

# Senate Bill 439

Sponsored by Senator C STARR; Senators ATKINSON, BEYER, FERRIOLI, GEORGE, KRUSE, MORSE, B STARR, WHITSETT, WINTERS, Representatives KROPP, SCOTT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes automatic connection to changes in federal law that are related to definition of taxable income. Establishes connection date of December 31, 2004, for changes to Internal Revenue Code that are unrelated to definition of taxable income.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to connection to federal tax law; creating new provisions; amending ORS 305.230, 305.494,  
3 305.690, 307.130, 307.147, 310.140, 310.630, 310.800, 311.689, 314.011, 315.004, 316.012 and 317.010;  
4 and prescribing an effective date.

### Be It Enacted by the People of the State of Oregon:

5 **SECTION 1.** ORS 305.230 is amended to read:

6 305.230. (1) Notwithstanding ORS 9.320:

7  
8 (a) Any person who is qualified to practice law or public accountancy in this state, any person  
9 who has been granted active enrollment to practice before the Internal Revenue Service and who  
10 is qualified to prepare tax returns in this state or any person who is the authorized employee of a  
11 taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer be-  
12 fore a tax court magistrate or the Department of Revenue in any conference or proceeding with  
13 respect to the administration of any tax.

14 (b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from  
15 such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer  
16 before a tax court magistrate or the department in any conference or proceeding with respect to the  
17 administration of any tax on or measured by net income.

18 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue  
19 Code, as amended and in effect on December 31, [2002] **2004**, may represent the corporation in any  
20 proceeding before a tax court magistrate or the department in the same manner as if the share-  
21 holder were a partner and the S corporation were a partnership. The S corporation must designate  
22 in writing a tax matters shareholder authorized to represent the S corporation.

23 (d) Any person who is licensed as a real estate broker or principal real estate broker under ORS  
24 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a reg-  
25 istered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or the  
26 department in any conference or proceeding with respect to the administration of any ad valorem  
27 property tax.

28 (e) A general partner who has been designated by members of a partnership as their tax matters  
29 partner under ORS 305.242 may represent those partners in any conference or proceeding with re-  
30 spect to the administration of any tax on or measured by net income.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (f) In a small claims procedure, a taxpayer may be represented by any of the persons described  
2 in paragraphs (a) to (e) of this subsection or by any other person permitted by the tax court.

3 (2) [*No person shall*] **A person may not** be recognized as representing a taxpayer pursuant to  
4 this section unless there is first filed with the magistrate or department a written authorization, or  
5 unless it appears to the satisfaction of the magistrate or department that the representative does in  
6 fact have authority to represent the taxpayer. A person recognized as an authorized representative  
7 under rules or procedures adopted by the tax court shall be considered an authorized representative  
8 by the department.

9 (3) A taxpayer represented by someone other than an attorney is bound by all things done by  
10 the authorized representative, and may not thereafter claim any proceeding was legally defective  
11 because the taxpayer was not represented by an attorney.

12 (4) Prior to the holding of a conference or proceeding before the tax court magistrate or de-  
13 partment, written notice shall be given by the magistrate or department to the taxpayer of the  
14 provisions of subsections (1)(f) and (3) of this section.

15 **SECTION 2.** ORS 305.494 is amended to read:

16 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section  
17 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2002] **2004**, may  
18 represent the corporation in any proceeding before the Oregon Tax Court in the same manner as  
19 if the shareholder were a partner and the S corporation were a partnership.

20 **SECTION 3.** ORS 305.690 is amended to read:

21 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

22 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the  
23 two calendar years immediately following the calendar year in which a list is certified under ORS  
24 305.715.

25 (2) "Commission" means the Oregon Charitable Checkoff Commission.

26 (3) "Department" means the Department of Revenue.

27 (4) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect  
28 on December 31, [2002] **2004**.

29 **SECTION 4.** ORS 307.130 is amended to read:

30 307.130. (1) Upon compliance with ORS 307.162, the following property owned or being pur-  
31 chased by art museums, volunteer fire departments, or incorporated literary, benevolent, charitable  
32 and scientific institutions shall be exempt from taxation:

33 (a) Except as provided in ORS 748.414, only such real or personal property, or proportion  
34 thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or  
35 scientific work carried on by such institutions.

36 (b) Parking lots used for parking or any other use as long as that parking or other use is per-  
37 mitted without charge for no fewer than 355 days during the tax year.

38 (c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including  
39 inventory. As used in this subsection, "rehabilitation facility" means either those facilities defined  
40 in ORS 344.710 or facilities which provide physically, mentally or emotionally disabled individuals  
41 with occupational rehabilitation activities of an educational or therapeutic nature, even if  
42 remuneration is received by the individual.

43 (d) All real and personal property of a retail store dealing exclusively in donated inventory,  
44 where the inventory is distributed without cost as part of a welfare program or where the proceeds  
45 of the sale of any inventory sold to the general public are used to support a welfare program. As

1 used in this subsection, “welfare program” means the providing of food, shelter, clothing or health  
2 care, including dental service, to needy persons without charge.

3 (e) All real and personal property of a retail store if:

4 (A) The retail store deals primarily and on a regular basis in donated and consigned inventory;

5 (B) The individuals who operate the retail store are all individuals who work as volunteers; and

6 (C) The inventory is either distributed without charge as part of a welfare program, or sold to  
7 the general public and the sales proceeds used exclusively to support a welfare program. As used  
8 in this paragraph, “primarily” means at least one-half of the inventory.

9 (f) The real and personal property of an art museum that is used in conjunction with the public  
10 display of works of art or used to educate the public about art, but not including any portion of the  
11 art museum’s real or personal property that is used to sell, or hold out for sale, works of art, re-  
12 productions of works of art or other items to be sold to the public.

13 (g) All real and personal property of a volunteer fire department that is used in conjunction with  
14 services and activities for providing fire protection to all residents within a fire response area.

15 (2) An art museum or institution shall not be deprived of an exemption under this section solely  
16 because its primary source of funding is from one or more governmental entities.

17 (3) An institution shall not be deprived of an exemption under this section because its purpose  
18 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

19 (4) As used in this section:

20 (a) “Art museum” means a nonprofit corporation organized to display works of art to the public.

21 (b) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect  
22 on December 31, [2002] **2004**.

23 (c) “Nonprofit corporation” means a corporation that:

24 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter  
25 65; or

26 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

27 (d) “Volunteer fire department” means a nonprofit corporation organized to provide fire pro-  
28 tection services in a specific response area.

29 **SECTION 5.** ORS 307.147 is amended to read:

30 307.147. (1) For purposes of this section:

31 (a) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect  
32 on December 31, [2002] **2004**.

33 (b) “Nonprofit corporation” means a corporation that:

34 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter  
35 65; or

36 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

37 (c) “Senior services center” means property that:

38 (A) Is owned or being purchased by a nonprofit corporation; [and]

39 (B) Is actually and exclusively used to provide services and activities (including parking) pri-  
40 marily to or for persons over 50 years of age; [and]

41 (C) Is open generally to all persons over 50 years of age; [and]

42 (D) Is not used primarily for fund-raising activities; and

43 (E) Is not a residential or dwelling place.

44 (2) Upon compliance with ORS 307.162, a senior services center is exempt from ad valorem  
45 property taxation.

1       **SECTION 6.** ORS 310.140 is amended to read:

2       310.140. The Legislative Assembly finds that section 11b, Article XI of the Oregon Constitution,  
3 was drafted by citizens and placed before the voters of the State of Oregon by initiative petition.  
4 Section 11b, Article XI of the Oregon Constitution, uses terms that do not have established legal  
5 meanings and require definition by the Legislative Assembly. Section 11b, Article XI of the Oregon  
6 Constitution, was amended by section 11 (11), Article XI of the Oregon Constitution. This section is  
7 intended to interpret the terms of section 11b, Article XI of the Oregon Constitution, as originally  
8 adopted and as amended by section 11 (11), Article XI of the Oregon Constitution, consistent with  
9 the intent of the people in adopting these provisions, so that the provisions of section 11b, Article  
10 XI of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with  
11 minimal confusion and misunderstanding by citizens and affected units of government. As used in the  
12 revenue and tax laws of this state, and for purposes of section 11b, Article XI of the Oregon Con-  
13 stitution:

14       (1) "Actual cost" means all direct or indirect costs incurred by a government unit in order to  
15 deliver goods or services or to undertake a capital construction project. The "actual cost" of pro-  
16 viding goods or services to a property or property owner includes the average cost or an allocated  
17 portion of the total amount of the actual cost of making a good or service available to the property  
18 or property owner, whether stated as a minimum, fixed or variable amount. "Actual cost" includes,  
19 but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition,  
20 permits, engineering, financing, reasonable program delinquencies, return on investment, required  
21 fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, re-  
22 pair or replacement and debt service, including debt service payments or payments into reserve ac-  
23 counts for debt service and payment of amounts necessary to meet debt service coverage  
24 requirements.

25       (2) "Assessment for local improvement" means any tax, fee, charge or assessment that does not  
26 exceed the actual cost incurred by a unit of government for design, construction and financing of  
27 a local improvement.

28       (3) "Bonded indebtedness" means any formally executed written agreement representing a  
29 promise by a unit of government to pay to another a specified sum of money, at a specified date or  
30 dates at least one year in the future.

31       (4) "Capital construction":

32       (a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any  
33 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
34 contractually obligated to be spent prior to June 20, 1997, means the construction, modification,  
35 replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is ex-  
36 pected to have a useful life of more than one year, and includes, but is not limited to:

37       (A) Acquisition of land, or a legal interest in land, in conjunction with the capital construction  
38 of a structure.

39       (B) Acquisition, installation of machinery or equipment, furnishings or materials that will be-  
40 come an integral part of a structure.

41       (C) Activities related to the capital construction, including planning, design, authorizing, issuing,  
42 carrying or repaying interim or permanent financing, research, land use and environmental impact  
43 studies, acquisition of permits or licenses or other services connected with the construction.

44       (D) Acquisition of existing structures, or legal interests in structures, in conjunction with the  
45 capital construction.

1 (b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any  
 2 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
 3 contractually obligated to be spent before June 20, 1997, has the meaning given that term in para-  
 4 graph (a) of this subsection, except that “capital construction”:

5 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
 6 or more; and

7 (B) Does not include:

8 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

9 (ii) Supplies and equipment that are not intrinsic to the structure; or

10 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
 11 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
 12 cause of damage or destruction of the structure.

13 (5) “Capital improvements”:

14 (a) For bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any  
 15 bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually  
 16 obligated to be spent before June 20, 1997, means land, structures, facilities, as that term is defined  
 17 in ORS 288.805, machinery, equipment or furnishings having a useful life longer than one year.

18 (b) For bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any  
 19 bonded indebtedness approved by electors prior to December 5, 1996, that were spent or  
 20 contractually obligated to be spent before June 20, 1997, has the meaning given that term in para-  
 21 graph (a) of this subsection, except that “capital improvements”:

22 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
 23 or more; and

24 (B) Does not include:

25 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

26 (ii) Supplies and equipment that are not intrinsic to the structure; or

27 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
 28 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
 29 cause of damage or destruction of the structure.

30 (6) “Direct consequence of ownership” means that the obligation of the owner of property to pay  
 31 a tax arises solely because that person is the owner of the property, and the obligation to pay the  
 32 tax arises as an immediate and necessary result of that ownership without respect to any other in-  
 33 tervening transaction, condition or event.

34 (7)(a) “Exempt bonded indebtedness” means:

35 (A) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

36 (B) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
 37 ments that was issued as a general obligation of the issuing governmental unit on or before No-  
 38 vember 6, 1990;

39 (C) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
 40 ments that was issued as a general obligation of the issuing governmental unit after November 6,  
 41 1990, with the approval of the electors of the issuing governmental unit; or

42 (D) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
 43 ments, if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election  
 44 that is in compliance with the voter participation requirements of section 11 (8), Article XI of the  
 45 Oregon Constitution.

1 (b) "Exempt bonded indebtedness" includes bonded indebtedness issued to refund or refinance  
2 any bonded indebtedness described in paragraph (a) of this subsection.

3 (8)(a) "Incurred charge" means a charge imposed by a unit of government on property or upon  
4 a property owner that does not exceed the actual cost of providing goods or services and that can  
5 be controlled or avoided by the property owner because:

6 (A) The charge is based on the quantity of the goods or services used, and the owner has direct  
7 control over the quantity;

8 (B) The goods or services are provided only on the specific request of the property owner; or

9 (C) The goods or services are provided by the government unit only after the individual property  
10 owner has failed to meet routine obligations of ownership of the affected property, and such action  
11 is deemed necessary by an appropriate government unit to enforce regulations pertaining to health  
12 or safety.

13 (b) For purposes of this subsection, an owner of property may control or avoid an incurred  
14 charge if the owner is capable of taking action to affect the amount of a charge that is or will be  
15 imposed or to avoid imposition of a charge even if the owner must incur expense in so doing.

16 (c) For purposes of paragraph (a)(A) of this subsection, an owner of property has direct control  
17 over the quantity of goods or services if the owner of property has the ability, whether or not that  
18 ability is exercised, to determine the quantity of goods or services provided or to be provided.

19 (9)(a) "Local improvement" means a capital construction project, or part thereof, undertaken by  
20 a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance or resol-  
21 ution prescribing the procedure to be followed in making local assessments for benefits from a local  
22 improvement upon the lots that have been benefited by all or a part of the improvement:

23 (A) That provides a special benefit only to specific properties or rectifies a problem caused by  
24 specific properties;

25 (B) The costs of which are assessed against those properties in a single assessment upon the  
26 completion of the project; and

27 (C) For which the property owner may elect to make payment of the assessment plus appropriate  
28 interest over a period of at least 10 years.

29 (b) For purposes of paragraph (a) of this subsection, the status of a capital construction project  
30 as a local improvement is not affected by the accrual of a general benefit to property other than the  
31 property receiving the special benefit.

32 (10) "Maintenance and repairs, the need for which could be reasonably anticipated":

33 (a) Means activities, the type of which may be deducted as an expense under the provisions of  
34 the federal Internal Revenue Code, as amended and in effect on December 31, [2002] 2004, that keep  
35 the property in ordinarily efficient operating condition and that do not add materially to the value  
36 of the property nor appreciably prolong the life of the property;

37 (b) Does not include maintenance and repair of property that is required by damage, destruction  
38 or defect in design, or that was otherwise not reasonably expected at the time the property was  
39 constructed or acquired, or the addition of material that is in the nature of the replacement of  
40 property and that arrests the deterioration or appreciably prolongs the useful life of the property;  
41 and

42 (c) Does not include street and highway construction, overlay and reconstruction.

43 (11) "Projected useful life" means the useful life, as reasonably estimated by the unit of gov-  
44 ernment undertaking the capital construction or capital improvement project, beginning with the  
45 date the property was acquired, constructed or reconstructed and based on the property's condition

1 at the time the property was acquired, constructed or reconstructed.

2 (12) "Routine obligations of ownership" means a standard of operation, maintenance, use or care  
 3 of property established by law, or if established by custom or common law, a standard that is rea-  
 4 sonable for the type of property affected.

5 (13) "Single assessment" means the complete assessment process, including preassessment, as-  
 6 sessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a  
 7 local ordinance or resolution that provides the procedure to be followed in making local assessments  
 8 for benefits from a local improvement upon lots that have been benefited by all or part of the im-  
 9 provement.

10 (14) "Special benefit only to specific properties" shall have the same meaning as "special and  
 11 peculiar benefit" as that term is used in ORS 223.389.

12 (15) "Specific request" means:

13 (a) An affirmative act by a property owner to seek or obtain delivery of goods or services;

14 (b) An affirmative act by a property owner, the legal consequence of which is to cause the de-  
 15 livery of goods or services to the property owner; or

16 (c) Failure of an owner of property to change a request for goods or services made by a prior  
 17 owner of the property.

18 (16) "Structure" means any temporary or permanent building or improvement to real property  
 19 of any kind that is constructed on or attached to real property, whether above, on or beneath the  
 20 surface.

21 (17) "Supplies and equipment intrinsic to a structure" means the supplies and equipment that  
 22 are necessary to permit a structure to perform the functions for which the structure was con-  
 23 structed, or that will, upon installation, constitute fixtures considered to be part of the real property  
 24 that is comprised, in whole or part, of the structure and land supporting the structure.

25 (18) "Tax on property" means any tax, fee, charge or assessment imposed by any government  
 26 unit upon property or upon a property owner as a direct consequence of ownership of that property,  
 27 but does not include incurred charges or assessments for local improvements. As used in this sub-  
 28 section, "property" means real or tangible personal property, and intangible property that is part  
 29 of a unit of real or tangible personal property to the extent that such intangible property is subject  
 30 to a tax on property.

31 **SECTION 7.** ORS 310.630 is amended to read:

32 310.630. As used in ORS 310.630 to 310.706:

33 (1) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, in-  
 34 cluding the right to use the personal property located therein. "Contract rent" does not include  
 35 rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu  
 36 of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the  
 37 homestead. "Contract rent" does not include advanced rental payments for another period and rental  
 38 deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit  
 39 home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each  
 40 other at arm's length, and the Department of Revenue is satisfied that the contract rent charged  
 41 was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630  
 42 to 310.706.

43 (2) "Department" means the Department of Revenue.

44 (3) "Fuel and utility payments" includes payments for heat, lights, water, sewer and garbage  
 45 made solely to secure those commodities or services for the homestead of the taxpayer. "Fuel and

1 utility payments” does not include telephone service.

2 (4) “Gross rent” means contract rent paid plus the fuel and utility payments made for the  
3 homestead in addition to the contract rent, during the calendar year for which the claim is filed.

4 (5) “Homestead” means the taxable principal dwelling located in Oregon, either real or personal  
5 property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

6 (6) “Household” means the taxpayer, the spouse of the taxpayer and all other persons residing  
7 in the homestead during any part of the calendar year for which a claim is filed.

8 (7) “Household income” means the aggregate income of the taxpayer and the spouse of the tax-  
9 payer who reside in the household, that was received during the calendar year for which the claim  
10 is filed. “Household income” includes payments received by the taxpayer or the spouse of the tax-  
11 payer under the federal Social Security Act for the benefit of a minor child or minor children who  
12 are members of the household.

13 (8) “Income” means “adjusted gross income” as defined in the federal Internal Revenue Code,  
14 as amended and in effect on December 31, [2002] **2004**, even when the amendments take effect or  
15 become operative after that date, relating to the measurement of taxable income of individuals, es-  
16 tates and trusts, with the following modifications:

17 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-  
18 come:

19 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

20 (B) Child support received by the taxpayer.

21 (C) Inheritances.

22 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

23 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is  
24 not a member of the taxpayer’s household.

25 (F) Life insurance proceeds.

26 (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

27 (H) Personal injury damages.

28 (I) Sick pay which is not included in federal adjusted gross income.

29 (J) Strike benefits excluded from federal gross income.

30 (K) Worker’s compensation, except for reimbursement of medical expense.

31 (L) Military pay and benefits.

32 (M) Veteran’s benefits.

33 (N) Payments received under the federal Social Security Act which are excluded from federal  
34 gross income.

35 (O) Welfare payments, except as follows:

36 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly  
37 to the welfare recipient;

38 (ii) In-home services authorized and approved by the Department of Human Services; and

39 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or  
40 training programs.

41 (P) Nontaxable dividends.

42 (Q) Nontaxable interest not included in federal adjusted gross income.

43 (R) Rental allowance paid to a minister that is excluded from federal gross income.

44 (S) Income from sources without the United States that is excluded from federal gross income.

45 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

1 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible  
2 properties.

3 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

4 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,  
5 profession or other activity entered into for the production or collection of income.

6 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for  
7 the production of rents, royalties or other income.

8 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted  
9 gross income.

10 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-  
11 ciation, amortization or depletion.

12 (G) The amount added or subtracted, as required within the context of this section, for adjust-  
13 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

14 (c) "Income" does not include any of the following:

15 (A) Any governmental grant which must be used by the taxpayer for rehabilitation of the  
16 homestead of the taxpayer.

17 (B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

18 (C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

19 (9) "Payments for heat" means those payments made to secure the commodities or services to  
20 be used as the principal source of heat for the homestead of the taxpayer and includes payments for  
21 natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use  
22 as a primary source of heat for the homestead.

23 (10) "Statement of gross rent" means a declaration by the applicant, under penalties of false  
24 swearing, that the amount of contract rent and fuel and utility payments designated is the actual  
25 amount both incurred and paid during the year for which elderly rental assistance is claimed.

26 (11) "Taxpayer" means an individual who is a resident of this state on December 31 of the year  
27 for which elderly rental assistance is claimed and whose homestead, as of the same December 31  
28 and during all or a portion of the year ending on the same December 31, is rented and while rented  
29 is the subject, directly or indirectly, of property tax levied by this state or a political subdivision  
30 or of payments made in lieu of taxes.

31 **SECTION 8.** ORS 310.800 is amended to read:

32 310.800. (1) As used in this section:

33 (a) "Authorized representative" means a senior citizen who is authorized by a tax-exempt entity  
34 to perform charitable or public service on behalf of a senior citizen who has entered into a contract  
35 under subsection (2) of this section.

36 (b) "Homestead" means an owner-occupied principal residence.

37 (c) "Senior citizen" means a person who is 60 years of age or older.

38 (d) "Tax-exempt entity" means an entity that is exempt from federal income taxes under section  
39 501 (c) of the Internal Revenue Code, as amended and in effect on December 31, [2002] **2004**.

40 (e) "Taxing unit" means any county, city or common or union high school district, community  
41 college service district or community college district within this state with authority to impose ad  
42 valorem property taxes.

43 (2) A tax-exempt entity may establish a property tax work-off program pursuant to which a  
44 senior citizen may contract to perform charitable or public service in consideration of payment of  
45 property taxes extended against the homestead of the senior citizen and billed to the senior citizen.

1 For purposes of ORS chapters 316 and 656, and notwithstanding ORS 314.013 or 670.600 or other  
2 law, a senior citizen who enters into a contract under this subsection shall be considered an inde-  
3 pendent contractor and not a worker or employee with respect to the services performed pursuant  
4 to the contract. Nothing in this section precludes a taxing unit from being considered an employer,  
5 for purposes of unemployment compensation under ORS chapter 657, of a senior citizen who enters  
6 into a contract under this section.

7 (3) A taxing unit may enter into an agreement with a tax-exempt entity that has established a  
8 property tax work-off program. Pursuant to the agreement the taxing unit may accept, as volunteer  
9 and public service, the services of a senior citizen who has entered into a contract described in  
10 subsection (2) of this section or an authorized representative.

11 (4) A taxing unit may provide funds or make grants to any tax-exempt entity that has established  
12 a property tax work-off program for use to carry out the program.

13 **SECTION 9.** ORS 311.689 is amended to read:

14 311.689. (1) Notwithstanding ORS 311.668 or any other provision of ORS 311.666 to 311.701, if  
15 the individual or, in the case of two or more individuals electing to defer property taxes jointly, all  
16 of the individuals together, or the spouse who has filed a claim under ORS 311.688, has federal ad-  
17 justed gross income that exceeds \$32,000 for the tax year that began in the previous calendar year,  
18 then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be re-  
19 duced by \$0.50 for each dollar of federal adjusted gross income in excess of \$32,000.

20 (2) Prior to June 1 of each year, and notwithstanding ORS 314.835, the Department of Revenue  
21 shall review returns filed under ORS chapter 314 and 316 to determine if subsection (1) of this sec-  
22 tion is applicable for a homestead for the tax year next beginning. If subsection (1) of this section  
23 is applicable, the department shall notify by mail the taxpayer or spouse electing deferral, and the  
24 taxes otherwise to be deferred for the tax year next beginning shall be reduced as provided in sub-  
25 section (1) of this section or, if federal adjusted gross income in excess of \$32,000 exceeds the  
26 amount of property taxes by a factor of two, the property taxes shall not be deferred.

27 (3) If the taxpayer or spouse does not file a return for purposes of ORS chapters 314 and 316  
28 and the department has reason to believe that the federal adjusted gross income of the taxpayer or  
29 spouse exceeds \$32,000 for the tax year that began in the previous calendar year, the department  
30 shall notify by mail the taxpayer or spouse electing deferral. If, within 30 days after the notice is  
31 mailed, the taxpayer or spouse does not file a return under ORS chapter 314 or 316 or otherwise  
32 satisfy the department that federal adjusted gross income does not exceed \$32,000, the department  
33 shall again notify the taxpayer or spouse, and the taxes otherwise to be deferred for the tax year  
34 next beginning shall not be deferred.

35 (4) For tax years beginning on or after July 1, 2002, the federal adjusted gross income limit set  
36 forth in subsections (1) to (3) of this section shall be recomputed by multiplying \$32,000 by the in-  
37 dexing factor described in ORS 311.668 (7)(a)(A), and rounding the amount so computed to the  
38 nearest multiple of \$500.

39 (5) Nothing in this section shall affect the continued deferral of taxes that have been deferred  
40 for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a  
41 tax year beginning after the tax year next beginning if subsection (1) is not applicable for that tax  
42 year for the homestead.

43 (6) As used in this section, "federal adjusted gross income" means federal adjusted gross income  
44 of the individual or, in the case of two or more individuals electing to defer property tax jointly, the  
45 combined federal adjusted gross income of the individuals, or the federal adjusted gross income of

1 the spouse who has filed a claim under ORS 311.688, all as determined for the tax year beginning  
 2 in the calendar year prior to which a determination is required under subsection (2) of this section.  
 3 “Federal adjusted gross income” shall be determined under the Internal Revenue Code, as amended  
 4 and in effect on December 31, [2002] **2004**, without any of the additions, subtractions or other mod-  
 5 ifications or adjustments required under ORS chapter 314 or 316.

6 (7)(a) If, after an initial determination under this section has been made by the department, upon  
 7 audit or examination or otherwise, it is discovered that the taxpayer or spouse had federal adjusted  
 8 gross income in excess of the limitation provided under subsection (1) of this section, the department  
 9 shall determine the amount of taxes deferred that should not have been deferred and give notice to  
 10 the taxpayer or spouse of the amount of taxes that should not have been deferred. The provisions  
 11 of ORS chapters 305 and 314 shall apply to a determination of the department under this section in  
 12 the same manner as those provisions are applicable to an income tax deficiency. The amount of de-  
 13 ferred taxes that should not have been deferred shall bear interest from the date paid by the de-  
 14 partment until paid at the rate established under ORS 305.220 for deficiencies. A deficiency shall  
 15 not be assessed under this section if notice required under this section is not given to the taxpayer  
 16 or spouse within three years after the date that the department has paid the deferred taxes to the  
 17 county. Upon payment of the amount assessed as deficiency, and interest, the department shall ex-  
 18 ecute a release in the amount of the payment and the release shall be conclusive evidence of the  
 19 removal and extinguishment of the lien under ORS 311.666 to 311.701 to the extent of the payment.

20 (b) If, after an initial determination under this section has been made by the department, upon  
 21 claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or spouse had  
 22 federal adjusted gross income in the amount of or less than the limitation provided under subsection  
 23 (1) of this section, the department shall determine the amount of taxes deferred that should have  
 24 been deferred and give notice to the taxpayer or spouse of the amount of taxes that should have  
 25 been deferred. The provisions of ORS chapters 305 and 314 shall apply to a determination of the  
 26 department under this section in the same manner as those provisions are applicable to an income  
 27 tax refund. The amount of the taxes that should have been deferred shall bear interest from the  
 28 date paid by the taxpayer to the county at the rate established under ORS 305.220 for refunds until  
 29 paid. Claim for refund under this paragraph must be filed within three years after the earliest date  
 30 that the taxpayer or spouse is notified by the department that the taxes are not deferred.

31 (8) This section applies to all tax-deferred property, notwithstanding that election to defer taxes  
 32 is made under ORS 311.666 to 311.701 before or after October 3, 1989.

33 **SECTION 10.** ORS 314.011 is amended to read:

34 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means  
 35 the Department of Revenue.

36 (2)(a) As used in this chapter, any term has the same meaning as when used in a comparable  
 37 context in the laws of the United States relating to federal income taxes, unless a different meaning  
 38 is clearly required or the term is specifically defined in this chapter.

39 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of  
 40 the United States or to the Internal Revenue Code **that relates to the definition of the income**  
 41 **on, in respect to or by which taxes imposed by ORS chapter 316, 317 or 318 are imposed or**  
 42 **measured**, refers to the laws of the United States or to the Internal Revenue Code as [they] **these**  
 43 **laws** are amended and in effect[:]

44 [(A) On December 31, 2002; or]

45 [(B) If related to the definition of taxable income and attributable to a change in the laws of the

1 *United States or in the Internal Revenue Code that is enacted after December 31, 2005], as applicable*  
 2 *to the tax year of the taxpayer.*

3 *[(c) A reference to the laws of the United States or to the Internal Revenue Code refers to the laws*  
 4 *of the United States or to the Internal Revenue Code as they are amended and in effect and applicable*  
 5 *for the tax year of the taxpayer, if the reference relates to:]*

6 *[(A) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock*  
 7 *ownership plans, individual retirement accounts (including Roth individual retirement accounts), med-*  
 8 *ical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or*  
 9 *tax-exempt savings programs benefiting individuals; or]*

10 *[(B) The allowance and amount of a deduction under section 167 or 168 or another provision of*  
 11 *the Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable as-*  
 12 *sets under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depre-*  
 13 *ciated or expensed for federal tax purposes.]*

14 *[(d)] (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures),*  
 15 *314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410,*  
 16 *314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those*  
 17 *described in [paragraphs (b) and (c)] **paragraph (b)** of this subsection, any reference in this chapter*  
 18 *to the laws of the United States or to the Internal Revenue Code means the laws of the United*  
 19 *States relating to income taxes or the Internal Revenue Code as [they] **these laws** are amended on*  
 20 *or before December 31, [2002] **2004**, even when the amendments take effect or become operative after*  
 21 *that date, except where the Legislative Assembly has specifically provided otherwise.*

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

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

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

44 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
 45 Act or Title.

1        **SECTION 11.** ORS 315.004 is amended to read:

2        315.004. (1) Except when the context requires otherwise, the definitions contained in ORS  
3 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of  
4 the personal and corporate income and excise tax credits contained in this chapter.

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

9        (b) With respect to the tax credits contained in this chapter, any reference to the laws of the  
10 United States or to the Internal Revenue Code means the laws of the United States relating to in-  
11 come taxes or the Internal Revenue Code as *[they]* **these laws** are amended on or before December  
12 31, [2002] **2004**, even when the amendments take effect or become operative after that date.

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

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

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

35        (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
36 Act or Title.

37        **SECTION 12.** ORS 316.012 is amended to read:

38        316.012. Any term used in this chapter has the same meaning as when used in a comparable  
39 context in the laws of the United States relating to federal income taxes, unless a different meaning  
40 is clearly required or the term is specifically defined in this chapter. Except where the Legislative  
41 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or  
42 to the Internal Revenue Code **means**:

43        *[(1) Refers to the laws of the United States or to the Internal Revenue Code as they are amended*  
44 *and in effect:]*

45        *[(a) On December 31, 2002; or]*

1        *[(b) If related to the definition of taxable income and attributable to a change in the laws of the*  
 2 *United States or in the Internal Revenue Code that is enacted after December 31, 2005, as applicable*  
 3 *to the tax year of the taxpayer.]*

4        *[(2) Refers to the laws of the United States or to the Internal Revenue Code as they are amended*  
 5 *and in effect and applicable for the tax year of the taxpayer, if the reference relates to:]*

6        *[(a) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock*  
 7 *ownership plans, individual retirement accounts (including Roth individual retirement accounts), med-*  
 8 *ical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or*  
 9 *tax-exempt savings programs benefiting individuals; or]*

10       *[(b) The allowance and amount of a deduction under section 167 or 168 or another provision of the*  
 11 *Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable assets*  
 12 *under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depreciated*  
 13 *or expensed for federal tax purposes.]*

14       **(1) In the case of a reference relating to the definition of the income on, in respect to**  
 15 **or by which the tax imposed by this chapter is imposed or measured, the laws of the United**  
 16 **States relating to income taxes or the Internal Revenue Code as these laws are in effect and**  
 17 **applicable for the tax year of the taxpayer, except where the Legislative Assembly has spe-**  
 18 **cifically provided otherwise; or**

19       **(2) In the case of a reference for any other purpose, as these laws are amended and in**  
 20 **effect on December 31, 2004, except where the Legislative Assembly has specifically provided**  
 21 **otherwise.**

22       **SECTION 13.** ORS 317.010 is amended to read:

23       317.010. As used in this chapter, unless the context requires otherwise:

24       (1) “Centrally assessed corporation” means every corporation the property of which is assessed  
 25 by the Department of Revenue under ORS 308.505 to 308.665.

26       (2) “Department” means the Department of Revenue.

27       (3)(a) “Consolidated federal return” means the return permitted or required to be filed by a  
 28 group of affiliated corporations under section 1501 of the Internal Revenue Code.

29       (b) “Consolidated state return” means the return required to be filed under ORS 317.710 (5).

30       (4) “Doing business” means any transaction or transactions in the course of its activities con-  
 31 ducted within the state by a national banking association, or any other corporation; provided, how-  
 32 ever, that a foreign corporation whose activities in this state are confined to purchases of personal  
 33 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be  
 34 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-  
 35 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-  
 36 termined as provided in section 1504 of the Internal Revenue Code.

37       (5) “Excise tax” means a tax measured by or according to net income imposed upon national  
 38 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing  
 39 and business corporations for the privilege of carrying on or doing business in this state.

40       (6) “Financial institution” or “financial corporation” means a bank or trust company organized  
 41 under ORS chapter 707, national banking association or production credit association organized  
 42 under federal statute, building and loan association, savings and loan association, mutual savings  
 43 bank, and any other corporation whose principal business is in direct competition with national and  
 44 state banks.

45       *[(7) “Internal Revenue Code,” except where the Legislative Assembly has provided otherwise:]*

1        *[(a) Refers to the laws of the United States or to the Internal Revenue Code as they are amended*  
2 *and in effect:]*

3        *[(A) On December 31, 2002; or]*

4        *[(B) If related to the definition of taxable income and attributable to a change in the laws of the*  
5 *United States or in the Internal Revenue Code that is enacted after December 31, 2005, as applicable*  
6 *to the tax year of the taxpayer.]*

7        *[(b) Refers to the laws of the United States or to the Internal Revenue Code as they are amended*  
8 *and in effect and applicable for the tax year of the taxpayer, if the reference relates to:]*

9        *[(A) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock*  
10 *ownership plans, individual retirement accounts (including Roth individual retirement accounts), med-*  
11 *ical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or*  
12 *tax-exempt savings programs benefiting individuals; or]*

13        *[(B) The allowance and amount of a deduction under section 167 or 168 or another provision of*  
14 *the Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable as-*  
15 *sets under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depre-*  
16 *ciated or expensed for federal tax purposes.]*

17        **(7) “Internal Revenue Code” means:**

18        **(a) In the case of a reference relating to the definition of the income on, in respect to**  
19 **or by which the tax imposed by this chapter is imposed or measured, the laws of the United**  
20 **States relating to income taxes as these laws are in effect and applicable for the tax year**  
21 **of the taxpayer, except where the Legislative Assembly has specifically provided otherwise;**  
22 **or**

23        **(b) In the case of a reference for any other purpose, the laws of the United States re-**  
24 **lating to income taxes as these laws are amended and in effect on December 31, 2004, except**  
25 **where the Legislative Assembly has specifically provided otherwise.**

26        (8) “Oregon taxable income” means taxable income, less the deduction allowed under ORS  
27 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and  
28 ORS 317.650 to 317.665.

29        (9) “Oregon net loss” means taxable loss, except as otherwise provided with respect to insurers  
30 in subsection (11) of this section and ORS 317.650 to 317.665.

31        (10) “Taxable income or loss” means the taxable income or loss determined, or in the case of a  
32 corporation for which no federal taxable income or loss is determined, as would be determined, un-  
33 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States  
34 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,  
35 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-  
36 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or  
37 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a  
38 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of  
39 income from transactions or activities carried on both within and without the state) applies, to  
40 derive taxable income or loss, the following shall occur:

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

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

1 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this  
2 subsection, add nonbusiness income allocable entirely to Oregon under ORS 314.280 or 314.625 to  
3 314.645, or subtract nonbusiness loss allocable entirely to Oregon under ORS 314.280 or 314.625 to  
4 314.645. The resulting figure is “taxable income or loss” for those corporations carrying on taxable  
5 transactions or activities both within and without Oregon.

6 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any domestic, foreign or  
7 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-  
8 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting  
9 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or  
10 interinsurance exchange. However, “insurer” does not include title insurers or health care service  
11 contractors operating pursuant to ORS 750.005 to 750.095.

12 **SECTION 14. (1) The amendments to statutes by sections 1 to 13 of this 2005 Act apply**  
13 **to transactions or activities occurring on or after January 1, 2005, in tax years beginning on**  
14 **or after January 1, 2005.**

15 **(2) The effective and applicable dates, and the exceptions to, special rules of and coordi-**  
16 **nation with the Internal Revenue Code, as amended, relative to those dates, contained in the**  
17 **Veterans Benefits Act of 2002 (P.L. 107-330), the Jobs and Growth Tax Relief Reconciliation**  
18 **Act of 2003 (P.L. 108-27), the Military Family Tax Relief Act of 2003 (P.L. 108-121), the**  
19 **Working Families Tax Relief Act of 2004 (P.L. 108-311), the American Jobs Creation Act of**  
20 **2004 (P.L. 108-357) and other federal law amending the Internal Revenue Code apply for**  
21 **Oregon personal income and corporate excise and income tax purposes, to the extent they**  
22 **can be made applicable, in the same manner as they are applied under the Internal Revenue**  
23 **Code and related federal law.**

24 **(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before**  
25 **January 1, 2005, and the deficiency or any portion thereof is attributable to any retroactive**  
26 **treatment under the amendments to statutes by sections 1 to 13 of this 2005 Act, then any**  
27 **interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to**  
28 **the deficiency or portion thereof shall be canceled.**

29 **(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2005, and**  
30 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**  
31 **ment under the amendments to statutes by sections 1 to 13 of this 2005 Act, then**  
32 **notwithstanding ORS 305.270 or 314.415 or other law, the refund or portion thereof shall be**  
33 **paid without interest.**

34 **(c) Any changes required because of the amendments to statutes by sections 1 to 13 of**  
35 **this 2005 Act for a tax year beginning before January 1, 2005, shall be made by filing an**  
36 **amended return within the time prescribed by law.**

37 **(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,**  
38 **the Department of Revenue shall make any changes under paragraph (c) of this subsection**  
39 **on the return to which the changes relate within the period specified for issuing a notice of**  
40 **deficiency or claiming a refund as otherwise provided by law with respect to that return, or**  
41 **within one year after a return for a tax year beginning on or after January 1, 2005, and be-**  
42 **fore January 1, 2006, is filed, whichever period expires later.**

43 **SECTION 15. This 2005 Act takes effect on the 91st day after the date on which the**  
44 **regular session of the Seventy-third Legislative Assembly adjourns sine die.**