this chapter.

(2) 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.

(3) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (1) of this section refer to rules or regulations prescribed by the Secretary of the Treasury, they are regarded as rules adopted by the department under and in accord with the provisions of this chapter, whenever they are prescribed or amended.

(4)(a) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (1) of this section are later corrected by an Act or 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 this section or ORS 317.010 or 317.018 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 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. [1983 c.162 s.11; 1984 c.1 s.6; 1985 c.802 s.32; 1987 c.293 s.32; 1997 c.839 s.27]

317.015 [Repealed by 1957 c.632 s.1 (314.075 and 314.080 enacted in lieu of 316.025, 316.030, 317.015 and 317.020)]

317.016 [1967 c.274 ss.2,3,5; 1975 c.705 s.10; repealed by 1983 c.162 s.57]

317.017 [1985 c.802 s.48; repealed by 1997 c.839 s.69]

317.018 Statement of purpose. It is the intent of the Legislative Assembly:

(1) To make the Oregon corporate excise tax law, insofar as it relates to the measurement of taxable income,

identical to the provisions of the federal Internal Revenue Code, as in effect and applicable for the tax year of the taxpayer, to the end that taxable income of a corporation for Oregon purposes is the same as it is for federal income tax purposes, subject to Oregon's jurisdiction to tax, and subject to the additions, subtractions, adjustments and modifications contained in this chapter.

(2) To achieve the results desired under subsection (1) of this section by application of the various provisions of the federal Internal Revenue Code relating to the definitions for corporations, of income, deductions, accounting methods, accounting periods, taxation of corporations, basis and other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits or any other provisions designed to mitigate the amount of tax due.

(3) To impose on each corporation doing business within this state an excise tax for the privilege of carrying on or doing that business measured by its federal taxable income as adjusted in this chapter. [1983 c.162 s.2; 1984 c.1 s.7; 1985 c.802 s.21; 1987 c.293 s.33; 1989 c.625 s.16; 1991 c.457 s.9; 1993 c.726 s.39; 1995 c.556 s.13; 1997 c.839 s.28]

317.019 Application of Payment-in-kind Tax Treatment Act of 1983. The Payment-in-kind Tax Treatment Act of 1983 (P.L. 98-4, as amended by section 1061 of P.L. 98-369) shall apply in deriving Oregon taxable income under this chapter, notwithstanding that the Act is not part of the Internal Revenue Code. [1985 c.802 s.44]

317.020 [Repealed by 1957 c.632 s.1 (314.075 and 314.080 enacted in lieu of 316.025, 316.030, 317.015 and 317.020)]

317.021 [1985 c.802 s.60; 1987 c.293 s.34; renumbered 314.031 in 1993]

317.022 Certain provisions of ORS construed as continuation of existing law. Insofar as the provisions of this section and ORS 317.013, 317.018, 317.038, 317.259 to 317.362, 317.625 and 317.635 are substantially the same as existing law relating to the taxation of corporations, they shall be construed as restatements and continuations, and not as new enactments. [1983 c.162 s.41; 1984 c.1 s.8]

317.025 Omission of previously enacted savings clauses not intended as repeal. The omission from the Oregon Revised Statutes of those statutes which were part of Acts amending the statutes that constitute the source of this chapter and which provided savings clauses for the statutes amended, is not intended as a repeal of them. Such statutes shall, in so far as they are applicable, continue to be so applicable.

317.030 License fees not repealed. Nothing in this chapter shall be construed to repeal the present capital stock tax or annual corporation license fee otherwise provided for by law.

317.035 Effect of subsequent repeal of chapter. In the event of repeal of this chapter, unless otherwise specifically provided in the repeal, this chapter shall remain in full force for the assessment, imposition and collection of the tax and all interest, penalty or forfeitures which have accrued or may accrue in relation to any such tax for the calendar year in which the tax is repealed.

317.038 Corporation not required to include income or permitted to deduct expense more than once. (1) Nothing contained in this chapter shall be construed to require a corporation to include an item of income, or to permit a corporation to deduct an expense item, more than once in computing Oregon taxable income.

(2) The changes to the corporate excise and income tax laws by chapter 162, Oregon Laws 1983, shall not be applied to preclude a corporation from taking into account a deduction or a loss to which it otherwise would be entitled.

(3) The changes to the corporate excise and income tax laws by chapter 162, Oregon Laws 1983, shall not be applied to preclude a corporation from including income which it otherwise would be required to include. [1983 c.162 s.40; 1985 c.802 s.21e]

317.045 [1989 c.625 s.19; repealed by 1991 c.457 s.24]

317.055 [Amended by 1957 c.607 s.1; subsection (2) of 1961 Replacement Part derived from 1957 c.607 s.11 and 1957 s.s. c.5 s.1; 1963 c.571 s.2; repealed by 1975 c.368 s.8]

IMPOSITION OF TAX

317.056 Financial corporations; applicable taxes. Except as otherwise required by federal law, every financial corporation located within this state shall be subject to county, city, district, political subdivision and all other local taxes imposed generally on a nondiscriminatory basis throughout the jurisdiction of the taxing authority, at the same rates and in all respects in the same manner and to the same extent as are mercantile, manufacturing and business corporations, and shall pay annually to the state an excise tax according to or measured by its Oregon taxable income, to be computed in the manner provided by this chapter at the rate provided in ORS 317.061. [1975 c.368 s.3; 1983 c.162 s.4; 1999 c.21 s.43]

317.057 Certain out-of-state financial institutions exempt from tax; exception. (1) As used in this section:

(a) "Extranational institution" has the meaning given that term in ORS 706.008;

(b) "Foreign association" means a foreign association as defined in ORS 722.004 or a federal association as defined in ORS 722.004, the home state of which is a state other than Oregon; and

(c) "Out-of-state bank" has the meaning given that term in ORS 706.008.

(2) Except as provided in this section and ORS 713.300, an out-of-state bank, extranational institution or foreign association described in ORS 713.300, that engages in activities authorized under ORS 713.300, is not subject to any tax, license fee or charge for the privilege of doing business in this state or to any tax measured by net or gross income.

(3) If the out-of-state bank, extranational institution or foreign association acquires any property given as security for a mortgage or trust deed, all income accruing to the out-of-state bank, extranational institution or foreign association solely from the ownership, sale or other disposition of such property is subject to taxation in the same manner and on the same basis as income of corporations doing business in this state. [1999 c.30 s.2]

Note: Section 6, chapter 30, Oregon Laws 1999, provides:

Sec. 6. (1) Sections 2 and 4 of this 1999 Act [317.057 and 713.300] and the amendments to ORS 713.025 by section 5 of this 1999 Act apply to activities occurring on or after the effective date of this 1999 Act [October 23, 1999].

(2) Notwithstanding subsection (1) of this section, section 2 (2) of this 1999 Act [317.057 (2)] applies to tax years beginning on and after January 1, 1997. [1999 c.30 s.6]

Note: 317.057 was added to and made a part of ORS chapter 316 by legislative action but was not added to ORS chapter 317 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

317.060 [Amended by 1957 c.607 s.2; subsection (2) of 1961 Replacement Part derived from 1957 c.607 s.11 and 1957 s.s. c.5 s.1; 1963 c.571 s.3; repealed by 1975 c.368 s.8]

317.061 Tax rate. The rate of the tax imposed by and computed under this chapter is six and six-tenths percent. [1975 c.368 s.2; 1983 c.162 s.5; 1987 c.293 s.34a]

317.065 [Repealed by 1975 c.368 s.8]

317.066 [1977 c.597 s.2; repealed by 1983 c.162 s.57]

317.067 Tax on homeowners association income. (1) A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association at the rate provided in ORS 317.061 and as though the homeowners association were a corporation.

(2) As used in this section, "homeowners association" has the meaning given that term in section 528(c) of the Internal Revenue Code. [1977 c.597 s.3; 1983 c.162 s.6; 1999 c.21 s.44; 1999 c.90 s.22a]

317.070 Tax on centrally assessed, mercantile, manufacturing and business corporations. Every centrally assessed corporation, the property of which is assessed by the Department of Revenue under ORS 308.505 to 308.665, and every mercantile, manufacturing and business corporation doing business within this state, except as provided in ORS 317.080 and 317.090, shall annually pay to this state, for the privilege of carrying on or doing business by it within this state, an excise tax according to or measured by its Oregon taxable income, to be computed in the manner provided by this chapter, at the rate provided in ORS 317.061. [Amended by 1957 c.607 s.3; 1957 c.709 s.1; subsection (3) of 1963 Replacement Part derived from 1957 c.607 s.11; 1957 c.709 s.2 and 1957 s.s. c.5 s.1; 1959 c.631 s.2; 1963 c.627 s.22 (referred and rejected); 1965 c.322 s.1; 1965 c.544 s.1; 1971 c.247 s.1; 1975 c.368 s.5; 1977 c.866 s.3; 1982 1 c.16 s.11; 1983 c.162 s.7; 1985 c.565 s.55; 1997 c.154 s.50; 1999 c.21 s.45; 1999 c.60 s.1]

Note: Section 2, chapter 60, Oregon Laws 1999, provides:

Sec. 2. The amendments to ORS 317.070 by section 1 of this 1999 Act apply to tax years beginning on or after January 1, 1999. [1999 c.60 s.2]

317.071 [1977 c.887 s.8; 1981 c.778 s.40; 1981 c.894 s.30; renumbered 317.111]

317.072 [1967 c.592 s.9; 1969 c.340 s.3; 1973 c.831 s.9; 1977 c.795 s.12; 1977 c.866 s.11; 1981 c.408 s.2; 1983 c.637 s.7; renumbered 317.116]

317.073 [1959 c.631 s.6; repealed by 1969 c.520 s.49]

317.074 [1955 c.592 s.2; 1957 c.607 s.4; subsection (5) derived from 1957 c.607 s.11 and 1957 s.s. c.5 s.1; repealed by 1969 c.520 s.49]

317.075 [Repealed by 1955 c.592 s.4]

317.076 [1969 c.600 s.9; renumbered 317.122]

317.077 [1977 c.839 s.10; 1979 c.439 s.2; renumbered 317.128]

317.078 [1969 c.600 s.5; 1983 c.162 s.35; renumbered 317.650]

317.080 Exempt corporations. The following corporations are exempt from the taxes imposed by this chapter:

(1) Organizations described in subsection (c) and subsection (j) of section 501 of the Internal Revenue Code unless the exemption is denied under subsection (h), (i) or (m) of section 501 or under section 502, 503 or 505 of the Internal Revenue Code.

(2) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption is denied under section 502 or 503 of the Internal Revenue Code.

(3) Organizations described in section 501(e) of the Internal Revenue Code.

(4) Organizations described in section 501(f) of the Internal Revenue Code.

(5) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

(6) Organizations described in section 521 of the Internal Revenue Code.

(7) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

(8) Foreign or alien insurance companies, but only with respect to the underwriting profit derived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and 731.828.

(9) Corporations, organized and operated primarily for the purpose of furnishing permanent residential, recreational and social facilities primarily for elderly persons, which:

(a) Are corporations not for profit, authorized to transact business in this state pursuant to ORS chapter 65 or any statute repealed by chapter 580, Oregon Laws 1959;

(b) Receive not less than 95 percent of their operating gross income (excluding any investment income) solely from payments for living, medical, recreational, and social services and facilities, paid by or on behalf of the elderly persons using the facilities of such corporation;

(c) Permit no part of their net earnings to inure to the benefit of any private stockholder or individual; and

(d) Provide in their articles or other governing instrument that, upon dissolution, the assets remaining after satisfying all lawful debts and liabilities shall be distributed to one or more corporations exempt from taxation under this chapter as corporations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes.

(10) People's utility districts established under ORS chapter 261. [Amended by 1953 c.207 s.1; 1953 c.653 s.3; 1955 c.592 s.5; last sentence of 1959 Replacement Part derived from 1955 c.592 s.6; 1957 c.553 s.1; 1959 c.215 s.1; 1961 c.473 s.1; subsection (17) enacted as 1961 c.473 s.2; 1963 c.286 s.1; 1967 c.359 s.689; 1969 c.600 s.11; 1971 c.637 s.1; 1985 c.802 s.28a; 1987 c.293 s.36; 1987 c.838 s.20; 1989 c.626 s.9; 1995 c.786 s.13; 1997 c.839 s.29]

317.083 [1981 c.778 s.36; renumbered 317.386]

317.084 Oregon Capital Corporation exempted from certain taxes. The Oregon Capital Corporation is exempt from the taxes imposed by this chapter. [1987 c.911 s.8e]

317.085 [Repealed by 1957 c.607 s.10]

317.087 [1981 c.720 s.18; renumbered 317.133]

317.090 Minimum tax. Each taxpayer named in ORS 317.056 or 317.070 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax of $10. The minimum tax shall not be apportionable (except in the case of a change of accounting periods), but shall be payable in full for any part of the year during which a corporation is subject to tax. [Amended by 1975 c.368 s.6]

317.095 [1955 c.592 ss.3,6; repealed by 1965 c.479 s.1 (317.096 enacted in lieu of 317.095)]

317.096 [1965 c.479 s.2 (enacted in lieu of 317.095); repealed by 1983 c.162 s.57]

CREDITS

(Generally)

317.097 Lending institution loans for housing. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed to a lending institution in an amount equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a loan that is made before January 1, 2010, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the loan for housing construction, development or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for housing construction, development or rehabilitation is made.

(2) The maximum difference between the amounts described in subsection (1)(a) and (b) of this section shall not exceed four percent of the average unpaid balance of the loan during the tax year for which the credit is claimed.

(3) 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, 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.

(4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan shall be:

(a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income; or

(b)(A) Made to a qualified borrower;

(B) Used to finance construction, rehabilitation or development of housing; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project.

(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this section.

(6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan also shall be accompanied by a written certification by the Housing and Community Services Department that:

(a) Specifies the period, as determined by the Housing and Community Services Department, during which the loan is eligible for the tax credit under subsection (1) of this section; and

(b) States that the loan is within the limitation imposed by subsection (7) of this section.

(7)(a) The Housing and Community Services Department may certify loans that are eligible under subsection (4) of this section if the total credits attributable to all loans eligible for credits under subsection (1) of this section and then outstanding do not exceed $5 million for any year. In making loan certifications, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the State Housing Council to have the greatest need for affordable housing.

(b) The certification under subsection (6) of this section shall state the period for which the credit will be allowed, which shall not exceed 20 years.

(8) The credit allowed in this section shall not be affected by the applicant's receipt of a credit under section 42 of the Internal Revenue Code (low-income housing tax credit program).

(9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a qualified assignee with or without the lending institution's retaining servicing of the loan so long as a designated lending institution maintains records annually verified by a loan servicer that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(10) As used in this section:

(a) “Annual rate” means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) “Finance charge” means the total of all interests, loan fees and other charges related to the cost of obtaining credit and includes any interest on any loan fees financed by the lending institution.

(c) “Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on December 31, 1998.

(d) “Lending institution” means any insured institution, as that term is defined in ORS 706.008, or any mortgage banking company that maintains an office in this state. “Lending institution” also includes any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(e) “Qualified assignee” means any investor participating in the secondary market for real estate loans.

(f) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan described in subsection (4) of this section. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(g) “Sponsoring entity” means a nonprofit corporation, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any person as defined in ORS 174.100, including, but not limited to, an employer making housing available to low-income employees and other low-income persons, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, state governmental entity, local unit of government or housing authority.

(11) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer any part or all of any tax credit arising under subsection (1) of this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more loans that generate the tax credit under subsection (1) of this section.

(12) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for this tax credit.

(13) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section. [1989 c.1045 s.2; 1991 c.737 s.1; 1993 c.813 s.8; 1995 c.746 s.43; 1997 c.425 s.1; 1997 c.631 s.458; 1997 c.839 s.31; 1999 c.21 s.46; 1999 c.90 s.23; 1999 c.857 s.1]

Note: Section 2, chapter 857, Oregon Laws 1999, provides:

Sec. 2. The amendments to ORS 317.097 by section 1 of this 1999 Act apply to loan certifications occurring on or after January 1, 2000. [1999 c.857 s.2]

Note: The amendments to 317.097 by section 4, chapter 857, Oregon Laws 1999, apply to loan certifications occurring on or after January 1, 2002. See section 5, chapter 857, Oregon Laws 1999. The text that is applicable on and after January 1, 2002, is set forth for the user's convenience.

317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed to a lending institution in an amount equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a loan that is made before January 1, 2010, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the taxable year by the lending institution for the loan for housing construction, development or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for housing construction, development or rehabilitation is made.

(2) The maximum difference between the amounts described in subsection (1)(a) and (b) of this section shall not exceed four percent of the average unpaid balance of the loan during the tax year for which the credit is claimed.

(3) 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, 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.

(4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan shall be:

(a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level at the time the loan is made of less than 80 percent of the area median income; or

(b)(A) Made to a qualified borrower;

(B) Used to finance construction, rehabilitation or development of housing; and

(C) Accompanied by a written certification by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project.

(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this section.

(6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan also shall be accompanied by a written certification by the Housing and Community Services Department that:

(a) Specifies the period, as determined by the Housing and Community Services Department, during which the loan is eligible for the tax credit under subsection (1) of this section; and

(b) States that the loan is within the limitation imposed by subsection (7) of this section.

(7)(a) The Housing and Community Services Department may certify loans that are eligible under subsection (4) of this section if the total credits attributable to all loans eligible for credits under subsection (1) of this section and then outstanding do not exceed $6 million for any year. In making loan certifications, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the State Housing Council to have the greatest need for affordable housing.

(b) The certification under subsection (6) of this section shall state the period for which the credit will be allowed, which shall not exceed 20 years.

(8) The credit allowed in this section shall not be affected by the applicant's receipt of a credit under section 42 of the Internal Revenue Code (low-income housing tax credit program).

(9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a qualified assignee

with or without the lending institution's retaining servicing of the loan so long as a designated lending institution maintains records annually verified by a loan servicer that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(10) As used in this section:

(a) “Annual rate” means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) “Finance charge” means the total of all interests, loan fees and other charges related to the cost of obtaining credit and includes any interest on any loan fees financed by the lending institution.

(c) “Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on December 31, 1998.

(d) “Lending institution” means any insured institution, as that term is defined in ORS 706.008, or any mortgage banking company that maintains an office in this state. “Lending institution” also includes any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(e) “Qualified assignee” means any investor participating in the secondary market for real estate loans.

(f) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan described in subsection (4) of this section. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(g) “Sponsoring entity” means a nonprofit corporation, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any person as defined in ORS 174.100, including, but not limited to, an employer making housing available to low-income employees and other low-income persons, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, state governmental entity, local unit of government or housing authority.

(11) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer any part or all of any tax credit arising under subsection (1) of this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more loans that generate the tax credit under subsection (1) of this section.

(12) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for this tax credit.

(13) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

317.098 [1979 c.561 s.6; 1983 c.162 s.8; renumbered 317.392]

317.099 [1989 c.1071 ss.10,10a; repealed by 1991 c.863 s.69]

317.100 [1979 c.483 s.2; repealed by 1989 c.626 s.12]

317.102 [1979 c.578 s.9; 1985 c.749 s.2; 1987 c.605 s.2; 1989 c.887 s.2; 1991 c.714 s.7; 1991 c.877 s.24; repealed by 1993 c.730 s.7 (315.104 enacted in lieu of 316.094, 317.102 and 318.110)]

317.103 [1981 c.894 ss.15,16; 1989 c.765 s.4; 1991 c.457 s.10; repealed by 1993 c.730 s.35 (315.356 enacted in lieu of 316.141, 316.142 and 317.103)]

317.104 [1979 c.512 s.14; 1981 c.894 s.13; 1989 c.765 s.5; 1991 c.711 s.7; repealed by 1993 c.730 s.33 (315.354 enacted in lieu of 316.140 and 317.104)]

317.105 [Repealed by 1983 c.162 s.57]

317.106 [1985 c.684 s.14; 1989 c.765 s.6; 1989 c.958 s.11; repealed by 1993 c.730 s.31 (315.324 enacted in lieu of 316.103 and 317.106)]

317.110 [Amended by 1953 c.385 s.9; 1973 c.233 s.1; repealed by 1983 c.162 s.57]

317.111 Weatherization loan interest; commercial lending institutions. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed commercial lending institutions in an amount equal to the difference between:

(a) The maximum amount of interest allowed to be charged during the taxable year under section 6b, chapter 887, Oregon Laws 1977, for loans made before November 1, 1981, by the lending institution to space-heating customers for the purpose of financing weatherization services; and

(b) The amount of interest which would have been charged during the taxable year by the lending institution for such loans at an annual interest rate which is the lesser of the following:

(A) The average interest rate charged by the commercial lending institution for home improvement loans made during the calendar year immediately preceding the year in which the loans for weatherization services are made; or

(B) Twelve percent.

(2) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and used in each of the 15 years following the unused tax credit year. However, the entire amount of the unused credit for an unused credit year shall be carried forward to the earliest of the 15 years to which it may be carried.

(3) No credit shall be allowed under this section for loans made on or after November 1, 1981. [Formerly 317.071; 1985 c.712 s.1]

317.112 Energy conservation loans to residential fuel oil customers or wood heating residents. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed to a commercial lending institution in an amount equal to the difference between:

(a) The amount of finance charge charged during the taxable year including interest on the loan and interest on any loan fee financed at an annual rate of six and one-half percent, by the lending institution to a dwelling owner who is or who rents to a residential fuel oil customer, or who is or who rents to a wood heating resident for the purpose of financing energy conservation measures; and

(b) The amount of finance charge that would have been charged during the taxable year, including interest on the loan and interest on any loan fee financed by the lending institution for the loan for energy conservation measures at an annual rate which is the lesser of the following:

(A) The annual rate charged by the commercial lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for energy conservation measures is made; or

(B) An upper limit established by rule by the administrator of the Office of Energy.

(2) 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 until the 15th succeeding tax year. The credit may not be carried forward beyond the 15th succeeding tax year.

(3) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan shall:

(a) Be made only to an owner of an oil-heated or wood-heated dwelling who presents the results of an energy audit pursuant to chapter 887, Oregon Laws 1977, chapter 889, Oregon Laws 1977, or under chapter 778, Oregon Laws 1981, conducted by a fuel oil dealer, investor-owned utility, publicly owned utility or through the Office of Energy, regardless of whether that fuel oil dealer or utility provides the dwelling's space heating energy.

(b) Be subject to an annual rate not to exceed six and one-half percent and have a term not exceeding 10 years.

(c) Be made on or before December 31, 2001.

(d) Not finance any materials installed in the construction of a new dwelling, additions to existing structures or remodeling that adds living space.

(e) Finance only those energy conservation measures that are recommended as cost-effective in the energy audit, and any loan fee that is included in the body of the loan. The requirement for cost-effectiveness shall not apply in the case of a dwelling owner who has obtained assistance and technical advice under chapter 887, Oregon Laws 1977, or chapter 889, Oregon Laws 1977.

(4) The credit allowed under this section shall not be allowed to the extent that the loan exceeds $5,000 for a single dwelling unit, or, if the dwelling owner is a corporation described in ORS 307.375, to the extent that the loan exceeds $2,000 for a single dwelling unit.

(5) A commercial lending institution may charge, finance and collect a nonrefundable front-end loan fee, and such a fee shall not affect the eligibility of the loan for a tax credit under this section. The fee, if any, shall not exceed that

charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the loan for energy conservation measures is made.

(6) Nothing is this section or in rules adopted under this section shall be construed to cause a loan to violate the usury laws of this state.

(7) As used in this section, “annual rate,” “commercial lending institution,” “cost-effective,” “dwelling,” “dwelling owner,” “energy audit,” “energy conservation measures,” “finance charge,” “fuel oil dealer,” “residential fuel oil customer,” “space heating” and “wood heating resident” have the meaning given those terms in ORS 469.710. [1981 c.894 s.28; 1987 c.749 s.1; 1991 c.718 s.1; 1995 c.746 s.21]

317.113 [1987 c.591 s.15; 1989 c.381 ss.9,12,15; 1991 c.877 ss.25,26,27; 1991 c.916 ss.21,22,23; 1993 c.18 ss.83,84,85; repealed by 1997 c.170 s.33]

317.114 [1987 c.682 s.6; 1991 c.877 s.28; 1991 c.929 s.2; repealed by 1993 c.730 s.23 (315.208 enacted in lieu of 316.132, 317.114 and 318.160)]

317.115 Alternative fuel vehicle fueling stations. (1) A business tax credit is allowed against the taxes otherwise due under this chapter based upon costs paid or incurred for construction or installation in a dwelling of a fueling station necessary to operate an alternative fuel vehicle. The credit is allowed to the contractor who constructs the dwelling in which the fueling station is incorporated or installs the fueling station in the dwelling but may be taken by an investor owned utility under the circumstances described in ORS 469.170 (10) and the rules adopted thereunder.

(2) The credit is 25 percent of the cost of the fueling station but the total credit shall not exceed $750 if the fueling station is placed in service on or after January 1, 1998.

(3) To qualify for a credit under this section, all of the following are required:

(a) The fueling station must be constructed, installed and operated in accordance with ORS 469.160 to 469.180 and a certificate issued thereunder.

(b) The contractor must present with the claim for credit a verification form signed not only by the contractor but by the owner, contract purchaser or tenant authorizing the contractor to claim the credit and indicating that the owner, contract purchaser or tenant will not claim a credit based upon the cost of the same fueling station under ORS 316.116 or this section.

(c) The credit must be claimed for the tax year in which the fueling station that has been certified under ORS 469.160 to 469.180 first is placed in service or the immediately succeeding tax year.

(4) The credit allowed under this section shall not affect the computation of basis for purposes of this chapter, nor shall the credit affect the computation or be in lieu of any depreciation deduction for the fueling station.

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

(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 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.

(7) The certificate and verification form described under ORS 469.170 may be transferred by the contractor to the first purchaser of the dwelling that incorporates the fueling station if the purchaser intends to use the dwelling as a principal or secondary residence or, in the case of construction or installation of a fueling station in an existing dwelling, the current owner, if the current owner intends to use, or uses, the dwelling as a principal or secondary residence. A certificate and verification form so transferred may be used by the purchaser to claim a credit under ORS 316.116. [1997 c.534 s.15; 1999 c.21 s.47]

Note: Section 16, chapter 534, Oregon Laws 1997, provides:

Sec. 16. Sections 9 and 15 of this Act [469.206 and 317.115] and the amendments to statutes by sections 1 to 7 and 10 to 13 of this Act apply to tax years beginning on or after January 1, 1998. [1997 c.534 s.16]

317.116 [Formerly 317.072; 1987 c.596 s.3; 1989 c.802 s.3; repealed by 1993 c.730 s.29 (315.304 enacted in lieu of 316.097 and 317.116)]

317.120 [1969 c.681 s.5; repealed by 1983 c.162 s.57]

317.122 Insurers; amounts paid for certain taxes and assessments. (1) A credit against taxes imposed by this chapter shall be allowed insurers for the gross premium tax paid on fire insurance premiums in accordance with ORS 731.820.

(2) A credit against the taxes otherwise due under this chapter shall be allowed to an insurer. The amount of the credit shall be the lesser of:

(a) The amount of any assessments paid by the insurer during the tax year pursuant to ORS 656.612; or

(b) The total profit attributable to the workers' compensation line of business, net of reinsurance and including all investment gain attributable to the workers' compensation line of business, determined in the manner prescribed under ORS 731.574 by the Director of the Department of Consumer and Business Services, with the modifications under ORS 317.655 attributable to the workers' compensation line of business, and then apportioned in accordance with ORS 317.660 and multiplied by the corporate tax rate set forth in ORS 317.061. In making the apportionment under ORS 317.660 for purposes of this paragraph, the factors shall be determined using only items attributable to the workers' compensation line of business. [Formerly 317.076; 1995 c.786 s.14]

317.128 [Formerly 317.077; repealed by 1987 c.769 s.20]

317.133 [Formerly 317.087; 1985 c.802 s.22; 1991 c.877 s.29; repealed by 1993 c.730 s.9 (315.134 enacted in lieu of 316.084, 317.133 and 318.080)]

317.134 [1991 c.928 s.4; repealed by 1993 c.730 s.25 (315.234 enacted in lieu of 316.133 and 317.134)]

317.135 [1987 c.682 s.5; 1989 c.625 s.20; 1991 c.457 s.11; 1991 c.877 s.31; repealed by 1993 c.730 s.21 (315.204 enacted in lieu of 316.134, 317.135 and 318.175)]

317.140 [1987 c.911 s.8d; 1991 c.877 s.32; repealed by 1993 c.730 s.37 (315.504 enacted in lieu of 316.104 and 317.140)]

317.141 [1991 c.859 s.6; repealed by 1993 c.730 s.27 (315.254 enacted in lieu of 316.151, 317.141 and 318.085)]

317.142 [1989 c.893 ss.5,6; repealed by 1991 c.877 s.41]

317.145 [1989 c.924 s.4; 1991 c.858 s.11; 1991 c.877 s.33; repealed by 1993 c.730 s.11 (315.138 enacted in lieu of 316.139 and 317.145)]

317.146 [1989 c.963 s.4; 1991 c.766 s.4; 1991 c.877 s.34; repealed by 1993 c.730 s.19 (315.164 enacted in lieu of 316.154 and 317.146)]

(Farmworker Housing)

317.147 Farmworker housing loans. (1) As used in this section:

(a) “Commercial lending institution” means a bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit union maintaining an office in this state.

(b) “Seasonal farmworker housing” has the meaning given the term under ORS 315.164.

(c) “Year-round farmworker housing” has the meaning given the term under ORS 315.164.

(2)(a) A commercial lending institution shall be allowed a credit against the taxes otherwise due under this chapter for the tax year equal to 30 percent of the interest income earned during the tax year on loans to finance only costs directly associated with construction or rehabilitation of seasonal or year-round farmworker housing if, at the time the loan is made, the borrower certifies, to the satisfaction of the lender, that upon completion of the construction or rehabilitation and first occupation by farmworkers, the housing will comply with all safety or health laws, rules, regulations and standards applicable for farmworker housing and that the housing will be occupied only by seasonal or year-round farmworkers and their immediate families.

(b) A copy of the certification described under paragraph (a) of this subsection shall be submitted to the Department of Revenue at the time that a credit under this section is first claimed.

(3) The credit allowed under this section shall apply only to loans to construct or rehabilitate seasonal or year-round farmworker housing located within this state.

(4) This credit shall apply only to loans made on or after January 1, 1990.

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

(6) If the loan has a term of longer than 10 years, then the credit shall be allowed only for the tax year of the taxpayer during which the loan is made and the nine tax years immediately following.

(7) The credit allowed under this section shall not apply to loans in which the interest rate charged exceeds 13-1/2 percent per annum.

(8) The credit allowed under this section shall apply only to interest income from the loan and shall not apply to any other loan fees or other charges collected by the commercial lending institution with respect to the loan.

(9) The credit allowed under this section shall only apply to interest income actually collected by the commercial lending institution during the tax year.

(10)(a) Except as provided in paragraph (b) of this subsection, if the commercial lending institution sells the loan to another commercial lending institution as defined in subsection (1) of this section, then the credit shall pass to the assignee or transferee of the loan, subject to the same conditions and limitations as set forth in this section.

(b) A commercial lending institution may assign, sell or otherwise transfer the loan to another person and retain the right to claim the credit granted under this section if the commercial lending institution also retains responsibility for servicing the loan. [1989 c.963 s.5; 1991 c.766 s.1; 1995 c.746 s.54]

Note: Section 6 (2), chapter 963, Oregon Laws 1989, provides:

Sec. 6. (2) ORS 317.147 applies to loans made in tax years that begin on or after the January 1 immediately following the date that both chapter 964, Oregon Laws 1989, and chapter 962, Oregon Laws 1989, have become both effective and operative and which are made on or before December 31, 2001. [1989 c.963 s.6(2); 1995 c.746 s.56(2)]

Note: Section 2, chapter 766, Oregon Laws 1991, provides:

Sec. 2. The amendments to ORS 317.147 by section 1, chapter 766, Oregon Laws 1991, apply to loans made in tax years that begin on or after January 1, 1990, and on or before December 31, 2001. [1991 c.766 s.2; 1995 c.746 s.57]

317.148 [1985 c.521 s.2; 1991 c.877 s.30; repealed by 1993 c.730 s.17 (315.156 enacted in lieu of 316.091, 317.148 and 318.104)]

317.149 [1991 c.652 s.10; repealed by 1993 c.730 s.39 (315.604 enacted in lieu of 316.155 and 317.149)]

317.150 [1985 c.438 s.4; 1991 c.877 s.23; repealed by 1993 c.730 s.13 (315.148 enacted in lieu of 316.098, 317.150 and 318.102)]

(Education and Research)

317.151 Contributions of computers or scientific equipment for research to educational organizations. (1) A credit is allowed against the taxes otherwise due under this chapter. The amount of the credit shall equal 10 percent of the fair market value of certain qualified charitable contributions, as described in this section.

(2) To qualify for the credit allowed under subsection (1) of this section, the charitable contribution must:

(a) Be a charitable contribution of tangible personal property described in section 1221(1) of the Internal Revenue Code that has as its original use, use by the donee for education of students in this state, and that is a computer or other scientific equipment or apparatus; and

(b) Be a charitable contribution made during the tax year for which the credit is claimed to an educational organization that is located in this state and that is:

(A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Revenue Code; or

(B) A public educational institution offering instruction in prekindergarten through grade 12 or any portion of that instruction.

(3) Notwithstanding subsection (2) of this section, a charitable contribution shall qualify for the credit allowed under subsection (1) of this section, if:

(a) The charitable contribution would otherwise qualify for the credit under subsection (2) of this section except that the charitable contribution is of a contract or agreement for the maintenance of the computer or other scientific equipment or apparatus; or

(b) The charitable contribution is a contribution of moneys made under a contract or agreement during the tax year for scientific or engineering research to an educational organization that is located in this state and that is:

(A) An institution of higher education described in section 170 (b)(1)(A)(ii) of the Internal Revenue Code; or

(B) A public educational institution offering instruction in prekindergarten through grade 12 or any portion of that instruction.

(4) The credit allowed under this section is in lieu of any deduction otherwise allowable under this chapter. No deduction shall be allowed under this chapter for any amount upon which the credit allowed under this section is based. However, nothing in this section shall affect the basis of the property in the hands of the donee or any other taxpayer. The basis of the property in the hands of the donee or other person shall be determined as if this section did not exist.

(5)(a) Except as provided in paragraph (b) of this subsection, the credit allowed under this section shall not exceed the tax liability of the taxpayer and shall not be allowed against the tax imposed under ORS 317.090. To qualify for a credit under this section, the charitable contribution must be made without consideration and be accepted by the donee institution or school.

(b) 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 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) For purposes of this section, “fair market value” shall be determined at the time the property or services are contributed and shall be substantiated by whatever information the Department of Revenue requires. A requirement for substantiation may be waived partially, conditionally or absolutely, as provided under ORS 315.063.

(7) As used in this section, “Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on December 31, 1998. [1985 c.695 s.2; 1993 c.22 s.1; 1995 c.54 s.15; 1997 c.373 s.1; 1997 c.839 s.32; 1999 c.90 s.24]

Note: Section 5, chapter 695, Oregon Laws 1985, provides:

Sec. 5. (1) Except as provided in subsection (2) of this section, ORS 317.151 and 318.106 apply to contributions made in tax years beginning on or after January 1, 1986, and prior to January 1, 2004.

(2) With respect to the credit allowed for a contribution as described in ORS 317.151 (3)(b) if a written contract or other written agreement to make the contribution is entered into prior to January 1, 2004, and the moneys contributed after that date are contributed pursuant to the contract or agreement, then notwithstanding subsection (1) of this section, the credit allowed as described in ORS 317.151 (3)(b) shall be allowed for those contributions made pursuant to the written contract or other written agreement entered into prior to January 1, 2004. [1985 c.695 s.5; 1989 c.989 s.1; 1997 c.373 s.2]

Note: Section 3, chapter 373, Oregon Laws 1997, provides:

Sec. 3. The amendments to ORS 317.151 by section 1 of this Act apply to tax years beginning on or after January 1, 1998. [1997 c.373 s.3]

317.152 Qualified research activities credit. (1) A credit against taxes otherwise due under this chapter shall be allowed to eligible taxpayers for increases in qualified research expenses and basic research payments. The credit shall be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

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

(b) "Qualified research" and "basic research" shall consist of research in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology or straw utilization, but only to the extent that such research is conducted in Oregon.

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

(A) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit).

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

(2) As used in this section:

(a) "Advanced computing" means leading edge technologies used in the design and development of computing hardware and software. This includes innovations in design of the full spectrum of hardware from hand-held calculators to super computers, including all peripheral equipment. It also includes innovations in design and development software executing on all computing hardware for any purpose.

(b) "Advanced materials" means high value metals, new and improved wood-based materials, composites and plastics.

(c) "Biotechnology" means biochemistry, molecular biology, genetics and engineering dealing with the transformation of biological systems into useful processes and products.

(d) "Electronic device technology" means the design and development of electronic materials and devices such as advances in integrated circuits and superconductivity.

(e) "Environmental technology" means environmental assessment, cleanup and alternative energy sources.

(f) "Straw utilization" means innovations in the use of straw and straw-based materials.

(3) For purposes of this section:

(a) "Eligible taxpayer" means a corporation, other than corporations excluded under Internal Revenue Code section 41(e)(7)(E), that is engaged in research in the fields of advanced computing, advanced materials, biotechnology, electronic device technology or environmental technology.

(b) "Internal Revenue Code" means the Internal Revenue Code as amended and in effect on December 31, 1998.

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

(5) The maximum credit under this section shall not exceed $500,000.

(6) Any tax credit that is otherwise allowable under this section and that is not used by the taxpayer in that 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. [1989 c.911 s.2; 1991 c.457 s.12; 1993 c.726 s.42; 1993 c.813 s.11; 1995 c.79 s.167; 1995 c.556 s.14; 1995 c.746 s.9; 1997 c.839 s.33; 1999 c.90 s.25]

Note: Section 34, chapter 839, Oregon Laws 1997, provides:

Sec. 34. (1) Except as otherwise provided in subsection (2) of this section, the amendments to ORS 317.152 by section 33 of this Act apply to tax years beginning after June 30, 1996.

(2) The amendments to section 41(c)(3)(B)(i) of the Internal Revenue Code made by the Small Business Job Protection Act of 1996 (P.L. 104-188) are applicable for purposes of determining the fixed-base percentage under ORS 317.152 for tax years ending after June 30, 1996. [1997 c.839 s.34]

317.153 Qualified research activities; election between credits. A taxpayer may elect to claim the credit allowed under ORS 317.152 or the credit allowed under ORS 317.154, but may not claim both credits in the same tax year. The election shall be made in the manner and within the time adopted by the Department of Revenue by rule. [1989 c.911 s.3]

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

(2) For purposes of this section:

(a) “Internal Revenue Code” means the Internal Revenue Code as defined in ORS 317.152.

(b) “Oregon sales” shall be computed using the laws and administrative rules for calculating the numerator of the Oregon sales factor under ORS 314.665.

(c) “Qualified research” has the meaning given the term under section 41(d) of the Internal Revenue Code and shall consist only of research in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology or straw utilization, all as defined under ORS 317.152, but only to the extent that such research is conducted in Oregon.

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

(4) The credit under this section shall not exceed $10,000 times the number of percentage points by which the qualifying research expenses exceed 10 percent of Oregon sales.

(5) The maximum credit under this section shall not exceed $500,000.

(6) Any tax credit that is otherwise allowable under this section and that is not used by the taxpayer in that 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. [1989 c.911 s.4; 1995 c.746 s.10]

Note: Section 6, chapter 911, Oregon Laws 1989, provides:

Sec. 6. ORS 317.152 to 317.154 and the amendments to ORS 318.031 by section 5, chapter 911, Oregon Laws 1989, apply to amounts paid or incurred in tax years beginning on or after January 1, 1989, and on or before December 31, 2001. [1989 c.911 s.6; 1995 c.746 s.14]

317.155 [Amended by 1969 c.600 s.10; repealed by 1983 c.162 s.57]

317.156 [1967 c.274 s.4; repealed by 1983 c.162 s.57]

317.160 [Repealed by 1983 c.162 s.57]

317.165 [Amended by 1981 c.812 s.2; repealed by 1983 c.162 s.57]

317.170 [Amended by 1955 c.99 s.1; subsection (3) derived from 1955 c.99 s.2; 1981 c.812 s.1; repealed by 1983 c.162 s.57]

317.175 [Amended by 1955 c.128 s.1; subsection (4) derived from 1955 c.128 s.2; repealed by 1983 c.162 s.57]

317.180 [Repealed by 1957 c.632 s.1 (314.280 enacted in lieu of 316.205 and 317.180)]

317.185 [Repealed by 1957 c.632 s.1 (314.285 enacted in lieu of 316.210 and 317.185)]

DISSOLUTION OF TAXPAYER

317.190 Effect on reporting income. In the case of the dissolution of a taxpayer, gains, profits and income are to be returned for the tax year in which they are received by the taxpayer, unless they have been reported at an earlier period in accordance with the approved method of accounting followed by the taxpayer. If a taxpayer is dissolved, there shall also be included in computing Oregon taxable income of the taxpayer for the taxable period in which it is dissolved amounts accrued up to the date of dissolution if not otherwise properly includable in respect of such period or a prior period, regardless of the fact that the taxpayer may have kept its books and made its returns on the basis of cash receipts and disbursements. This section shall not apply with respect to crops not harvested within said taxable period or to livestock. [1955 c.205 s.2; 1983 c.162 s.9]

317.195 Effect on deductions allowed. In the case of the dissolution of a taxpayer there shall be allowed as deductions for the taxable period in which the taxpayer dissolved, regardless of the fact that the taxpayer may have kept its books and made its returns on the basis of cash receipts and disbursements, amounts accrued up to the date of dissolution if not otherwise properly allowable in respect of such period or a prior period under this chapter. [1955 c.205 s.3]

317.197 [1969 c.600 ss.3,4,6; 1973 c.402 s.22; 1981 c.705 s.4; 1983 c.162 s.32; renumbered 317.655]

317.199 [1969 c.600 s.7; 1983 c.162 s.33; renumbered 317.660]

317.205 [Repealed by 1959 c.389 s.1 (317.206 enacted in lieu of 317.205)]

317.206 [1959 c.389 s.2 (enacted in lieu of 317.205); subsection (4) derived from 1959 c.389 s.11; 1971 c.283 s.3; repealed by 1983 c.162 s.57]

317.210 [Repealed by 1983 c.162 s.57]

317.215 [Amended by 1953 c.385 s.9; 1957 c.338 s.1; part of subsections (10) and (11) of 1957 Replacement Part derived from 1957 c.338 s.3; repealed by 1959 c.389 s.3 (317.216 enacted in lieu of 317.215)]

317.216 [1959 c.389 s.4 (enacted in lieu of 317.215); last sentence derived from 1959 c.389 s.11; 1969 c.103 s.2; 1969 c.493 s.92; 1971 c.283 s.4; 1977 c.866 s.5; repealed by 1983 c.162 s.57]

317.220 [Amended by 1953 c.385 s.9; 1975 c.650 s.3; 1977 c.795 s.13; repealed by 1983 c.162 s.57]

317.225 [Amended by 1981 c.705 s.5; repealed by 1983 c.162 s.57]

317.228 [1969 c.681 s.6; repealed by 1983 c.162 s.57]

317.230 [Amended by 1953 c.385 s.9; repealed by 1959 c.389 s.5 (317.231 enacted in lieu of 317.230)]

317.231 [1959 c.389 s.6 (enacted in lieu of 317.230); subsection (9) derived from 1959 c.389 s.11; repealed by 1983 c.162 s.57]

317.235 [Repealed by 1959 c.389 s.7 (317.236 enacted in lieu of 317.235 and 317.240)]

317.236 [1959 c.389 s.8 (enacted in lieu of 317.235 and 317.240); subsection (7) derived from 1959 c.389 s.11; repealed by 1983 c.162 s.57]

317.238 [1965 c.460 s.2; 1981 c.812 s.3; repealed by 1983 c.162 s.57]

317.239 [1965 c.460 ss.3,4; repealed by 1981 c.812 s.4]

317.240 [Repealed by 1959 c.389 s.7 (317.236 enacted in lieu of 317.235 and 317.240)]

317.241 [1959 c.389 s.10 (enacted in lieu of 317.242); subsection (4) derived from 1959 c.389 s.11; 1969 c.493 s.93; repealed by 1983 c.162 s.57]

317.242 [1953 c.385 s.9; repealed by 1959 c.389 s.9 (317.241 enacted in lieu of 317.242)]

317.245 [Repealed by 1983 c.162 s.57]

317.247 [1955 c.354 s.2; 1957 c.338 s.2; part of subsection (4) derived from 1957 c.338 s.3; subsection (5) enacted as 1963 c.180 s.2; 1969 c.128 s.1; repealed by 1983 c.162 s.57]

317.248 [1971 c.283 s.2; repealed by 1983 c.162 s.57]

317.249 [1953 c.385 s.9; 1975 c.705 s.5; repealed by 1983 c.162 s.57]

317.250 [Amended by 1953 c.385 s.9; repealed by 1975 c.705 s.12]

317.251 [1965 c.154 s.4; 1969 c.493 s.94; 1979 c.580 s.1; repealed by 1983 c.162 s.57]

317.252 [1965 c.178 s.4; repealed by 1983 c.162 s.57]

317.255 [Amended by 1953 c.385 s.9; 1979 c.517 s.1; repealed by 1983 c.162 s.57]

317.256 [1955 c.609 s.2; 1979 c.517 s.2; repealed by 1983 c.162 s.57]

MODIFICATIONS TO TAXABLE INCOME

317.259 Modifications generally. Federal taxable income, adopted under ORS 317.013 and 317.018, except as specifically otherwise provided by law, shall be modified only pursuant to the provisions contained in ORS 317.267 to 317.386 and 317.720 and no others. Each modification authorized under law shall be allowed only to the extent that the modification is allocated and apportioned to Oregon income. [1983 c.162 s.12; 1987 c.293 s.37; 1995 c.79 s.168]

317.260 [Repealed by 1983 c.162 s.57]

317.262 [1953 c.385 s.9; repealed by 1983 c.162 s.57]

317.265 [Amended by 1955 c.422 s.1; subsection (4) derived from 1955 c.422 s.2; 1957 c.607 s.5; subsection (5) derived from 1957 c.607 s.11 and 1957 s.s. c.5 s.1; repealed by 1983 c.162 s.57]

317.267 Dividends from corporation subject to corporate excise tax. (1) To derive Oregon taxable income, there shall be added to federal taxable income amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245, except 245(c), amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a consolidated federal return pursuant to ORS 317.715 (2).

(2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of this section, there shall be subtracted from federal taxable income an amount equal to 70 percent of dividends (determined without regard to section 78 of the Internal Revenue Code) received or deemed received from corporations if such dividends are included in federal taxable income. However:

(a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the same conditions and in same amount as the dividends received deduction otherwise allowable for federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

(b) No subtraction shall be allowed under this subsection if the dividends received or deemed received are from the Oregon Capital Corporation established pursuant to ORS 284.750 to 284.770.

(c) In the case of any dividend received from a 20 percent owned corporation, as defined in section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting “80 percent” for “70 percent.”

(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section. [1983 c.162 s.13; 1984 c.1 s.9; 1985 c.802 s.33; 1987 c.293 s.38; 1987 c.447 s.119; 1987 c.911 s.8i; 1989 c.625 s.21]

317.270 [Amended by 1957 c.88 s.1; repealed by 1983 c.162 s.57]

317.273 Dividend income received by domestic corporation from certain foreign corporations. To derive Oregon taxable income, there shall be subtracted from federal taxable income dividend income with respect to the "gross-up" provisions of section 78 of the Internal Revenue Code. [1983 c.162 s.14]

317.275 [Repealed by 1983 c.162 s.57]

317.277 [1977 c.506 s.2; repealed by 1983 c.162 s.57]

317.280 [Amended by 1953 c.385 s.9; 1955 c.584 s.1; repealed by 1983 c.162 s.57]

317.281 [1983 c.162 s.14a; 1985 c.802 s.22a; repealed by 1989 c.625 s.81]

317.283 Nonrecognition of transactions with related domestic international sales corporation. (1) To derive Oregon taxable income, federal taxable income shall be modified to the extent necessary to not recognize for Oregon tax purposes any transaction between the taxpayer and a related domestic international sales corporation. The taxpayer shall be considered to have entered directly into any transactions with third parties that are treated for federal income tax purposes as having been entered into by a related domestic international sales corporation. To satisfy the requirements of this section:

(a) No deduction shall be allowed to any taxpayer for any payment to a related domestic international sales corporation;

(b) No income or expense that would be attributed to a taxpayer but for the provisions of sections 991 to 996 of the Internal Revenue Code shall be treated as attributable to a related domestic international sales corporation; and

(c) No deduction shall be allowed to a taxpayer for interest on DISC-related deferred tax liability paid pursuant to section 995 (f) of the Internal Revenue Code.

(2) As used in this section, "domestic international sales corporation" means a domestic international sales corporation as defined in section 992 of the Internal Revenue Code. [1985 c.802 s.22d]

317.285 [Amended by 1957 s.s. c.15 s.9; 1971 c.724 s.1; 1977 c.89 s.1; 1981 c.613 s.4; 1983 c.162 s.29; renumbered 317.368]

317.286 Nonrecognition of transactions with related foreign sales corporation. (1) To derive Oregon taxable income, federal taxable income shall be modified to the extent necessary to not recognize for Oregon tax purposes any transaction between the taxpayer and a related foreign sales corporation. The taxpayer shall be considered to have entered directly into any transactions with third parties that are treated for federal income tax purposes as having been entered into by a related foreign sales corporation. To satisfy the requirements of this section:

(a) No deduction shall be allowed to a taxpayer for any payment to a related foreign sales corporation; and

(b) No income or expense that would be attributed to a taxpayer but for the provisions of sections 921 to 927 of the Internal Revenue Code shall be treated as attributable to a related foreign sales corporation.

(2) As used in this section, "foreign sales corporation" means a foreign sales corporation as defined in section 922 of the Internal Revenue Code. [1985 c.802 s.22e]

317.287 [1961 c.608 s.4; repealed by 1975 c.705 s.12]

317.288 [1983 c.162 s.15; repealed by 1984 c.1 s.18]

317.290 [Amended by 1983 c.162 s.30; renumbered 317.374]

317.292 [1957 c.19 s.2; repealed by 1983 c.162 s.57]

317.295 [Amended by 1953 c.385 s.9; 1955 c.722 s.1; 1961 c.565 s.1; subsection (4) enacted as 1961 c.565 s.2; 1971 c.246 s.1; repealed by 1983 c.162 s.57]

317.296 [1983 c.162 s.16; repealed by 1984 c.1 s.18]

317.297 [1957 s.s. c.15 ss.11,12; 1959 c.92 s.2; 1983 c.162 s.36; renumbered 317.476]

317.298 [1961 c.505 ss.2,3; 1969 c.493 s.95; 1979 c.580 s.2; repealed by 1983 c.162 s.57]

317.299 [1969 c.600 s.8; 1983 c.162 s.34; renumbered 317.665]

317.300 [Amended by 1953 c.385 s.9; repealed by 1983 c.162 s.57]

317.303 Deduction or adjustment for certain federal credits. If a taxpayer has taken a federal credit, which requires as a condition of the use of the federal credit the reduction of a corresponding deduction or basis, and the federal credit is not allowable for Oregon purposes, the taxpayer shall be allowed the deduction or appropriate adjustment to basis to derive Oregon taxable income. [1983 c.162 s.17]

317.304 Deduction for unused qualified business credits. There shall be added to federal taxable income the amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code. [1995 c.556 s.16]

317.305 [1957 c.74 s.2; repealed by 1983 c.162 s.57]

317.307 Reduction for charitable contribution deduction under federal law; subtraction. There shall be subtracted from federal taxable income the amount by which a corporation must reduce its charitable contribution deduction under section 170(d)(2)(B) of the Internal Revenue Code (relating to carryovers of excess contributions for corporations). [1995 c.556 s.17; 1997 c.839 s.35]

317.309 Interest and dividends received from obligations of state or political subdivision. (1) To derive Oregon taxable income, there shall be added to federal taxable income the amount of any interest or dividends received during the taxable year from obligations of a state or any political subdivision of a state (including Oregon), exempt from federal taxation under the Internal Revenue Code. However, the amount added under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection, and by any expenses incurred in the production of interest or dividend income described in this subsection.

(2) A regulated investment company as defined in section 851 of the Internal Revenue Code which distributes dividends in excess of those deducted in the computation of federal taxable income, shall to the extent of the amount added under subsection (1) of this section, deduct such distributed excess in arriving at Oregon taxable income.

(3) To derive Oregon taxable income, and subject to the other provisions of this chapter, discount and gain or loss on retirement or disposition of obligations described under subsection (1) of this section issued on or after January 1, 1985, shall be treated in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a state or a political subdivision of a state, were not tax exempt under the Internal Revenue Code. [1983 c.162 s.18; 1985 c.802 s.23; 1987 c.293 s.39]

317.310 Balance in bad debt reserve of financial institution which has changed from reserve method to specific charge-off method of accounting. (1) To derive Oregon taxable income of a financial institution which has changed from the reserve method of accounting to the specific charge-off method of accounting for federal tax purposes, there shall be subtracted from federal taxable income amounts which the financial institution recognized pursuant to section 585(c)(3) of the Internal Revenue Code.

(2) To derive Oregon taxable income, after the modification prescribed in subsection (1) of this section, the balance in the reserve for bad debts, as determined under ORS 317.333 (2) (1985 Replacement Part), shall be taken into income using the same method as the financial institution used for federal tax purposes pursuant to section 585(c)(3) of the Internal Revenue Code.

(3) Subsections (1) and (2) of this section shall not apply to bad debt reserves for which an election under section 585(c)(4) of the Internal Revenue Code has been made. A financial institution which uses the method described in section 585(c)(4) of the Internal Revenue Code shall apply that same method to the balance in the reserve for bad

debts, as determined under ORS 317.333 (2) (1985 Replacement Part), and adjust its Oregon taxable income accordingly. [1987 c.293 s.44]

317.311 Application of section 243 of Tax Reform Act of 1986. Section 243 of the Tax Reform Act of 1986 (P.L. 99-514) shall not apply for purposes of determining taxable income under this chapter. [1987 c.293 s.44a]

317.312 Federal depreciation expenses of certain health care service contractors. To derive Oregon taxable income, for certain health care service contractors for which federal tax exempt status was denied by section 501(m) of the Internal Revenue Code, and for which all assets owned by the health care service contractor prior to the effective date of the denial of exempt status are treated as placed in service on such effective date for federal tax purposes, no adjustment shall be made to federal depreciation expense. [1987 c.293 s.44b]

317.314 Taxes on net income or profits imposed by any state or foreign country; nondeductible taxes and license fees; taxes paid to foreign country for certain income. (1) To derive Oregon taxable income, there shall be added to federal taxable income taxes upon or measured by net income or profits imposed by any foreign country (including withholding taxes upon the payment of dividends arising from sources within such foreign country), this state or any state or territory deducted in computing federal taxable income.

(2) There shall be subtracted from federal taxable income the taxes and license fees imposed by counties, cities and other political subdivisions of this state and other states, if such taxes and fees are not deductible in arriving at federal taxable income.

(3) There shall be subtracted from federal taxable income the taxes paid to a foreign country upon the payment of interest or royalties arising from sources within such foreign country, if such taxes are not deductible in arriving at federal taxable income and if the interest or royalties are included in arriving at Oregon taxable income. [1983 c.162 s.19; 1984 c.1 s.10]

317.319 Capital Construction Fund; deferred income; nonqualified withdrawals. To derive Oregon taxable income:

(1) There shall be added to federal taxable income an amount equal to the amount of income which the taxpayer defers under section 607 of the Merchant Marine Act of 1936 -- Capital Construction Fund (46 U.S.C. 1177), as amended, or under section 7518 of the Internal Revenue Code.

(2) There shall be subtracted from federal taxable income all nonqualified withdrawals considered to be ordinary income or capital gain under section 607 of the Merchant Marine Act of 1936 -- Capital Construction Fund (46 U.S.C. 1177), as amended, or under section 7518 of the Internal Revenue Code, and included in income for federal income tax purposes.

(3) No adjustments to basis shall be made for Oregon tax purposes to property on account of section 607 of the Merchant Marine Act of 1936 -- Capital Construction Fund (46 U.S.C. 1177), as amended, or under section 7518 of the Internal Revenue Code. There shall be added to or subtracted from federal taxable income those amounts necessary to carry out the purposes of this subsection. [1983 c.162 s.20; 1987 c.293 s.40]

317.320 [1969 c.493 s.73; 1973 c.402 s.23; repealed by 1983 c.162 s.57]

317.322 Addition of long term care insurance premiums if credit is claimed. The amount of any long term care insurance premiums paid or incurred by a taxpayer during the tax year shall be added to taxable income if:

(1) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(2) The taxpayer claims the credit allowed under ORS 315.610 for the tax year. [1999 c.1005 s.5]

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

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

Note: 317.322 was added to and made a part of ORS chapter 317 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

317.325 [1973 c.115 s.5; repealed by 1983 c.162 s.57]

317.326 Gain on conversion or exchange of property. (1) To derive Oregon taxable income, there shall be added to federal taxable income any gain recognized pursuant to ORS 314.290.

(2) To the extent gain is recognized pursuant to subsection (1) of this section, an additional basis adjustment shall be made for Oregon tax purposes. [1983 c.162 s.21]

317.328 [1979 c.414 s.4; 1983 c.162 s.31; renumbered 317.381]

317.329 Basis for stock acquisition. A corporation shall have the same basis for state excise or income tax purposes as for federal income tax purposes for assets:

(1) If the corporation engages in a qualified stock purchase on or after August 31, 1982, and elects (or is treated as having elected) section 338 of the Internal Revenue Code (as amended on and after September 3, 1982); or

(2) If the corporation, before August 31, 1982, engaged in the purchase of stock which was treated as a purchase of assets (a purchase and liquidation or similar transaction) resulting in the recognition of gain or loss for Oregon tax purposes. This subsection applies for purposes of determining gain or loss upon disposition only. [1985 c.802 s.21b; 1987 c.293 s.41; 1993 c.726 s.43]

Note: 317.329 was added to and made a part of ORS chapter 317 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

317.330 [1973 c.753 s.5; repealed by 1979 c.414 s.7]

317.333 [1983 c.162 s.22; repealed by 1987 c.293 s.70]

317.335 [1973 c.753 s.6; repealed by 1979 c.414 s.7]

317.339 [1983 c.162 s.23; repealed by 1984 c.1 s.18]

317.342 [1985 c.802 s.49; repealed by 1997 c.839 s.69]

317.344 Net operating loss carryback and carryover. There shall be added to federal taxable income the amount of any net operating loss carryback or carryover allowed in arriving at federal taxable income. [1983 c.162 s.24; 1984 c.1 s.11]

317.349 Transaction treated as lease purchase under federal law. To derive Oregon taxable income, federal taxable income shall be modified to the extent necessary to not treat as a lease purchase or in any other way recognize for Oregon tax purposes a transaction entered into pursuant to section 168(f) (8) of the Internal Revenue Code as that section was in effect prior to January 1, 1987, or as applicable under section 204(b) of the Tax Reform Act of 1986 (Public Law 99-514) on and after January 1, 1987 (relating to certain leases of qualified farm property or automotive manufacturing equipment). [1983 c.162 s.25; 1997 c.99 s.4]

317.350 [1959 c.631 ss.4,5; repealed by 1983 c.162 s.57]

317.351 ORS 317.349 not applicable to finance leases. Notwithstanding ORS 317.349, finance leases as described in section 168(f)(8) of the Internal Revenue Code shall be accorded the same treatment for Oregon tax purposes as they are for federal tax purposes. [1987 c.293 s.45]

Note: 317.351 was added to and made a part of 317.310 to 317.386 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

317.355 [Repealed by 1957 c.632 s.1 (314.385 enacted in lieu of 316.545 and 317.355)]

317.356 Basis on disposition of asset; adjustments to reflect depreciation, depletion, other cost recovery,

federal credits and other differences in Oregon and federal basis. (1) Upon the taxable sale, exchange or disposition of any asset in a tax year beginning on or after January 1, 1983, federal taxable income shall be increased or decreased by an amount which will reflect one or more of the following:

(a) The difference in basis which results from the difference in depreciation, depletion or other cost recovery, or expense claimed under section 179 of the Internal Revenue Code, allowed or allowable on the Oregon return and that allowed or allowable on the federal return for that asset;

(b) The difference in basis which results when a taxpayer has taken a federal credit, which requires as a condition of the use of the federal credit the reduction of the basis of an asset, and the federal credit is not allowable for Oregon purposes;

(c) The difference in basis as a result of any deferral of gain which has been granted under federal tax law but not under Oregon law or granted under Oregon law but not granted under federal law;

(d) The difference in basis under federal and Oregon tax law at the time the asset was acquired; or

(e) For certain health care service contractors for which federal tax exempt status was denied by section 501(m) of the Internal Revenue Code, any adjustment to the basis of an asset for purposes of calculating federal taxable gain or loss on sale, exchange or other disposition as permitted by the Tax Reform Act of 1986.

(2) There shall be added to or subtracted from federal taxable income any amount necessary to carry out the purposes of subsection (1) of this section. [1983 c.162 s.26; 1985 c.802 s.24; 1987 c.293 s.45e; 1993 c.726 s.44]

317.360 [Repealed by 1975 c.760 s.3]

317.362 Reversal of effect of gain or loss in case of timber, coal, domestic iron ore. To derive Oregon taxable income, federal taxable income shall be modified to reverse the effect of section 631 of the Internal Revenue Code. [1983 c.162 s.27]

317.365 [Repealed by 1957 c.632 s.1 (314.365 enacted in lieu of 316.550 and 317.365)]

317.368 [Formerly 317.285; 1984 c.1 s.12; 1985 c.802 s.26; repealed by 1999 c.580 s.10]

317.370 [Repealed by 1957 c.632 s.1 (314.420 enacted in lieu of 316.620, 317.370 and 317.420)]

317.374 Depletion. (1) To the extent that the amount allowed as a deduction for depletion under section 611 of the Internal Revenue Code exceeds, or is less than, the amount determined as the Oregon depletion allowance under subsection (2) or (3) of this section, to derive Oregon taxable income, the difference shall be added to or subtracted from federal taxable income.

(2) For purposes of subsection (1) of this section, in the case of timber, mines, oil and gas wells, and other natural deposits, except in the case of metal mines as provided in subsection (3) of this section, the Oregon depletion allowance shall be a reasonable allowance according to the peculiar conditions in each case. The reasonable allowance in all cases shall be computed on the cost of the property.

(3) In the case of metal mines, the Oregon depletion allowance may be the amount allowed under subsection (2) of this section or an amount equal to 15 percent of the gross income from the property during the taxable year, not to exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property. In its first return made under this chapter, the taxpayer must state as to each property with respect to which the taxpayer has any item of income or deduction (in case of metal mines), whether it elects to have depletion allowance for each such property for the taxable year computed with or without reference to percentage depletion. An election once exercised under this section cannot thereafter be changed by the taxpayer, and the depletion allowance in respect to each such property will for all succeeding taxable years be computed in accordance with the election so made. [Formerly 317.290]

317.375 [Repealed by 1957 c.632 s.1 (314.295 enacted in lieu of 316.560 and 317.375)]

317.377 [1989 c.625 s.23; 1993 c.726 s.45; renumbered 317.479 in 1995]

317.379 Exemption of income from exercise of Indian fishing rights. Income derived from the exercise of rights of any Indian tribe to fish secured by treaty, Executive order or Act of Congress is exempt from the tax imposed by this chapter if section 7873 of the Internal Revenue Code does not permit a like federal tax to be imposed on such income. [1989 c.625 s.18]

317.380 [Repealed by 1957 c.632 s.1 (314.380 enacted in lieu of 316.565 and 317.380)]

317.381 [Formerly 317.328; 1985 c.802 s.27; repealed by 1987 c.293 s.70]

317.383 Underground storage tank pollution prevention or essential services grant. In addition to the modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income the amount of any underground storage tank pollution prevention or essential services grant made by the Department of Environmental Quality under section 6, chapter 863, Oregon Laws 1991, to any taxpayer. [1991 c.863 s.35]

317.386 Energy conservation payments exempt. Any amount received as a cash payment for energy conservation measures under ORS 469.631 to 469.687 is exempt from the tax imposed under this chapter. [Formerly 317.083; 1985 c.802 s.28]

317.388 Claim of right income repayment adjustment when credit is claimed. There shall be added to federal taxable income any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068. [1999 c.1007 s.5]

317.390 [Amended by 1957 c.607 s.6; 1959 c.156 s.2; subsection (3) derived from 1959 c.156 s.3; repealed by 1969 c.166 s.8]

317.392 [Formerly 317.098; repealed by 1993 c.475 s.3]

317.395 [Amended by 1957 c.607 s.7; renumbered 317.504]

317.405 [Amended by 1955 c.587 s.1; repealed by 1957 c.632 s.1 (314.405 enacted in lieu of 316.605 and 317.405)]

317.410 [Amended by 1953 c.385 s.9; 1955 c.581 s.2; 1957 c.20 s.1; repealed by 1957 c.632 s.1 (314.410 enacted in lieu of 316.610 and 317.410)]

317.415 [Amended by 1953 c.385 s.9; 1955 c.581 s.1; repealed by 1957 c.632 s.1 (314.415 enacted in lieu of 316.615 and 317.415)]

317.420 [Amended by 1955 c.356 s.1; repealed by 1957 c.632 s.1 (314.420 enacted in lieu of 316.620, 317.370 and 317.420)]

317.425 [Repealed by 1957 c.632 s.1 (314.425 enacted in lieu of 316.625 and 317.425)]

317.430 [Repealed by 1957 c.632 s.1 (314.430 enacted in lieu of 316.630 and 317.430)]

317.435 [Repealed by 1957 c.632 s.1 (314.435 enacted in lieu of 316.635 and 317.435)]

317.440 [Repealed by 1957 c.632 s.1 (314.440 enacted in lieu of 316.640, 317.440 and 317.445)]

317.445 [Repealed by 1957 c.632 s.1 (314.440 enacted in lieu of 316.640, 317.440 and 317.445)]

317.450 [Amended by 1957 c.607 s.8; 1961 c.504 s.4; repealed by 1969 c.166 s.8]

317.455 [Repealed by 1957 c.632 s.1 (314.445 enacted in lieu of 316.650 and 317.455)]

317.460 [Repealed by 1957 c.632 s.1 (subsections (1) and (2) of 314.450 enacted in lieu of 316.655 and 317.460)]

317.465 [Repealed by 1957 c.632 s.1 (314.455 enacted in lieu of 316.660 and 317.465)]

317.470 [Amended by 1953 c.385 s.9; 1955 c.585 s.1; repealed by 1957 c.632 s.1 (314.460 enacted in lieu of 316.665 and 317.470)]

317.475 [Repealed by 1957 c.632 s.1 (314.465 enacted in lieu of 316.670 and 317.475)]

317.476 Net losses of prior years. (1) In computing Oregon taxable income there shall be allowed as a deduction an amount equal to the aggregate of the Oregon net losses of prior years to the extent provided in this section.

(2) As used in this section, "Oregon net loss" means Oregon net loss as defined in ORS 317.010 (9).

(3) In computing Oregon net loss for any taxable year the Oregon net loss for a prior year shall not be allowed as a deduction.

(4)(a) The Oregon net loss in any taxable year shall be allowed as a deduction in any of the 15 succeeding taxable years.

(b) The amount of the Oregon net loss deductible in any taxable year shall be the Oregon net loss of a prior year reduced by the net income (computed without the Oregon net loss deduction) of any intervening taxable year or years between the year of loss and the succeeding taxable year in which the Oregon net loss deduction is claimed.

(c) The Oregon net loss of the earliest taxable year shall be exhausted before an Oregon net loss from a later year may be deducted.

(5) No deduction shall be allowed under this section to a business trust which qualifies as a "real estate investment trust" under sections 856, 857 and 858 of the Internal Revenue Code. [Formerly 317.297; 1987 c.293 s.45d]

317.478 Pre-change and built-in losses. (1) That portion of the pre-change and built-in losses which the taxpayer deducted pursuant to section 382 of the Internal Revenue Code shall be added to federal taxable income under ORS 317.344 or otherwise.

(2) Pre-change losses and recognized built-in losses, subject to the limitation under section 382 of the Internal Revenue Code, shall not be considered in determining the taxable loss and taxable loss carry forward under ORS 317.010 and 317.476.

(3) Any pre-change losses and built-in losses, to the extent apportioned or allocated to Oregon, with the additions, subtractions, modifications and other adjustments required for purposes of this chapter, shall be carried forward and subtracted in computing Oregon taxable income as provided under subsections (4) to (6) of this section.

(4) The amount of loss allowable under subsection (3) of this section in any tax year shall not exceed the lesser of the Oregon source taxable income of the new loss corporation or the Oregon percentage of the section 382 limitation determined, or in the case of a corporation for which no section 382 limitation is determined, as would be determined under section 382 (b) of the Internal Revenue Code. The Oregon percentage for purposes of the subtraction under subsection (3) of this section shall be computed with reference to the Oregon apportionment factors of the new loss corporation existing as of the time of change in ownership.

(5) In computing Oregon taxable income, the amount of loss allowed as a subtraction under subsection (3) of this section shall be subtracted in any one of the 15 years succeeding the year of the loss. Subject to the limitation under subsection (4) of this section, the amount of the loss subtracted in any taxable year shall be the loss allowed as a subtraction under subsection (3) of this section reduced by the amount subtracted or subtractible under subsection (3) of this section for any intervening year between the year of loss and the tax year in which the subtraction under this section is claimed. The loss of the earliest tax year shall be exhausted before a loss under this section from a later year may be subtracted.

(6) Oregon net losses deductible under ORS 317.476 shall be determined and carried forward before the amount subtractible under this section is determined. [1987 c.293 s.45c; 1993 c.726 s.48]

317.479 Limitation on use of preacquisition losses to offset built-in gain. (1) Preacquisition losses, as described under section 384 of the Internal Revenue Code, to the extent allocated or apportioned to Oregon, with the additions, subtractions, modifications and other adjustments required for purposes of this chapter, shall not be considered in determining the taxable income or loss under ORS 317.010.

(2) If any preacquisition loss, as described in subsection (1) of this section, may not offset a recognized built-in gain by reason of section 384 of the Internal Revenue Code, such gain shall not be taken into account in determining under ORS 317.476 the amount of such loss which may be carried to other taxable years.

(3) In any case in which a preacquisition loss, as described in subsection (1) of this section, for any taxable year is subject to limitation under subsection (1) of this section and a taxable loss from such taxable year is not subject to such limitation, taxable income shall be treated as having been offset first by the loss subject to such limitation.

(4) The definitions contained in section 384(c) of the Internal Revenue Code shall apply for purposes of this section, except that where appropriate, gain, loss and items of income shall be determined as allocated or apportioned to Oregon and with the additions, subtractions, modifications and other adjustments contained in this chapter.

(5) Section 384(b) and (c)(5) and (6) of the Internal Revenue Code shall be applied for purposes of this section in a manner consistent with ORS 317.705 to 317.725. [Formerly 317.377]

317.480 [Repealed by 1957 c.632 s.1 (314.470 enacted in lieu of 316.675 and 317.480)]

317.485 Loss carryforward after reorganization; construction. Unless specifically required otherwise under this chapter, nothing in this chapter shall be construed to require that after a reorganization a loss carryforward may be allowed only if the income against which the loss is offset is from substantially the same business activities or assets which incurred the loss. [1991 c.457 s.9b]

(Qualified Donations and Sales to Educational Institutions)

Note: Sections 4 and 6, chapter 358, Oregon Laws 1999, provide:

Sec. 4. (1) As used in this section:

(a) “Educational institution” means:

(A) A public common or union high school district;

(B) A private school that has been registered under ORS 345.505 to 345.575 and that is an organization described in section 501(c)(3) of the Internal Revenue Code;

(C) An accredited public community college, college or university located in this state; or

(D) An accredited private community college, college or university located in this state that is an organization described in section 501(c)(3) of the Internal Revenue Code.

(b) “Qualified donation” means a transfer of a fee estate in land from a taxpayer to an educational institution without consideration of any kind given to the taxpayer by the educational institution in exchange for the land.

(c) “Qualified reduced sale” means a transfer of a fee estate in land by a taxpayer to an educational institution for consideration paid by the educational institution that is less than the fair market value of the land at the time of transfer.

(2) There shall be added to federal taxable income the amount that otherwise would be taken into account as a charitable contribution deduction for a qualified donation or a qualified reduced sale pursuant to section 170 of the Internal Revenue Code.

(3) In the case of a qualified donation made by the taxpayer during the tax year, the fair market value of the qualified donation shall be subtracted from federal taxable income.

(4) In the case of a qualified reduced sale made by the taxpayer during the tax year, the difference between the fair market value of the land and the sale price of the land shall be subtracted from federal taxable income.

(5) Notwithstanding subsections (3) and (4) of this section, the subtraction allowed under this section may not exceed:

(a) In the case of a qualified donation, 50 percent of Oregon taxable income computed without regard to this section, ORS 317.476 or section 170 of the Internal Revenue Code; or

(b) In the case of a qualified reduced sale, 25 percent of Oregon taxable income computed without regard to this section, ORS 317.476 or section 170 of the Internal Revenue Code.

(6) Any subtraction not allowed because of the limitations imposed under subsection (5) of this section may be carried forward and claimed as a subtraction in the next succeeding tax year. Any amount remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise until the 15th succeeding tax year, but may not be carried beyond the 15th succeeding tax year. [1999 c.358 s.4]

Sec. 6. Sections 2 and 4 of this 1999 Act apply to donations and reduced sales occurring in tax years beginning on or after January 1, 2000, and before January 1, 2008. [1999 c.358 s.6]

RETURNS AND PAYMENT OF TAX

317.504 Date return considered filed or advance payment considered made. A return filed before the last day prescribed by law for the filing thereof shall be considered as filed on the last day. An advance payment of any portion of the tax made at the time the return was filed shall be considered as made on the last day prescribed by law for the payment of the tax. The last day prescribed by law for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer by the Department of Revenue. [Formerly 317.395]

317.505 [Repealed by 1957 c.632 s.1 (314.805 enacted in lieu of 316.705 and 317.505; and 314.815 enacted in lieu of 316.720 and 317.505)]

317.510 Requiring additional reports and information. The Department of Revenue may order additional reports or such other information it deems necessary in addition to the regular reports provided in this chapter. All reports and returns, as provided in this chapter, shall be upon standard forms, adopted by the department, with no more detailed information relating to the taxpayer's business than is necessary to enable the department to administer fully the provisions of this chapter.

317.514 [1983 c.162 s.37; repealed by 1984 c.1 s.18]

317.515 [Renumbered 317.845]

317.520 [Repealed by 1957 c.632 s.1 (314.820 enacted in lieu of 316.725 and 317.520)]

317.525 [Repealed by 1957 c.632 s.1 (314.825 enacted in lieu of 316.730 and 317.525)]

317.530 [Repealed by 1957 c.632 s.1 (314.830 enacted in lieu of 316.735 and 317.530)]

317.535 [Amended by 1957 c.76 s.1; repealed by 1957 c.632 s.1 (314.835 enacted in lieu of 316.740 and 317.535)]

317.540 [Repealed by 1957 c.632 s.1 (314.840 enacted in lieu of 316.745 and 317.540)]

317.545 [Repealed by 1957 c.632 s.1 (314.845 enacted in lieu of 316.750 and 317.545)]

317.550 [Repealed by 1957 c.632 s.1 (314.855 enacted in lieu of 316.760 and 317.550)]

317.590 [Amended by 1953 c.309 s.2; 1955 c.35 s.1; 1957 c.528 s.4; renumbered 317.850]

317.605 [Amended by 1953 c.331 s.2; renumbered 314.210]

317.610 [Renumbered 314.220]

317.615 [Renumbered 314.230]

FOREIGN INCOME; DOMESTIC INTERNATIONAL SALES CORPORATIONS; INSURERS

317.625 Income from sources without the United States. Income from sources without the United States, as defined in section 862 of the Internal Revenue Code, shall be accounted for in the computation of Oregon taxable income as required by ORS chapters 305 and 314 and this chapter without regard to sections 861 to 864 of the Internal Revenue Code. [1983 c.162 s.38]

317.635 Domestic international sales corporation. Except as provided in ORS 317.283, a domestic international sales corporation, commonly referred to as “DISC,” as defined in section 992 of the Internal Revenue Code, shall be taxed in the manner provided for other corporations under this chapter and without regard to sections 991 to 996 of the Internal Revenue Code. [1983 c.162 s.39; 1985 c.802 s.22b]

317.650 Insurers; depreciation and basis provisions; confidentiality of returns; calendar year filing required. (1) ORS 317.356, relating to depreciation and basis, shall be applicable to every insurer.

(2) Notwithstanding ORS 314.835 or 314.840 or any other law concerning confidentiality of tax returns, the Department of Consumer and Business Services and the Department of Revenue may disclose to each other returns and all other information necessary to carry out the provisions of section 2, chapter 786, Oregon Laws 1995, and otherwise to administer the corporate excise tax imposed by this chapter on insurers.

(3) Notwithstanding ORS 314.085 or other law, for purposes of this chapter, any foreign or alien insurer, or any insurer described in ORS 731.816 (1993 Edition), must file a return on a calendar year basis. [Formerly 317.078; 1995 c.556 s.52; 1995 c.786 s.15]

317.655 Taxable income of insurer; computation; exclusion for certain life insurance or annuity accounts. (1) For purposes of the tax imposed under ORS 317.070, the Oregon taxable income of an insurer shall be the insurer's “net gain from operations” or “net income” determined in the manner prescribed by the Department of Consumer and Business Services on its Annual Statement Form for the taxable year, as adjusted pursuant to ORS 317.010 (11), 317.122 and 317.650 to 317.665.

(2) The Oregon taxable income of an insurer shall be computed by adding or subtracting, to the insurer's net gain from operations as determined under subsection (1) of this section, such of the following items as apply to the insurer:

(a) Add the amount of federal and state income taxes deducted by the insurer in computing its net gain from operations.

(b) Add penalty interest received by the insurer arising out of prepayment of loans made by the insurer.

(c) Add realized gains and losses on sales or exchanges by the insurer of property.

(d) Subtract, if the insurer so elects, additional or accelerated depreciation on real and personal property that is in excess of the depreciation deducted by the method used in computing the insurer's net gain from operations.

(e) Subtract that amortized portion of the contribution for past service credits made to qualified plans and exempt trusts for employees allowed as a deduction.

(f) Add or subtract, as appropriate, increases or decreases in mandatory reserves that the insurer is required to maintain by law or by rules or directives of the Director of the Department of Consumer and Business Services or the insurance director or commissioner of the state of domicile of the foreign or alien insurer, other than increases or decreases that (A) are deducted in arriving at the insurer's net gain from operations, or (B) result from net gains or losses, realized or unrealized, in the value of the insurer's property and investments.

(g) Add or subtract, as appropriate, increases or decreases in reserves for policies and obligations outstanding before the beginning of the taxable year resulting from changes in the bases and methods of computing such reserves that are justified by accounting and actuarial practices applicable to or accepted by the insurance industry, commonly known as “reserve strengthening” or “reserve weakening.”

(3) Income, expenses, gains, losses, exclusions, deductions, assets, reserves, liabilities and other items properly attributable to one or more separate accounts authorized under ORS 733.220 shall not be taken into account in determining taxable income of an insurer under ORS 317.010 (11), 317.122 and 317.650 to 317.665 until such amounts or items are returned to and reflected on the general accounts of such insurer so as to be available generally to or for the benefit of contract and policyholders of the insurer. [Formerly 317.197; 1995 c.786 s.16]

317.660 Allocation of net income where insurer has both in-state and out-of-state business. In lieu of the provisions of ORS 314.280, if the income of an insurer is derived from business done both within and without this state, the determination of Oregon taxable income shall be arrived at by apportionment based upon an averaging of the following three factors:

(1) Insurance sales factor: The percentage obtained by dividing (a) the direct premiums (excluding reinsurance accepted and without deduction of reinsurance ceded) received by the insurer during the taxable year on policies and contracts which are allocated to this state and to other jurisdictions in which the insurer is not authorized to do business by (b) the total of such premiums received by the insurer during the taxable year on policies and contracts that had been sold within and without this state. For purposes of this subsection, “premiums” means sums properly included in appropriate schedules of the annual statement filed by the insurer with the Director of the Department of

Consumer and Business Services, which allocate premiums by jurisdiction. If the exclusion of reinsurance premiums results in an apportionment formula that does not fairly represent the extent of the taxpayer's activity in this state, the taxpayer may petition for and the Department of Revenue may permit, or the Department of Revenue may require, the inclusion of reinsurance premiums in the insurance sales factor.

(2) Wage and commission factor: The percentage obtained by dividing (a) the total of wages, salaries, commissions and other compensation for personal services paid in this state during the tax period to employees and insurance salesmen in connection with the business of the insurer, by (b) the total wages, salaries, commissions and other compensation for personal services paid everywhere during the tax period to employees and insurance salesmen in connection with the business of the insurer. For determining the place of payment, the procedure set forth in ORS 314.660 (2) shall apply.

(3) Real estate income and interest factor: The percentage obtained by dividing (a) the total net income (after deducting from gross rental income real estate expenses, property taxes and depreciation attributable thereto, which are included in appropriate schedules of the annual statement filed by the insurer with the Department of Consumer and Business Services) received from real property within this state plus gross interest received on loans secured by real property within this state during the taxable year, by (b) the total net income received from real property within and without this state plus gross interest received on loans secured by real property within and without this state during the taxable year. [Formerly 317.199; 1995 c.786 s.17; 1999 c.143 s.11]

317.665 Oregon net losses of insurer in prior years. In computing Oregon taxable income, an insurer shall be allowed as a deduction an amount equal to the aggregate Oregon net losses of prior years as defined in ORS 317.476. [Formerly 317.299; 1995 c.786 s.18]

UNITARY TAX

317.705 Definitions for ORS 317.705 to 317.715. As used in this section and ORS 317.710 and 317.715:

(1) "Affiliated group" means an affiliated group of corporations as defined in section 1504 of the Internal Revenue Code.

(2) "Unitary group" means a corporation or group of corporations engaged in business activities that constitute a single trade or business.

(3)(a) "Single trade or business" means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise a sharing or exchange of value as demonstrated by:

(A) Centralized management or a common executive force;

(B) Centralized administrative services or functions resulting in economies of scale; and

(C) Flow of goods, capital resources or services demonstrating functional integration.

(b) "Single trade or business" may include, but is not limited to, a business enterprise the activities of which:

(A) Are in the same general line of business (such as manufacturing, wholesaling or retailing); or

(B) Constitute steps in a vertically integrated process (such as the steps involved in the production of natural resources, which might include exploration, mining, refining and marketing).

(c) Whether two or more corporations that are included in the same consolidated federal return are engaged in a single trade or business may be determined by making reference to corporations that are doing business in the United States and are subject to federal income taxation, whether or not those corporations are includable in the consolidated return. No other corporations may be taken into consideration in making such a determination, except in a case in which the transactions or relationships between such corporations are made in an attempt to evade or avoid taxation. [1984 c.1 s.4; 1985 c.802 s.30a; 1997 c.325 s.45]

317.710 Corporation tax return requirements. (1) A corporation shall make a return with respect to the tax imposed by this chapter as provided in this section.

(2) If the corporation is a member of an affiliated group of corporations making a consolidated federal return, it shall file a return and determine its Oregon taxable income as provided in ORS 317.715. The corporation's tax liability shall be joint and several with any other corporation that is included in a consolidated state return with the corporation under subsection (5) of this section.

(3) If the corporation makes a separate return for federal income tax purposes, it shall file a separate return under this chapter. The corporation shall determine its Oregon taxable income and tax liability separately from any other corporation.

(4) For purposes of subsection (3) of this section, if the corporation is not subject to taxation under the Internal Revenue Code a return for federal income tax purposes includes any form of return required to be made in lieu of an income tax return under the Internal Revenue Code or regulations thereunder.

(5)(a) If two or more corporations subject to taxation under this chapter are members of the same affiliated group making a consolidated federal return and are members of the same unitary group, they shall file a consolidated state return. The Department of Revenue shall prescribe by rule the method by which a consolidated state return shall be filed.

(b) If any corporation that is a member of an affiliated group is permitted or required to determine its Oregon taxable income on a separate basis under ORS 314.670, or if any corporation is permitted or required by statute or rule to use different apportionment factors than a corporation with which it is affiliated, the corporation shall not be included in a consolidated state return under paragraph (a) of this subsection.

(c) Whenever two or more corporations are required to file a consolidated state return under paragraph (a) of this subsection, any reference in this chapter to a corporation for purposes of deriving Oregon taxable income shall be treated as a reference to all corporations that are included in the consolidated state return.

(6) If so directed by the department, by rule or instructions on the state tax return form, every corporation required to make a return under this chapter shall also file with the return a true copy of the corporation's federal income tax return for the same taxable year. For purposes of this subsection, the corporation's federal income tax return includes a consolidated federal return for an affiliated group of which the corporation is a member. The department may, by rule or instructions, permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy of the entire federal return. The federal return or any part thereof required to be filed with the state return is incorporated in and shall be a part of the state return.

(7) Each foreign or alien insurer and each domestic insurer owned and controlled, directly or indirectly, by one or more foreign insurers shall determine its Oregon taxable income under ORS 317.650 to 317.665 and make a return of the tax imposed by this chapter on a separate basis. An interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a consolidated return under the circumstances in the manner and subject to the rules adopted by the department. [1984 c.1 s.2; 1985 c.802 s.29; 1995 c.786 s.21]

317.713 Group losses as offset to income of subsidiary paying preferred dividends. If the use of group losses to offset income of a subsidiary paying dividends on preferred stock is limited under section 1503(f) of the Internal Revenue Code, a like limitation shall apply for purposes of this chapter. For purposes of applying section 1503(f) of the Internal Revenue Code, “group losses” and “separately computed taxable income” shall be determined by taking into consideration only that income and loss which is allocated or apportioned to Oregon, with the additions, subtractions, modifications and other adjustments under this chapter and ORS chapter 314. [1991 c.457 s.14]

Note: Section 26, chapter 457, Oregon Laws 1991, provides:

Sec. 26. (1) Section 14 of this Act [317.713] applies generally to tax years ending after November 17, 1989.

(2) For purposes of section 14 of this Act, preferred stock issued after November 17, 1989, pursuant to a written binding contract in effect on November 17, 1989, and in effect at all times thereafter before such issuance, shall be treated as issued on November 17, 1989.

(3) In determining the limitation on use of group losses to offset income of a subsidiary paying preferred stock dividends for Oregon tax purposes, the special rules and dates contained in paragraphs (3) to (6) of section 7201(b) of the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) shall apply. [1991 c.457 s.26]

317.715 Tax return of corporation in affiliated group making consolidated federal return. (1) If a corporation required to make a return under this chapter is a member of an affiliated group of corporations making a consolidated federal return under sections 1501 to 1505 of the Internal Revenue Code, the corporation's Oregon taxable income shall be determined beginning with federal consolidated taxable income of the affiliated group as provided in this section.

(2) If the affiliated group, of which the corporation subject to taxation under this chapter is a member, consists of more than one unitary group, before the additions, subtractions, adjustments and modifications to federal taxable income provided for in this chapter are made, and before allocation and apportionment as provided in ORS 317.010 (10), if any, modified federal consolidated taxable income shall be computed. Modified federal consolidated taxable

income shall be determined by eliminating from the federal consolidated taxable income of the affiliated group the separate taxable income, as determined under Treasury Regulations adopted under section 1502 of the Internal Revenue Code, and any deductions or additions or items of income, expense, gain or loss for which consolidated treatment is prescribed under Treasury Regulations adopted under section 1502 of the Internal Revenue Code, attributable to the member or members of any unitary group of which the corporation is not a member.

(3)(a) After modified federal consolidated taxable income is determined under subsection (2) of this section, the additions, subtractions, adjustments and modifications prescribed by this chapter shall be made to the modified federal consolidated taxable income of the remaining members of the affiliated group, where applicable, as if all such members were subject to taxation under this chapter. After those modifications are made, Oregon taxable income or loss shall be determined as provided in ORS 317.010 (10)(a) to (c), if necessary.

(b) In the computation of the Oregon apportionment percentage for a corporation that is a member of an affiliated group filing a consolidated federal return, there shall be taken into consideration only the property, payroll, sales or other factors of those members of the affiliated group whose items of income, expense, gain or loss remain in modified federal consolidated taxable income after the eliminations required under subsection (2) of this section. Those members of an affiliated group making a consolidated federal return or a consolidated state return shall not be treated as one taxpayer for purposes of determining whether any member of the group is taxable in this state or any other state with respect to questions of jurisdiction to tax or the composition of the apportionment factors used to attribute income to this state under ORS 314.280 or 314.605 to 314.675. [1984 c.1 s.3; 1985 c.802 s.30; 1987 c.293 s.46]

317.720 Computation of taxable income; excess loss accounts. (1) To derive Oregon taxable income, there shall be subtracted from federal taxable income the amount of the excess loss account included under Treasury Regulations adopted under section 1502 of the Internal Revenue Code to the extent that the excess losses have not offset unitary income. However, in no event shall excess losses be recaptured on account of Treasury Regulations adopted under section 1502 of the Internal Revenue Code for purposes of this chapter if the losses were deducted for a taxable year beginning before January 1, 1986.

(2) As used in this section, “unitary income” means income of a unitary group, as that term is defined in ORS 317.705, that includes the subsidiary to which excess losses are attributable, and a member of which is subject to taxation under this chapter. [1984 c.1 s.11b; 1987 c.293 s.47]

317.725 Adjustments to prevent double taxation or deduction. (1)(a) If any provision of the Internal Revenue Code or of ORS 317.705 to 317.715, relating to the use of consolidated federal returns, requires that any amount be added to or deducted from federal consolidated taxable income or the Oregon taxable income subject to taxation under this chapter or ORS chapter 318 that previously had been added to or deducted from income upon or with respect to which tax liability was measured under the Oregon law in effect prior to the taxpayer's taxable year as to which ORS 317.705 to 317.715, are first effective, an appropriate adjustment shall be made to the income for the year or years subject to ORS 317.705 to 317.715, so as to prevent the double taxation or double deduction of any such amount that previously had entered into the computation of income upon or with respect to which tax liability was measured.

(b) If it appears to the Department of Revenue that a corporation making a return under this chapter or ORS chapter 318 is required to make any adjustment to federal consolidated taxable income pursuant to ORS 317.715, that is unduly burdensome or that produces an inequitable or unreasonable result, the department, upon application by the corporation, may relieve the corporation of the requirement and may permit or require any other adjustment to be made to fairly reflect income and produce an equitable result. The department shall adopt rules prescribing the method by which a corporation may apply for relief under this paragraph.

(2) Notwithstanding the provisions of ORS 317.013, any regulation promulgated pursuant to sections 1501 to 1505 of the Internal Revenue Code which makes reference to provisions of the Internal Revenue Code with respect to which modifications to federal taxable income are prescribed under this chapter shall not be applied to the extent the regulation conflicts with the provisions of this chapter.

(3) The Department of Revenue shall not make any adjustment under this section if the resulting increase or decrease in tax liability would be less than $250. [1984 c.1 s.19; 1985 c.802 s.31]

317.845 [Formerly 317.515; repealed by 1985 c.761 s.27]

DISPOSITION OF REVENUE

317.850 Disposition of revenue. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred. A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $500,000.

(2) The amendment of this section by the Forty-seventh Legislative Assembly shall first apply to the state levy of taxes for the fiscal year 1953-54. [Formerly 317.590]

317.910 [1959 c.356 s.3; repealed by 1983 c.162 s.57]

UNRELATED BUSINESS INCOME OF CERTAIN EXEMPT CORPORATIONS

317.920 Tax imposed on unrelated business income of certain exempt corporations. (1) Notwithstanding ORS 317.080, a corporation otherwise exempt from tax under ORS 317.080 (1), (2), (3), (4), (7) or (9) shall be subject to the tax imposed by and in accordance with the provisions of this chapter, but only as to its unrelated business taxable income, as defined under the Internal Revenue Code.

(2) Subsection (1) of this section shall not apply to an organization described in section 501(c)(1) of the Internal Revenue Code.

(3) In the case of unrelated business income of a private foundation described in section 509 of the Internal Revenue Code, the first quarter of estimated tax due under ORS 314.515 (1)(a) shall be paid on or before the 15th day of the fifth month of the taxable year. [1959 c.356 s.2; 1975 c.652 s.90; 1983 c.162 s.42; 1985 c.802 s.28b; 1987 c.293 s.48; 1997 c.839 s.37; 1999 c.90 s.25a]

Note: Section 25b, chapter 90, Oregon Laws 1999, provides:

Sec. 25b. The amendments to ORS 317.920 by section 25a of this 1999 Act apply to tax years beginning on or after January 1, 2000. [1999 c.90 s.25b]

317.930 Exceptions and limitations. In addition to the exclusions and modifications contained in section 512(b) of the Internal Revenue Code, in determining unrelated business taxable income:

(1) There shall be excluded, in the case of any school, college or university, which rents real property to its students or faculty, all rents derived therefrom, providing that such property is actually a part of the school and that the continued presence of the students and faculty thereon is necessary to the educative function of the institution.

(2) There shall be subtracted any amount treated as derived from the conduct of an unrelated trade or business under section 995(g) of the Internal Revenue Code (relating to distributions to DISC tax-exempt shareholders). [1959 c.356 s.4; 1979 c.580 s.3; 1983 c.162 s.43; 1991 c.457 s.14a]

317.940 [1959 c.356 s.5; repealed by 1983 c.162 s.57]

317.950 Assessment of deficiency. If the Department of Revenue finds that unrelated business taxable income, or any portion thereof, has not been assessed, it may, at any time within three years after the return was filed, or in case no return was filed within five years from the time the return should have been filed, compute the tax and give notice to the corporation of the amount due, including penalty and interest thereon. These limitations to the assessment of such tax or additional tax, including penalty and interest thereon, do not apply to the assessment of additional taxes, and penalty and interest thereon, upon false or fraudulent returns or in cases where with a fraudulent intent no return has been filed. ORS 314.410 is also applicable to the extent that it is not inconsistent with the provisions of this section. [1959 c.356 s.6]

PENALTIES

317.990 [Repealed by 1957 c.632 s.1 (314.991 enacted in lieu of 316.990 and 317.990)]

317.991 Civil penalty; noncompliance with ORS 317.097 relating to credit for housing rehabilitation loans. (1) The Director of the Housing and Community Services Department may assess a civil penalty against any project owner in an amount not to exceed three times the value of the tax credit available in any year on a project during which the owner does not comply with the provisions of ORS 317.097 and the rules promulgated thereunder.

(2) Notwithstanding the provisions of any other law, an order of the director assessing such a civil penalty shall be deemed final, unless review from the director is requested in writing within 30 days of receipt of notice thereof. The request shall specify the grounds upon which the project owner contests the proposed order of assessment.

(3) The issuance of orders assessing civil penalties pursuant to this section, the conduct of hearings and the judicial review thereof shall be as provided in ORS 183.310 to 183.550.

(4) When an order assessing a civil penalty becomes final by operation of law or on appeal, unless the amount of penalty is paid within 10 days after the order becomes final, the order constitutes a judgment and may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the project owner incurring the penalty and the amount of the penalty in the County Clerk Lien Record. The penalty provided in the order so recorded shall become a lien upon the title to any interest in property owned by the project owner against whom the order is entered, and execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(5) Civil penalties, and judgments entered thereon, due to the director under this section from any project owner shall be deemed preferred to all general claims in all bankruptcy proceedings, trustee proceedings and proceedings for the administration of estates and receiverships involving the project owner liable therefor or the property of such project owner.

(6) All moneys collected under this section shall be paid into the Housing Finance Fund.

(7) All costs of enforcement and collection, including attorney fees, may be paid by the director directly from the Housing Finance Fund without further authorization of law.

(8) As used in this section, “director” means the Director of the Housing and Community Services Department. [1991 c.737 s.4; 1999 c.21 s.48]
