

House Bill 2009

Sponsored by COMMITTEE ON HUMAN SERVICES AND HOUSING

SUMMARY

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

Advances sunset for subtraction for sale of manufactured dwelling park to certain entities. Creates personal income tax credit for sale of park. Provides that calculation of credit for taxes paid to other state allowed to nonresident taxpayer or allowed to estate treated as resident of another state occurs before allowance of credit for sale of park.

Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of sale of manufactured dwelling parks; creating new provisions; amending
3 ORS 314.752, 316.131, 316.292 and 318.031 and section 7, chapter 826, Oregon Laws 2005, and
4 section 18, chapter 89, Oregon Laws 2014; and prescribing an effective date.

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

6 **SECTION 1.** Section 7, chapter 826, Oregon Laws 2005, as amended by section 21, chapter 906,
7 Oregon Laws 2007, section 36, chapter 750, Oregon Laws 2013, and section 14, chapter 217, Oregon
8 Laws 2015, is amended to read:

9 **Sec. 7.** (1) Section 6, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after
10 January 1, 2006, and before January 1, [2020] **2018**.

11 (2) The amendments to section 6, chapter 826, Oregon Laws 2005, by section 9, **chapter 217,**
12 **Oregon Laws 2015,** [*of this 2015 Act*] apply to tax years beginning on or after January 1, 2015, and
13 before January 1, [2020] **2018**.

14 **SECTION 2.** Section 18, chapter 89, Oregon Laws 2014, as amended by section 13, chapter 217,
15 Oregon Laws 2015, is amended to read:

16 **Sec. 18.** (1) The amendments to [*sections 6 and 9*] **section 6**, chapter 826, Oregon Laws 2005,
17 by [*sections 16 and 17*] **section 16**, chapter 89, Oregon Laws 2014, apply to a sale of a manufactured
18 dwelling park on or after January 1, 2015, and to tax years beginning on or after January 1, 2015,
19 and before January 1, [2020] **2018**.

20 (2) **The amendments to section 9, chapter 826, Oregon Laws 2005, by section 17, chapter**
21 **89, Oregon Laws 2014, apply to a sale of a manufactured dwelling park on or after January**
22 **1, 2015, and to tax years beginning on or after January 1, 2015, and before January 1, 2020.**

23 **SECTION 3.** Section 4 of this 2017 Act is added to and made a part of ORS chapter 315.

24 **SECTION 4.** (1) **A credit against taxes that are otherwise due under ORS chapter 316 is**
25 **allowed to a taxpayer for amounts received as a result of the sale of a manufactured dwelling**
26 **park to a corporate entity formed by the tenants of the park, or by a nonprofit corporation**
27 **or housing authority, as described in ORS 90.844.**

28 (2) **The credit allowed under this section is computed by multiplying the gain reported**
29 **by the taxpayer and attributable to the sale of a manufactured dwelling park by the**

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

1 taxpayer's highest marginal rate under ORS 316.037.

2 (3) Prior to claiming the credit allowed under this section, a taxpayer is required to re-
 3 ceive written certification of eligibility from the Housing and Community Services Depart-
 4 ment.

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

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

13 (6) A nonresident shall be allowed the credit under this section. The credit shall be
 14 computed in the same manner and be subject to the same limitations as the credit granted
 15 to a resident. However, the credit shall be prorated using the proportion provided in ORS
 16 316.117.

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

21 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 22 ident to resident occurs, the credit allowed under this section shall be determined in a
 23 manner consistent with ORS 316.117.

24 (9) The Department of Revenue shall adopt rules for the purposes of this section, in-
 25 cluding policies and procedures for certifying taxpayers as eligible for the credit allowed un-
 26 der this section as required in subsection (3) of this section.

27 **SECTION 5.** ORS 316.131 is amended to read:

28 316.131. (1) A nonresident shall be allowed a credit against the taxes otherwise due under this
 29 chapter for income taxes imposed by and paid to the state of residence (not including any prefer-
 30 ence, alternative or minimum tax) on income taxable under this chapter, subject to the following
 31 conditions:

32 (a) The credit shall be allowed only if the state of residence either:

33 (A) Does not tax the income of residents of this state derived from sources within that state;

34 or

35 (B) Allows residents of this state a credit against income taxes imposed by that state on income
 36 for tax paid or payable under this chapter.

37 (b) The credit may not be allowed for taxes paid to a state that allows its residents a credit
 38 against the taxes imposed by that state for income tax paid or payable under this chapter irrespec-
 39 tive of whether its residents are allowed a credit against the taxes imposed by this chapter for in-
 40 come taxes paid to that state.

41 (c) Credit shall be allowed only for the proportion of the taxes paid to the state of residence (not
 42 including preference, alternative or minimum taxes) as the adjusted gross income taxable under this
 43 chapter and also subject to taxes in the state of residence bears to the entire adjusted gross income
 44 upon which the taxes paid to the state of residence are imposed.

45 (d) The credit may not exceed the proportion of the tax payable under this chapter that the

1 modified adjusted gross income subject to tax in the state of residence and also taxable under this
 2 chapter bears to the entire modified adjusted gross income of the taxpayer.

3 **(2) The credit under this section shall be computed before allowance of a credit under**
 4 **section 4 of this 2017 Act.**

5 [(2)] (3) For purposes of this section, the amount of income taxes paid to another state includes
 6 the taxpayer's pro rata share of any taxes on, or according to, or measured by, income or profits
 7 paid or accrued that were paid by an S corporation.

8 [(3)] (4) Notwithstanding subsection (1) of this section, credit may not be allowed under this
 9 section for taxes paid by a nonresident on qualifying compensation.

10 [(4)] (5) As used in this section:

11 (a) "Modified adjusted gross income" means federal adjusted gross income as modified by this
 12 chapter and the other laws of this state applicable to personal income taxation.

13 (b) "Qualifying compensation" has the meaning given that term in section 1, chapter 559, Oregon
 14 Laws 2005.

15 (c) "State" means a state, district, territory or possession of the United States.

16 **SECTION 6.** ORS 316.292 is amended to read:

17 316.292. (1) For purposes of this section, an estate or trust is considered a resident of the state
 18 which taxes the income of the estate or trust irrespective of whether the income is derived from
 19 sources within that state.

20 (2) Notwithstanding the limitations contained in ORS 316.082 and 316.131, if an estate or trust
 21 is a resident of this state and also a resident of another state, the estate or trust shall be allowed
 22 a credit against the taxes imposed under this chapter for income taxes imposed by and paid to the
 23 other state, subject to the following conditions:

24 (a) Credit shall be allowed only for the proportion of the taxes paid to the other state as the
 25 income taxable under this chapter and also subject to tax in the other state bears to the entire in-
 26 come upon which the taxes paid to the other state are imposed.

27 (b) The credit shall not exceed the proportion of the tax payable under this chapter as the in-
 28 come subject to tax in the other state and also taxable under this chapter bears to the entire income
 29 taxable under this chapter.

30 **(3) The credit under this section shall be computed before allowance of a credit under**
 31 **section 4 of this 2017 Act.**

32 **SECTION 7.** ORS 316.131, as amended by section 5 of this 2017 Act, is amended to read:

33 316.131. (1) A nonresident shall be allowed a credit against the taxes otherwise due under this
 34 chapter for income taxes imposed by and paid to the state of residence (not including any prefer-
 35 ence, alternative or minimum tax) on income taxable under this chapter, subject to the following
 36 conditions:

37 (a) The credit shall be allowed only if the state of residence either:

38 (A) Does not tax the income of residents of this state derived from sources within that state;

39 or

40 (B) Allows residents of this state a credit against income taxes imposed by that state on income
 41 for tax paid or payable under this chapter.

42 (b) The credit may not be allowed for taxes paid to a state that allows its residents a credit
 43 against the taxes imposed by that state for income tax paid or payable under this chapter irrespec-
 44 tive of whether its residents are allowed a credit against the taxes imposed by this chapter for in-
 45 come taxes paid to that state.

1 (c) Credit shall be allowed only for the proportion of the taxes paid to the state of residence (not
 2 including preference, alternative or minimum taxes) as the adjusted gross income taxable under this
 3 chapter and also subject to taxes in the state of residence bears to the entire adjusted gross income
 4 upon which the taxes paid to the state of residence are imposed.

5 (d) The credit may not exceed the proportion of the tax payable under this chapter that the
 6 modified adjusted gross income subject to tax in the state of residence and also taxable under this
 7 chapter bears to the entire modified adjusted gross income of the taxpayer.

8 *[(2) The credit under this section shall be computed before allowance of a credit under section 4*
 9 *of this 2017 Act.]*

10 *[(3)]* (2) For purposes of this section, the amount of income taxes paid to another state includes
 11 the taxpayer's pro rata share of any taxes on, or according to, or measured by, income or profits
 12 paid or accrued that were paid by an S corporation.

13 *[(4)]* (3) Notwithstanding subsection (1) of this section, credit may not be allowed under this
 14 section for taxes paid by a nonresident on qualifying compensation.

15 *[(5)]* (4) As used in this section:

16 (a) "Modified adjusted gross income" means federal adjusted gross income as modified by this
 17 chapter and the other laws of this state applicable to personal income taxation.

18 (b) "Qualifying compensation" has the meaning given that term in section 1, chapter 559, Oregon
 19 Laws 2005.

20 (c) "State" means a state, district, territory or possession of the United States.

21 **SECTION 8.** ORS 316.292, as amended by section 6 of this 2017 Act, is amended to read:

22 316.292. (1) For purposes of this section, an estate or trust is considered a resident of the state
 23 which taxes the income of the estate or trust irrespective of whether the income is derived from
 24 sources within that state.

25 (2) Notwithstanding the limitations contained in ORS 316.082 and 316.131, if an estate or trust
 26 is a resident of this state and also a resident of another state, the estate or trust shall be allowed
 27 a credit against the taxes imposed under this chapter for income taxes imposed by and paid to the
 28 other state, subject to the following conditions:

29 (a) Credit shall be allowed only for the proportion of the taxes paid to the other state as the
 30 income taxable under this chapter and also subject to tax in the other state bears to the entire in-
 31 come upon which the taxes paid to the other state are imposed.

32 (b) The credit shall not exceed the proportion of the tax payable under this chapter as the in-
 33 come subject to tax in the other state and also taxable under this chapter bears to the entire income
 34 taxable under this chapter.

35 *[(3) The credit under this section shall be computed before allowance of a credit under section 4*
 36 *of this 2017 Act.]*

37 **SECTION 9.** ORS 314.752 is amended to read:

38 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 39 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 40 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 41 allowable to the shareholders of the S corporation.

42 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 43 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 44 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 45 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-

1 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 2 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

6 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 7 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 8 316.117, then that provision shall apply to the nonresident shareholder.

9 (5) As used in this section, “business tax credit” means a tax credit granted to personal income
 10 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 11 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 12 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 13 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 14 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 15 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 16 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 17 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
 18 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
 19 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
 20 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
 21 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
 22 merce) and ORS 315.533 (low income community jobs initiative) **and section 4 of this 2017 Act**
 23 **(sale of manufactured dwelling park).**

24 **SECTION 10.** ORS 318.031 is amended to read:

25 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 26 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 27 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 28 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
 29 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 4 of this 2017**
 30 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

31 **SECTION 11.** (1) **Section 4 of this 2017 Act and the amendments to ORS 316.131 and**
 32 **316.292 by sections 5 and 6 of this 2017 Act apply to tax years beginning on or after January**
 33 **1, 2018, and before January 1, 2024.**

34 (2) **The amendments to ORS 316.131 and 316.292 by sections 7 and 8 of this 2017 Act apply**
 35 **to tax years beginning on or after January 1, 2024.**

36 (3) **The amendments to ORS 314.752 and 318.031 by sections 9 and 10 of this 2017 Act apply**
 37 **to tax years beginning on or after January 1, 2018.**

38 **SECTION 12.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**
 39 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**