

## CHAPTER 29

## AN ACT

SB 1507

Relating to tax credits; creating new provisions; amending ORS 284.367, 284.368, 305.792, 315.271, 315.514, 315.613, 316.116 and 469B.403 and section 6, chapter 739, Oregon Laws 2007; and prescribing an effective date.

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

**SECTION 1.** ORS 315.613 is amended to read:

315.613. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed under ORS chapter 677, who is engaged in the practice of medicine, and who is engaged for at least 20 hours per week, averaged over the month, during the tax year in a rural practice, shall be allowed an annual credit against taxes otherwise due under ORS chapter 316.

(2) The amount of credit allowed shall be based on the distance[ *in highway miles*,] from a major population center in a qualified metropolitan statistical area at which the taxpayer maintains a practice or hospital membership:

(a) If at least 10 miles but fewer than 20 miles, \$3,000.

(b) If at least 20 miles but fewer than 50 miles, \$4,000.

(c) If 50 or more miles, \$5,000.

(3) The credit shall be allowed during the time in which the individual retains such practice and membership if the individual is actively practicing in and is a member of the medical staff of one of the following hospitals:

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

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

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

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

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

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

(d) A rural hospital that was designated a rural referral center by the federal government before January 1, 1989, and that serves a community with a population of at least 14,000 but not more than 19,000; or

(e) A rural critical access hospital.

(4) In order to claim the credit allowed under this section, the individual must remain willing during the tax year to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the individual's total number of patients as the Medicare and medical assistance populations represent of the total number of persons determined by the Office of Rural

Health to be in need of care in the county served by the practice, not to exceed 20 percent Medicare patients or 15 percent medical assistance patients.

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

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

(7) As used in this section:

(a) "Qualified metropolitan statistical area" means only those counties of a metropolitan statistical area that are located in Oregon if the largest city within the metropolitan statistical area is located in Oregon.

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

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

**SECTION 2.** ORS 315.271 is amended to read:

315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation amount, as determined by the fiduciary organization, but not to exceed 70 percent of any donation amount. To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, 2022.

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

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against

the taxpayer's tax liability for the next succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690 may not exceed \$7.5 million. **The total credit allowed to a taxpayer in any tax year under this section and ORS 458.690 may not exceed \$500,000.**

**SECTION 3.** ORS 305.792 is amended to read:

305.792. (1) The Department of Revenue shall provide a means by which personal income tax return filers may indicate that a surplus refund credit *[to which the taxpayer may otherwise be entitled to]* under ORS 291.349 shall instead be used for funding education.

(2)(a) A personal income taxpayer may elect not to claim a surplus refund credit *[that the taxpayer would otherwise be entitled to pursuant to]* **under ORS 291.349, after offset of any outstanding debt or liability**, in order to achieve a corresponding transfer of such moneys from the General Fund to the State School Fund for the support of public elementary and secondary school education. The taxpayer may make the election in the form and manner prescribed by the department by rule.

(b) A taxpayer that indicates that the credit will not be claimed but that nevertheless claims the credit in determining the taxpayer's tax liability shall be considered not to have made the election under this subsection.

(c) The election not to claim a credit under this subsection may not be revoked by filing an amended return.

(3) Following the determination to credit personal income taxes pursuant to ORS 291.349, the department shall annually certify to the State Treasurer the total amount of allowable credits that have not been claimed pursuant to an election made under subsection (2) of this section. The certification shall be made on or before December 31 of each year, until the tax year for which the credit would otherwise be claimed becomes a closed tax year.

**SECTION 4.** ORS 316.116 is amended to read:

316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of each of one or more alternative energy devices in or at a dwelling.

(b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative energy device that does not meet or exceed all applicable federal, state and local requirements for energy efficiency, including equipment codes, state and federal appliance standards, the state building code, specialty codes and any other standards.

(2)(a) For each category one alternative energy device other than an alternative fuel device or an alternative energy device that uses solar radiation for domestic water heating or swimming pool heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost of the alternative energy device or \$1,500, and shall be computed as follows:

(A) For a category one alternative energy device that is not an alternative fuel device, the credit shall be based upon the first year energy yield of the alternative energy device that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective or noncollective investment.

(B) For each category one alternative energy device for a dwelling, the credit shall be based upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating.

(C) Except as provided in paragraph (c) of this subsection, for each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the first year energy yield in kilowatt hours per year multiplied by 15 cents.

(b) For each alternative fuel device, the credit allowed under this section may not exceed the lesser of 50 percent of the cost of the alternative fuel device or \$750.

(c) For each category one alternative energy device that uses solar radiation for:

(A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2, whichever is lower, up to \$6,000.

(B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20 cents, whichever is lower, up to \$2,500.

(d)(A) For each category two alternative energy device that is a solar electric system or fuel cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000.

(B) For each category two alternative energy device that is a wind electric system, the credit allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in kilowatt hours per year multiplied by \$2.

*[(C)]* **(3)(a)** Notwithstanding *[subparagraph (A) or (B) of this paragraph]* **subsection (2)(a), (c) or (d) of this section**, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection *[(7)]* **(8)** of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any

credit was allowed with respect to the category two alternative energy device that is the basis for the credit.

~~[(D)]~~ **(b)** Notwithstanding ~~[subparagraph (A) or (B) of this paragraph]~~ **subsection (2)(d) of this section**, the total amount of the credit for each device allowed under ~~[this paragraph]~~ **subsection (2)(d) of this section** may not exceed 50 percent of the total installed cost of the category two alternative energy device.

~~[(3)]~~ **(4)** The State Department of Energy may by rule provide for a lesser amount of incentive for each type of alternative energy device as market conditions warrant.

~~[(4)]~~ **(5)** To qualify for a credit under this section, all of the following are required:

(a) The alternative energy device must be purchased, constructed, installed and operated in accordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

(b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser and must:

(A) Use the dwelling or dwellings served by the alternative energy device as a principal or secondary residence; or

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

(c) The credit must be claimed for the tax year in which the alternative energy device was purchased if the device is operational by April 1 of the next following tax year.

~~[(5)]~~ **(6)** The credit provided by this section does not affect the computation of basis under this chapter.

~~[(6)]~~ **(7)** The total credits allowed under this section in any one year may not exceed the tax liability of the taxpayer.

~~[(7)]~~ **(8)** Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

~~[(8)]~~ **(9)** A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

~~[(9)]~~ **(10)** If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if

the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

~~[(10)]~~ **(11)** If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

~~[(11)]~~ **(12)** Spouses in a marriage who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. However, a spouse living in a separate principal residence may claim the tax credit in the same amount as permitted a single person.

~~[(12)]~~ **(13)** As used in this section, unless the context requires otherwise:

(a) "Collective investment" means an investment by two or more taxpayers for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(b) "Noncollective investment" means an investment by an individual taxpayer for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

~~[(13)]~~ **(14)** Notwithstanding any provision of subsections (1) to ~~[(3)]~~ **(4)** of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes may not exceed the cost for the acquisition, construction and installation of the alternative energy device.

**SECTION 5.** (1) The amendments to ORS 315.613 and 315.271 by sections 1 and 2 of this 2016 Act apply to tax years beginning on or after January 1, 2016.

(2) The amendments to ORS 305.792 by section 3 of this 2016 Act apply to surplus refund credits allowed after the effective date of this 2016 Act.

(3) The amendments to ORS 316.116 by section 4 of this 2016 Act apply to alternative energy devices certified under ORS 469B.106 on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

**SECTION 6.** ORS 284.367 is amended to read:

284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund shall be credited to the fund.

(2) Moneys in the Oregon Production Investment Fund shall consist of:

(a) Amounts donated to the fund;

(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Other amounts deposited in the fund from any source; and

(d) Interest earned by the fund.

(3) [Ninety-five] **Eighty-nine and one-half** percent of moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purposes of making:

(a) Reimbursements to filmmakers **or local media production services companies** under ORS 284.368;

(b) Payments to a tax credit marketer for marketing services provided by the marketer as described in ORS 284.369; and

(c) Refunds described in ORS 315.514 (5).

(4) [Five] **Seven and one-half** percent of moneys in the fund are continuously appropriated to the department for the purpose of making reimbursements to local filmmakers **or local media production services companies** under ORS 284.368 (3). Total annual reimbursements to local media production services companies **under this subsection** may not exceed [five] **seven and one-half** percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year may be used by the department for the purpose of making reimbursements to filmmakers **or local media production services companies** under ORS 284.368 (2).

(5) **Three percent of moneys in the fund are continuously appropriated to the department for the purpose of making payments to filmmakers under ORS 284.368 (4). Total annual payments to filmmakers under this subsection may not exceed five percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year may be used by the department for the purpose of making payments to filmmakers under this section. Any excess over five percent that remains unexpended or unallocated shall be used by the department for the purpose of making reimbursements to filmmakers or local media production services companies under ORS 284.368 (2).**

[5] (6) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

**SECTION 7.** ORS 284.368 is amended to read: 284.368. (1) As used in this section:

(a) "Actual Oregon expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a film, or for media production services, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.

(b) "Film" means a television movie or one or more episodes of a single television series, or a movie produced for release to theaters, video or the Internet. "Film" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(c) "Filmmaker" means a person who owns a television or film production company.

(d) "Local filmmaker" means a person who owns a television or film production company that has its principal place of business in this state.

(e) "**Local media production project**" means, **if made or performed by a local media production services company, a single interactive video game or a portion thereof, or postproduction services for a single film.**

[e] (f) "Local media production services company" means a media production services company that has its principal place of business in this state.

[f] (g) "Media production services" includes postproduction services and interactive video game development. "Media production services" does not include the production of a commercial or one or more segments of a newscast or sporting event.

[g] (h) "Media production services company" means a person who is engaged in media production services.

(i) "**Portland metropolitan zone**" means **the area within a 30-mile radius of the center of the Burnside Bridge in Portland.**

[h] (j) "Resident of this state" has the meaning given that term in ORS 316.027.

(2)(a) The Oregon Business Development Department may reimburse a filmmaker **or local media production services company** for a portion of the actual Oregon expenses incurred by the filmmaker **or local media production services company.**

(b) Maximum reimbursement for a single film **or a single local media production project** shall be the total of:

(A) 10 percent of payments made for employee salaries, wages and benefits for work done in Oregon; and

(B) 20 percent of all other actual Oregon expenses.

(c) **Notwithstanding paragraph (b) of this subsection, maximum reimbursement for a single film may not exceed 50 percent of total moneys received by the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses are incurred.**

[c] (d) To qualify for reimbursement under this subsection, total actual Oregon expenses for [the] **a film or a local media production project** must equal or exceed \$1 million.

(3)(a) The department may reimburse a local filmmaker or local media production services company for all or a portion of the actual Oregon expenses, up to \$1 million, incurred by the local filmmaker or local media production services company.

(b) To qualify for reimbursement under this subsection:

(A) Total actual Oregon expenses paid for the film or media production services must be at least \$75,000;

(B) The local filmmaker or local media production services company must have spent 80 percent of the film's payroll on employees who are residents of this state; and

(C) The local filmmaker or local media production services company must have employed or contracted with a public accountant certified under ORS 673.040 for the provision of payroll services.

**(4) In combination with the reimbursements allowed under subsections (2) and (3) of this section, the department may make an additional payment to a filmmaker for one of the following:**

**(a) A travel and living expenses rebate of \$200 per employee per day, for any day that a film is shot entirely outside the Portland metropolitan zone, not to exceed \$10,000 per day or \$50,000 per film; or**

**(b) An increase of 10 percent of the amount otherwise allowable under subsections (2) and (3) this section, if for at least six days and at least one day more than half of its total shoot days in Oregon the film is shot entirely outside the Portland metropolitan zone.**

**[(4)] (5)** Reimbursement under this section shall be made from moneys credited to or deposited in the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses were paid or any prior biennium. A reimbursement may not be made to the extent funds are not available in the fund to make the reimbursement.

**[(5)(a)] (6)(a)** Total actual Oregon expenses supporting a claim for reimbursement under this section must be verified by the Oregon Film and Video Office. The filmmaker or local media production services company must submit to the office proof of the actual Oregon expenses. The proof must include any documentation that may be required by the office in its discretion to verify the actual Oregon expenses.

**(b)** The office may charge the filmmaker or local media production services company for costs reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for a review or audit of the supporting documentation by an accountant or auditor. The office may require the department to deduct the costs incurred by the office in performing its review or audit from any reimbursement made to the filmmaker or local media production services company under this section.

**(c)** The office may adopt rules that establish a procedure for the submission and verification of actual Oregon expenses.

#### **SECTION 8.** ORS 315.514 is amended to read:

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

**(2)(a)** The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit cer-

tifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

**(b)** The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

**(A)** Subject to paragraph (a) of this subsection, generate contributions for which tax credits of **[\$10] \$12** million are certified for each fiscal year;

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

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

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

**(4)(a)** Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed **[\$10] \$12** million for the fiscal year in which certification is made.

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

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

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

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

**(c)** A taxpayer is not eligible for a tax credit under this section if the first tax year for which the

credit would otherwise be allowed begins on or after January 1, 2024.

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

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

**SECTION 9.** ORS 315.514, as amended by section 8 of this 2016 Act, is amended to read:

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

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of [\$12] \$14 million are certified for each fiscal year;

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

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

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

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed [\$12] \$14 million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office and the department are not liable, and a refund of a con-

tributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

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

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

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2024.

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

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

**SECTION 10.** (1) The amendments to ORS 315.514 by section 8 of this 2016 Act apply to fiscal years beginning on or after July 1, 2016, and before July 1, 2017.

(2) The amendments to ORS 284.367, 284.368 and 315.514 by sections 6, 7 and 9 of this 2016 Act apply to fiscal years beginning on or after July 1, 2017.

**SECTION 11.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590, Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, and section 2, chapter 730, Oregon Laws 2011, is amended to read:

**Sec. 6.** (1)(a) ORS 315.141, 315.144 and [469.790] 469B.403 apply to tax credits for tax years beginning on or after January 1, 2007, and before January 1, [2018] 2022.

(b) Notwithstanding paragraph (a) of this subsection, credits as provided under ORS 469B.403 (1) to (7) are not allowed for tax years beginning on or after January 1, 2018.

(2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain (other than nongrain wheat material) for tax years

beginning before January 1, 2009, or on or after January 1, 2018.

**SECTION 12.** ORS 469B.403 is amended to read: 469B.403. To be eligible for the tax credit under ORS 315.141, the biomass must be produced or collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates for biomass are:

- (1) For oilseed crops, \$0.05 per pound.
- (2) For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per bushel.
- (3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock, \$0.10 per gallon.
- (4) For used cooking oil or waste grease, \$0.10 per gallon.
- (5) For wastewater biosolids, \$10.00 per wet ton.
- (6) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland property in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or slash resulting from harvest or forest health stewardship, \$10.00 per bone dry ton.
- (7) For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per bone dry ton.
- (8) For animal manure or rendering offal, [\$5.00] \$3.50 per wet ton.

**SECTION 13.** The amendments to ORS 469B.403 by section 12 of this 2016 Act apply to tax years beginning on or after January 1, 2016, and before January 1, 2022.

**SECTION 14.** Section 15 of this 2016 Act is added to and made a part of ORS chapter 469B.

**SECTION 15.** (1) Under the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the suspension or revocation of the certificate or portion of the certificate issued under ORS 315.141 if the director finds that:

- (a) The certification was obtained by fraud or misrepresentation; or
- (b) The certification was obtained by mistake or miscalculation.

(2) As soon as the order of revocation under this section becomes final, the director shall notify the Department of Revenue and the person that obtained the tax credit certification from the State Department of Energy of the order of revocation. Upon notification, the Department of Revenue immediately shall proceed to collect:

(a) In the case in which no portion of a certificate has been transferred under ORS 315.144, those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate holder under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the certificate holder or a successor in interest to

the business interests of the certificate holder. All tax credits provided to the holder of the certificate and attributable to the fraudulently or mistakenly obtained certificate or portion of the certificate shall be forfeited.

(b) In the case in which all of a certificate has been transferred under ORS 315.144, an amount equal to the amount of the tax credits allowable to the transferee under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the transferor.

(c) In the case in which a portion of a certificate has been transferred under ORS 315.144, those taxes not paid by the transferor as a result of the tax credits provided to the transferor under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the transferor or a successor in interest to the business interests of the transferor, and an amount equal to the amount of the tax credits allowable to the transferee under ORS 315.141 and 469B.403 pursuant to the revoked certification, from the transferor. All tax credits provided to the transferor and attributable to the fraudulently or mistakenly obtained certificate or portion of the certificate shall be forfeited.

(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained certification from the State Department of Energy, or a successor in interest to the business interests of that person. No assessment of tax shall be necessary and no statute of limitation shall preclude the collection of taxes described in this subsection.

(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained certification.

(4) Notwithstanding subsections (1) to (3) of this section, a certificate or portion of a certificate held by a transferee under ORS 315.144 may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee under ORS 315.144 may not be reduced and a transferee is not liable under subsections (2) and (3) of this section.

**SECTION 16.** Section 15 of this 2016 Act applies to certifications issued under ORS 315.141 in tax years beginning on or after January 1, 2007.

**SECTION 17.** This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Approved by the Governor March 10, 2016  
Filed in the office of Secretary of State March 11, 2016  
Effective date June 2, 2016

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