

## Background

Senate Bill 1084 reinstates the tax credits, that expired after tax year 2018, for qualified research activities, expands the credit to personal income taxpayers, increases the maximum credit amount, limits the amount of total credits available in a biennium, allows the tax credit to be transferred to another taxpayer, and makes the credit partially refundable to taxpayers with fewer than 150 employees.

The bill also modifies qualifications for enterprise zone exemptions, modifies the community service fee and increases the taxable portion for eligible projects in the strategic investment program, and increases the amount a county may receive from the gain share program.

## Technical Issues

- Certification for the tax credit could be used to track the amount of tax credits available in a specified period. Without a certification requirement there is risk tax credits claimed will exceed any specified overall cap and ineligible taxpayers may claim the credit.
- Section 2 makes the credit partially refundable for taxpayers with fewer than 150 employees. It is not clear how the portion of the tax credit that is not refunded is to be treated.
- The transferability provisions being added to ORS 317.152 and 317.154 by Sections 3 and 4 allow for the tax credit to be transferred and requires DOR to approve the transfer and notify the transferor and transferee of the approval. DOR does not currently “approve” tax credit transfers – transfers are reported to the department as prescribed by ORS 315.056.
- With regard to timing, the bill prescribes limits to the total amount of tax credits that may be transferred in a tax year and total amount of tax credits that may be claimed in a biennium. Because some corporate taxpayers use a fiscal year for a tax year and often file on extension, the total amount of tax credits claimed may not be known for many months after the biennium ends. Additionally, tax years do not line up with the end of a biennium, making a cap on the amount of credits allowed in a biennium impossible to administer.
- To ensure S Corporations can pass the tax credit to shareholders, ORS 314.772 will need to be amended to include ORS 317.152 and 317.154.
- The tax credit is not applicable to a taxpayer filing under ORS chapter 318 (corporate income tax), therefore all references to ORS chapter 318 should be removed from the bill.
- It is unclear whether the new language relating to fulfillment centers in Sections 17 and 18 of the bill is intended to be retroactive or prospective. The solution would be to add language clarifying applicability for the changes to those sections.

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