

CHAPTER 101

AN ACT

SB 1529

Relating to connection to federal tax law; creating new provisions; amending ORS 178.300, 238A.005, 238A.125, 238A.150, 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415, 238A.430, 238A.435, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097, 317.267, 458.670 and 657.010; repealing ORS 317.716 and 317.717; and prescribing an effective date.

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

SECTION 1. ORS 178.300 is amended to read: 178.300. As used in ORS 178.300 to 178.355:

(1) "Account" means an individual account established in accordance with ORS 178.300 to 178.355.

(2) "Account owner" means the person who has the right to withdraw funds from the account. The account owner may also be the designated beneficiary of the account.

(3) "Board" means the Oregon 529 Savings Board established under ORS 178.310.

(4) "Designated beneficiary" means, except as provided in ORS 178.350, the individual designated at the time the account is opened as having the right to receive a qualified withdrawal for the payment of qualified higher education expenses, or if the designated beneficiary is replaced in accordance with ORS 178.350, the replacement.

(5) "Financial institution" means a bank, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm or other similar entity authorized to do business in this state.

(6) "Higher education institution" means an eligible education institution as defined in section 529(e)(5) of the Internal Revenue Code.

(7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2016] 2017.

(8) "Member of the family" shall have the same meaning as contained in section 529(e) of the Internal Revenue Code.

(9) "Network" means the Oregon 529 Savings Network established under ORS 178.305.

(10) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified withdrawal.

(11) "Qualified higher education expenses" means tuition and other permitted expenses as set forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated beneficiary at a higher education institution.

(12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 178.355 and made:

(a) From an account to pay the qualified higher education expenses of the designated beneficiary;

(b) As the result of the death or disability of the designated beneficiary;

(c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B) or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the extent of the amount of the scholarship, allowance or payment;

(d) As a rollover or change in the designated beneficiary described in ORS 178.350.

SECTION 2. ORS 238A.005 is amended to read: 238A.005. For the purposes of this chapter:

(1) "Active member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

(2) "Actuarial equivalent" means a payment or series of payments having the same value as the payment or series of payments replaced, computed on the basis of interest rate and mortality assumptions adopted by the board.

(3) "Board" means the Public Employees Retirement Board.

(4) "Eligible employee" means a person who performs services for a participating public employer, including elected officials other than judges. "Eligible employee" does not include:

(a) Persons engaged as independent contractors;

(b) Aliens working under a training or educational visa;

(c) Persons provided sheltered employment or make-work by a public employer;

(d) Persons categorized by a participating public employer as student employees;

(e) Any person who is an inmate of a state institution;

(f) Employees of foreign trade offices of the Oregon Business Development Department who live and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

(g) An employee actively participating in an alternative retirement program established under ORS 353.250 or an optional retirement plan established under ORS 341.551;

(h) Employees of a public university listed in ORS 352.002 who are actively participating in an optional retirement plan offered under ORS 243.800;

(i) Persons employed in positions classified as post-doctoral scholar positions by a public university listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

(j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003, for membership in the system under the provisions of ORS chapter 238 or other law;

(k) Any person who belongs to a class of employees who are not eligible to become members of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

(L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who continues to receive retirement benefits while employed; and

(m) Judges.

(5) "Firefighter" means:

(a) A person employed by a local government, as defined in ORS 174.116, whose primary job duties include the fighting of fires;

(b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals; and

(c) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064.

(6) "Fund" means the Public Employees Retirement Fund.

(7)(a) "Hour of service" means:

(A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment by a participating public employer for performance of duties in a qualifying position; and

(B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave during which an employee does not perform duties but for which the employee is directly or indirectly paid or entitled to payment by a participating public employer for services in a qualifying position, as long as the hour is within the number of hours regularly scheduled for the performance of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave.

(b) "Hour of service" does not include any hour for which payment is made or due under a plan maintained solely for the purpose of complying with applicable unemployment compensation laws.

(8) "Inactive member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan whose membership has not been terminated, who is not a retired member and who is not employed in a qualifying position.

(9) "Individual account program" means the defined contribution individual account program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

(10) "Institution of higher education" means a public university listed in ORS 352.002, the Oregon Health and Science University or a community college, as defined in ORS 341.005.

(11) "Member" means an eligible employee who has established membership in the pension program or the individual account program of the Oregon Public Service Retirement Plan and whose membership has not been terminated under ORS 238A.110 or 238A.310.

(12) "Participating public employer" means a public employer as defined in ORS 238.005 that provides retirement benefits for employees of the public employer under the system.

(13) "Pension program" means the defined benefit pension program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

(14) "Police officer" means a police officer as described in ORS 238.005.

(15) "Qualifying position" means one or more jobs with one or more participating public employers in which an eligible employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which benefits are not provided under the Oregon Public Service Retirement Plan pursuant to ORS 238A.070 (2).

(16) "Retired member" means a pension program member who is receiving a pension as provided in ORS 238A.180 to 238A.195.

(17)(a) "Salary" means the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law. "Salary" includes the additional amounts specified in paragraph (b) of this subsection, but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in taxable income.

(b) "Salary" includes the following amounts:

(A) Payments of employee and employer money into a deferred compensation plan that are made at the election of the employee.

(B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the employee.

(C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit plan by the employer at the election of the employee and that is not includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2016] 2017.

(D) Any amount that is contributed to a cash or deferred arrangement by the employer at the election of the employee and that is not included in the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect on December 31, [2016] 2017.

(E) Retroactive payments described in ORS 238.008.

(F) The amount of an employee contribution to the individual account program that is paid by the employer and deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(a).

(G) The amount of an employee contribution to the individual account program that is not paid by the employer under ORS 238A.335.

(H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) "Salary" does not include the following amounts:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer.

(B) Payments made on account of an employee's death.

(C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid leave.

(D) Any severance payment, accelerated payment of an employment contract for a future period or advance against future wages.

(E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

(F) Payment for a leave of absence after the date the employer and employee have agreed that no future services in a qualifying position will be performed.

(G) Payments for instructional services rendered to public universities listed in ORS 352.002 or the Oregon Health and Science University when those services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months covered by the contract.

(H) The amount of an employee contribution to the individual account program that is paid by the employer and is not deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

(I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

(18) "System" means the Public Employees Retirement System.

(19) "Workers' compensation benefits" means:

(a) Payments made under ORS chapter 656; or

(b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

SECTION 3. ORS 238A.125 is amended to read: 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall be paid an annual pension for the life of the member as follows:

(a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied by the number of years of retirement credit attributable to service as a police officer or firefighter.

(b) For service as other than a police officer or firefighter, 1.5 percent of final average salary multiplied by the number of years of retirement credit attributable to service as other than a police officer or firefighter.

(2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to a member under the pension program and under any other tax-qualified defined benefit plan maintained by the participating public employer may not exceed the applicable limitations set forth in 26 U.S.C. 415(b), as in effect on December 31, [2016] 2017. The Public Employees Retirement Board shall adopt rules for the administration of this limitation, in-

cluding adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

(3) The board shall make no actuarial adjustment in a member's pension calculated under this section by reason of the member's retirement after normal retirement age.

SECTION 4. ORS 238A.150 is amended to read: 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible employee who leaves a qualifying position for the purpose of performing service in the uniformed services, and who subsequently returns to employment with a participating public employer with reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

(2) The board shall adopt rules establishing benefits and service credit for any period of service in the uniformed services by an employee described in subsection (1) of this section. For the purpose of adopting rules under this subsection, the board shall consider and take into account all federal law relating to benefits and service credit for any period of service in the uniformed services, including 26 U.S.C. 414(u), as in effect on December 31, [2016] 2017. Benefits and service credit under rules adopted by the board pursuant to this subsection may not exceed benefits and service credit required under federal law for periods of service in the uniformed services.

SECTION 5. ORS 238A.170 is amended to read: 238A.170. (1) An active member of the pension program who is 70-1/2 years of age or older must retire not later than April 1 of the calendar year following the calendar year in which the member terminates employment with all participating public employers. An inactive member of the pension program must retire not later than April 1 of the calendar year following the calendar year in which the member attains 70-1/2 years of age.

(2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a member of the pension program must be distributed over a time period commencing no later than the required beginning date set forth in subsection (1) of this section, and must be distributed in a manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on December 31, [2016] 2017. The Public Employees Retirement Board shall adopt rules implementing those minimum distribution requirements.

SECTION 6. ORS 238A.230 is amended to read: 238A.230. (1) If a member of the pension program who is vested dies before the member's effective date of retirement, the Public Employees Retirement

Board shall pay the death benefit provided for in this section to:

(a) The spouse of the member to the extent not provided to a former spouse in accordance with a judgment or order under ORS 238.465;

(b) The former spouse of the member as provided in a judgment or order under ORS 238.465; or

(c) Any other person who is constitutionally required to be treated in the same manner as a spouse for the purpose of retirement benefits.

(2)(a) The death benefit to be paid under this section shall be for the life of the spouse, former spouse or other person who is constitutionally required to be treated in the same manner as a spouse, and shall be the actuarial equivalent of 50 percent of the pension that would otherwise have been paid to the deceased member.

(b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would otherwise have been paid to the deceased member shall be calculated:

(A) As of the date of death if the member dies after the earliest retirement date for the member under ORS 238A.165; or

(B) As if the member became an inactive member on the date of death and thereafter retired at the earliest retirement date if the member dies before the earliest retirement date for the member under ORS 238A.165.

(3) The death benefit provided under this section is first effective on the first day of the month following the date of death of the member. The surviving spouse, former spouse or other person entitled to the death benefit may elect to delay payment of the death benefit, but payment must commence no later than December 31 of the calendar year in which the member would have reached 70-1/2 years of age.

(4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death benefits under the pension program must comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on December 31, [2016] 2017. The board shall adopt rules implementing those minimum distribution requirements.

SECTION 7. ORS 238A.370 is amended to read:

238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition to the employee and employer accounts of a member of the individual account program for a calendar year, together with the annual additions to the accounts of the member under any other defined contribution plan maintained by the participating public employer for a calendar year, may not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year. For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C. 415(c)(2), as in effect on December 31, [2016] 2017, and "compensation" has the meaning given the term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on

December 31, [2016] 2017. The Public Employees Retirement Board shall adopt rules for the administration of this limitation, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

SECTION 8. ORS 238A.400 is amended to read:

238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS 238A.165, a member of the individual account program shall receive in a lump sum the amounts in the member's employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320.

(2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individual account program may elect to receive the amounts in the member's employee account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, in substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is equal to the anticipated life span of the member as actuarially determined by the Public Employees Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event may the period selected by the member exceed the time allowed by the minimum distribution requirements described in subsection (5) of this section. The board shall by rule establish the manner in which installments will be adjusted to reflect investment gains and losses on the unpaid balance during the payout period elected by the member under this subsection. The board by rule may establish minimum monthly amounts payable under this subsection. The board may require that a lump sum payment, or an installment schedule different than the schedules provided for in this subsection, be used to pay the vested amounts in the member's accounts if those amounts are not adequate to generate the minimum monthly amounts specified by the rule.

(3) A member of the individual account program electing to receive installments under subsection (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies before all amounts in the employee and vested employer accounts are paid, all remaining installment payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary may elect to receive a lump sum distribution of the remaining amounts.

(4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive vested amounts in the member's employee account, rollover account and employer account in the manner provided by this section when the member retires for service under the provisions of ORS chapter 238.

(5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a member of the individual account program must be distributed over a time period commencing no later

than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on December 31, [2016] 2017. The board shall adopt rules implementing those minimum distribution requirements.

SECTION 9. ORS 238A.410 is amended to read:

238A.410. (1) If a member of the individual account program dies before retirement, the amounts in the member's employee account, rollover account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this section.

(2) If a member of the individual account program is married at the time of death, or there exists at the time of death any other person who is constitutionally required to be treated in the same manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the beneficiary for purposes of the death benefit payable under this section unless the spouse or other person consents to the designation of a different beneficiary or beneficiaries before the designation has been made and the consent has not been revoked by the spouse or other person as of the time of the member's death. Consent and revocation of consent must be in writing, acknowledged by a notary public, and submitted to the Public Employees Retirement Board in accordance with rules adopted by the board. If the member's spouse is designated as the member's beneficiary and the marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as predeceasing the member for purposes of this section, unless the member expressly designates the former spouse as beneficiary after the effective date of the dissolution or the former spouse is required to be designated as a beneficiary under the provisions of ORS 238.465.

(3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a beneficiary, or if the person or persons designated do not survive the member, the death benefit provided for in this section shall be paid to the following person or persons, in the following order of priority:

(a) The member's surviving spouse or other person who is constitutionally required to be treated in the same manner as a spouse;

(b) The member's surviving children, in equal shares; or

(c) The member's estate.

(4) The entire amount of a deceased member's vested accounts must be distributed by December 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other provision of this chapter, distributions of death benefits under the individual account program must comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on December 31, [2016] 2017. The

Public Employees Retirement Board shall adopt rules implementing those minimum distribution requirements.

SECTION 10. ORS 238A.415 is amended to read:

238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible employee who leaves a qualifying position for the purpose of performing service in the uniformed services, and who subsequently returns to employment with a participating public employer with reemployment rights under federal law, is entitled to credit toward the probationary period required by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

(2) The board shall adopt rules establishing contributions and service credit for any period of service in the uniformed services by an employee described in subsection (1) of this section. For the purpose of adopting rules under this subsection, the board shall consider and take into account all federal law relating to benefits and service credit for any period of service in the uniformed services, including 26 U.S.C. 414(u), as in effect on December 31, [2016] 2017. Contributions and service credit under rules adopted by the board pursuant to this subsection may not exceed contributions and service credit required under federal law for periods of service in the uniformed services.

SECTION 11. ORS 238A.430 is amended to read:

238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted by the Public Employees Retirement Board under subsection (4) of this section, any portion of a distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu of distribution to the distributee, be paid directly to an eligible retirement plan specified by the distributee.

(2) The provisions of subsection (1) of this section apply to a distribution of any benefit under the pension program or the individual account program except:

(a) A distribution that is one of a series of substantially equal periodic payments made at least annually for the life or life expectancy of the distributee, or for the joint lives or life expectancies of the distributee and a designated beneficiary;

(b) A distribution that is one of a series of substantially equal periodic payments made at least annually for a specified period of 10 years or more; and

(c) A distribution to the extent that the distribution is required under 26 U.S.C. 401(a)(9).

(3) The provisions of subsection (1) of this section apply to any portion of a distribution of benefits under the pension program or the individual account program even though the portion consists of after-tax employee contributions that are not includable in gross income. Any portion of a distribution that consists of after-tax employee contributions that are not includable in gross income may be transferred

only to an individual retirement account or annuity described in 26 U.S.C. 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in 26 U.S.C. 401(a) or 403(b) that agrees to account separately for amounts transferred, including accounting separately for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income. The amount transferred shall be treated as consisting first of the portion of the distribution that is includable in gross income, determined without regard to 26 U.S.C. 402(c)(1).

(4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C. 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regulations implementing that section.

(5) All references in this section to federal laws and regulations are to the laws and regulations in effect on December 31, [2016] 2017.

(6) For purposes of this section:

(a) "Distributee" means a member, a member's surviving spouse or a member's alternate payee under ORS 238.465.

(b) "Eligible retirement plan" means:

(A) An individual retirement account described in 26 U.S.C. 408(a);

(B) An individual retirement annuity described in 26 U.S.C. 408(b), other than an endowment contract;

(C) A qualified trust under 26 U.S.C. 401(a), that is a defined contribution or defined benefit plan and permits the acceptance of rollover contributions;

(D) An annuity plan described in 26 U.S.C. 403(a);

(E) An eligible deferred compensation plan described in 26 U.S.C. 457(b) that is maintained by an eligible governmental employer described in 26 U.S.C. 457(e)(1)(A) and that agrees to account separately for amounts transferred into such plan from the distributing plan; or

(F) An annuity contract described in 26 U.S.C. 403(b).

SECTION 12. ORS 238A.435 is amended to read:

238A.435. (1) If a benefit is payable under this chapter to a beneficiary by reason of the death of a member of the system, the beneficiary may elect to have all or part of the distribution of the death benefit paid in an eligible rollover distribution to an individual retirement plan described in 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible rollover distribution on behalf of the designated beneficiary.

(2) Subsection (1) of this section applies to an eligible rollover distribution of death benefits to a beneficiary who is not treated as the spouse of the decedent for federal tax purposes and who is the decedent's designated beneficiary for the purposes of

the minimum required distribution requirements of 26 U.S.C. 401(a)(9). To the extent provided by rules of the Public Employees Retirement Board, a trust maintained for the benefit of one or more beneficiaries must be treated by the board in the same manner as a trust that is designated as a beneficiary for the purposes of the minimum required distribution requirements of 26 U.S.C. 401(a)(9).

(3) As used in this section, "eligible rollover distribution" has the meaning given that term in 26 U.S.C. 402(c)(4), as in effect on December 31, [2016] 2017.

SECTION 13. ORS 305.230 is amended to read:
305.230. (1) Notwithstanding ORS 9.320:

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

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

(c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2016] 2017, may represent the corporation in any proceeding before a tax court magistrate or the department in the same manner as if the shareholder were a partner and the S corporation were a partnership. The S corporation must designate in writing a tax matters shareholder authorized to represent the S corporation.

(d) An individual who is licensed as a real estate broker or principal real estate broker under ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a registered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or the department in any conference or proceeding with respect to the administration of any ad valorem property tax.

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

(f) Any person authorized under rules adopted by the department may represent a taxpayer before the department in any conference or proceeding with respect to any tax. Rules adopted under this paragraph, to the extent feasible, shall be consistent with

federal law that governs representation before the Internal Revenue Service, as federal law is amended and in effect on December 31, [2016] 2017.

(g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a proceeding before a tax court magistrate.

(2) A person may not be recognized as representing a taxpayer pursuant to this section unless there is first filed with the magistrate or department a written authorization, or unless it appears to the satisfaction of the magistrate or department that the representative does in fact have authority to represent the taxpayer. A person recognized as an authorized representative under rules or procedures adopted by the tax court shall be considered an authorized representative by the department.

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

(4) Prior to the holding of a conference or proceeding before the tax court magistrate or department, written notice shall be given by the magistrate or department to the taxpayer of the provisions of subsection (3) of this section.

SECTION 14. ORS 305.494 is amended to read:

305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2016] 2017, may represent the corporation in any proceeding before the Oregon Tax Court in the same manner as if the shareholder were a partner and the S corporation were a partnership.

SECTION 15. ORS 305.690 is amended to read:

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

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

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

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

(4) "Eligibility roster" means a list, prepared under ORS 305.715 and maintained by the commission in chronological order based on the date of form listing or date of eligibility determination, whichever is later, of charitable and governmental entities seeking inclusion on the Oregon individual income tax return forms.

(5) "Form listed" or "form listing" means being listed on the Oregon individual income tax return form.

(6) "Instruction listing" means being listed on the Department of Revenue instructions for tax return checkoff contribution.

(7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2016] 2017.

SECTION 16. ORS 305.842 is amended to read:

305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2016] 2017.

(2) As used in ORS 311.666, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, [2016] 2017, including amendments that take effect after that date.

SECTION 17. ORS 314.011 is amended to read:

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

(2) As used in this chapter:

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

(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(A) On December 31, [2016] 2017; or

(B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those described in paragraph (b) of this subsection, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, [2016] 2017, even when the amendments take effect or become operative after that date, except where the Legislative Assembly has specifically provided otherwise.

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

(4) When portions of the Internal Revenue Code incorporated by reference as provided in subsection (2) of this section refer to rules or regulations pre-

scribed by the Secretary of the Treasury, then such rules or regulations shall be regarded as rules adopted by the department under and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

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

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

SECTION 18. ORS 314.306 is amended to read:

314.306. (1) If a taxpayer excludes an amount from federal gross income by reason of the discharge of indebtedness of the taxpayer under section 108(a)(1)(A) of the Internal Revenue Code (relating to discharge of indebtedness in a bankruptcy declared under U.S.C. Title 11), then, with respect to that portion of the excluded amount that is apportioned to Oregon, the taxpayer shall apply the rules in 11 U.S.C. 346(j), as amended and in effect on December 31, [2016] **2017**.

(2) If a taxpayer excludes an amount from federal gross income by reason of the discharge of indebtedness of the taxpayer under section 108(a)(1)(B) or (C) of the Internal Revenue Code (relating to discharge of indebtedness in insolvency or discharge of qualified farm indebtedness), then, with respect to that portion of the excluded amount that is apportioned to Oregon, the following paragraphs shall apply, in the following order:

(a) If the taxpayer has made the election under section 108(b)(5) of the Internal Revenue Code to first reduce the basis of the depreciable property of the taxpayer, the election shall also be effective for Oregon tax purposes. A corresponding reduction in the basis of the depreciable property of the taxpayer shall be made for Oregon tax purposes.

(b) The amount, if any, by which the following attributes are reduced under section 108(b)(1) of the Internal Revenue Code for federal tax purposes shall be added back for Oregon tax purposes:

- (A) Federal net operating loss.
- (B) Capital loss carryover.

(C) Basis of the property of the taxpayer, excluding amounts subject to the election under section 108(b)(5) of the Internal Revenue Code.

(D) Passive activity loss carryover.

(c) Excluding amounts subject to the election in section 108(b)(5) of the Internal Revenue Code:

(A) Any Oregon net operating loss of an individual or corporate taxpayer, including a net operating loss carryover to the taxpayer, shall be reduced by the amount of discharged indebtedness.

(B) Any net capital loss for the taxable year of the discharge, and any capital loss carryover to the taxable year, shall be reduced by the amount of discharged indebtedness minus the total amount taken into account under subparagraph (A) of this paragraph.

(C) The basis of the property of the taxpayer shall be reduced by the amount of discharged indebtedness minus the total amount taken into account under subparagraphs (A) and (B) of this paragraph.

(D) The passive activity loss carryover under section 469(b) of the Internal Revenue Code from the taxable year of the discharge shall be reduced by the amount of discharged indebtedness minus the total amount taken into account under subparagraphs (A), (B) and (C) of this paragraph.

SECTION 19. ORS 315.004 is amended to read:

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

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

(b) With respect to the tax credits contained in this chapter, any reference to the laws of the United States or to the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they are amended on or before December 31, [2016] **2017**, even when the amendments take effect or become operative after that date.

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

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

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

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

SECTION 20. ORS 316.012 is amended to read:

316.012. Any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter. Except where the Legislative Assembly has provided otherwise, any reference in this chapter to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(1) On December 31, [2016] **2017**; or

(2) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

SECTION 21. ORS 316.147 is amended to read:

316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

(1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this chapter and:

(a) Who pays or incurs expenses for the care of a qualified individual, through a payment method determined by rule of the Department of Revenue; and

(b) Who has a household income, for the taxable year, not to exceed the maximum amount of household income allowed in ORS 310.640 (1989 Edition) for a homeowner or renter refund.

(2) "Household income" means the aggregate income of the eligible taxpayer and the spouse of the taxpayer who reside in the household, that was received during a calendar year. "Household income" includes payments received by the eligible taxpayer or the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor child or minor children who reside in the household.

(3) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code, as amended and in effect on December 31, [2016] **2017**, even when the amendments take effect or become operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:

(a) There shall be added to adjusted gross income the following items of otherwise exempt income:

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

(B) Child support received by the taxpayer.

(C) Inheritances.

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

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

(F) Life insurance proceeds.

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

(H) Personal injury damages.

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

(J) Strike benefits excluded from federal gross income.

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

(L) Military pay and benefits.

(M) Veteran's benefits.

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

(O) Welfare payments, except as follows:

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

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

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

(P) Nontaxable dividends.

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

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

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

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

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

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

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

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

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

(F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depreciation, amortization or depletion.

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

(c) "Income" does not include the following:

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

(B) Any refund of Oregon personal income taxes that were imposed under this chapter.

(4) "Qualified individual" includes an individual at least 60 years of age on the date that the expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

(a) Whose household income does not exceed \$7,500 for the calendar year in which the taxable year of the taxpayer begins;

(b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project Independence;

(c) Who is certified by the Department of Human Services; and

(d) Whose care or any portion thereof is not paid for under ORS chapter 414.

SECTION 22. ORS 316.157 is amended to read:

316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax liability of the taxpayer or nine percent of net pension income.

(2) For purposes of this section:

(a) "Eligible individual" means any individual who is receiving pension income and who has attained 62 years of age before the close of the taxable year.

(b) "Household income" means the aggregate income of the taxpayer and the spouse of the taxpayer who reside in the household, that was received during the taxable year for which a credit is claimed, except that "household income" does not include Social Security benefits received by the taxpayer or the spouse of the taxpayer.

(c) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code, as amended and in effect on December 31, [2016] 2017, even when the amendments take effect or become

operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:

(A) There shall be added to adjusted gross income the following items of otherwise exempt income:

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

(ii) Child support received by the taxpayer.

(iii) Inheritances.

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

(v) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.

(vi) Life insurance proceeds.

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

(viii) Personal injury damages.

(ix) Sick pay that is not included in federal adjusted gross income.

(x) Strike benefits excluded from federal gross income.

(xi) Worker's compensation, except for reimbursement of medical expense.

(xii) Military pay and benefits.

(xiii) Veteran's benefits.

(xiv) Payments received under the federal Social Security Act that are excluded from federal gross income.

(xv) Welfare payments, except as follows:

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

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

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

(xvi) Nontaxable dividends.

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

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

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

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

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

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

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

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

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

(vi) The amount, in excess of \$5,000, of the combined deductions or other allowances for depreciation, amortization or depletion.

(vii) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

(C) "Income" does not include the following:

(i) Any governmental grant that must be used by the taxpayer for rehabilitation of the homestead of the taxpayer.

(ii) Any refund of Oregon personal income taxes that were imposed under this chapter.

(d) "Net pension income" means:

(A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the following amounts:

(i) Any Social Security benefits received by the eligible individual, or by the spouse of the individual, during the taxable year; and

(ii) The excess, if any, of household income over \$30,000.

(B) For an eligible individual filing a return other than a joint return, the lesser of the pension income of the eligible individual received during the taxable year or the excess, if any, of \$7,500 over the sum of the following amounts:

(i) Any Social Security benefits received by the eligible individual during the taxable year; and

(ii) The excess, if any, of household income over \$15,000.

(e) "Pension income" means income included in Oregon taxable income from:

(A) Distributions from or pursuant to an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of section 401 of the Internal Revenue Code;

(B) Distributions from or pursuant to a public retirement system of this state or a political subdivision of this state, or a public retirement system created by an Act of this state or a political subdivision of this state, or the public retirement system of any other state or local government;

(C) Distributions from or pursuant to a federal retirement system created by the federal government for any officer or employee of the United States, including any person retired from service in the United States Civil Service, the Armed Forces of the United States or any agency or subdivision thereof;

(D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan which satisfies the requirements of section 457 of the Internal Revenue Code;

(E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity or trust or simplified employee pension which satisfies the requirements of section 408 of the Internal Revenue Code; and

(F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial ac-

counts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

(f) "Social Security benefits" means Social Security benefits, as defined in section 86 of the Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

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

(4) If a change in the status of the eligible individual from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with subsection (1) of this section.

SECTION 23. ORS 317.010 is amended to read:

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

(1) "Centrally assessed corporation" means every corporation the property of which is assessed by the Department of Revenue under ORS 308.505 to 308.681.

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

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

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

(4) "Doing business" means any transaction or transactions in the course of its activities conducted within the state by a national banking association, or any other corporation; provided, however, that a foreign corporation whose activities in this state are confined to purchases of personal property, and the storage thereof incident to shipment outside the state, shall not be deemed to be doing business unless such foreign corporation is an affiliate of another foreign or domestic corporation which is doing business in Oregon. Whether or not corporations are affiliated shall be determined as provided in section 1504 of the Internal Revenue Code.

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

(6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS 723.001 or a federal credit union.

(7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise, refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(a) On December 31, [2016] **2017**; or

(b) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

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

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

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

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

(b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon apportionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The resulting product shall be Oregon apportioned income or loss.

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

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

SECTION 24. ORS 317.097 is amended to read:

317.097. (1) As used in this section:

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

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

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

(d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, [2016] **2017**.

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

(g) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(i) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

(j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the taxable year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the taxable year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2026, that complies with the requirements of this section; and

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

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

(4) Any tax credit allowed 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.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

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

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

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

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or

will be passed on to the tenants in the form of reduced housing payments;

(c) Subject to subsection (14) of this section, a qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed; or

(d) A qualified borrower who:

(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

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

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower.

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

(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan; and

(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

(9) The tax credit provided for in this section may be taken whether or not:

(a) The financial institution is eligible to take a federal income tax credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Non-profit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

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

(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be a non-profit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority.

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

SECTION 25. ORS 458.670 is amended to read: 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires otherwise:

(1) "Account holder" means a resident of this state who:

(a) Is 12 years of age or older;

(b) Is a member of a lower income household; and

(c) Has established an individual development account with a fiduciary organization.

(2) "Fiduciary organization" means an organization selected under ORS 458.695 to administer state moneys directed to individual development accounts and that is:

(a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3) of the

Internal Revenue Code as amended and in effect on December 31, [2016] 2017; or

(b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the boundaries of this state.

(3) "Financial institution" means:

(a) An organization regulated under ORS chapters 706 to 716 or 723; or

(b) In the case of individual development accounts established for the purpose described in ORS 458.685 (1)(c), a financial institution as defined in ORS 178.300.

(4) "Individual development account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into the financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(5) "Lower income household" means a household having an income equal to or less than the greater of the following:

(a) 80 percent of the median household income for the area as determined by the Housing and Community Services Department. In making the determination, the department shall give consideration to any data on area household income published by the United States Department of Housing and Urban Development.

(b) 200 percent of the poverty guidelines as determined by the Housing and Community Services Department. In making the determination, the department shall give consideration to poverty guidelines published by the United States Department of Health and Human Services and may consider other income data periodically published by other federal or Oregon agencies.

(6) "Resident of this state" has the meaning given that term in ORS 316.027.

SECTION 26. ORS 657.010 is amended to read: 657.010. As used in this chapter, unless the context requires otherwise:

(1) "Base year" means the first four of the last five completed calendar quarters preceding the benefit year.

(2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

(3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of the individual's last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

(4) "Calendar quarter" means the period of three consecutive calendar months ending on March 31,

June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director of the Employment Department may, by regulation, prescribe.

(5) “Contribution” or “contributions” means the taxes, as defined in subsection (13) of this section, that are the money payments required by this chapter, or voluntary payments permitted, to be made to the Unemployment Compensation Trust Fund.

(6) “Educational institution,” including an institution of higher education as defined in subsection (9) of this section, means an institution:

(a) In which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(b) That is accredited, registered, approved, licensed or issued a permit to operate as a school by the Department of Education or other government agency, or that offers courses for credit that are transferable to an approved, registered or accredited school;

(c) In which the course or courses of study or training that it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation; and

(d) In which the course or courses of study or training are offered on a regular and continuing basis.

(7) “Employment office” means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

(8) “Hospital” means an organization that has been licensed, certified or approved by the Oregon Health Authority as a hospital.

(9) “Institution of higher education” means an educational institution that:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor’s or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

(10) “Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on December 31, [2016] 2017.

(11) “Nonprofit employing unit” means an organization, or group of organizations, described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(12) “State” includes, in addition to the states of the United States of America, the District of Co-

lumbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be considered a state on and after the day on which the United States Secretary of Labor first approves the Virgin Islands’ law under section 3304(a) of the Federal Unemployment Tax Act as amended by Public Law 94-566.

(13) “Taxes” means the money payments to the Unemployment Compensation Trust Fund required, or voluntary payments permitted, by this chapter.

(14) “Valid claim” means any claim for benefits made in accordance with ORS 657.260 if the individual meets the wages-paid-for-employment requirements of ORS 657.150.

(15) “Week” means any period of seven consecutive calendar days ending at midnight, as the director may, by regulation, prescribe. The director may by regulation prescribe that a “week” shall be “in,” “within,” or “during” the calendar quarter that includes the greater part of such week.

SECTION 27. (1) Except as provided in subsections (2) and (3) of this section, the amendments to statutes by sections 1 to 26 of this 2018 Act apply to transactions or activities occurring on or after January 1, 2018, in tax years beginning on or after January 1, 2018.

(2) The effective and applicable dates, and the exceptions, special rules and coordination with the Internal Revenue Code, as amended, relative to those dates, contained in the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), and An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (P.L. 115-97) and other federal law amending the Internal Revenue Code and enacted before January 1, 2018, apply for Oregon personal income and corporate excise and income tax purposes, to the extent they can be made applicable, in the same manner as they are applied under the Internal Revenue Code and related federal law.

(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before January 1, 2018, and the deficiency or any portion thereof is attributable to any retroactive treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this 2018 Act, then any interest or penalty assessed under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.

(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2018, and the refund or any portion thereof is due the taxpayer on account of any retroactive treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this 2018 Act, for a tax

year beginning before January 1, 2018, then notwithstanding ORS 305.270 or 314.415 or any other law, the refund or portion thereof shall be paid without interest.

(c) Any changes required because of the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010 and 317.097 by sections 1 and 13 to 24 of this 2018 Act, for a tax year beginning before January 1, 2018, shall be made by filing an amended return within the time prescribed by law.

(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection, the Department of Revenue shall make any changes under paragraph (c) of this subsection on the return to which the changes relate within the period specified for issuing a notice of deficiency or claiming a refund as otherwise provided by law with respect to that return, or within one year after a return for a tax year beginning on or after January 1, 2018, and before January 1, 2019, is filed, whichever period expires later.

SECTION 28. ORS 317.267 is amended to read:

317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code, amounts deducted for income repatriated, deemed or otherwise, under An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (P.L. 115-97), amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a consolidated federal return pursuant to ORS 317.715 (2).

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

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

(b) In the case of any dividend received from a 20 percent owned corporation, as defined in section

243(c) of the Internal Revenue Code, this subsection shall be applied by substituting "80 percent" for "70 percent."

(c) A dividend that is not treated as a dividend under section 243(d) or 965(c)(3) of the Internal Revenue Code may not be treated as a dividend for purposes of this subsection.

(d) If a dividends received deduction is not allowed for federal tax purposes because of section 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

(e) In the case of any dividend received from an alien, domestic or foreign insurer, as defined in ORS 731.082, that would be included in the taxpayer's consolidated Oregon return but for the application of ORS 317.710 (5) or (7), this subsection shall be applied by substituting "100 percent" for "70 percent."

(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section.

SECTION 29. The amendments to ORS 317.267 by section 28 of this 2018 Act apply to tax years beginning on or after January 1, 2017.

SECTION 30. Section 31 of this 2018 Act is added to and made a part of ORS chapter 317.

SECTION 31. On or before July 1, 2021, the Department of Revenue shall:

(1) Estimate the increase, if any, of corporate tax revenue received by the department and attributable to the treatment of post-1986 deferred foreign income under An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (P.L. 115-97); and

(2) Notwithstanding ORS 317.853, distribute an amount equal to the estimate required under subsection (1) of this section as follows:

(a) 18 percent shall be transferred to the Employer Incentive Fund established under section 31a of this 2018 Act.

(b) 82 percent shall be transferred to the School Districts Unfunded Liability Fund established under section 31b of this 2018 Act.

SECTION 31a. (1) The Employer Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Employer Incentive Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board for the purpose of incentivizing participating public employers, as defined in ORS 238.005, to make lump sum prepayments of employer contributions.

SECTION 31b. (1) The School Districts Unfunded Liability Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the School Districts Unfunded Liability Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board for the purpose of applying the moneys against the liabilities of participating public employers, as defined in ORS 238.005, that are school districts.

SECTION 32. Section 33 of this 2018 Act is added to and made a part of ORS chapter 317.

SECTION 33. (1) A credit against the taxes otherwise due under ORS chapter 317 or 318 shall be allowed to a taxpayer for Oregon tax attributable to income reported under section 965 of the Internal Revenue Code as post-1986 deferred foreign income.

(2) The credit allowed under this section may not exceed the lesser of:

(a) The amount of Oregon tax attributable to income reported under section 965 of the Internal Revenue Code as post-1986 deferred foreign income for tax years beginning on or after January 1, 2017, and before January 1, 2018; or

(b) The total amount of tax, if any, attributable to the addition required under ORS 317.716 and imposed for all tax years beginning on or after January 1, 2014, and before January 1, 2017.

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit re-

maining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and used in the third succeeding tax year. Any credit remaining unused in the third succeeding tax year may be carried forward and used in the fourth succeeding tax year. Any credit remaining unused in the fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year thereafter.

SECTION 34. Except as provided in section 33 (4) of this 2018 Act, section 33 of this 2018 Act applies to tax years beginning on or after January 1, 2017, and before January 1, 2018.

SECTION 35. ORS 317.716 and 317.717 are repealed.

SECTION 36. The repeal of ORS 317.716 and 317.717 by section 35 of this 2018 Act applies to tax years beginning on or after January 1, 2017.

SECTION 37. On or before December 1, 2020, the Department of Revenue shall report in the manner required by ORS 192.245 to a committee of the Legislative Assembly related to revenue regarding the relative efficacy of the provisions of ORS 317.716, in comparison to the provisions of section 951A of the Internal Revenue Code, requiring shareholders of controlled foreign corporations to include global intangible low-taxed income in gross income.

SECTION 38. This 2018 Act takes effect on the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Approved by the Governor April 10, 2018
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