

CHAPTER 103

AN ACT

SB 1532

Relating to the exemption of property in enterprise zones; creating new provisions; amending ORS 308.515; and prescribing an effective date.

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

SECTION 1. ORS 308.515 is amended to read:

308.515. (1) The Department of Revenue shall make an annual assessment of any property that has a situs in this state and that, except as provided in subsection (3) of this section, is used or held for future use by any company in performing or maintaining any of the following businesses or services or in selling any of the following commodities, whether in domestic or interstate commerce or in any combination of domestic and interstate commerce, and whether mutually or for hire, sale or consumption by other persons:

- (a) Railroad transportation;
- (b) Railroad switching and terminal;
- (c) Electric rail transportation;
- (d) Private railcar transportation;
- (e) Air transportation;
- (f) Water transportation upon inland water of the State of Oregon;
- (g) Air or railway express;
- (h) Communication;
- (i) Heating;
- (j) Gas;
- (k) Electricity;
- (l) Pipeline;
- (m) Toll bridge; or
- (n) Private railcars of all companies not otherwise listed in this subsection, if the private railcars are rented, leased or used in railroad transportation for hire.

(2) The assessment described in subsection (1) of this section shall be made on an assessment roll that is prepared by the division of the department charged with property tax administration.

(3) There may not be assessed under subsection (1) of this section:

(a) Any property used by or for water transportation companies whose watercraft ply exclusively on the high seas, or between the high seas and inland water ports or terminals, or any combination thereof.

(b) Any property used by or for water transportation companies exclusively for hire by other persons for booming and rafting, dredging, log or marine salvage, ship berthing, maintenance, sludge removal, cleaning or repair, marine or water-based construction, or guide service.

(c) Any property used by or for interstate ferries or by or for water transportation companies as ferries operating directly across interstate rivers.

(d) Any property of the National Railroad Passenger Corporation.

(e) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year and that is not used to provide scheduled passenger service.

(4) Any corporation included within subsection (1) of this section, to the extent that it actively engages in any business or service not described therein or not incidental to any business or service or sale of a commodity described therein, may not to that extent be deemed a corporation whose properties are assessed under ORS 308.505 to 308.665.

[(5) A company is not a company described in subsection (1) of this section to the extent that the company furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers.]

[(6) A company is not an electric company under subsection (1) of this section if:]

[(a) The company generates electricity primarily for the company's own use, but makes incidental sales of the company's surplus electricity; or]

[(b)(A) The company's generating facility is primarily fueled by wood waste or other biomass fuel;]

[(B) The generating facility has a maximum capacity of 20 megawatts; and]

[(C) The company, if selling the generated electricity, does so only directly to an electric utility for the utility's distribution to utility customers.]

[(7)] (5) The department shall assess property owned, leased or occupied by a legal entity not yet engaged in a business, service or sale of a commodity that is described in subsection (1) of this section if the property is intended for operation or use in the business, service or sale of the commodity.

[(8) As used in this section, "electric utility" has the meaning given that term in ORS 758.505.]

SECTION 2. Section 3 of this 2012 Act is added to and made a part of ORS 308.505 to 308.665.

SECTION 3. (1) A company is not a company described in ORS 308.515 (1) to the extent that the company furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers.

(2) A company is not a company described in ORS 308.515 (1) if:

(a) The company generates electricity primarily for the company's own use and makes no more than incidental sales of the company's surplus electricity to other persons; or

(b)(A) The company's generating facility is primarily fueled by wood waste or other biomass fuel;

(B) The generating facility has a maximum capacity of 20 megawatts; and

(C) The company, if selling the generated electricity, does so only directly to an electric utility, as defined in ORS 758.505, for the electric utility's distribution to utility customers.

(3) A company that is the owner or lessee of a data center is not a company described in ORS 308.515 (1) if:

(a) The company has entered into a written tax abatement agreement, or is entitled by assignment or succession to the benefits of a tax abatement agreement entered into, with the sponsors of an enterprise zone with respect to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to 285C.420; and

(b)(A) The original cost of construction and installation of all real and tangible personal property owned or leased by the company in Oregon other than data centers does not equal more than five percent of the original cost of the real and tangible personal property of all data centers owned, leased or used by the company in Oregon and all additions to the data center property; and

(B) The property in Oregon other than data centers described in subparagraph (A) of this paragraph consists of real or tangible personal property used in the operation of an office or a warehouse or in connection with the construction, installation or operation of data center property.

(4)(a) Property of a company described in subsection (3) of this section may not be assessed under ORS 308.505 to 308.665 during the term of an exemption granted pursuant to an agreement described in subsection (3)(a) of this section or during the term of any statutorily authorized extensions of the exemption, waivers or periods of in lieu payments.

(b) For purposes of the notations required under ORS 285C.175 (7) and 285C.409 (3), the county assessor shall record the real market value, the assessed value and the amount of potential additional taxes as determined without regard to ORS 308.505 to 308.665.

(5) If a company described in subsection (3) of this section owns or leases a data center in more than one county in this state, each data center must satisfy all applicable requirements under subsection (3) of this section.

(6)(a) As used in this section:

(A) "Data center" means an online service data center or an independent data center.

(B) "Independent data center" means real and personal property consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, used primarily to provide, as a service to persons other than the company operating the independent data center, data and transaction processing services, outsource information technology services and computer equipment colocation services.

(C) "Online service data center" means real and personal property consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, used primarily to provide, to a single user, including the user's affiliates, customers, lessees, vendors and other persons authorized by the user, data and transaction processing services.

(b) For purposes of this subsection, the primary use of property is based on the relative proportion of the original cost of property used for all purposes.

SECTION 4. Section 3 of this 2012 Act applies to property tax years beginning on or after July 1, 2012.

SECTION 5. This 2012 Act takes effect on the 91st day after the date on which the 2012 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

Approved by the Governor April 11, 2012

Filed in the office of Secretary of State April 11, 2012

Effective date June 4, 2012