

## CHAPTER 579

AN ACT

HB 2164

Relating to taxation; creating new provisions; amending ORS 307.455, 307.459, 307.517, 307.518, 307.523, 307.529, 307.535, 314.752, 315.266, 315.271, 315.675, 316.102, 318.031 and 358.499 and section 19, chapter 954, Oregon Laws 2001, section 7, chapter 637, Oregon Laws 2005, sections 7 and 10, chapter 826, Oregon Laws 2005, section 66, chapter 832, Oregon Laws 2005, section 6, chapter 880, Oregon Laws 2007, sections 2b, 7b, 17 and 18, chapter 906, Oregon Laws 2007, sections 5, 24, 28, 34 and 36, chapter 913, Oregon Laws 2009, and sections 58, 61, 63, 64, 66, 67 and 70, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427); repealing ORS 825.475; and prescribing an effective date.

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

**TAX CREDIT FOR  
HIGHER EDUCATION SAVINGS OR  
ABLE ACCOUNT CONTRIBUTIONS**

**SECTION 1.** Sections 2 and 3 of this 2019 Act are added to and made a part of ORS chapter 315.

**SECTION 2.** (1) A credit against taxes otherwise imposed under ORS chapter 316 shall be allowed for amounts contributed by the taxpayer during the tax year to a savings network account for higher education established under ORS 178.300 to 178.355 or an ABLE account established under ORS 178.380. A taxpayer who makes contributions to both types of account may claim the credit for the amounts listed in subsection (2) of this section for each type of account.

(2) The amount of the credit allowed under this section shall be limited based on the taxpayer's adjusted gross income and shall be the lesser of \$300, if reported on a joint return, or \$150, if reported on any other type of return, or the following:

(a) The amount contributed, if the taxpayer's adjusted gross income does not exceed \$30,000;

(b) 50 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$30,000 but does not exceed \$70,000;

(c) 25 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$70,000 but does not exceed \$100,000;

(d) 10 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$100,000 but does not exceed \$250,000; or

(e) 5 percent of the amount contributed, if the taxpayer's adjusted gross income exceeds \$250,000.

(3)(a) The Department of Revenue shall annually adjust the maximum credit amounts allowable under this section according to the cost-of-living adjustment for the calendar year. The department shall first make this adjustment for a joint return by multiplying the maximum credit amount in subsection (2) of this section by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2018.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any adjustment to the maximum credit amount for a joint return, as determined under paragraph (a) of this subsection, is not a multiple of \$20, the adjustment shall be rounded to the next lower multiple of \$20. The department shall then adjust the maximum credit amount for all other types of returns so that it is half the maximum credit amount for a joint return.

(4) A credit under this section is allowed for a preceding tax year for amounts contributed to a savings network account for higher education or to an ABLE account if the contribution is made before the taxpayer files a return or before the 15th day of the fourth month following the closing of the taxpayer's tax year, whichever is earlier.

(5) A credit is not allowed under this section for any amount that has been transferred into a savings network account for higher education from an individual development account, through a rollover, as provided in ORS 458.685 (4)(a)(A).

(6) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(7) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(8) Spouses in a marriage who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the adjusted gross income of each.

(9) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident to resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated or computed in a manner consistent with ORS 314.085.

**SECTION 3.** (1) As provided in subsection (2) of this section, prior tax relief afforded a taxpayer by virtue of the credit allowed under section 2 of this 2019 Act shall be forfeited if any of the following are taken:

(a) A nonqualified withdrawal from an account, as defined in ORS 178.300;

(b) A withdrawal from a savings network account for higher education established under ORS 178.300 to 178.355 to pay expenses in connection with enrollment or attendance at an elementary or secondary school; or

(c) A distribution from an ABLE account that is not a qualified disability expense of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board.

(2) A taxpayer shall report the amount of a disallowed withdrawal or distribution in the tax year in which it is taken, and shall remit the taxes due as a result of the forfeited credit. The Department of Revenue shall by rule determine the calculation of forfeited credit amounts.

(3) If a taxpayer does not report a disallowed withdrawal or distribution in the tax year that it is taken, and notwithstanding ORS 314.410, the department shall proceed to collect those taxes, including penalties and interest, not paid by the taxpayer as a result of the tax credit allowed the taxpayer.

**SECTION 4.** Except as provided in ORS 316.699 (4), a taxpayer:

(1) May use a subtraction under ORS 316.699 only for contributions made in tax years beginning before January 1, 2020; and

(2) May carry forward and use a subtraction under ORS 316.699 (4) only in tax years beginning before January 1, 2025.

**SECTION 5.** Sections 2 and 3 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

## TAX CREDIT FOR SHORT LINE RAILROAD REHABILITATION

**SECTION 6.** Sections 7 to 14 of this 2019 Act are added to and made a part of ORS chapter 315.

**SECTION 7.** As used in sections 7 to 14 of this 2019 Act:

(1) "Infrastructure" includes tracks, switches, sidings, roadbeds, railroad bridges and industrial leads owned by a short line railroad.

(2) "Short line railroad" means a class II or class III railroad as defined in 49 C.F.R. 1201.

(3) "Short line railroad rehabilitation project" means a project that involves the maintenance, reconstruction or replacement of infrastructure.

(4) "Short line railroad rehabilitation project costs" means costs that are directly related to the work necessary to maintain, reconstruct or replace infrastructure. "Short line railroad rehabilitation project costs" does not include costs that are funded by or used to qualify for any state or federal grants, or costs that are used to claim a federal tax credit.

(5) "Tier I short line railroad" means a short line railroad owned or leased by a person for whom the total length of short line railroad track owned or leased in Oregon is equal to or greater than 200 miles. The total amount of short line railroad track in Oregon calculated under this subsection includes any short line railroad track owned or leased by the person, or if the person is a corporation, by the person's parent corporation or subsidiaries, regardless of whether the track is owned or leased by one or more railroads.

(6) "Tier II short line railroad" means a short line railroad that is not a tier I short line railroad or is a short line railroad owned or leased by the state, a city, a county, a port or any other public or municipal corporation.

**SECTION 8.** (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a taxpayer, based upon short line railroad rehabilitation project costs actually paid or incurred by the taxpayer during the tax year for which the credit is claimed.

(2) The credit allowed under this section shall be the least of:

(a) In the case of a tier I short line railroad, \$1,000 multiplied by the number of miles of short line railroad track the taxpayer owns or leases in this state on the day the short line railroad rehabilitation project is completed;

(b) In the case of a tier II short line railroad, \$3,500 multiplied by the number of miles of short line railroad track the taxpayer owns or leases

in this state on the day the short line railroad rehabilitation project is completed; or

(c) Fifty percent of the short line railroad rehabilitation project costs paid or incurred by the taxpayer during the tax year in which the credit is claimed.

(3) For the credit to be allowed under this section:

(a) The infrastructure must be located in Oregon; and

(b) The taxpayer must:

(A) Own or lease the infrastructure;

(B) Be a short line railroad; and

(C) Receive a final written certification from the Department of Transportation before claiming the credit.

(4) The amount of the credit claimed under this section for any one tax year may not exceed the tax liability of the taxpayer.

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

(6) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the short line railroad rehabilitation project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for the tax year.

(7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credit allowed under this section.

(8)(a) The Department of Revenue may by rule require that the Department of Transportation provide information about a certification issued under section 9 of this 2019 Act, including the name and taxpayer identification number of the taxpayer or other person receiving certification, the date the certification was issued in its final form, the approved amount of credit and the first tax year for which the credit may be claimed.

(b) A taxpayer that is a pass-through entity that has received certification under section 9 of this 2019 Act shall provide to the Department of Revenue, within two months after the close of the tax year in which the certification was issued, the name, taxpayer identification num-

ber and any other information required by the department of each owner receiving a distributive share of the credit, in a manner prescribed by the department.

(9) The Department of Revenue shall prescribe by rule the manner and the timing of submission of the information described in subsection (8) of this section to the department.

(10) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(11) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

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

(c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates a taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

**SECTION 9.** (1) Prior to construction of a short line railroad rehabilitation project, a taxpayer may apply to the Department of Transportation for preliminary certification of the project in the manner prescribed by rules adopted under this section, which must include:

(a) Timelines and deadlines for submission of application materials;

(b) A description of the information required by the department to determine that the taxpayer qualifies for the credit allowed under section 8 of this 2019 Act;

(c) Criteria for determining the amount of the tax credit allowed under section 8 of this 2019 Act, including standards for what constitutes completion of a short line railroad rehabilitation project;

(d) The process by which an applicant will be notified of an incomplete application and the time allowed for the applicant to provide the missing information; and

(e) The month and date by which the department must notify an applicant of the preliminary certification decision and the potential amount of the tax credit for which the applicant has received preliminary certification.

(2) If the total amount of potential tax credits allowed under section 8 of this 2019 Act for all taxpayers that have applied for preliminary certification exceeds the limit in section 8 of this 2019 Act, the department shall allocate the tax credits allowed under section 8 of this 2019 Act as follows:

(a) By giving first priority to all tier II short line railroads that own or lease less than 75 miles of short line railroad track in this state; and

(b) By giving second priority to all tier II short line railroads not described in paragraph (a) of this subsection.

(3) If the department must allocate tax credits to a group of taxpayers in an amount that is less than the amount the taxpayers would otherwise receive under section 8 of this 2019 Act, the department shall divide the available tax credits among the group proportionally, based on the amount each taxpayer would have otherwise received under section 8 of this 2019 Act.

**SECTION 10.** (1) A taxpayer may apply to the Department of Transportation for final certification of a short line railroad rehabilitation project if:

(a) The taxpayer received preliminary certification for the project under section 9 of this 2019 Act; and

(b) The project is completed.

(2) After approving the application, the department shall certify the project, including the amount of the tax credit for which the taxpayer has received final certification. The department may not certify an amount that is more than the amount approved in the preliminary certification for the project.

(3) The department may establish by rule a process for accepting applications and issuing final certifications under this section.

**SECTION 11.** (1) The Department of Transportation may charge and collect a fee from taxpayers for preliminary or final certification of short line rehabilitation projects under sections 9 and 10 of this 2019 Act. The fee may not exceed the cost to the department of issuing certifications.

(2) All fees collected under this section shall be deposited in the State Treasury to the credit of the Railroad Fund established under ORS 824.014. Moneys deposited under this section are continuously appropriated to the Department of Transportation for the purpose of administering and enforcing the provisions of sections 7 to 14 of this 2019 Act.

**SECTION 12.** (1) A person that has obtained a tax credit under section 8 of this 2019 Act may transfer the credit to a taxpayer under ORS chapter 316, 317 or 318. A transfer that occurs on or after January 1, 2020, is conditioned upon compliance with this section and ORS 315.052 and 315.053.

(2) The Department of Revenue may require that the person that has earned the credit and the taxpayer that intends to claim the credit jointly file a notice of tax credit transfer with

the department on or before the earliest of the following dates:

(a) A date 30 days after the transfer of the credit;

(b) The date on which the transferee files a return; or

(c) The due date, including extensions, of the transferee's return.

(3) The notice shall be given on a form prescribed by the department that contains:

(a) The name and address of the transferor and of the transferee;

(b) The taxpayer identification number of the transferor and of the transferee;

(c) The dates on which the person earning the credit received certifications for the credit;

(d) The amount of the credit that is certified, the amount that is being transferred and the amount that is being retained by the transferor; and

(e) Any other information required by the department.

(4)(a) A transferor may separately transfer the entirety of that portion corresponding to the tax year to one or more transferees, subject to subsection (5) of this section.

(b) Any amount of credit that would be allowed due only to a carryforward provision may not be transferred.

(5) Any transfer of a tax credit or a portion of a tax credit must be completed no later than the earliest of the following dates in relation to the tax return on which the credit is claimed:

(a) The original due date, including extensions, of the transferor's return;

(b) The date on which the transferor's return is actually filed;

(c) The original due date, including extensions, of the transferee's return; or

(d) The date on which the transferee's return is actually filed.

(6) Notwithstanding subsection (5) of this section, if the transferor is a tax-exempt entity, the transfer must be completed on or before a date one year after the close of the tax year for which the credit was certified. As used in this subsection, "tax-exempt entity" means a government agency or an organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code.

(7) The transferee shall claim the credit in accordance with the credit provisions for the tax years in which the credit is allowed.

(8) The department by rule may establish policies and procedures for the implementation of this section.

**SECTION 13.** The total amount of potential tax credits allowed under section 8 of this 2019 Act at the time of preliminary certification under section 9 of this 2019 Act may not exceed \$4 million for any biennium.

**SECTION 14.** (1) Under the procedures for a contested case under ORS chapter 183, the Director of Transportation may order the suspension, revocation or forfeiture of a tax credit certification under section 9 or 10 of this 2019 Act, or of a portion thereof, if the director finds that:

(a) The certification was obtained by fraud or misrepresentation;

(b) The certification was obtained by mistake or miscalculation; or

(c) The taxpayer otherwise violates or has violated a condition or requirement for eligibility for the tax credit.

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

(a) If no portion of a credit has been transferred, those taxes not paid by the holder of the certification as a result of the tax credits provided to the holder under the revoked approval, from the holder or a successor in interest to the business interests of the holder. All tax credits provided to the holder and attributable to the fraudulently or mistakenly obtained certification or portion of the certification shall be forfeited.

(b) If all of a credit has been transferred, an amount equal to the amount of the tax credits allowable to the transferee under the revoked certification, from the transferor.

(c) If a portion of a tax credit has been transferred, those taxes not paid by the transferor as a result of the tax credits provided to the transferor pursuant to the revoked certification, from the transferor or a successor in interest to the business interests of the transferor, and an amount equal to the amount of the tax credits allowable to the transferee pursuant to the revoked certification, from the transferor.

(3)(a) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained certification or a successor in interest to the business interests of that person. An assessment of tax is not necessary and the collection of taxes described in this subsection is not precluded by any statute of limitations.

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

(4) If the certification is ordered revoked pursuant to this section, the holder of the cer-

tification shall be denied any further relief in connection with the credit from and after the date that the order of revocation becomes final.

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

(6) Interest under this section shall accrue at the rate established in ORS 305.220 beginning the day after the due date of the return on which the credit may first be claimed.

(7) The Department of Revenue may collect amounts owed under this section by a partnership from the partnership.

**SECTION 15.** ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended to read:

314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on income of the shareholder of an S corporation, there shall be taken into account the shareholder's pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), recapture or recovery shall be passed through to shareholders in pro rata shares as determined in the manner prescribed under section 1377(a) of the Internal Revenue Code.

(3) The character of any item included in a shareholder's pro rata share under subsection (2) of this section shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, "business tax credit" means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, bypass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development ac-

counts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon Laws 2018 (Opportunity Grant Fund contributions), **and section 8 of this 2019 Act (short line railroads).**

**SECTION 16.** ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section 2, chapter 108, Oregon Laws 2018, **and section 8 of this 2019 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

**SECTION 17. (1) Sections 7 to 14 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.**

**(2) Except as provided in section 8 (5) of this 2019 Act, a credit may not be claimed under section 8 of this 2019 Act for tax years beginning on or after January 1, 2026.**

## CULTURAL TRUST

**SECTION 18.** Section 19, chapter 954, Oregon Laws 2001, as amended by section 35, chapter 913, Oregon Laws 2009, and section 8, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 19.** ORS 315.675 applies to tax years beginning on or after January 1, 2002, and before January 1, [2020] **2026.**

**SECTION 19.** ORS 315.675 is amended to read:  
315.675. (1) As used in this section, "cultural organization" means an entity that is:

(a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

(b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage, programs and humanities to the public or organized primarily for identifying, documenting, interpreting and preserving cultural resources.

(2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural Development Account established under ORS 359.405.

(4) The credit is allowable under this section only to the extent the taxpayer has contributed an equal amount to an Oregon cultural organization during the tax year.

(5) The amount of the credit shall equal 100 percent of the amount contributed to the Trust for Cultural Development Account, but may not exceed the lesser of the tax liability of the:

(a) Taxpayer under ORS chapter 316 for the tax year [or \$500], **or \$1,000 for a taxpayer filing a joint return or \$500 for a taxpayer filing any other type of return.**

(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or \$2,500.

(6) The credit allowed under this section may not be carried over to another tax year.

(7) The credit allowed under this section is in addition to any charitable contribution deduction allowable to the taxpayer.

(8) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

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

(c) Spouses in a marriage who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

## TAX PROVISIONS RELATED TO MANUFACTURED DWELLINGS

**SECTION 20.** Section 7, chapter 826, Oregon Laws 2005, as amended by section 21, chapter 906, Oregon Laws 2007, section 36, chapter 750, Oregon Laws 2013, and section 14, chapter 217, Oregon Laws 2015, is amended to read:

**Sec. 7.** (1) Section 6, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after January 1, 2006, and before January 1, [2020] **2026**.

(2) The amendments to section 6, chapter 826, Oregon Laws 2005, by section 9, **chapter 217, Oregon Laws 2015**, [of this 2015 Act] apply to tax years beginning on or after January 1, 2015, and before January 1, [2020] **2026**.

**SECTION 21.** Section 7b, chapter 906, Oregon Laws 2007, as amended by section 3, chapter 83, Oregon Laws 2011, and section 35, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 7b.** The amendments to ORS 90.650 by section 7a, chapter 906, Oregon Laws 2007, become operative January 1, [2020] **2026**.

**SECTION 22.** Section 10, chapter 826, Oregon Laws 2005, as amended by section 22, chapter 906, Oregon Laws 2007, section 37, chapter 750, Oregon Laws 2013, and section 15, chapter 217, Oregon Laws 2015, is amended to read:

**Sec. 10.** (1) Section 9, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after January 1, 2006, and before January 1, [2020] **2026**.

(2) The amendments to section 9, chapter 826, Oregon Laws 2005, by section 10, **chapter 217, Oregon Laws 2015**, [of this 2015 Act] apply to tax years beginning on or after January 1, 2015, and before January 1, [2020] **2026**.

**SECTION 23.** Section 18, chapter 906, Oregon Laws 2007, as amended by section 33, chapter 913, Oregon Laws 2009, and section 33, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 18.** Section 17, chapter 906, Oregon Laws 2007, applies to individuals whose household ends tenancy at a manufactured dwelling park during a tax year that begins on or after January 1, 2007, and before January 1, [2020] **2026**.

**SECTION 24.** Section 2b, chapter 906, Oregon Laws 2007, as amended by section 1, chapter 83, Oregon Laws 2011, and section 34, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 2b.** The amendments to ORS 90.645 by section 2a, chapter 906, Oregon Laws 2007, become operative January 1, [2020] **2026**.

**SECTION 25.** Section 17, chapter 906, Oregon Laws 2007, as amended by section 17, chapter 348, Oregon Laws 2015, is amended to read:

**Sec. 17.** (1) As used in this section:

(a) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing in the

manufactured dwelling during any part of the calendar year for which a credit is claimed.

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

(c) "Manufactured dwelling park" means a place within this state where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(d) "Rental agreement" means a contract under which an individual rents space in a manufactured dwelling park for siting a manufactured dwelling.

(2) A credit of \$5,000 against the taxes otherwise due under this chapter is allowed to an individual who:

(a) Rents space in a manufactured dwelling park for a manufactured dwelling that is owned and occupied by the individual as the individual's principal residence on the date that the landlord delivers notice that the park, or a portion of the park, is being closed and the rental agreement for the space is being terminated **by the landlord or** because of the exercise of eminent domain, by order of a federal, state or local agency [or by the landlord]; and

(b) Ends tenancy at the manufactured dwelling park site in response to the delivered notice described in paragraph (a) of this subsection.

(3) For purposes of subsection (2) of this section:

(a) Tenancy by the individual at the manufactured dwelling park site ends on the last day that a member of the individual's household occupies the manufactured dwelling at the manufactured dwelling park site; and

(b) Tenancy by the individual at the manufactured dwelling park site does not end if the manufactured dwelling park is converted to a subdivision under ORS 92.830 to 92.845 and the individual buys a space or lot in the subdivision or sells the manufactured dwelling to a person who buys a space or lot in the subdivision.

(4) Notwithstanding subsection (2) of this section, if the manufactured dwelling park, or a portion of the park, is being closed and the rental agreement of the individual is being terminated because of the exercise of eminent domain, the credit amount allowed to the individual is the amount described in subsection (2) of this section, reduced by any amount that was paid to the individual as compensation for the exercise of eminent domain.

(5) An individual may not claim more than one credit under this section for tenancies ended during the tax year.

(6) If, for the year in which the individual ends the tenancy at the manufactured dwelling park, the amount of the credit allowed by this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 and 316.583 plus other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by this chapter or ORS chapter 314 for the tax year, reduced by any nonrefundable credits allowable for purposes of this chapter for the tax year, the amount of the

excess shall be refunded to the individual as provided in ORS 316.502.

(7) If more than one individual in a household qualifies under this section to claim the tax credit, the qualifying individuals may each claim a share of the available credit that is in proportion to their respective gross incomes for the tax year.

**SECTION 26.** The amendments to section 17, chapter 906, Oregon Laws 2007, by section 25 of this 2019 Act apply to tax years beginning on or after January 1, 2017.

#### TAX CREDIT FOR CERTAIN RETIREMENT INCOME

**SECTION 27.** Section 36, chapter 913, Oregon Laws 2009, as amended by section 9, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 36.** A credit may not be claimed under ORS 316.157 for tax years beginning on or after January 1, [2020] 2026.

#### CREDIT FOR VOLUNTEER PROVIDERS OF RURAL EMERGENCY MEDICAL SERVICES

**SECTION 28.** Section 66, chapter 832, Oregon Laws 2005, as amended by section 26, chapter 913, Oregon Laws 2009, and section 16, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 66.** ORS 315.622 applies to tax credit certifications issued by the Office of Rural Health on or after January 1, 2006, and before January 1, [2020] 2026.

#### CREDIT FOR EMPLOYER PROVIDED SCHOLARSHIPS

**SECTION 29.** Section 24, chapter 913, Oregon Laws 2009, as amended by section 17, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 24.** Except as provided in ORS 315.237 (6), a credit may not be claimed under ORS 315.237 for tax years beginning on or after January 1, [2020] 2026.

#### CREDIT FOR AGRICULTURE WORKFORCE HOUSING PROJECTS

**SECTION 30.** Section 28, chapter 913, Oregon Laws 2009, as amended by section 18, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 28.** Except as provided in ORS 315.164 (8), a credit may not be claimed under ORS 315.164 for **agriculture workforce housing projects completed in** tax years beginning on or after January 1, [2020] 2026.

### EARNED INCOME TAX CREDIT

**SECTION 31.** ORS 315.266 is amended to read:

315.266. (1)(a) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to [eight] **nine** percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the age of three at the close of the tax year, the credit allowed under this section shall be in an amount equal to [11] **12** percent of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(2) An eligible nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

(5) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(6) The Department of Revenue may adopt rules for purposes of this section, including but not limited to rules relating to proof of eligibility and the furnishing of information regarding the federal earned income credit claimed by the taxpayer for the tax year.

(7) Refunds attributable to the earned income credit allowed under this section do not bear interest.

**SECTION 32.** Section 6, chapter 880, Oregon Laws 2007, as amended by section 1, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 6.** ORS 315.266 applies to tax years beginning before January 1, [2020] 2026.



**SECTION 32a.** The amendments to ORS 315.266 by section 31 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

**LOW INCOME RENTAL  
PROPERTY TAX EXEMPTION**

**SECTION 33.** ORS 307.517, as amended by section 10, chapter 111, Oregon Laws 2018, is amended to read:

307.517. (1) Property or a portion of the property is exempt from taxation as provided under ORS 307.515 to 307.523 if:

(a) The property is:

(A) Offered for rent; or

(B) Held for the purpose of developing low income rental housing, for a period not exceeding a reasonable maximum period, if any, adopted by the governing body;

(b) The property, if occupied, is occupied solely by low income persons;

(c) The required rent payment reflects the full value of the property tax exemption;

(d) The exemption has been approved as provided in ORS 307.523, pursuant to an application filed before July 1, [2020] **2030**;

(e) The housing units on the property were constructed after the local governing body adopted the provisions of ORS 307.515 to 307.523; and

(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other criteria adopted by the governing body.

(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.

(3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

**SECTION 34.** ORS 307.518, as amended by section 11, chapter 111, Oregon Laws 2018, is amended to read:

307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS 307.515 to 307.523 if:

(a) The property, if unoccupied, is:

(A) Offered for rental solely as a residence for low income persons; or

(B) Held for the purpose of developing low income rental housing, for a period not exceeding a

reasonable maximum period, if any, adopted by the governing body;

(b) The property, if occupied, is occupied solely as a residence for low income persons;

(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before July 1, [2020] **2030**;

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation or a religious corporation, both terms as defined in ORS 65.001;

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of the nonprofit corporation's annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property; and

(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other criteria adopted by the governing body.

(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.

(3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

**SECTION 35.** ORS 307.523, as amended by section 12, chapter 111, Oregon Laws 2018, is amended to read:

307.523. (1) Application shall be made on or before December 1 of the calendar year immediately preceding the first assessment year for which exemption is requested, and shall be accompanied by the application fee required under ORS 307.527. However, if the property is acquired after November 1, the application shall be made within 30 days after the date of acquisition.

(2) Within 60 days of the filing of an application under ORS 307.521, the governing body shall take final action upon the application as provided under

ORS 307.527, and certify the results of the action to the county assessor, as set forth in ORS 307.512.

(3) Upon receipt of certification under subsection (2) of this section, the county assessor shall exempt the property from taxation to the extent certified by the governing body.

(4) Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted exemption pursuant to an application filed under ORS 307.517 or 307.518 before July 1, [2020] **2030**, shall continue to receive the exemption on the same terms, including duration, on which the exemption was granted.

**SECTION 36.** ORS 307.529, as amended by section 13, chapter 111, Oregon Laws 2018, is amended to read:

307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS 307.517 has been approved under ORS 307.527, the governing body finds that construction or development of the exempt property differs from the construction or development described in the application for exemption, or is not completed on or before July 1, [2020] **2030**, or that any provision of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give notice of the proposed termination of the exemption to the owner, by mailing the notice to the last-known address of the owner, and to every known lender, by mailing the notice to the last-known address of every known lender. The notice shall state the reasons for the proposed termination and shall require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

(2) If the owner fails to appear and show cause why the exemption should not be terminated, the governing body shall notify every known lender, and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide assurance adequate to the governing body that all noncompliance shall be remedied.

(3) If the owner fails to appear and show cause why the exemption should not be terminated, and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the governing body shall adopt an ordinance or resolution stating its findings terminating the exemption. A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender within 10 days after its adoption.

**SECTION 37.** ORS 307.535, as amended by section 14, chapter 111, Oregon Laws 2018, is amended to read:

307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

(1) If the governing body finds that construction of the housing unit otherwise entitled to exemption under ORS 307.517 was not completed by July 1, [2020] **2030**, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the governing body may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

(2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property under ORS 307.531 or 307.533.

### CREDIT FOR CROP DONATION

**SECTION 38.** Section 5, chapter 913, Oregon Laws 2009, as amended by section 1, chapter 115, Oregon Laws 2014, is amended to read:

**Sec. 5.** Except as provided in ORS 315.156 (4), a credit may not be claimed under ORS 315.156 for tax years beginning on or after January 1, 2012, and before January 1, 2014, or on or after January 1, [2020] **2026**.

### HISTORIC PROPERTY SPECIAL ASSESSMENT

**SECTION 39.** ORS 358.499 is amended to read:

358.499. (1) Property first classified and specially assessed as historic property for a tax year beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and removed from special assessment as provided under ORS 358.487 to 358.543 as those sections were in existence and in effect on December 31, 1992.

(2) Property may be classified and specially assessed under ORS 358.487 to 358.543 pursuant to application filed under ORS 358.487 on or after September 9, 1995, and first applicable for the tax year 1996-1997 or any tax year thereafter.

(3) Property may not be classified and specially assessed pursuant to application filed under ORS 358.487 or 358.540 if the application is filed on or after July 1, [2020] **2022**.

### EXEMPTION FOR VEHICLE USED IN EMISSIONS TESTING

**SECTION 40.** ORS 825.475 is repealed.

**SECTION 41.** The repeal of ORS 825.475 by section 40 of this 2019 Act becomes operative on January 1, 2026.

## QUALIFIED MACHINERY AND EQUIPMENT PROPERTY TAX EXEMPTION

**SECTION 42.** Section 7, chapter 637, Oregon Laws 2005, as amended by section 1, chapter 656, Oregon Laws 2011, and section 1, chapter 210, Oregon Laws 2013, is amended to read:

**Sec. 7.** Property may not qualify for a first year of exemption under ORS 307.455 for a tax year beginning on or after July 1, [2020] **2025**.

**SECTION 43.** Section 44 of this 2019 Act is added to and made a part of ORS 307.453 to 307.459.

**SECTION 44.** (1)(a) Notwithstanding ORS 307.455, the governing body of a city or county may adopt an ordinance or resolution that:

(A) Changes, but not above 100 percent, the percentage of exemption granted under ORS 307.455 or changes, but not above five years, the number of property tax years for which the exemption may be granted; or

(B) Renders the exemption granted under ORS 307.455 inoperative.

(b) An ordinance or resolution adopted pursuant to this subsection by the governing body of a city shall apply:

(A) Only within the corporate boundaries of the city;

(B) To all qualified machinery and equipment taxable within the corporate boundaries; and

(C) To the tax levies of the city and all other taxing districts having jurisdiction within the corporate boundaries.

(c) An ordinance or resolution adopted pursuant to this subsection by the governing body of a county shall apply:

(A) Only within the unincorporated territory of the county;

(B) To all qualified machinery and equipment taxable within the unincorporated territory; and

(C) To the tax levies of the county and all other taxing districts having jurisdiction within the unincorporated territory.

(2)(a) An ordinance or resolution adopted pursuant to subsection (1) of this section shall not become operative before the beginning of the second property tax year that begins on or after the date on which the ordinance or resolution is adopted.

(b) For property tax years beginning on or after the operative date specified in paragraph (a) of this subsection, qualified machinery and equipment that is subject to an ordinance or resolution described in subsection (1)(a)(B) of this section shall be assessed and taxed as other similar property is assessed and taxed.

(3) Notwithstanding subsection (1) of this section, qualified machinery and equipment that is exempt under ORS 307.455 on the operative date specified in subsection (2)(a) of this section

that would otherwise be subject to an ordinance or resolution adopted pursuant to subsection (1) of this section shall continue to be exempt for the number of property tax years for which the qualified machinery and equipment is eligible under ORS 307.455 (3).

(4)(a) The governing body of a city or county that adopts an ordinance or resolution pursuant to subsection (1)(a)(B) of this section may subsequently adopt an ordinance or resolution rendering the exemption granted under ORS 307.455 operative again for the city or county, respectively, and all other affected taxing districts.

(b) The exemption shall become operative for the first property tax year that begins on or after the date on which the ordinance or resolution adopted under this subsection becomes effective.

(5) As soon as practicable after the adoption of an ordinance or resolution under:

(a) Subsection (1) of this section, the governing body of the city or county shall provide notice of the adoption or changes to:

(A) The county assessor;

(B) The Department of Revenue;

(C) The State Department of Agriculture; and

(D) Taxpayers whose qualified machinery and equipment is exempt under ORS 307.455 for the current property tax year on the effective date of the ordinance or resolution.

(b) Subsection (4) of this section, the governing body of the city or county shall provide notice of the adoption to:

(A) The county assessor;

(B) The Department of Revenue; and

(C) The State Department of Agriculture.

(6) An ordinance or resolution adopted under subsection (1) or (4) of this section must remain in effect for at least three consecutive property tax years.

**SECTION 45.** ORS 307.455 is amended to read: 307.455. (1) As used in [this section and ORS 307.457] **ORS 307.453 to 307.459**:

(a) "Assessor" means the county assessor, or the Department of Revenue if under ORS 306.126 the department is responsible for appraisal of the facility at which the qualified machinery and equipment is located.

(b) "Bakery product" has the meaning given that term in ORS 625.010.

(c) "Dairy products" has the meaning given that term in ORS 621.003.

(d) "Food processor":

(A) Means a person engaged in the business of freezing, canning, dehydrating, concentrating, pre-serving, processing or repacking for human consumption raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood in any procedure that occurs prior to the point of first sale by the processor.

(B) Does not include:

(i) Persons engaged in the business of producing alcoholic beverages or marijuana items as defined in ORS 475B.015.

(ii) A person engaged in the business of producing bakery products unless the person has been issued a wholesale license by the State Department of Agriculture.

(e) "Integrated processing line" does not include forklifts, trucks or other rolling stock used to transport material to or from a point of manufacture or assembly.

(f) "Qualified machinery and equipment" means property, whether new or used, that is newly acquired by a food processor and placed into service prior to January 1 preceding the first tax year for which an exemption under this section is sought, and that consists of:

(A) Real property machinery and equipment that is used by a food processor in the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood; or

(B) Personal property machinery and equipment that is used in an integrated processing line for the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood.

(2)(a) On or before March 1 preceding the first tax year for which property is to be exempt from taxation under this section, a food processor seeking an exemption under this section shall apply to the assessor for exemption. The application shall be on a form prescribed by the Department of Revenue and shall include any information required by the department, including a schedule of the qualified machinery and equipment for which certification is sought.

(b) Notwithstanding paragraph (a) of this subsection, the assessor may approve an application that is filed after March 1, and on or before December 31 of the assessment year, if the statement is accompanied by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value of the property that is the subject of the application.

(c) The assessor shall review the application and, if the machinery and equipment that is the subject of the application constitutes qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, shall approve the application and exempt the qualified machinery and equipment.

(d) If any of the machinery and equipment that is the subject of the application does not constitute qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, the assessor shall exclude the nonqualified machinery and equipment from the application.

(3) Qualified machinery and equipment for which an application has been approved under subsection (2) of this section shall be exempt for the tax year for which the application was approved and for the

next four succeeding tax years, if as of the assessment date for each year the property constitutes qualified machinery and equipment.

(4) The duration of the exemption under subsection (3) of this section may not be extended as the result of the value of changes to qualified machinery and equipment that are attributable to rehabilitation, reconditioning or ongoing maintenance or repair.

(5) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process grains or bakery products may not be granted exemption under this section unless the qualified machinery and equipment has a total cost of initial investment of at least \$100,000 to the food processor.

(6) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process bakery products may not be granted exemption under this section if proceeds from retail sales made at the processing site constitute more than 10 percent of all proceeds from sales made at the processing site.

**SECTION 46.** ORS 307.459 is amended to read:  
307.459. The Department of Revenue and the State Department of Agriculture may adopt rules to implement the provisions of ORS 307.455 and 307.457 and section 44 of this 2019 Act.

**SECTION 47.** The amendments to ORS 307.455 and 307.459 by sections 45 and 46 of this 2019 Act become operative on July 1, 2020.

## POLITICAL CONTRIBUTION TAX CREDIT

**SECTION 48.** Section 34, chapter 913, Oregon Laws 2009, as amended by section 7, chapter 750, Oregon Laws 2013, is amended to read:

**Sec. 34. (1)** A credit may not be claimed under ORS 316.102 for tax years beginning on or after January 1, [2020] 2026.

**(2) The amendments to ORS 316.102 by section 49 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.**

**SECTION 49.** ORS 316.102 is amended to read:  
316.102. (1) A credit against taxes shall be allowed for voluntary contributions in money made in the taxable year:

(a) To a major political party qualified under ORS 248.006 or to a committee thereof or to a minor political party qualified under ORS 248.008 or to a committee thereof.

(b) To or for the use of a person who must be a candidate for nomination or election to a federal, state or local elective office in any primary election, general election or special election in this state. The person must, in the calendar year in which the contribution is made, either be listed on a primary election, general election or special election ballot

in this state or have filed in this state one of the following:

- (A) A prospective petition;
- (B) A declaration of candidacy;
- (C) A certificate of nomination; or
- (D) A designation of a principal campaign committee.

(c) To a political committee, as defined in ORS 260.005, if the political committee has certified the name of its treasurer to the filing officer, as defined in ORS 260.005, in the manner provided in ORS chapter 260.

(2) The credit allowed by subsection (1) of this section shall be the lesser of:

- (a) The total contribution, not to exceed \$100 on a joint return or \$50 on any other type of return; or
- (b) The tax liability of the taxpayer.

(3) A taxpayer may not claim the credit allowed under this section if the taxpayer has federal adjusted gross income in excess of [~~\$200,000~~] **\$150,000** on a joint return or [~~\$100,000~~] **\$75,000** on any other type of return.

(4) The claim for tax credit shall be substantiated by submission, with the tax return, of official receipts of the candidate, agent, political party or committee thereof or political committee to whom contribution was made.

**TAX CREDIT FOR  
INDIVIDUAL DEVELOPMENT ACCOUNT  
CONTRIBUTIONS**

**SECTION 49a.** ORS 315.271 is amended to read: 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be allowed for donations to a fiduciary organization for distribution to individual development accounts established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation amount, as determined by the fiduciary organization, but not to exceed [70] **90** percent of any donation amount. To qualify for a credit under this section, donations to a fiduciary organization must be made prior to January 1, 2022.

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

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

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

next succeeding tax year may be carried forward and used in the second succeeding tax year. Any tax credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

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

**SECTION 49b.** The amendments to ORS 315.271 by section 49a of this 2019 Act apply to tax years beginning on or after January 1, 2019, and before January 1, 2022.

**CORPORATE ACTIVITY TAX  
MODIFICATIONS**

**SECTION 50.** Section 58, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 58.** As used in sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act]:

(1)(a) "Commercial activity" means:

(A) The total amount realized by a person, arising from transactions and activity in the regular course of the person's trade or business, without deduction for expenses incurred by the trade or business[.];

(B) **If received by a financial institution:**

(i) **If the reporting person for a financial institution is a holding company, all items of income reported on the FR Y-9 filed by the holding company;**

(ii) **If the reporting person for a financial institution is a bank organization, all items of income reported on the call report filed by the bank organization; and**

(iii) **If the reporting person for a financial institution is a nonbank financial organization, all items of income reported in accordance with generally accepted accounting principles; and**

(C)(i) **If received by an insurer, as reported on the statement of premiums accompanying the annual statement required under ORS 731.574 to be filed with the Director of the Department of Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and health insurance premiums and gross direct property and casualty insurance premiums; and**

(ii) **The gross amount of surplus lines premiums received on Oregon home state risks as shown in the report required by ORS 735.465.**

(b) "Commercial activity" does not include:

(A) Interest income except:

(i) Interest on credit sales; or

(ii) **Interest income, including service charges, received by financial institutions;**

(B) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

(C) **If received by an insurer, federally reinsured premiums or income from transactions between a reciprocal insurer and its attorney in fact operating under ORS 731.142;**

(D) **Receipts from hedging transactions, to the extent that the transactions are entered into primarily to protect a financial position, including transactions intended to manage the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or investments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity price fluctuations;**

[(C)] (E) Proceeds received attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument;

[(D)] (F) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

[(E)] (G) Contributions received by a trust, plan or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter (D) of the Internal Revenue Code applies;

(H) **Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, a former employee or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums or employee expenses or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code or any similar employee reimbursement;**

[(F)] (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or calls, or from the sale of the taxpayer's treasury stock;

[(G)] (J) Proceeds received on the account of payments from insurance policies **owned by the taxpayer**, except those proceeds received for the loss of business revenue;

[(H)] (K) Gifts or charitable contributions received, membership dues received by trade, professional, homeowners' or condominium associations, payments received for educational courses, meetings or meals, or similar payments to a trade, professional or other similar association, and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

[(I)] (L) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be treated as commercial activity;

[(J)] (M) Property, money and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee or other remuneration;

[(K)] (N) Tax refunds, other tax benefit recoveries and reimbursements for the tax imposed under sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**, [of this 2019 Act] made by entities that are part of the same unitary group as provided under section 60, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act], and reimbursements made by entities that are not members of a unitary group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**, [of this 2019 Act] is required to be reported and paid entirely by one owner, as provided in section 60, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act];

[(L)] (O) Pension reversions;

[(M)] (P) Contributions to capital;

[(N)] (Q) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any other product used for the propulsion of motor vehicles;

[(O)] (R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or ORS chapter 323;

[(P)] (S) In the case of receipts from the sale of malt beverages[, *wine or alcoholic liquor, all*] **or wine**, as defined in ORS 471.001, [or] cider, as defined in ORS 471.023[,] **or distilled liquor, as defined in ORS 471.001**, by a person holding a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid by any person on or for such malt beverages, [*wine or alcoholic liquor*] **wine or distilled liquor** under subtitle E of the Internal Revenue Code or ORS chapter 471 **or 473**, and any [net] amount paid to the Oregon Liquor Control Commission [by a person licensed to sell *alcoholic liquor* under ORS chapter 471 in excess of the purchase price paid by the licensee] **for sales of distilled spirits by an agent appointed under ORS 471.750;**

[(Q)] (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760 **and any local retail taxes authorized under ORS 475B.491;**

(U) **Local taxes collected by a restaurant or other food establishment on sales of meals, prepared food or beverages;**

**(V) Tips or gratuities collected by a restaurant or other food establishment and passed on to employees;**

**[(R)] (W)** Receipts realized by a vehicle dealer certified under ORS 822.020 **or a person described in ORS 320.400(9)(a)(B)** from the sale or other transfer of a motor vehicle, as defined in ORS 801.360, to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

**[(S)] (X)** Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 at the sale or other transfer of a motor vehicle, as defined in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to the third party by the dealer;

**[(T)] (Y)** Receipts from a financial institution for services provided to the financial institution in connection with the issuance, processing, servicing and management of loans or credit accounts, if the financial institution and the recipient of the receipts have at least 50 percent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

**[(U)] (Z)** In the case of amounts retained as commissions by a holder of a license under ORS chapter 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or collected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to be used as purse money;

**[(V)] (AA)** Net revenue of residential care facilities as defined in ORS 443.400 or in-home care agencies as defined in ORS 443.305, to the extent that the revenue is derived from or received as compensation for providing services to a medical assistance or Medicare recipient;

**[(W)] (BB)** Dividends received;

**[(X)] (CC)** Distributive income received from a pass-through entity;

**[(Y)] (DD)** Receipts from sales to a wholesaler in this state, if the seller receives certification at the time of sale from the wholesaler that the wholesaler will sell the purchased property outside this state;

**[(Z)]** *Rebates paid to purchasers by retailers or wholesalers;*

**[(AA)] (EE)** Receipts from the wholesale or retail sale of groceries;

**[(BB)] (FF)** Receipts from transactions among members of a unitary group;

**[(CC)] (GG)** Moneys, including public purpose charge moneys collected under ORS 757.612 and costs of funding or implementing cost-effective energy conservation measures collected under ORS 757.689, that are collected from customers, passed to a utility and approved by the Public Utility Commission and that support energy conservation, renewable resource acquisition and low-income assistance programs;

**[(DD)] (HH)** Moneys collected by a utility from customers for the payment of loans through on-bill financing;

**[(EE)] (II)** Surcharges collected under ORS 757.736;

**[(FF)] (JJ)** Moneys passed to a utility by the Bonneville Power Administration for the purpose of effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with the exchange credit;

**[(GG)] (KK)** Moneys collected *[by a utility for] or recovered, by entities listed in ORS 756.310, cable operators as defined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-way fees, franchise fees, privilege taxes, federal taxes[,] and local taxes [and fees payable under ORS 756.310];*

**[(HH)] (LL)** Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987;

**[(II)] (MM)** Universal service surcharge moneys collected *[by telecommunications carriers] or recovered* and paid into the universal service fund established in ORS 759.425;

**[(JJ)] (NN)** Moneys collected for public purpose funding as described in ORS 759.430;

**[(KK)] (OO)** Moneys collected *[for] or recovered and paid into* the federal universal service fund as determined by the Federal Communications Commission;

**[(LL)] (PP)** In the case of a seller or provider of telecommunications services, the amount of tax imposed under ORS 403.200 for access to the emergency communications system that is collected from subscribers or consumers;

**[(MM)] (QQ)** In the case of a transient lodging tax collector, the amount of tax imposed under ORS 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

**[(NN)] (RR)** In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail sales of bicycles;

**[(OO)] (SS)** In the case of a qualified heavy equipment provider, the amount of tax imposed under section 2, chapter 64, Oregon Laws 2018, upon the rental price of heavy equipment;

**[(PP)] (TT)** *[Receipts representing business done with or for members of] Farmer sales to* an agricultural cooperative in this state that is a cooperative organization described in section 1381 of the Internal Revenue Code; and

**[(QQ)] (UU)** Revenue received by a business entity that is mandated by contract or subcontract to be distributed to another person or entity if the revenue constitutes sales commissions that are paid to a person who is not an employee of the business entity, including, without limitation, a split-fee real estate commission.

**[(2)(a)]** *“Commercial activity of a financial institution” includes all items of income without deduction for expenses.*

[(b) If the reporting person for a financial institution is a holding company, “commercial activity of a financial institution” includes all items of income reported on the FR Y-9 filed by the holding company.]

[(c) If the reporting person for a financial institution is a bank organization, “commercial activity of a financial institution” includes all items of income reported on the call report filed by the bank organization.]

[(d) If the reporting person for a financial institution is a nonbank financial organization, “commercial activity of a financial institution” includes all items of income reported in accordance with generally accepted accounting principles.]

[(3) “Commercial activity of an insurer” includes all items of income without deduction for expenses and all items of income] [reported on the statement of income accompanying the annual statement required under ORS 731.574 to be filed with the Director of the Department of Consumer and Business Services.]

[(4) (2) “Cost inputs” means the cost of goods sold as calculated [under section 471 of the Internal Revenue Code] **in arriving at federal taxable income under the Internal Revenue Code.**

[(5) (3) “Doing business” means engaging in any activity, whether legal or illegal, that is conducted for, or results in, the receipt of commercial activity at any time during a calendar year.

[(6) (4) “Excluded person” means any of the following:

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

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

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

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

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

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

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

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

(i) Governmental entities.

(j) Any person with commercial activity that does not exceed [*\$1 million*] **\$750,000** for the calendar year, other than a person that is part of a unitary group as provided in section 60, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**, [*of this 2019 Act*] with commercial activity in excess of [*\$1 million*] **\$750,000**.

(k) Hospitals subject to assessment under section 2, chapter 736, Oregon Laws 2003, long term care facilities subject to assessment under section 16, chapter 736, Oregon Laws 2003, or any entity subject to assessment under section 3, 5 or 9, chapter 538, Oregon Laws 2017.

[(7)] (5) “Financial institution” has the meaning given that term in ORS 314.610, except that “financial institution” does not include a credit union.

[(8)(a)] (6)(a) “FR Y-9” means the consolidated or parent-only financial statements that a holding company is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

(b) In the case of a holding company required to file both consolidated and parent-only financial statements, “FR Y-9” means the consolidated financial statements that the holding company is required to file.

[(9)] (7) “Governmental entity” means:

(a) The United States and any of its unincorporated agencies and instrumentalities.

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

(d) Any county, city, district or other political subdivision of the state.

(e) [*Any public corporation*] **A special government body as defined in ORS 174.117.**

(f) A federally recognized Indian tribe.

[(10)] (8) “Groceries” means food as defined in 7 U.S.C. 2012(k), **but does not include cannabinoid edibles or marijuana seeds.**

(9)(a) **“Hedging transaction” means a hedging transaction as defined in section 1221 of the Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Accounting Standards Board Statement No. 133.**

**(b) “Hedging transaction” does not include a transaction in which an actual transfer of title of real or tangible property to another entity occurs.**

[(11)] (10) “Insurer” has the meaning given that term in ORS 317.010.

[(12)] (11) “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 on December 31, 2018.

[(13)] (12) “Labor costs” means total compensation of all employees, not to include compensation paid to any single employee in excess of \$500,000.

[(14)(a)] (13)(a) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” means:

(A) Motor vehicle fuel as defined in ORS 319.010; and

(B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.



(b) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” does not mean:

(A) Electricity; or

(B) Electric batteries or any other mechanical or physical component or accessory of a motor vehicle.

[(15)] (14) “Person” includes individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes and any other entities.

[(16)] (15) “Retailer” means a person doing business by selling tangible personal property to a purchaser for a purpose other than:

(a) Resale by the purchaser of the property as tangible personal property in the regular course of business;

(b) Incorporation by the purchaser of the property in the course of regular business as an ingredient or component of real or personal property; or

(c) Consumption by the purchaser of the property in the production for sale of a new article of tangible personal property.

[(17)] (16) “Taxable commercial activity” means commercial activity sourced to this state under section 66, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act], less any subtraction pursuant to section 64, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act].

[(18)(a)] (17)(a) “Taxpayer” means any person or unitary group required to register, file or pay tax under sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act].

(b) “Taxpayer” does not include excluded persons, **except to the extent that a tax-exempt entity has unrelated business income that is taxable under the Internal Revenue Code.**

[(19)(a)] (18)(a) “Unitary business” means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise a sharing or exchange of value as demonstrated by:

(A) Centralized management or a common executive force;

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

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

(b) “Unitary business” may include a business enterprise the activities of which:

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

(B) Constitute steps in a vertically integrated process, such as the steps involved in the production

of natural resources, which might include exploration, mining, refining and marketing.

[(20)] (19) “Unitary group” means a group of persons with more than 50 percent common ownership, either direct or indirect, that is engaged in business activities that constitute a unitary business.

[(21)] (20) “Wholesaler” means a person primarily doing business by merchant distribution of tangible personal property to retailers or to other wholesalers.

**SECTION 51.** Section 61, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 61.** (1) Except as provided in subsection (2) of this section:

(a) A person shall include as taxable commercial activity the value of property the person transfers into this state for the person’s own use in the course of a trade or business within one year after the person receives the property outside this state; and

(b) In the case of a unitary group, the taxpayer shall include as taxable commercial activity the value of property that any of the taxpayer’s members transferred into this state for the use in the course of a trade or business by any of the taxpayer’s members within one year after the taxpayer receives the property outside this state.

(2) Property brought into this state within one year after it is received outside this state by a person or unitary group described in subsection (1) of this section may not be included as taxable commercial activity as required under subsection (1) of this section if **the person or unitary group can show or if** the Department of Revenue ascertains that the property’s receipt outside this state by the person or unitary group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act].

(3) The department may adopt rules necessary to administer this section.

**SECTION 52.** Section 63, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 63.** (1) A corporate activity tax is imposed on each person with taxable commercial activity for the privilege of doing business in this state. The tax is imposed upon persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to the Interstate Income Act of 1959 (P.L. 86-272). The tax imposed under this section is in addition to any other taxes or fees imposed under the tax laws of this state. The tax imposed under this section is imposed on the person [receiving] **with** the commercial activity and is not a tax imposed directly on a purchaser. The tax imposed under this section is an annual privilege tax for the calendar year and shall be

remitted quarterly to the Department of Revenue. A taxpayer is subject to the annual corporate activity tax for doing business during any portion of such calendar year.

(2) A person has substantial nexus with this state if any of the following applies. The person:

(a) Owns or uses a part or all of its capital in this state.

(b) Holds a certificate of existence or authorization issued by the Secretary of State authorizing the person to do business in this state.

(c) Has bright-line presence in this state.

(d) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**, [of this 2019 Act] under the United States Constitution.

(3) A person has bright-line presence in this state for the calendar year if any of the following applies. The person:

(a) Owns at any time during the calendar year property in this state with an aggregate value of at least \$50,000. For purposes of this paragraph, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(b) Has during the calendar year payroll in this state of at least \$50,000. Payroll in this state includes the following:

(A) Any amount subject to withholding by the person under ORS 316.167 and 316.172;

(B) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(C) Any amount the person pays for services performed in this state on the person's behalf by another.

(c) Has during the calendar year commercial activity, sourced to this state under section 66, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act], of at least \$750,000.

(d) Has at any time during the calendar year within this state at least 25 percent of the person's total property, total payroll or total commercial activity.

(e) Is a resident of this state or is domiciled in this state for corporate, commercial or other business purposes.

**(4) Notwithstanding subsection (1) of this section, a vehicle dealer may collect from the purchaser of a motor vehicle the estimated portion of the tax imposed under this section that is attributable to commercial activity from the sale of the vehicle.**

**SECTION 53.** Section 64, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 64.** (1) A taxpayer shall subtract from commercial activity sourced to this state 35 percent of the greater of the following amounts paid or incurred by the taxpayer in the tax year:

(a) The amount of cost inputs; or

(b) The taxpayer's labor costs.

(2) The amounts in subsection (1)(a) or (b) of this section shall be apportioned to this state in the manner required for apportionment of income under ORS 314.605 to 314.675.

**(3) A subtraction under this section is not allowed for any amount of:**

**(a) Expenses from transactions among members of a group, as excluded under section 60, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427); or**

**(b) Cost inputs or labor costs that are attributable to a person's receipts from an item that is not commercial activity.**

[(3)] (4) Notwithstanding subsection (1) of this section, the subtraction under this section may not exceed 95 percent of the taxpayer's commercial activity in this state.

**SECTION 54.** Section 66, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 66.** (1) For purposes of sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act], commercial activity [other than commercial activity of financial institutions or insurers] shall be sourced to this state as follows:

(a) In the case of the sale, rental, lease or license of real property, if and to the extent the property is located in this state.

(b) In the case of the rental, lease or license of tangible personal property, if and to the extent the property is located in this state.

(c) In the case of the sale of tangible personal property, if and to the extent the property is delivered to a purchaser in this state.

(d) In the case of the sale of a service, if and to the extent the service is delivered to a location in this state.

(e) In the case of the sale, rental, lease or license of intangible property, if and to the extent the property is used in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, the receipts shall be sourced to this state to the extent the receipts are based on the right to use the property in this state.

**(f) In the case of a financial institution or an insurer, commercial activity not otherwise described in this section is sourced to this state if it is from business conducted in this state.**

(2) If the sourcing provisions of subsection (1) of this section do not fairly represent the extent of a person's commercial activity attributable to this state, the person may request, or the Department of Revenue may require or permit, an alternative method. A request under this subsection by a person must be made within the statute of limitations applicable to sections 58 to 76, **chapter 122, Oregon**

**Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act].

(3) The department may adopt rules to provide additional guidance to the application of this section, and to provide alternative methods of sourcing commercial activity that apply to financial institutions and to insurers, and to any other persons, or a subset of persons, that are engaged in similar business or trade activities.

**SECTION 55.** Section 67, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 67.** (1) Except as expressly authorized by this section, the authority to impose, in this state, a tax upon the commercial activity of an entity is vested solely in the Legislative Assembly. A city, county, district or other political subdivision or municipal corporation of this state may not impose, by ordinance or other law, a tax upon commercial activity or upon receipts from grocery sales.

(2) Subsection (1) of this section does not apply:

(a) To any tax, or to subsequent amendments of the provisions of any tax, if the ordinance or other law imposing the tax is in effect and operative on April 1, 2019, or is adopted by initiative or referendum petition at an election held prior to March 1, 2019; or

(b) To the imposition of **privilege taxes not measured by commercial activity**, franchise fees [or franchise taxes] or **right-of-way fees**.

**SECTION 56.** Section 70, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), is amended to read:

**Sec. 70.** (1) For purposes of the corporate activity tax imposed under section 63, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)** [of this 2019 Act], every person doing business in this state with commercial activity for the tax year in excess of \$1 million shall file not later than April 15 of the following year an annual return. The return must be filed with the Department of Revenue in a form prescribed by the department.

(2) The corporate activity tax imposed under section 63, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**, [of this 2019 Act] is due and **estimated tax payments are** payable to the department on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The department may by rule extend the time for making any return for good cause. If the time for filing a return is extended at the request of a taxpayer, interest on any unpaid tax at the rate estab-

lished under ORS 305.220 from the time the return was originally required to be filed to the time of payment, shall be added and paid.

**SECTION 57.** Section 58 of this 2019 Act is added to and made a part of sections 58 to 76, **chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427)**.

**SECTION 58.** An exclusion from taxable commercial activity shall be allowed for subcontracting payments for labor costs that are made by a general contractor, as defined in ORS 701.005, to a subcontractor, as defined in ORS 701.410, pursuant to a contract for residential real estate construction. The exclusion under this section:

(1) Shall be allowed only for single-family residential construction located in Oregon;

(2) Is not allowed for payment for materials, land or permits;

(3) Is not allowed for payments between subcontractors; and

(4) Shall be 15 percent of payments for labor by the general contractor.

**SECTION 59.** Section 58 of this 2019 Act applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

**SECTION 60.** The amendments to sections 58, 61, 63, 64, 66 and 70, chapter 122, Oregon Laws 2019 (Enrolled House Bill 3427), by sections 50 to 54 and 56 of this 2019 Act apply to tax years beginning on or after January 1, 2020.

## CAPTIONS

**SECTION 61.** The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

## EFFECTIVE DATE

**SECTION 62.** This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Approved by the Governor July 23, 2019

Filed in the office of Secretary of State July 29, 2019

Effective date September 29, 2019