Property Tax Exemption Review: 2025 Oregon Legislative Session

REPORT #8-24

December 2024

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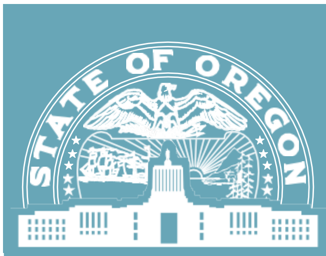
Table of Contents

INTRODUCTION 3
OREGON PROPERTY TAX SYSTEM 4
POTENTIAL TRADEOFFS of EXEMPTIONS 5
EXEMPTIONS UNDER REVIEW 8
- Brownfield Development 10
- Cargo Containers 16
- Vertical Housing Development Zone 21
- Nonprofit Low-Income Rental Housing 27
- New or Rehabilitated Multi-Unit Rental Housing 36

APPENDIX 42
Legislative History of Exemptions Under Review 42
Works Cited 45



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INTRODUCTION

The Tax Expenditure Report (TER) produced by the Oregon Department of Revenue (DOR) Research Section is a single source identifying existing tax expenditures in Oregon, including property tax exemptions. That report was first produced by DOR in 1996, following a preliminary version produced by the Legislative Revenue Office (LRO) in 1994 (Report #6-94), and has been a companion document for the Governor's Proposed Budget since the 1997-99 biennium. The second DOR report in 1998 (1999-01 TER), which was published after Measure 50 became law in 1997, identified 101 property tax exemptions. By the time the 2025-27 TER was published (Oregon Department of Revenue Research Section, 2024), the number of existing property tax exemptions identified in the report had grown to 140. Of that total, 111 did not have a sunset date, four have sunset dates in 2023-25 or earlier and the remaining 25 have sunset dates in 2025-27 to 2031-33.

The goal of this property tax exemption report is to build on that report and enhance the understanding of each exemption scheduled to sunset in the 2025-27 biennium. The intended audience includes revenue committee members, other interested members and their staff, lobbyists, and other stakeholders.

Providing a clear and specific policy purpose in statute may be the most essential element in policy development and enabling policy evaluation. Having a clear policy purpose in statute is necessary to truly gauge the success of an exemption, identify improvements or determine whether the stated goal could be better achieved through other means. A lack of specificity and clarity about the policy purpose will likely result in less specificity and clarity in any evaluation. For example, while some exemptions are an incentive to change human behavior and achieve specific outcomes, other exemptions are intended to be a subsidy for certain individuals or organizations. As such, the analytical frameworks for evaluating the success of an exemption are fundamentally different for incentives and subsidies. This report attempts to apply the appropriate frameworks for each exemption review.

While not required by law, this report broadly follows the intent and structure of LRO's Tax Credit Report (TCR) required by Oregon Revised Statute (ORS) 315.051. The next sections of this report summarize the Oregon property tax system and potential tradeoffs of exemptions, respectively. The final and primary section of the report contains reviews of the five property tax exemptions scheduled to sunset in the next biennium. The analysis of each exemption includes the following subsections: policy purpose, description, analysis, legislative history, administrative costs, similar programs available in Oregon, and exemptions available in other states. Lastly, the Appendix Table A1 contains the legislative history for each exemption.

OREGON PROPERTY TAX SYSTEM

Although property tax systems vary by state, property tax has the potential to be "a good tax" because a well-designed property tax is more transparent, stable, and neutral than many other taxes (Youngman, 2016). Neutral taxes result in few distortions to taxpayer decisions. Property tax is relatively neutral because it often conforms to the benefit principle, meaning that the tax corresponds, albeit imperfectly, with the services received by the taxpayer from local governments. In situations where a taxpayer does not directly use services provided by taxing districts, the taxpayer likely benefits from wealth appreciation, as local services are capitalized into land values. Property tax revenue is stable compared to other revenue sources such as income taxes. Property tax is relatively transparent because property tax bills are mailed to taxpayers each October that provide simple details about the tax amount and how it changed from the previous year. Nevertheless, the visibility of the property tax bill can also result in criticism because the tax amount is a lump sum that may seem large or due at an inconvenient time. However, an advantage of a lump sum tax is the total tax amount is known, rather than spread across multiple transactions such as with a sales tax. Of course, consistent with the goal of this report, only continual efforts toward policy improvement can allow the property tax to achieve its potential as a good tax.

Prior to 1990, Oregon's property tax was a levy-based system. Local governments identified the amount of debt to be repaid and tax rates were simply the result of dividing that amount by the value of taxable property. The current framework for Oregon's property tax system is largely defined by two voter-approved ballot measures that made constitutional changes. Voters passed Measure 5 (M5) in 1990, which capped non-bond tax rates at $5 per $1,000 of real market value (RMV) for school taxing districts and $10 per $1,000 of RMV for non-school taxing districts. Permanent and local option taxes are subject to the M5 tax rate limits. Bonds rates are not capped because they represent debt owed by local governments. When a property's taxes are reduced due to the M5 tax rate limits, the reduction is referred to as "compression". Districts are not in compression per se, rather specific properties located within taxing districts may be in compression. Then in 1996 voters passed Measure 47, but due to structural flaws, the Legislature crafted Measure 50 (M50), which was passed by voters in 1997. M50 fundamentally changed Oregon's property tax from a levy-based system to a rate-based system, and in doing so, reduced property taxes and constrained their future growth. Specifically, M50 replaced most tax levies with fixed permanent tax rates, reduced the assessed value (AV) of properties in the state to 90 percent of their 1995-96 AV and capped future growth of each property's AV at three percent per year under most circumstances.

Oregon's property tax base is all real property, tangible personal property and, for certain companies assessed by DOR, intangible personal property (ORS 307.030). Definitions for those property types, and related definitions, are provided below:

- "Real property" includes: land (above or under water); all buildings, structures, improvements, machinery, equipment or fixtures erected upon, above or affixed to the land; all mines, minerals, quarries and trees in, under or upon the land; all rights, privileges, and water powers appertaining to the land in any way; or any estate, right, title or interest in the land or real property, less than the fee simple (ORS 307.010).
- "Land" means land in its natural state. Land includes any site development made to the land such as fill, grading, leveling, underground utilities, underground utility connections and any other elements identified by DOR rule (ORS 307.010).
- "Tangible personal property" includes but is not limited to all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools, and movable equipment (ORS 307.020).

- “Intangible personal property”, which only pertains to designated companies and utilities that are centrally assessed by DOR, includes but is not limited to: money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or certificates secured by mortgages; all shares of stock in corporations, joint stock companies or associations; media constituting business records, computer software, files, records of accounts, title records, surveys, designs, credit references, and data contained therein; goodwill; customer lists; contracts and contract rights; patents, trademarks and copyrights; assembled labor force and trade secrets (ORS 307.020).
- “Media” includes, but is not limited to, paper, film, punch cards, magnetic tape, and disk storage (ORS 307.020).

Property tax exemptions are a key mechanism for state and local governments to provide local incentives and subsidies for certain individuals or organizations across Oregon. Exemptions occur when qualified property is not fully taxed. The three types of property tax exemptions are full exemption, partial exemption, and special assessment. Under a full exemption, the entire value of certain property is exempt from all property taxes. Partial exemptions reduce property taxes by various means such as limiting taxable values or total combined tax rates. The total combined tax rate for any property is the sum of all taxing district rates where the property is located. Properties that are subject to property taxes from the same set of taxing districts are said to be in the same ‘code area’. Partial exemptions may exempt taxes of districts that opt-in to the exemption, but not the taxes of districts that do not opt-in or that opt-out. In some cases, an exemption may only exempt taxes of certain districts, or none at all, unless districts representing a certain percentage of the total combined tax rate (e.g., 51 or 75 percent) support the exemption. Additionally, partial exemptions can reduce the taxable value by a set amount, which may be adjusted for inflation, or by a certain percentage. Alternatively, a partial exemption may exempt any subset of Oregon’s property tax base—real property, tangible personal property or intangible personal property—or subset of those, such as property improvements (e.g., structures and buildings) or land. Under a special assessment, properties are assigned a property value using an assessment technique that results in a lower taxable value than there would be if the standard assessment practice were used. Special assessment mechanisms have a variety of forms.[1]

POTENTIAL TRADEOFFS of EXEMPTIONS

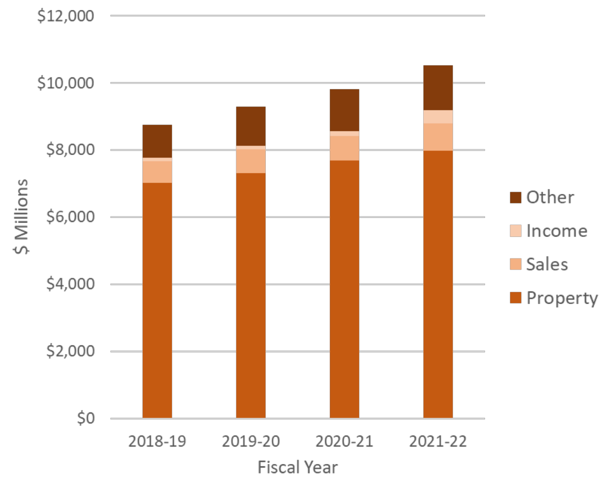
A potential tradeoff is that an exemption is created, and it is rarely or never used. There are also potential tradeoffs when an exemption is used. Exemptions can reduce local government service delivery and create taxpayer inequities. Bond levies can exacerbate those inequities due to the shift of tax liability that occurs. In some situations, exemptions can be less effective (less able to provide timely, targeted public benefits) than other tax expenditures and direct spending programs designed for the same purpose. Exemptions may also be less efficient (more costly to administer for a given amount of public benefit) than other programs designed for the same purpose. Those tradeoffs are discussed in more detail below.

Under Oregon’s rate-base property tax system (with bonds being the exception), exemptions can result in revenue losses, meaning there could be local government budget shortfalls because tax liability is not shifted to other taxpayers. Budget shortfalls can reduce local government service delivery, especially given that property tax is the main funding source for local governments, representing about 76 percent of local government revenue (Figure 1). The extent to which taxing districts experience revenue losses from new exemptions is limited by the taxes

[1] For more information on the Oregon property tax system, see LRO (2024a).

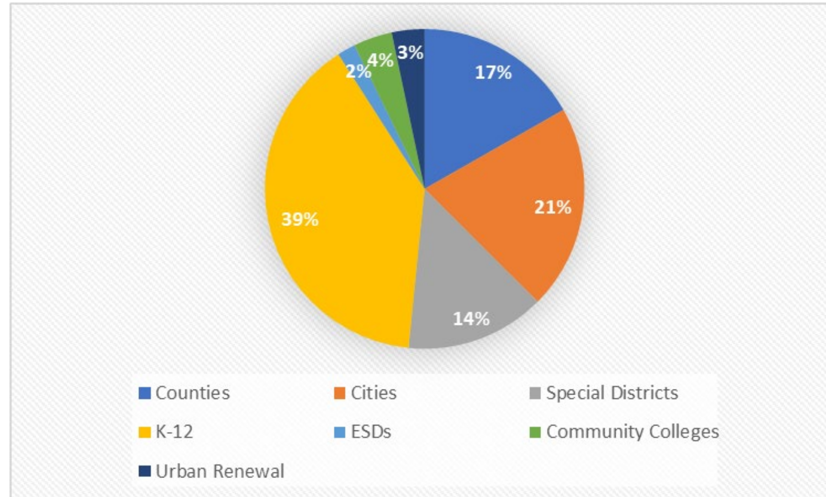
they currently impose. In 2023, about 52 percent of property taxes imposed were for general government (21 percent cities, 17 percent counties, 14 percent special districts), 45 percent were for education (39 percent K-12 schools, two percent education service districts (ESD), four percent community colleges) and three percent were for urban renewal agencies (Figure 2).[2]

Figure 1. Oregon Local Government Tax Revenues



Data source: U.S. Census Bureau (2024)

Figure 2. Oregon Property Tax Imposed by District Type, Percent, 2023



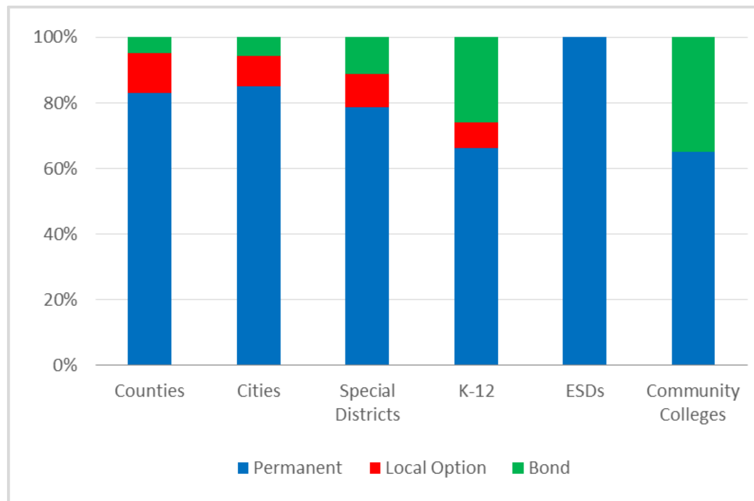
Data source: DOR Research Section

[2] State funding for K-12 schools and ESDs currently stands at 66.5 percent for the 2023-25 school years. The relative shares between state and local revenue resources have shifted over time, primarily in response to M5 and M50. The school finance system distributes combined revenue, commonly known as the "formula revenue", from both the state and statutorily defined local revenues. Beginning in 2011-12, the K-12 school share of state and local formula revenue has been 95.5 percent and the ESD share 4.5 percent. For more information on revenue distributed to K-12 school districts and ESDs, see LRO (2024b).

There are several ways to mitigate the impact of exemptions on local government revenue in Oregon. Local governments can attempt to temporarily offset revenue losses by asking voters to pass local option taxes. In Oregon, local option taxes are subject to compression and are limited to five years for operation and ten years for capital construction purposes. Payment in lieu of taxes (PILT) are arrangements where tax exempt property is subject to a fee or charge to provide compensation for local government services. There are at least 40 PILT programs in Oregon. In 1999, a state Property Tax Expenditure Funding Account was created in Oregon, with the intent of local governments being partially reimbursed for forgone revenue due to new and expanded AV exemptions (ORS 306.350-359). Extending exemptions, by moving the sunset to a later date, are not subject to that partial reimbursement (ORS 306.353(4)). However, few, if any, resources have been appropriated to the fund. Reducing or eliminating other existing exemptions at the time exemptions are enacted or expanded has also been identified as a means to limit local revenue losses (ORS 306.350(2)(b)).

As previously mentioned, bond taxes are not rate-based; they are calculated the same way levies were calculated prior to M5. Property tax exemptions do not reduce the amount of bond taxes collected, but instead they 'shift' the tax burden to other, non-exempt properties. A shift only occurs for bonds because local governments identify the amount of debt to be repaid and the tax rates are simply the result of dividing that amount by the value of taxable property. The extent to which exemptions cause tax liability to shift to non-exempt taxpayers depends on the share of district bond taxes imposed. For example, in 2023, the highest share of bond taxes imposed were for community college districts (35 percent) and the lowest share was for ESDs (no bonds) (Figure 3). Since more than 80 percent of all property taxes are from permanent rates or local option rates, property tax exemption revenue losses are larger than shifts.

Figure 3. Property Taxes Imposed by District and Levy Type, Percent, 2023



Data source: DOR Research Section

Regarding effectiveness, property tax has inherent limitations related to timeliness and targeting specific populations. The ability of exemptions to target specific populations based on demographics and income is limited because that information is not collected through the property tax system. With that said, some states have overcome that limitation in their development of "circuit breaker" programs which provide a tax refund to certain groups whose property tax liability exceeds a certain percentage of income. In terms of timeliness, exemptions are realized by taxpayers after tax statements are mailed in October, which may be less timely than direct spending that can occur at any time.

Exemptions have the potential to either increase or decrease the administrative costs of property taxation. Higher administrative costs reduce the efficiency of exemptions. In contrast, for some movable personal property, the administrative costs of locating and assessing that property on the January 1 assessment date can be prohibitive if the administrative costs exceed the amount of property tax revenue collectible. Exempting that personal property may increase the efficiency of property taxation. Furthermore, any tax on movable property has the potential to harm the taxing jurisdiction’s competitive standing since the property may be moved out of the taxing district on the January 1 assessment date.

EXEMPTIONS UNDER REVIEW

The main subjects of this report are the five exemptions scheduled to sunset in the 2025-27 biennium (Table 1). The estimated costs to local governments of extending each exemption for the next three biennia are provided. In total, the cost of extending all five exemptions is expected to be $1.3 million in 2025-27, $49.6 million in 2027-29 and $53.4 million in 2029-31. These estimates only reflect the cost of extending the tax exemption by moving the sunset to a later date, not the remaining cost of the exemption based on the sunset under current law. All these exemptions are incentives to change human behavior and achieve specific outcomes. The cargo container exemption may also increase the efficiency of property taxation because the administrative costs of taxation could exceed the amount of property tax revenue collectible. The last three exemptions listed below are incentives to increase housing supply, a perennial topic for property tax exemptions.

Table 1. Estimated Costs to Extend Exemptions

Tax Expenditure Report Number and Exemption Name	ORS	Sunset Date	-------Biennium------- 2025-27	2027-29	2029-31
Scheduled for Review by the 2025 Legislature				*$ Millions*	
2.015 Brownfield Development	**Note after 307.430**	1/1/2027	$0	<$0.1	<$0.1
2.026 Cargo Containers	**307.835**	6/30/2026	$0	$0	$0
2.102 Vertical Housing Development Zone	**307.841-867**	12/31/2025 (new certs.)	$1.3	$3.1	$4.8
2.108 Nonprofit Low-Income Rental Housing	**307.540-548**	6/30/2027	$0	$45.4	$47.4
2.109 New or Rehabilitated Multi-Unit Rental Housing	**Note after 307.867**	1/1/2027	$0	$1.1	$1.2
TOTAL			**$1.3**	**$49.6**	**$53.4**

The remainder of this section consists of detailed reviews for each exemption. Each of those exemption reviews consists of subsections on policy purpose, description, analysis, legislative history, administrative costs, similar programs available in Oregon and exemptions available in other states. When available, this report directly cites policy intent expressed in statute, including whether it is intended to benefit specific property owners or other individuals. For tax exemptions that do not have a policy purpose stated in statute, the purpose identified in this report is based on documentation from implementing or modifying legislation and related revenue committee discussions. Also provided when available is the expected timeline for achieving the policy purpose. The description summarizes how the tax exemption works under current law. The analysis addresses the best way to measure achievement of the policy purpose, who benefits directly from the exemption and whether it is an effective and efficient way to achieve the policy purpose, including whether a direct spending program might achieve the policy purpose more efficiently. The analysis also addresses the expected results if the exemption expires or changes incrementally. Any analysis of the expected results of making incremental changes to the exemption is informed by available data, often provided by the DOR Research Section, and an understanding of how the exemption has changed, as indicated by the legislative history subsections and Appendix Table A1. The administrative costs describe the costs to state and local governments of implementing the exemption. Lastly,

each exemption review will consider potential substitutes and complements, by describing similar programs available in Oregon and exemptions available in other states. Much of the information on direct spending programs in Oregon was provided by the Legislative Fiscal Office.

In addition to the subsections described above, each exemption review begins with a table summarizing key features of the exemption:

- ORS - Oregon Revised Statute providing for the tax exemption in law
- TER Number - Tax Expenditure Report number, as published by the DOR Research Section (2024)
- Year Enacted - calendar year the exemption was passed by the Legislature
- Sunset - date the exemption expires under current law
- Recent Change - calendar year the exemption was last changed by the Legislature
- Full/Part./Spec. Assess. - whether the policy is a full exemption, partial exemption, or special assessment
- Term - duration of the exemption, usually in years
- Property - whether the exemption applies to personal property or real property
- Payment in Lieu of Tax - some other type of payments required instead of property taxes
- Some/All Districts - whether the exemption applies to some or all local government taxing districts
- Mandatory/Option - whether the exemption is mandatory or a local government option
- Clawback - whether back taxes may be owed upon disqualification from the exemption

Brownfield Development

ORS	Note: 307.430	Term	Up to 15 years
TER Number	2.015	Property	Land, improve. & pers.
Year Enacted	2016	Payment in Lieu of Tax	No
Sunset	1/1/2027	Some/All Districts	All*
Recent Change	2019	Mandatory/Option	Option
Full/Part./Spec. Assess.	Any/both	Clawback	Yes

*If 75 percent tax rate threshold is met.

Policy Purpose

Statute does not specifically state a policy purpose for this exemption. Revenue committee documentation from the 2016 enacting legislation (HB 4084) suggests that the policy purpose may be consistent with the purpose of Land Bank Authorities (LBA) under ORS 465.600-465.621, as authorized by the 2015 Legislature (HB 2734). That purpose is "acquiring, rehabilitating, redeveloping, reutilizing or restoring brownfield properties" in Oregon.

Description

This policy allows cities, counties, or ports to adopt an ordinance or resolution to provide a property tax incentive for the development of certain brownfield property. Under ORS 285A.185, "brownfield" means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination. Available property tax incentives are a land special assessment and a full or partial exemption of improvements and personal property on the brownfield land. Cities, counties, or ports can adopt the special assessment, full/partial exemption, or both. The term of the tax incentives is up to 10 years, with an option for an additional five years, for a total of up to 15 years. Brownfield developers receiving the tax incentive may be granted any other special assessment, full exemption, or partial exemption for which the property is eligible.

The ordinance becomes effective if the taxing districts representing at least 75 percent of the total combined tax rate within that area support the program. Once an ordinance is adopted, it applies to all taxing districts in the area. Cities, counties, or ports may adopt any other program provisions that do not conflict with statutory requirements. Cities, counties, or ports may also amend or repeal their program at any time. However, brownfield developers receiving the incentive at the time it was amended or repealed will continue receiving it on the same terms that were in place when the tax incentive was initially granted.

An ordinance for a full or partial exemption must state the percentage of the exemption to be applied to the RMV of the improvements and personal property. Land special assessment is based on the RMV of the property if it were not a brownfield minus the eligible costs required to remove, contain or treat the contamination of the brownfield. Eligible costs include those associated with remedial action, demolishing existing improvements as needed for remedial action, abating the release of hazardous substances within existing improvements, construction of new improvements to contain or limit exposure to hazardous substances, managing and disposing of hazardous substances, environmental audits, surety bonds, insurance, engineering, legal fees and monitoring. Eligible costs are reduced by the amount of government grants, tax credits, insurance proceeds or legal settlements received to offset eligible costs of the brownfield.

Applications for the upcoming fiscal year are due March 15 to the city, county, or port that adopted the ordinance. Since the brownfield development incentive is scheduled to sunset on January 1, 2027, March 15, the current deadline for applications in 2026. Brownfield developers will continue receiving the incentive until the earlier of:

- expiration of the benefit period
- the date on which the dollar amount of benefits equal eligible costs
- discovery that the brownfield owner failed to comply with eligibility requirements, begin brownfield remediation/development or file any required reports.

If the land is specially assessed the landowner must report annually the actual eligible costs incurred and an updated estimate of eligible costs, for purposes of verification against the benefit limit. A clawback provision requires back taxes to be paid if it is discovered the property was not qualified for the exemption.

Analysis

One way to measure achievement of the policy purpose is an increase in the number of brownfields that have had land restored to a developable condition as a result of the incentive. Restoring lands to a "developable" condition would likely result in an increase in the brownfield RMV. From fiscal year 2022 to 2024, RMV for the three accounts using the incentive increased from $1 million to $1.3 million (30 percent).[3] However, any change in the RMV for those properties may be due to a variety of factors unrelated to remediation, such as business cycles and imperfect assessment practices (e.g., mass appraisal). As such, it is unclear what the components of RMV growth were.

The effectiveness of the incentive has been constrained due to its limited usage. Factors potentially affecting the effectiveness of the incentive include the 75 percent tax rate threshold, public awareness, and eligible costs. Since eligible costs are reduced by the amount of government grants, tax credits, insurance proceeds or legal settlements received to offset eligible costs of the brownfield (Oregon Laws 2016, chapter 96, section 3(4) (note after ORS 307.430)), there is little opportunity for developers to be compensated for risk premia or opportunity costs (for other approaches, see subsection on Exemptions Available in Other States).[4] To increase public awareness, it may be possible to disseminate information about the exemption along with similar programs available in Oregon for brownfield remediation and redevelopment (see subsection on Similar Programs Available in Oregon). The 75 percent tax rate threshold is usually not satisfied if the K-12 school district does not approve. For example, only six of 929 code areas in Oregon (0.65 percent) could satisfy the 75 percent tax rate threshold without the support of K-12 schools. Some other exemptions have a 51 percent tax rate threshold or allow taxing districts to opt out of the incentive. Additionally, the incentive is like other property tax incentives in that it does not provide upfront financing, which may limit its effectiveness if lenders prefer more upfront financing. In terms of efficiency, multi-year exemptions and direct spending programs may be similar given that both may require annual applications and monitoring of eligible costs.

Property owners, developers and the surrounding community may experience benefits and costs associated with the brownfield development property tax incentive. Brownfield owners benefit directly from the reduction in

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[3] Currently, it is unclear whether it was the same three accounts in 2022 and 2024. The accounts are in Klamath County, but the county did not respond to an LRO request for that information before publication of this report.

[4] Risk premium, or risk premia, is investor compensation for tolerating the extra risk in a given investment over that of a risk-free asset. Opportunity costs are the potential value lost when choosing one option over another. It counts the value of the next best option that is forgone. In contrast, accounting costs only count the monetary cost of the chosen option. Brownfield remediation may have opportunity costs because the additional requirements and regulatory oversight associated with environmental cleanup is time-consuming. Opportunity costs may arise because the brownfield developer must spend time restoring the land to a developable condition and is not using that time for other potentially profitable endeavors. However, it is possible that brownfield opportunity costs are already capitalized into land prices.

property taxes, which reduce operating costs and increase profitability. Developers, who may also own and operate the property, may also benefit directly if it helps secure project financing that allows the project to move forward. Residents and businesses surrounding the development may experience positive externalities due to reduced health risks and improved aesthetics, which may increase real estate demand and property values. For example, brownfield remediation can increase residential property values by five to 15 percent for properties within two kilometers of brownfields that received remediation grants from the U.S. Environmental Protection Agency (Haninger et al. 2017). The increased property values resulted in increased residential property tax revenue of $600,000 to $2 million per year per brownfield (2014 USD). That additional property tax revenue per year is two to seven times the amount of remediation grants provided for those brownfields, and one to three times the estimated total cleanup cost (Sullivan, 2017).[5] Higher property values will also increase homeowner wealth and the rental prices they may charge. To the extent that positive externalities increase surrounding home values, the likelihood of gentrification may increase (Shen & Sun, 2020).

To identify the impacts of incremental policy changes, it is necessary to have detailed data on the incentive and any other factors that have affected brownfield development in Oregon. That information is necessary to isolate the impact of the property tax incentive from the other factors affecting brownfield development. However, some of that information is currently not available and there have been few legislative changes to the Brownfield Development incentive. The only legislative change was in 2019 (HB 2699), when the Legislature allowed eligible property to be granted any other special assessment, full exemption, or partial exemption.[6] However, other exemptions may not provide additional tax relief because they may not exempt any additional property.[7] The recent experience in the City of Portland, which pursued the incentive but has not adopted it, suggests that allowing more eligible costs or allowing the exemption to be used with other incentives may have little impact if the 75 percent tax rate threshold is not adjusted. Documentation submitted to the City of Portland from Prosper Portland, the organization identified as the likely administrator of the incentive after it is designed and approved by City Council, noted that "[c]urrently, the program is working through the design phase and legislative fixes. The support of Multnomah County and Portland Public Schools is also necessary prior to implementing this program, as legislation requires 75% of the taxing jurisdictions to approve" (Prosper Portland, 2019). The Oregon Department of Environmental Quality's (DEQ) Environmental Cleanup Information Database (DEQ, 2024a) shows that there are about 9,000 unassigned cleanup projects in Oregon, 41 percent of which are in the City of Portland (300 cleanup projects, 3,500 leaking heating oil tanks, 70 leaking underground storage tanks).[8] The City of Portland estimated that brownfield properties account for approximately one-third of developable industrial land within the urban growth boundary (910 acres), with an estimated total cleanup cost of all potential brownfield properties at approximately $240 million. Given that any exemption can change in many ways, any further analysis of incremental changes will be guided by questions that may arise in the future.

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[5] For a review of the contribution of economic science to brownfield redevelopment, see Ameller et al. (2020).

[6] Currently, it is unclear whether the three accounts in Klamath County in 2022 and 2024 were granted any other special assessment, full exemption, or partial exemption. Again, Klamath County did not respond to an LRO request for that information before publication of this report.

[7] The Commercial Buildings Under Construction exemption (ORS 307.330-340) may not exempt any property that is taxable under the Brownfield Development incentive.

[8] "Unassigned" cleanup projects are assumed to not have started remediation or development and are potentially eligible for the Brownfield Development incentive. DEQ did not respond to an LRO request for definitions of the "Status" variable (active, assigned, closed, in progress, no further action, on hold, ongoing, suspect, unassigned) before publication of this report.

If the exemption expires, new brownfields will not be eligible for the exemption and will be taxable after January 1, 2027. Growth of the 10- to 15-year exemption or special assessment, which has been limited to about one new account per year, will not continue. The expected result is marginally less brownfield land restored to a developable condition and marginally less brownfield development. As such, some local communities and ecosystems may continue to be exposed to actual or perceived environmental contamination on brownfields. Furthermore, there will not be additional land values and improvement values associated with remediation and development on new brownfields added to the rolls after accounts reach their 10- to 15-year exemption maturity. Over the long-term, the forgone additional tax receipts from brownfield development will likely exceed tax receipts from continued taxation of contaminated land and improvements where brownfield development would otherwise occur.

Legislative History

Appendix Table A1 shows the legislative history of the exemption, including the year, bill number, Oregon Laws chapter and section numbers, and a description of legislative changes. In 2016, the Legislature enacted the brownfield development incentive and set a sunset of January 1, 2027 (House Bill (HB) 4084). The only legislative change to the program was in 2019 (HB 2699), when the Legislature allowed brownfield development property to be granted any other special assessment, full exemption, or partial exemption.

Administrative Costs

Administrative costs of the brownfield development incentive appear to be limited, given the limited usage of the program. The assessor may charge the brownfield owner a fee of up to $200 for the first year and up to $100 for each subsequent year for which the incentives are granted. Cities, counties, or ports receive a filing fee for late applications equal to the greater of $200 or one-tenth of one percent of the property RMV. Administrative costs may also be borne by DEQ with respect to authorizing remedial actions and, potentially, estimating eligible costs. As is usually the case, DOR may incur marginal administrative and enforcement costs.

The fiscal impact statements for HB 4084 (2016) and HB 2699 (2019), which enacted the program and allowed exempt property to be granted any other property tax relief, respectively, both reported minimal fiscal impacts on state (DEQ and DOR) and local governments (cities and counties). State fiscal impacts for HB 2699 were only reported for DOR.

Similar Programs Available in Oregon

Oregon offers other brownfield redevelopment incentives that may complement the property tax incentive. However, under Oregon Laws 2016, chapter 96, section 3(4) (note after ORS 307.430), eligible costs are reduced by the amount of government grants, tax credits, insurance proceeds or legal settlements received to offset eligible costs of the brownfield.

Several funds support brownfield redevelopment and cleanup. The 2021 Legislature passed HB 2518, which created the Oregon Brownfield Properties Revitalization Fund (ORS 285A.198). That fund supports a forgivable loan program that reimburses private owners or operators for 100 percent of remedial action costs incurred by the owner or operator with respect to the brownfield or $500,000, whichever is less. A separate fund, the Oregon Brownfields Redevelopment Fund (ORS 285A.188), supports loans and grants for remediating brownfield properties that provide a “substantial public benefit”. A third fund, the Oregon Coalition Brownfields Cleanup Fund (ORS 285A.192), supports grants, low-interest loans, and expenditures to provide financial or other assistance to public and private owners of eligible brownfield properties for the purpose of cleaning up the

properties. In the 2023-25 Legislatively Approved Budget, those three funds were appropriated $17.3 million of other funds and $6.3 million of federal funds.

Oregon's Environmental Cleanup Program, administered by DEQ, incorporates several sub-programs: Site Assessment, Voluntary Cleanup, Independent Cleanup, Brownfields, Orphans and Site Response (DEQ, 2024b). Prospective Purchaser Agreements (PPA) are offered to address environmental liability concerns associated with property transactions. PPAs are legally binding agreements between DEQ and a prospective purchaser or lessee of real property that limits environmental cleanup liability under state law. In return for that liability release, the state must be provided with a substantial public benefit. The PPA does not provide liability protection under federal law or from liability for any new contamination that may occur after the property has been acquired. PPAs must be negotiated with DEQ before the purchaser or lessee acquires an interest in the property. Additionally, if a hazardous substance release occurred before 1986, Commercial General Liability policies that were in place from the date of release until 1986 may be a source of funding for investigation and remediation. Oregon's liability relief has been an effective incentive to remediate contaminated sites (Blackman et al., 2010). More generally, liability relief, especially insurance facilities, has been identified as a relatively attractive incentive for brownfield developers (Eckerd & Heidelberg, 2015), especially for residential and less experienced developers (Wernstedt et al., 2007; Alberini et al., 2005).

Exemptions Available in Other States

Below are property tax incentivizes in other states for brownfield redevelopment. Only exemptions allowed statewide are described below.

Florida offers a variety of brownfield incentives, including job creation bonuses provided through a tax refund that can be applied to corporate income, property tax, insurance premiums, and sales and use taxes (Bartsch & Wells, 2006). Although government incentives for brownfield remediation can increase employment in surrounding non-brownfield businesses in certain industries, the increase can be a temporary phenomenon during remediation periods (Swenson, 2019). However, in strong real estate markets, development and private investment can result in continued or increased employment over time (Howland, 2007).

Michigan's Brownfield Program uses tax increment financing (TIF) to reimburse brownfield related costs incurred for redeveloping properties that are contaminated, functionally obsolete, blighted, or historic (Michigan Strategic Fund, 2023).[9] The program allows Brownfield Redevelopment Authorities to use most of the tax off the increment to reimburse developers, local units of government, or other investors for development activities. The Michigan Strategic Fund (MSF), with assistance from the Michigan Economic Development Corporation, administers the reimbursement of costs from state school taxes. Specifically, the MSF may authorize tax off the increment from School Operating ($18 per $1,000 of property value) and State Education ($6 per $1,000 of property value) taxes. Legislation in 2023 amended the Brownfield Redevelopment Financing Act to allow TIF for the development of housing on brownfields (Michigan State Housing Development Authority, 2024). The Housing TIF program requires that projects have units targeted at occupants having up to 120 percent of the area median income (AMI). Brownfield Redevelopment Authorities and developers negotiate how many units in the development need to be

[9] TIF is an economic development tool that diverts increases in property taxes due to increases in taxable value to another specified purpose. In Oregon, TIF is the main economic development tool used for Urban Renewal. The value growth above the base is called the "increment" or "excess value", and revenue for Urban Renewal agencies is called "tax off the increment". The sharing of revenue between taxing districts that get tax from the base value and Urban Renewal agencies that get tax from the increment is called "division of tax". For more information on Urban Renewal in Oregon, see DOR (2015).

targeted at occupants having up to 120 percent AMI. Brownfield Redevelopment Authorities also have bonding authority. In urban communities that have created an Obsolete Property Rehabilitation District, property owners can receive an abatement of up to 100 percent of real property taxes for a brownfield site for up to 12 years (Bartsch & Wells, 2006).

New York's Brownfield Cleanup Program is intended to remove some of the barriers to, and provide tax incentives for, the redevelopment of urban brownfields (New York State Department of Environmental Conservation, 2023). Incentives include refundable credits to offset the costs of remediation, real property taxes and environmental insurance premiums (Bartsch & Wells, 2006). The real property tax credit is available for 10 consecutive years, beginning in the year the taxpayer is issued a certificate of completion. The certificate of completion provides liability protections and allows the certificate holder to redevelop the site, subject to certain restrictions, if applicable. The credit is for 25 percent of the eligible real property taxes imposed on the site, multiplied by the "employment number factor"–a percentage based on the number of people employed by the taxpayer or lessee. If the entire qualified site is located in an environmental zone, the percentage for purposes of calculating the credit increases from 25 percent to 100 percent. There is no limit on the total amount of the credit allowed for a qualified site.

Wisconsin allows the cancellation of delinquent property taxes for certain brownfields, removing an impediment for developers wanting to acquire brownfield property (Bartsch & Wells, 2006). Specifically, counties and the City of Milwaukee can cancel all or a portion of unpaid property taxes on contaminated property, provided that the Wisconsin Department of Natural Resources has approved a written agreement with the party receiving the incentive to investigate and clean up the contamination. That party can be the current property owner or a third party proposing to acquire the property or work with the current owner. Wisconsin also allows counties and the City of Milwaukee to foreclose on tax-delinquent brownfields and assign the foreclosure judgment to a new owner for redevelopment. The party requesting assignment of the foreclosure judgment must have a written agreement, approved by the Department of Natural Resources, regarding cleanup of the contamination. Before the law was enacted, local governments had to take ownership of foreclosed property, making them liable for the remediation and sale of the property. Fearing the costs of remediation, local governments often chose not to pursue ownership of abandoned properties to avoid the costs of remediation.

Cargo Containers

ORS	307.835	Term	Indefinite
TER Number	2.026	Property	Personal
Year Enacted	1979	Payment in Lieu of Tax	No
Sunset	6/30/2026	Some/All Districts	All
Recent Change	2019	Mandatory/Option	Mandatory
Full/Part./Spec. Assess.	Full	Clawback	No

Policy Purpose

Statute does not provide a specific policy purpose. Documentation and deliberation in revenue committees suggests that the policy purpose is to maintain and improve Oregon's regional competitiveness in maritime trade at minimum cost. The revenue impact statement for HB 2904 (2013) states "[t]he purpose is to treat all domestic and foreign owned cargo containers similarly to help Oregon ports remain competitive with Washington and California, which exempt all cargo containers." Deliberation in both revenue committees clarified that the exemption affects property taxes and competitiveness related to domestic owned containers only since foreign owned cargo containers are exempt under commerce law of the U.S. Constitution. Additionally, the House Committee on Revenue acknowledged that without the exemption the "cost of administration becomes significant" and could encourage strategic behavior to move containers to tax-exempt locations at the time of assessment or create a foreign entity to own them.

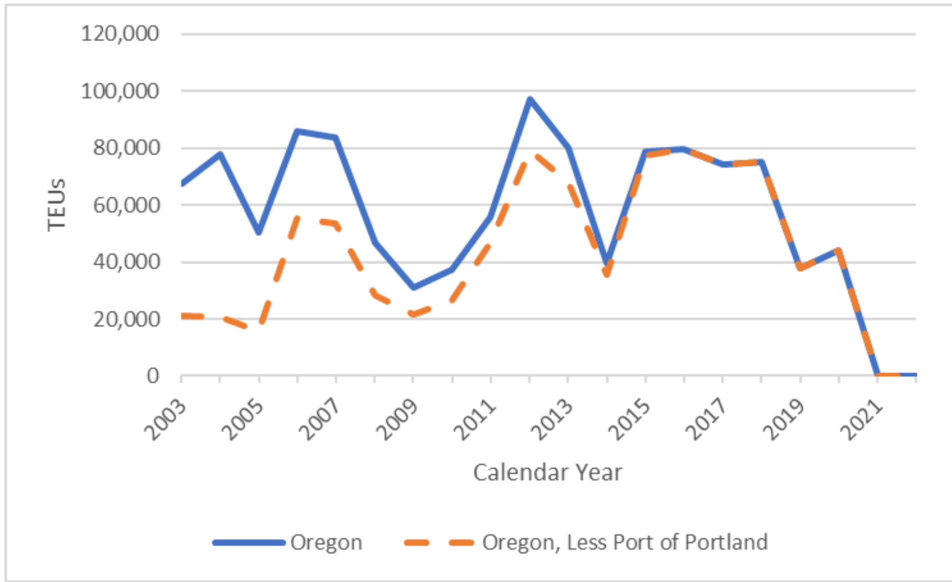
Description

All cargo containers principally used for the transportation of cargo by vessels in trade and ocean commerce are exempt from property tax. Cargo containers must be designed for carriage of goods by vessels, be strong enough for repeated use and be fitted with handling devices.

Analysis

One way to measure achievement of the policy purpose is an increase in the amount of domestic cargo container traffic at Oregon public ports due to the exemption. However, changes in cargo container traffic could occur for many reasons unrelated to the exemption, such as business cycles and federal trade policy. An alternative way to measure achievement of the policy purpose is simply the continuity of the exemption. From 7/1/2002 to 12/31/2003, the exemption inadvertently expired, and was then extended by the 2003 Legislature. That suggests that even when domestic cargo container traffic was at relatively high levels in 2003 (Figure 4), the administrative cost impact of letting the exemption expire likely exceeded the amount of property tax revenue collectible. Given the low levels of domestic cargo container traffic in recent years, the net cost of letting the exemption expire today is likely much higher.

Figure 4. Domestic Owned Cargo Container Traffic at Oregon Public Ports



Note: Cargo containers are measured in twenty-foot equivalent units (TEUs).
Data source: U.S. Army Corps of Engineers (2024)

Property tax exemption is likely the most effective and efficient way to achieve the policy purpose. Direct spending programs that provide the same amount of benefits to domestic cargo container owners would likely be less efficient due to the administrative costs of developing and implementing a new system for making payments, which may involve a complicated application or claims process. Furthermore, a direct spending program may only arise if the property tax exemption expires, meaning there would be administrative costs associated with property taxation and the direct spending program. Given the low levels of domestic owned cargo container traffic at Oregon public ports recently (Figure 4), replacing the exemption with direct spending could increase administrative costs more than any increase in tax revenue.

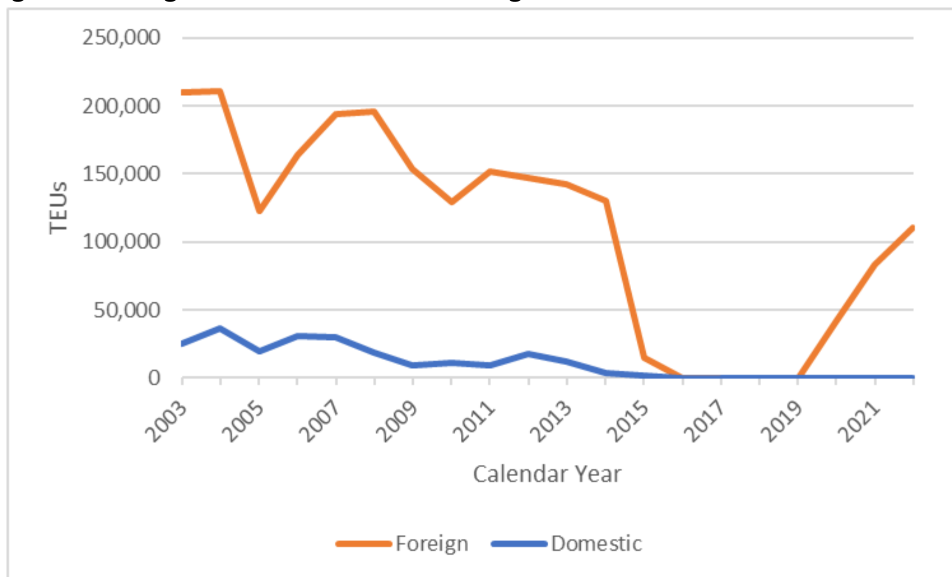
Domestic cargo container owners benefit directly from the reduction in property taxes, which reduce operating costs and increase profitability. Several groups benefit from the reduced administration that results from the exemption, including domestic cargo container owners, county assessors, DOR and port operators. Without the exemption assessors would need to identify any cargo containers at each of Oregon's 23 public ports on the January 1 assessment date, differentiate whether they are foreign owned or domestic owned and extend taxes on taxable domestic cargo containers only. Assessors and DOR may also need to identify domestic owned containers used for interstate trade and apportion taxes between Oregon and other states.

There have not been any incremental policy changes to the cargo container exemption in Oregon since it was enacted in 1979. The only changes were to extend it and clarify it (made applicable to tax years and deleted provision for retroactivity before 1979). Keeping the exemption on the books and avoiding incremental changes that contract the exemption, may avoid potential conflict with the Dormant Commerce Clause of the U.S. Constitution. The Dormant Commerce Clause prohibits state legislation that discriminates against or unduly burdens interstate and international commerce (Williams, 2005). Letting the exemption expire could burden interstate commerce by imposing property taxes on domestic cargo containers, at least some of which may be owned and operated in other states. Additionally, it's possible that keeping the exemption on the books would avoid potential conflict with the U.S. Supreme Court's view that state taxes which burden international commerce

cannot create a substantial risk of multiple taxations and must not prevent the federal government from "speaking with one voice when regulating commercial relations with foreign governments" (Sargis, 1980). Given that any exemption can change in many ways, any further analysis of incremental changes will be guided by questions that may arise in the future.

If the exemption expires, domestic cargo containers will not be eligible for the exemption after June 30, 2026. Given the low levels of domestic owned cargo container traffic at Oregon public ports recently (Figure 4), any impacts on businesses and tax receipts are expected to be limited. However, letting the exemption expire may send a signal to industry that Oregon has little interested in maintaining and improving Oregon's regional competitiveness in maritime trade at minimum cost. The 2024 Legislature did not approve the Port of Portland's request for $10 million to help fund continued cargo container service operation (Oregon Capital Chronicle, 2024). The Port of Portland shut down on 10/1/2024, at least temporarily, its foreign and domestic cargo container handling operation at Terminal 6 (Oregonian, 2024). The terminal will continue to handle automobile imports and exports, as well as "break bulk" cargo that isn't shipped in containers. The planned cessation of cargo container service relates to labor disputes at the Port of Portland that essentially eliminated foreign and domestic cargo container traffic starting in 2015, albeit with a temporary resurgence of foreign cargo container traffic starting in 2020 (Figure 5).

Figure 5. Foreign and Domestic Owned Cargo Container Traffic at Port of Portland



Data source: U.S. Army Corps of Engineers (2024)

Letting the cargo container exemption expire may also discourage some of Oregon's other 22 public ports from expanding cargo container service. For example, the Oregon International Port of Coos Bay plans to develop a 200-acre rail-served marine container terminal on Port-owned property on the North Spit (Business Oregon, 2024). That includes build-out of rail infrastructure, groundwork, improvements and repairs to the wharf, and construction of a rock apron. The 134-mile short line railroad, owned by the Port, extending from Coquille to Eugene provides connections to the North American rail network. Upon project completion, the port expects to have the capacity to service more than one million containers annually (Oregon International Port of Coos Bay, 2022). The Oregon International Port of Coos Bay serviced two foreign containers in 2021 (U.S. Army Corps of Engineers, 2024).

Legislative History

As shown in Appendix Table A1, the 1979 Legislature enacted the cargo container property tax exemption, cancelled past cargo container property taxes back to 1974 and set a sunset of January 1, 1988 (Senate Bill (SB) 364). The 1995 Legislature made the exemption applicable to fiscal years, rather than calendar years (HB 2261). The 2003 Legislature ended the retroactive cancellation of cargo container taxes back to 1974 (HB 2625). In 1987 (HB 2245), 1995 (HB 2261), 2003 (HB 2625), 2009 (HB 2475), 2013 (HB 2904) and 2019 (HB 2130), the Legislature extended the exemption by moving the sunset to a later date.

Administrative Costs

Given the federal exemption for internationally owned cargo containers, the state exemption for domestic owned cargo containers may reduce administrative costs for county assessors and DOR. With both exemptions in effect, assessors do not need to differentiate whether cargo containers are foreign owned or domestic owned at each of Oregon's 23 public ports on the January 1 assessment date and extend taxes on taxable cargo containers only. Additionally, assessors do not need to identify domestic owned containers used for interstate trade and apportion taxes between Oregon and other states. Lastly, DOR may not incur marginal administrative and enforcement costs.

There were no state or local fiscal impacts reported in the fiscal impact statements for HB 2475 (2009) and HB 2130 (2019), both of which extended the program by moving the sunset to a later date.

Similar Programs Available in Oregon

Oregon offers other property tax exemptions and direct spending programs that can complement the cargo container property tax exemption, as described below. However, the other incentives are for other port functions and property, not cargo containers.

Several funds support port operations and development. The Port Planning and Marketing Fund (ORS 285A.654) provides grants for strategic business planning as well as other planning and marketing projects that improve the port's ability to carry out its authorized functions. The Oregon Port Revolving Fund (ORS 285A.666-732) provides loans to ports for planning and construction of facilities and infrastructure. Eligible expenditures include project planning, engineering, acquisition, improvement, rehabilitation, constructions, operation and maintenance. In the 2023-25 Legislatively Approved Budget, those two funds were appropriated $3.9 million of other funds.

Under ORS 307.120 (TER 2.027), public dock property is exempt from property tax if it is leased, subleased, rented or preferentially assigned and used for the berthing of ships or barges; handling, loading and unloading cargo from ships; or cleaning or decontaminating agricultural cargo. By December 31 preceding a year in which the property is leased, or within 30 days of entering into the lease, whichever is later, the private lessee must file a request for the county assessor to compute a required in-lieu payment. The requirements above do not apply to property held under lease or rental agreement executed prior to July 5, 1947, which is exempt and does not require the in-lieu payment. In that case, the exemption continues only during the term of the lease or rental agreement in effect on July 5, 1947. For dock properties used for storage of cargo directly incidental to transshipment, an in-lieu payment of one-quarter of one percent of RMV is assessed annually and distributed to school districts. Other dock properties and airports are not subject to the in-lieu requirement.

Exemptions Available in Other States

Most, if not all, states that operate intermodal ports have a property tax exemption for cargo containers to increase the regional competitiveness of the port. Like in Oregon, the effect of those exemptions may be the

exemption of domestic owned cargo containers that are not exempt under commerce law of the U.S. Constitution. Most importantly for Oregon, in terms of its main competitors for international trade flows, California and Washington also have a property tax exemption for cargo containers. California enacted its exemption in 1974 and Washington in 1975. Oregon's exemption, which was enacted in 1979 and was temporarily made retroactive to 1974, may be broader than the exemptions in California and Washington. The exemptions in those states are specifically for containers used in "ocean commerce", while Oregon's is for containers used in "trade and ocean commerce". In California and Washington, an additional defining characteristic of containers is that they are "[d]esigned to be easy to fill and empty". In California, an additional defining characteristic of containers is that they have a "cubic displacement of 1,000 cubic feet or more". California also specifies that their exemption does not apply to "cargo-carrying vehicles".

Vertical Housing Development Zone

ORS	307.841-867	Term	10 years
TER Number	2.102	Property	Land & improve.
Year Enacted	2001	Payment in Lieu of Tax	No
Sunset	12/31/2025 (new certs.)	Some/All Districts	All*
Recent Change	2021	Mandatory/Option	Option
Full/Part./Spec. Assess.	Partial	Clawback	Yes

*Does not apply to taxing districts that elect not to participate.

Policy Purpose

Statute does not provide a specific policy purpose. Documentation from revenue committees suggests the policy purpose is to increase the supply and density of mixed-use housing, including affordable housing, in Oregon's city centers. The revenue impact statement for the last bill that extended the exemption, HB 2126 (2015), stated "[t]he policy purpose of this tax expenditure is to allow cities and/or counties the ability to provide partial property tax exemptions for development or rehabilitation of mixed-use multiple-story buildings which subsequently encourages and supports the development, rehabilitation, and availability of [mixed-use] property of desired density in designated areas."

Description

A 10-year partial property tax exemption, up to 80 percent of the property value, is available for new construction or rehabilitation of mixed-use property (residential and non-residential) in a vertical housing development zone (VHDZ) designated by cities.[10] The partial exemption amount for property improvements is positively related to the share of residential housing and the number of building floors. Land is granted the same partial exemption amount if it is a multi-story project and at least one floor (an area equivalent to the average floor area), is occupied by low-income persons or families, defined as those having income 80 percent or less of AMI, adjusted for family size, as determined by Oregon Housing and Community Services (OHCS).

Before cities designate a zone, they must consider the potential impact of displacement on existing residents, if continued occupancy would be unaffordable, hazardous, or impossible. Additionally, cities must send notice of their intention to designate a zone to other taxing districts that have territory in the proposed zone. The ordinance or resolution designating the zone may include additional criteria that do not conflict with other requirements. The designation of a zone by cities authorizes them to monitor, request information and decertify projects.

Because taxing districts can opt out of the exemption, it only applies to participating taxing district. A clawback provision requires collection of up to 10 years of back taxes and is designed to incentivize cities to discover as soon as possible whether the exemption shouldn't have been granted. Specifically, the years of back taxes collectable are reduced by one year, beginning with the earliest year for which back taxes are due, for each year that elapses since the last year the property or land was granted exemption.

Local governments or private entities proposing to undertake a zone project must apply for the exemption at the city that designated the zone. Applications for the upcoming fiscal year are due after construction or rehabilitation has started and before the date the project's residential units are ready for occupancy. For rehabilitation that

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[10] Under certain circumstances, counties may designate such a zone.

does not displace occupants, applications for the upcoming fiscal year are due on or before the date rehabilitation is complete. The exemption sunsets on December 31, 2025, for new certifications. For a project to be certified, construction or rehabilitation must be started on each building in the project (ORS 307.858 (4)).

Analysis

One way to measure achievement of the policy purpose is an increase in the amount and density of mixed-use housing in Oregon's city centers because of the exemption. However, changes in housing supply and density could occur for many reasons unrelated to the exemption, such as zoning laws and interest rates. Alternative ways to measure achievement of the policy purpose are the average number of floors per exempt account, the total area of mixed-use space, and the total number of residential units that have been constructed since the exemption was enacted in 2001. The total number of residential units addresses housing supply. The total area of mixed-use space addresses the supply of conveniently located goods and services for city center residents (e.g., food purveyors, childcare). Lastly, the average number of floors per exempt account addresses housing density. Since the exemption incentivizes developments of five floors or less, the density aspect of the policy purpose is more likely to be achieved when the average number of floors per exempt account is closer to five. An alternative measure of housing density is the number of residential units per acre, but that measure does not have a threshold or upper limit to gage achievement, which is a relevant consideration for stick mid-rise developments.

It appears the exemption is achieving its policy purpose effectively so far, if the small sample of recent developments and new projects are like previous ones. More than two-dozen cities, almost exclusively along the I-5 corridor, have designated VHDZs since the exemption was enacted in 2001. Information is available on recent developments and new projects that are expected to start the exemption in 2026 and 2027. In a city along the Columbia Gorge, construction of a five-floor building is expected to start in 2026 that will have 108 units and ground-floor commercial space. In a city in the North Willamette Valley, construction of a four-floor building is expected to start in 2027 that will have 67 units and ground-floor retail space. Another city in the North Willamette Valley recently developed two six-floor buildings that have more than 200 units and 6,500 square feet of ground-floor retail space. Those projects and developments are not surprising given that the partial exemption amount is positively related to the share of residential housing and the number of building floors, up to five floors (due to 20 percent multiplier, exemption multiplier and 80 percent maximum exemption). Capping the incentive at five floors is also not surprising given that many "mid-rise" developments are made of two-by-four lumber, or "stick". Stick mid-rises are cost effective but have physical limitations above 5-6 floors, such as additional risks associated with earthquake and structure fire (Fox, 2019). However, stick mid-rises across the country range from three to seven floors.

Although the exemption has been effective, there are two factors that currently limit its effectiveness. Like other exemptions, it does not provide upfront financing, which may limit its effectiveness at increasing the supply of workforce rental housing. However, given that business loans may be necessary to construct or rehabilitate multi-unit rental housing, the degree to which the lack of upfront financing affects the effectiveness of the exemption may depend on lenders' preferences for their clients to have upfront financing. Additionally, the VHDZ partial exemption could be relatively ineffective at certain times because it has been implemented as a partial RMV exemption, even though statute does not specify whether it is an exemption of RMV or AV. In Oregon, a partial RMV exemption provides no tax relief if market conditions result in a sufficient decrease in the RMV of the property. Providing no tax relief, particularly during a market downturn, may defeat the purpose of the exemption.

In terms of efficiency, the VHDZ partial exemption may be relatively difficult for cities or counties to administer given the requirements for zone designation and the unique exemption amount formula (calculated by applicants). However, other approaches such as direct spending may not offer a more efficient way to calculate relief amounts and to target development to city centers. Currently, the city or county may charge appropriate fees to offset the cost of administering the application and certification process and any other related costs (ORS 307.857(10)). Otherwise, the administrative costs of multi-year exemptions and direct spending programs may be similar given that both may monitor whether occupants continue satisfying AMI limits.

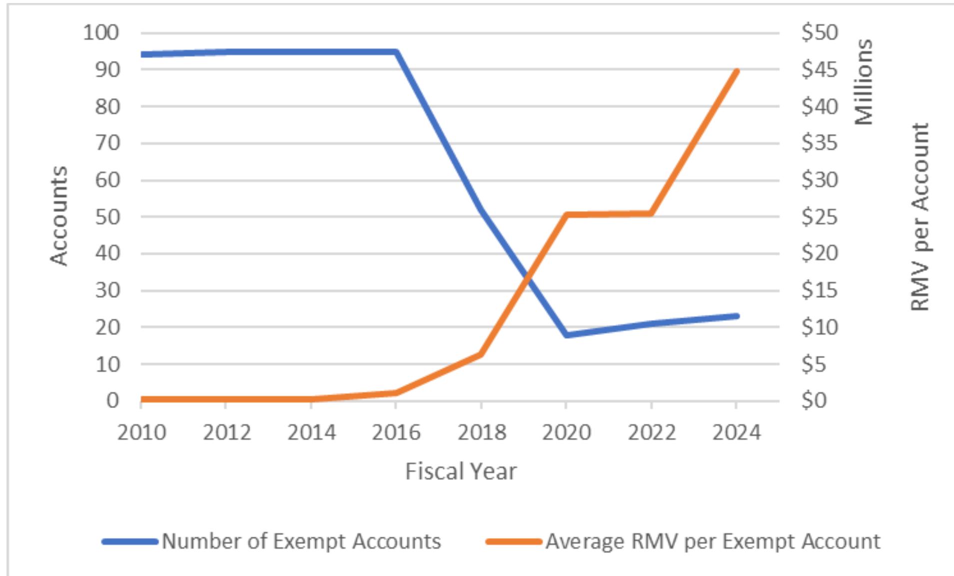
The extent to which property owners, developers and occupants benefit from the exemption depends on the share of residential housing (including the affordable share) and the number of building floors, because those factors determine partial exemption amounts. Property owners benefit directly from the reduction in property taxes, which reduce operating costs and increase profitability. Developers, who may also own and operate the property, may benefit from the exemption if it helps secure financing that allows the project to move forward. That benefit may be particularly relevant for mixed-use developments that are viewed by developers as relatively risky projects, partly because the variety of occupants can lead to disagreements about service charges (Coupland, 1997). Occupants benefit directly from the exemption to the extent that affordable housing is offered for purposes of the land exemption.

The surrounding community may experience spillover effects, or indirect benefits and costs, associated with vertical mixed-use development. For example, some of the most well-documented benefits of housing density relate to agglomeration economies—the virtuous cycle of attracting highly skilled and more productive labor, which can stimulate more investment, development and employment (Liu et al., 2018; Ahlfeldt & Barr, 2022; Nethercote, 2019; Shen & Sun, 2020). Other studies have pointed out that vertical development makes efficient use of scarce land and mitigates the negative environmental externalities of urban sprawl such as land consumption and air pollution (Huang et al., 2023; Zhong & Hui, 2021). Mixed-use retail and services tend to trigger further commercial redevelopment (Minner & Shi, 2017), but more generally, mixed use development can have both positive and negative effects on surrounding home values depending on the compatibility of different uses (Song & Knaap, 2004). An interesting example of mixed-use vertical development, particularly for densely populated urban environments, is the integration of public uses and services in the ground floor of a vertical development (Mualam et al. 2021; Mualam et al. 2019). Lastly, to the extent that positive externalities increase surrounding home values, the likelihood of gentrification may increase (Shen & Sun, 2020).

To identify the impacts of incremental policy changes, it is necessary to have detailed data on the exemption and any other factors that have affected the supply of high-density mixed-use housing, including affordable housing, in Oregon's city centers. That information is necessary to isolate the impact of the exemption from the other factors affecting the supply of this housing type. Since some of that information is currently not available, an alternative way to analyze the result of incremental changes to the exemption is to focus on the relatively large change in the number of exempt accounts, from 95 accounts in 2016 to 18 accounts in 2020, which coincided with an acceleration in the average RMV per exempt account (Figure 6). Changes in 2013 (HB 2227) and 2017 (SB 310) allowed a clawback of up to 10 years and shifted administration of the exemption from OHCS to county assessors and cities or counties. The amount of the clawback decreases over time, which is an incentivize for cities to monitor compliance and discover as soon as possible whether the exemption shouldn't have been granted. That change could have resulted in a decrease in the number of exempt accounts at that time. Additionally, changes in 2017 required project rehabilitation costs to be at least 20 percent of the RMV of the improvements or land developments being repaired or replaced. That change could have discouraged new rehabilitation projects and

eventually increase the share of construction projects, which would likely cause the average RMV per exempt account to accelerate. Given that any exemption can change in many ways, any further analysis of incremental changes will be guided by questions that may arise in the future.

Figure 6. Number of Exempt Accounts and Average RMV per Exempt Account



Data source: DOR Research Section

If the exemption expires, new vertical housing developments will not be eligible for the exemption and will be taxable after December 31, 2025. Growth of the 10-year partial exemption, of about three new accounts per year, will not continue. The expected result is lower supply and density of mixed-use housing, including affordable housing, in Oregon's city centers. Potential spillover effects of new vertical housing developments in city centers will be forgone (e.g., agglomeration economies, urban sprawl mitigation). Furthermore, there will not be additional improvement values from new vertical housing developments added to the rolls after accounts reach their 10-year maturity. Over the long-term, the forgone additional tax receipts from vertical housing developments are likely to exceed tax receipts from continued taxation of existing property where development would otherwise occur.

Legislative History

As shown in Appendix Table A1, the 2001 Legislature enacted the VHDZ property tax exemption (SB 763). The 2003 Legislature allowed the certifying agency, then the Economic and Community Development Department, to charge an application fee (HB 2300). In 2005 (SB 2199) and 2015 (2126) the Legislature extended the exemption by moving the sunset to a later date.

The 2005 Legislature made major changes to the VHDZ exemption (HB 2199). The partial exemption schedule based on the number of floors of residential housing was replaced for a schedule based on the number of equalized floors allocated to residential housing. The legislation required certain amounts of low-income residential housing for land exemption. Projects were allowed to be undertaken by private entities acting independently. The legislation removed the requirement that the housing development must encourage efficient use of mass transit facilities within the zone. The legislation allowed the certifying agency, now the Housing and Community Services Department, to certify and decertify a portion of the project and to conduct compliance

monitoring. The appeal and judicial or administrative review of certifications were disallowed. A grandfather clause was created, allowing properties granted the exemption under the terms before HB 2199 to continue receiving the exemption on those terms.

Legislation in 2013 (HB 2227) set a deadline for notifying assessors of application approvals, consistent with deadlines for certain other housing property tax exemptions. The legislation also required the department to notify assessors that the project is occupied or ready for occupancy and certified. A clawback of up to 10 years was created. In 2015, the Legislature allowed local taxing districts to opt out of the exemption (HB 2126).

In 2017, the Legislature required cities or counties to designate zones and certify projects, rather than the department (SB 310). Cities or counties were also required to consider the potential displacement of households within proposed zones. Project rehabilitation costs were required to be at least 20 percent of the RMV of the improvements or land developments repaired or replaced. The mixed-use nature of exempt property was clarified, requiring at least 50 percent of the ground floor be committed to nonresidential use. The legislation clarified that parking square footage is not included in the exemption amount formula, unless allowed by cities or counties. A grandfather clause was created, allowing properties granted the exemption under the terms before SB 310 to continue receiving the exemption on those terms. The 2021 Legislature replaced the partial exemption schedule based on equalized floors for partial exemption amounts equal to the lesser of 20 percent multiplied by exemption multipliers or 80 percent (SB 141).

Administrative Costs

The VHDZ partial exemption may be relatively difficult to administer given requirements for zone designation and the unique exemption amount formula. However, the city or county may charge appropriate fees to offset the cost of administering the application and certification process and any other related costs (ORS 307.857(10)). As is usually the case, DOR may incur marginal administrative and enforcement costs.

The fiscal impact statement for HB 2126 (2015) reported that extending the program had no state or local fiscal impact. The fiscal impact statement for SB 310 (2017), which, among other changes, required the city or county to designate and certify projects rather than OHCS, reported a minimal fiscal impact on state (OHCS) or local governments (cities and counties). The fiscal impact statement for SB 141 (2021), which replaced the partial exemption schedule based on the number of equalized floors with a partial exemption schedule based on an exemption multiplier, reported a minimal fiscal impact on state (DOR and OHCS) or local governments (counties and cities).

Similar Programs Available in Oregon

Oregon has other vertical housing development incentives, including exemptions and direct spending programs, that may complement the VHDZ exemption, as described below.

Prior to a change in 2005 (HB 2199), exempt housing developments in VHDZs were required to encourage efficient use of mass transit facilities in the zone, similar to an exemption under ORS 307.600-637 for multi-unit rental housing in core areas, light rail station areas and transit-oriented areas (TER 2.105). Under that exemption, cities or counties are authorized to grant a property tax exemption, up to 10 years, for multi-unit rental housing (excluding land) in designated core areas, light rail station areas and transit-oriented areas. Those areas are designated by the city or county acting to grant the property tax exemption, but only cities can designate core areas. Qualifying housing includes newly constructed housing, property converted to housing and commercial property, if it is a required design or public benefit element of the multi-unit housing. If stories or other

improvements are added or a structure, or a structure is fully or partially converted to housing units, only the addition or conversion value is exempt. The exemption does not cover land, but it may cover parking constructed for the multi-unit housing. In any city, or any county with population of at least 300,000 the exemption also applies to eligible housing in an urban renewal area. The exemption is in addition to any other exemption, up to 100 percent of the property's RMV. The rehabilitated portion of the property that is not covered by this exemption may be eligible for the VHDZ exemption.

Metro's Transit Oriented Development program supports grants, site acquisition and partnerships with developers and community-based organizations to encourage the creation of higher-density, affordable, mixed-use properties within the region's centers and frequent transit corridors (Metro, 2024). In addition to requirements related to location/transit and multi-unit affordability, the program also has requirements relating to racial equity and climate-friendly design.

Exemptions Available in Other States

Property tax exemptions in other states that incentivize the development of vertical mixed-use housing density appear to be limited currently. In Washington, some property tax exemptions under the New and Rehabilitated Multiple-Unit Dwellings in Urban Centers program require housing developments to be in areas having zoning requirements for certain average minimum densities (Washington State Legislature, 2023a). Those developments may be economically feasible only if they have housing density like the surrounding area. Other than property tax, zoning and density bonuses may be the most common approaches other states use to incentivize vertical housing density. A density bonus allows an increase in residential units per acre, floor area ratio or height, which generally means more residential units can be built on any given site. Density bonuses have been used heavily in transit-oriented development (Wise, 2010). For example, California's Density Bonus program allows certain developers to build up to 50 percent over the maximum allowed density on a rental or ownership housing project in exchange for developing affordable housing (City of Glendale, California, 2024). The amount of affordable housing required depends on the density bonus the developer requests. Along with a density bonus, developers are entitled to one or more concessions (depending on the percentage of affordable residential units) and an incentive to develop parking.

Nonprofit Low-Income Rental Housing

ORS	307.540-548	Term	Indefinite
TER Number	2.108	Property	Real
Year Enacted	1985	Payment in Lieu of Tax	No
Sunset	6/30/2027	Some/All Districts	Some*
Recent Change	2021	Mandatory/Option	Option
Full/Part./Spec. Assess.	Full	Clawback	Yes

*Applies to city or county. Applies to all taxing districts if 51 percent tax rate threshold is met.

Policy Purpose

Statute does not provide a specific policy purpose. Documentation and deliberation in revenue committees suggests the policy purpose is to increase the supply of low-income rental housing in Oregon. The revenue impact statement for the last bill that extended the exemption, HB 2354 (2011), stated "[t]he policy purpose of this measure is to encourage the provision of housing for low income individuals by nonprofit organizations. The purpose is also to reduce the cost of this housing to these individuals as well as provide this type of housing in areas where it would not otherwise be available." Many of the revenue committee discussions for HB 2354 revolved around housing stability and acknowledged that property taxes can cover a substantial portion of operating costs for nonprofit organizations that provide affordable housing, which can affect nonprofit supply and rental prices. An additional goal expressed by revenue committees, particularly regarding tenants not on fixed incomes, was for the affordable housing and associated tenant services to support upward mobility and moving up the continuum from affordable housing to market rate housing, to home ownership.

Description

Cities or counties may adopt an ordinance or resolution granting a property tax exemption for certain property owned, being purchased or leased by nonprofit corporations, if the property is occupied by low-income tenants or held for the purpose of developing low-income housing. The period the property is held for development cannot exceed a reasonable maximum period, if any, as defined by the local government. Qualifying nonprofit corporations must be exempt from federal income tax under Internal Revenue Code (IRC) section 501(c)(3) or (4). Upon liquidation, nonprofit corporations must distribute any remaining assets to other tax-exempt charitable organizations or the state of Oregon.

The income of each tenant must be at or below 60 percent of AMI, as determined by the Oregon Housing Stability Council based on information from the U.S. Department of Housing and Urban Development. For each subsequent exemption year, cities or counties can elect an alternative definition of low-income, allowing the income of each tenant to be up to 80 percent of AMI.

The exemption only applies to property taxes of the city or county that have adopted an ordinance. However, if local taxing districts representing at least 51 percent of the total combined tax rate in that area pass ordinances supporting the exemption, the exemption applies to the taxes of all districts.

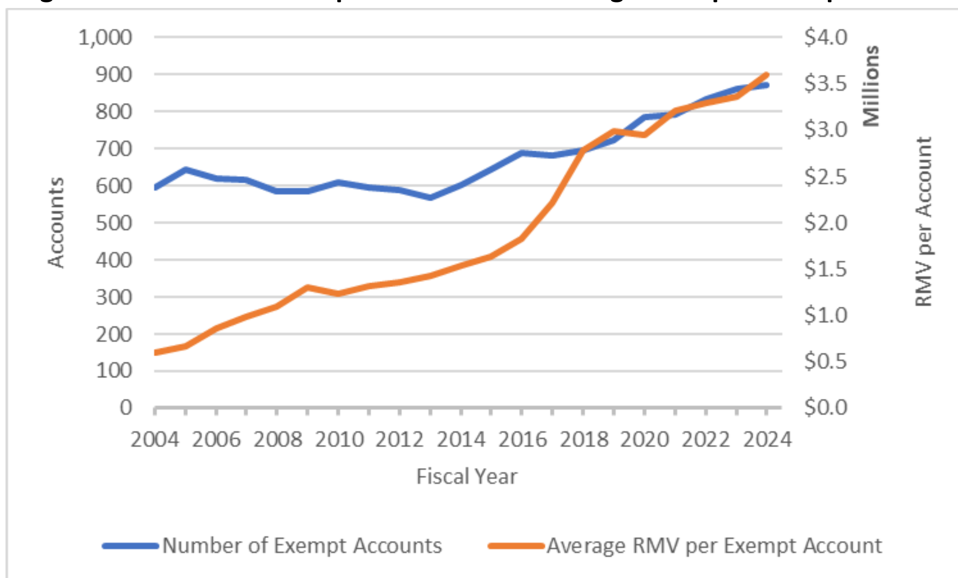
By March 1 of each year, with some exceptions, the nonprofit corporation must file an application with the appropriate city or county to claim the exemption. The application must describe how the exemption will benefit project tenants. Projects after October 5, 2015, must meet any additional criteria that have been established by the city or county prior to the application. The exemption sunsets on June 30, 2027.

Analysis

One way to measure achievement of the policy purpose is an increase in the amount of low-income rental housing in Oregon due to the exemption, currently and in the past. However, changes in housing supply could occur for many reasons unrelated to the exemption, such as zoning laws and interest rates. Alternative ways to measure achievement are the current and past number of exempt low-income rental units. The number of exempt units will certainly increase if the number of exempt accounts and the average number of units per exempt account both increases. The average RMV per exempt account may provide insights about the average number of units per exempt account. For example, since the RMV of low-income rental housing is generally not affected by luxury amenities, the average number of units per exempt account will likely increase if any change in the average RMV per exempt account is higher than housing inflation, particularly if there is a decrease in the share of exempt accounts in the most expensive rental markets.

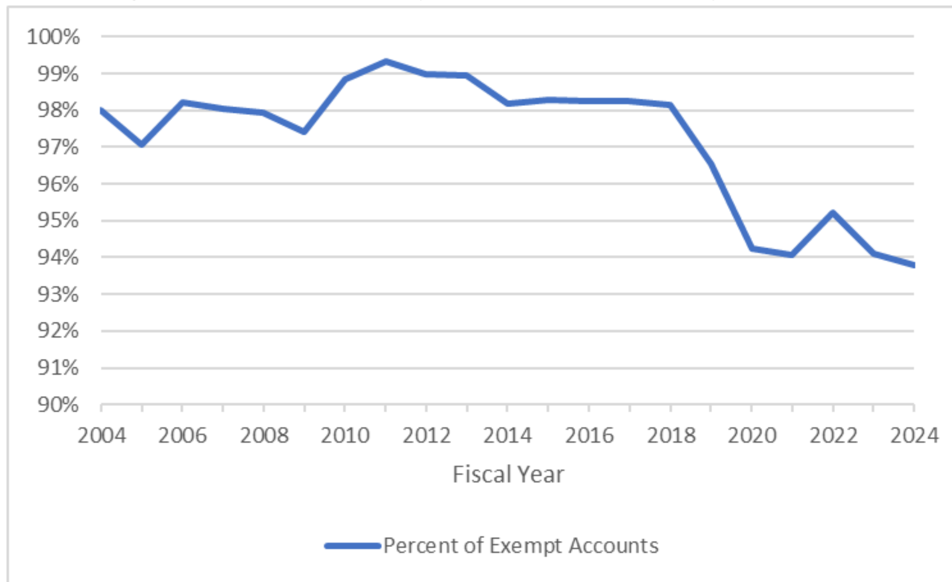
It appears the exemption is achieving its policy purpose effectively so far, at least since 2014 when the number of exempt accounts started to trend upward along with the upward trend in the average RMV per exempt account (Figure 7). The average RMV per exempt account in 2024 was over six times higher than in 2004 (an increase of over 500 percent), which is substantially higher than inflation in the rent of primary residences from 2004 to 2024 (a 45 percent increase, as measured by the Bureau of Labor Statistics Consumer Price Index in U.S. city average). Furthermore, as shown in Figure 8, in recent years there has been a decrease in the share of exempt accounts in the most expensive rental markets in Oregon (tri-county metro area). All that information suggests the number of exempt housing units are on an upward trend since 2014 or earlier. In terms of efficiency, multi-year exemptions and direct spending programs to increase the supply of low-income rental housing in Oregon may result in similar outcomes at similar cost, given that both may require annual applications and certification of tenant income levels.

Figure 7. Number of Exempt Accounts and Average RMV per Exempt Account



Data source: DOR Research Section

Figure 8. Percent of Exempt Accounts in Tri-county Metro Area



Data source: DOR Research Section

Low-income tenants and nonprofit landlords both benefit directly from the exemption. Nonprofit landlords benefit because the property tax exemption reduces operating costs and increases net cash flow, which enables resources to be allocated to other areas in support of their nonprofit mission. For example, some nonprofits supply affordable housing to advance equity, reduce economic disparities and strengthen community resiliency (Goldenberg, 2024). Some nonprofit landlords are also part of a larger social support network that may offer tenant services such as meal delivery, after school tutoring, job placement advice, digital literacy training, eviction diversion programs and counseling (Leviten-Reid & Desjarlais-deKlerk, 2024). Tenants benefit from the availability of rental units at below-market prices (Leviten-Reid et al., 2019). Those tenants, including single-income families, seniors and the disabled, may have few other housing options affordable to them. As such, the exemption may improve housing quality or reduce homelessness for those tenants. Improved housing quality and reduced homelessness can provide stability and security to residents and positively affect health outcomes (Bratt, 2002). Added stability and better health outcomes can result in less absenteeism and higher levels of productivity while at work (Boles et al., 2004).

The surrounding community may experience spillover effects, or indirect benefits and costs, associated with nonprofit low-income rental housing. For example, community development corporation housing investments in low- and moderate-income neighborhoods can contribute to higher prices of nearby homes, within 500 feet of the development (Edmiston, 2012). Presumably, potential positive externalities such as crime reduction outweigh potential negative externalities such as potential deterioration in neighborhood status or neighborhood attachment. Higher property values can increase the wealth of nearby homeowners and the rental prices they may charge. To the extent that positive externalities increase surrounding home values, the likelihood of gentrification may increase (Shen & Sun, 2020). Interestingly, Edmiston (2012) found that new Low-Income Housing Tax Credit (LIHTC) developments did not affect nearby home values. Nonprofit status is not an eligibility requirement for LIHTC; credits are obtained by investors who provide developers with initial development funds. Nonetheless, there has recently been a renewed government commitment to support the role played by all provider types and partnerships in supplying affordable housing (Leviten-Reid et al., 2019). That approach leverages the relative strengths of nonprofits (community support, additional subsidies, commitment to long-term

affordability) and for-profit businesses (staff/management capacity, financial capital, market expertise) (Bratt, 2008), to better overcome the main barriers to rental housing investment (low profitability and inadequate property management) (Swanzy-Impraim et al., 2021).

To identify the impacts of incremental policy changes, it is necessary to have detailed data on the exemption and any other factors that have affected the supply of low-income rental housing in Oregon. That information is necessary to isolate the impact of the exemption from the other factors affecting housing supply. Since some of that information is currently not available, an alternative way to analyze the result of incremental changes to the exemption is to focus on policy changes made by the 2015 Legislature:

- HB 3082 added an alternate definition of "low income", allowing income to increase from 60% to 80% of AMI after the first year of exemption. That allows low-income tenants to have a certain amount of upward mobility without causing the entire property to be disqualified from exemption.
- HB 2130 allowed governing bodies to establish a reasonable maximum period that property can be held for developing low-income housing. That means governing bodies could grant the exemption to a property before the low-income rental housing is fully developed or occupied by low-income tenants, if it was within a defined "reasonable" amount of time, as adopted by the governing body. Bill proponent testimony stated that "[a]ffordable housing development frequently takes three to five years, to get the necessary permits and assemble the many required sources of funding. [...] The implementing local government might require in its adopting ordinance that a developer who takes longer than five years must show evidence of reasonable progress or efforts to develop the affordable housing project." Other bill proponent testimony suggested that allowing governing bodies to define "reasonable", may help "accommodate development cycles". HB 2130 also allowed governing bodies to adopt additional criteria that do not conflict with other criteria.

Those changes expanded the exemption and gave cities and counties more control over the design of their programs, encouraging new governing bodies to adopt the exemption. From 2015 to 2019, the number of counties with exempt accounts doubled from four (including the three metro area counties) to eight. The policy change in 2021 (HB 2456) that further expanded the low-income definition (allowing 'income averaging') had a less noticeable effect on the variables in Figure 7 and Figure 8, potentially because it did not have a change that directly encouraged more governing bodies to adopt the exemption. Given that any exemption can change in many ways, any further analysis of incremental changes will be guided by questions that may arise in the future.

If the indefinite-term full exemption expires, nonprofit low-income rental housing will be taxable after June 30, 2027. The 872 currently exempt accounts will become taxable and the recent growth of about 20 new accounts per year will not continue. Existing non-exempt land and improvements will continue to be taxable. The expected result is lower supply or higher rental prices for low-income rental housing in Oregon, particularly for housing provided by nonprofit suppliers. This may challenge the viability of nonprofit housing suppliers in Oregon, since property taxes often cover a substantial portion of their operating costs. However, the operating costs currently covered by this exemption may be covered by other programs available in Oregon, such as other indefinite-term full exemptions (e.g., ORS 307.092; ORS 307.110(3)(h); Oregon Laws 2014, chapter 7, sections 1-2 (note after ORS 307.130); ORS 307.140; ORS 307.555-558). In terms of the effects on tenants, if other programs available in Oregon cannot fill the gap in operating expenses for nonprofit affordable housing providers, any loss of affordable housing and associated tenant services can potentially impede upward mobility or increase homelessness. Spillover effects from an increase in homelessness include more use of other public services (Bramley, 2024).

Legislative History

Legislative history of the exemption is available in Appendix Table A1. The 1985 Legislature enacted the nonprofit low-income rental housing property tax exemption and set a sunset of January 1, 1994 (SB 503). Legislation in 1987 (SB 98), 1993 (SB 673, SB 14), 1997 (SB 1215) and 2013 (HB 2227) made changes to the application deadline. In 1993 (SB 673), 2003 (HB 2535) and 2011 (HB 2354), the Legislature extended the exemption by moving the sunset to a later date.

In 1993, the Legislature redefined "low income" as income at or below 60 percent of AMI (HB 2922). Alternative definitions of "low income" were added in 2015 (HB 3082) and 2021 (HB 2456), allowing tenant income to increase after the first year of exemption and the use of 'income averaging' of all tenants to determine which units are eligible. Using the alternative definition based on income averaging is contingent on the property being awarded LIHTC. Legislation in 1995 (SB 724) clarified the nonprofit nature of the exemption, specifying the exemption criteria for property of a corporation exempt under IRC section 501(c)(3) or (4). SB 724 also allowed certain partnerships to be exempt.

Legislation in 1997 (SB 286, SB 1215) allowed property held for future development as low-income housing to be exempt and required a 10-year clawback if that property is disqualified. The 2013 Legislature reduced the number of clawback years under certain circumstances (HB 2227). The 2015 Legislature broadened local control of the exemption, allowing cities or counties to adopt a reasonable maximum holding period for property held for future development and additional criteria that do not conflict with other criteria (HB 2130).

Administrative Costs

Any administrative costs are mainly borne by cities or counties due to the annual application process and by assessor offices for assessment and taxation functions. As is usually the case, DOR may incur marginal administrative and enforcement costs.

The fiscal impact statement for HB 2354 (2011) reported extending the exemption had no fiscal impact on state or local governments. No fiscal impacts on state or local governments were reported for subsequent changes to the exemption for which a standalone fiscal impact statement was released (HB 3082 (2015), HB 2442 (2015) and HB 2130 (2015)).

Similar Programs Available in Oregon

Many other programs in Oregon may be substitutes or complements for the nonprofit low-income rental housing property tax exemption. As described in more detail below, these programs include direct spending, tax credits, housing vouchers, other property tax exemptions and utility service discounts. Aside from the other property tax exemptions, these programs complement the nonprofit low-income rental housing exemption because they can be used with it. Some state direct spending and tax credits may be supported by federal block grants.

OHCS combines several direct spending programs to fill gaps in financing for affordable housing developers, many of which are nonprofits, in exchange for covenants that keep rents affordable for decades for low-income households. Those direct spending programs are described below:

- The purpose of the Local Innovation and Fast Track (LIFT) Program under ORS 458.480-490 is to expand the state's supply of affordable housing (OHCS, 2024a). There are two parts of the program, LIFT Rental to fund affordable rental housing developments and LIFT Homeownership to fund homeownership developments. LIFT Rental funds are eligible to be used for any net increase in new affordable units; this can be accomplished through new construction of units, the conversion of existing non-residential

structures to housing units, or the acquisition of newer market-rate residential developments. Acquisition of newer properties means properties that have been placed in service recently and don't require funding for renovations. The state has an ownership or operational interest in any real property developed in the LIFT program. The 2023-25 Legislatively Approved Budget includes $440 million of other funds (Article XI-Q bond proceeds) for the program.

- The Affordable Housing Land Acquisition Revolving Loan Program (LAP) under ORS 456.502 was created to assist eligible organizations in Oregon, including nonprofits, to purchase land suitable for affordable housing development (OHCS, 2024a). This includes both affordable rental and homeownership developments. LAP loans must be paid back before an affordable housing project can start any vertical construction. The 2023-25 Legislatively Approved Budget includes $30.2 million of other funds for the program.
- The purpose of the Housing Development Grant Program (HDGP) “Trust Fund” under ORS 458.625 is to expand Oregon’s housing supply for low and very low-income families and individuals (OHCS, 2024b). HDGP is designed to provide grants to construct new housing, acquire and/or rehabilitate existing structures, or operate housing for low-income households living in multifamily rental housing. The 2023-25 Legislatively Approved Budget includes $20.8 million of other funds for the fund.
- The General Housing Account Program (GHAP) under ORS 458.665 was created to expand Oregon’s housing supply for low and very low-income families and individuals (OHCS, 2024b). The focus areas of the program are rental housing development and rental housing for veterans. GHAP can be used statewide, including on Tribal lands. GHAP development funds may be taken as a grant or low-interest loan with flexible terms, as requested by the awardee. If the funds are requested as a loan, the interest rate begins at zero percent and may be as high as the U.S. Treasury Long Term Obligation rate. Repayment is due as a balloon payment between year 30 and year 60. The 2023-25 Legislatively Approved Budget includes $100.5 million of other funds for the program.

The following tax credits and housing vouchers target low-income housing rentals and are used heavily by nonprofits in Oregon. These are complements for the nonprofit low-income rental housing exemption because they can be used in tandem:

- Effective in 2023, the new Publicly Supported Housing (PuSH) Seller's Tax Credit under ORS 315.283 (TER 1.427) will be available to sellers of publicly supported housing who sell to a purchaser who agrees to maintain affordability restrictions (OHCS, 2024d). A state tax credit against personal income tax, corporation excise tax or corporation income tax can be used by purchasers as part of their negotiations with the seller, helping them to compete with other potential purchasers who may not keep the property affordable. In the 2023-25 Legislatively Approved Budget, $50 million of other funds (lottery bond proceeds) are included for the credit. This tax credit complements the existing Publicly Supported Housing Contract Preservation (PuSH-CP) program.
    - The purpose of the existing PuSH-CP program under ORS 456.250-267 is to preserve the contract that qualifies a property as publicly supported housing (OHCS, 2024c). OHCS may consult with the local government for the purposes of determining the best way to preserve the contract when the owner’s notice(s) show intent to withdraw the property from publicly supported housing upon expiration of the affordability restrictions. This consultation will determine which qualified purchaser (OHCS or local government) will pursue an opportunity to offer to purchase the property, with priority towards local government ownership. If it is determined that OHCS should

pursue preservation, OHCS may assign a "designee" (non-profit and/or for-profit) to make an offer after entering into a written agreement with OHCS.

- The Oregon Affordable Housing Tax Credit (OAHTC) under ORS 317.097 is a credit against corporation excise taxes for lending institutions who make qualified loans at below market interest rates for the construction, development, acquisition or rehabilitation of a mobile home park, low-income housing, or a preservation project (TER 1.424). For S corporations that claim the credit, the credit is shared by the S corporation shareholders and claimed against their Oregon personal income tax. Currently, a cap of $35 million per year applies to tax years beginning on or after January 1, 2022.[11]
- LIHTC is available for developers to construct, rehabilitate, or acquire and rehabilitate qualified low-income rental housing (OHCS, 2024b). Multifamily and single-family projects are both eligible. Eligible applicants include both for-profit and nonprofit sponsors. Annually, the U.S. Department of Treasury allocates tax credits to each state. Federal law limits the annual per capita tax credit issued to each state to $2.15 in 2011 and indexed to inflation thereafter. OHCS then issues these credits through a competitive Notice of Funds Availability process. There is also a non-competitive application process available.
- The Housing Choice Voucher Program (previously known as the Section 8 Existing program) pays private landlords for a portion of rent on behalf of low-income tenants (Center on Budget and Policy Priorities, 2024). The Department of Housing and Urban Development (HUD) oversees the program, which is administered locally by public housing agencies. Landlords can opt out of the program. The program also offers subsidies—called project-based vouchers—that are tied to a particular property, rather than a particular tenant, and thus can help pay for the construction or rehabilitation of low-income housing. Public housing agencies may also allow vouchers to help cover the cost of homeowner mortgage payments, although this option is not widely used.

Oregon offers other property tax exemptions related to nonprofit low-income rental housing:

- Under ORS 307.092, property of a housing authority, including property of nonprofits if it is leased or rented to persons of lower income for housing purposes, is exempt from all property taxes and special assessments (TER 2.020).
- Real and personal property of the state or local governments that is used for affordable housing or rented to persons of lower income for housing are property tax exempt (ORS 307.110(3)(h); TER 2.020).
- Under Oregon Laws 2014, chapter 7, sections 1-2 (note after ORS 307.130), real or personal property of a nonprofit corporation that is offered, occupied or used as low-income housing and has been granted the property tax exemption for charitable institutions under ORS 307.130(2)(a), is property tax exempt as long as qualifications continue to be met. The exemption sunsets on June 30, 2028.
- Land and buildings owned or being purchased by religious organizations that are held or used solely to provide affordable housing, including rentals, to low-income households are property tax exempt (ORS 307.140; TER 2.087). Religious organizations are included under IRC section 501(c)(3) nonprofits.
- Under ORS 307.515-535, nonprofit organizations may qualify for the property tax exemption for low-income rentals (TER 2.107). That is a 20-year exemption limited to newly constructed rental housing. In addition, the alternative exemption criteria under ORS 307.518, allow that 20-year exemption to be granted to nonprofit public benefit corporations or religious corporations that offer, develop or lease property for low-income rentals, provided the corporation uses at least 90 percent of residential rental

[11] For more detail about OAHTC, see the 2023-25 TCR (LRO, 2023).

income for repair, purchase or acquisition of low-income residential rental property, or for onsite daycare services for tenants. The exemption sunsets on June 30, 2030.

- Under ORS 307.555-558, land burdened by an affordable housing covenant that requires long-term affordability (occupied by low- or moderate-income households for at least 99 years) and is owned by an eligible covenant holder is exempt from property taxation (TER 2.114). Improvements on the land must be owner-occupied housing or owner-occupied housing must be built on the land in the next 10 years. For owner-occupied condominium units burdened by an affordable housing covenant, 27 percent of AV is exempt from taxation. Eligible covenant holders are agencies of the United States Government, public benefit corporations or religious corporations, consumer housing cooperatives, mobile home park nonprofit cooperatives or federally recognized Indian tribes.
- Under ORS 308.701-724, owners of multi-unit rental housing, excluding assisted living facilities, that have government restrictions on use may apply to have the property specially assessed (TER 2.126). Rental rates and tenant incomes are restricted to allow the owner to take advantage of certain government incentives relating to housing. The owner of the multi-unit property must elect any one of the following three method for determining the specially assessed value of the property: (1) an annual net operating income approach and a capitalization rate, (2) an adjustment of market value based on the ratio of the average rent of restricted income rental units to the average rent of similar non-restricted income rental units or (3) an alternate method that may be adopted by the Department of Revenue.

The City of Portland has begun a pilot program, funded by increased utility rates for all customers, that complements the nonprofit low-income rental housing property tax exemption (NPLTE) (City of Portland, 2024). The Regulated Affordable Multifamily Assistance Program (RAMP) discounts sewer, stormwater and water service bills for multifamily properties approved for NPLTE. RAMP enrollment lasts one fiscal year and is renewed annually in alignment with NPLTE. The RAMP discount goes on the bill paid by the nonprofit, which will be required to reduce rents or enable greater services for tenants. RAMP was approved by Portland City Council in spring 2023 and the three-year pilot started in July 2023. Single-family units enrolled in NPLTE are not currently eligible for the RAMP discount, but they may be eligible for financial assistance under the city's single-family bill discount program. NPLTE has benefited more than 16,000 households in each of the last three fiscal years and RAMP is expected to reach over 15,000 households each year, or 12 percent of multifamily housing units in the City of Portland. The total estimated discount under RAMP is around $5 million per year, based on a discount of about $325 per unit per year. The RAMP discount equates to about a four percent reduction in rent for a family of three, assuming rent costs 30 percent of median family income.

Exemptions Available in Other States

Many states offer property tax exemptions for charitable institutions, including those providing nonprofit low-income rental housing (e.g., California, Florida, Michigan). Some states offer standalone property tax exemptions to incentivize development of nonprofit low-income rental housing (e.g., Arizona, Idaho, Washington). Examples of both are described below.

Arizona offers a property tax exemption for affordable rental housing and related facilities owned and operated by nonprofits (Arizona State Legislature, 2023). The acquisition, rehabilitation, development or operation of the property must either be financed with tax exempt mortgage revenue bonds, general obligation bonds or local, state or federal loans or grants, or the owner of the property must receive federal low-income housing tax credits.

In California, the "welfare exemption" for nonprofit corporations is available for property owned and operated by qualifying organizations and used exclusively to provide rentals for the elderly, disabled and low-to-moderate income households (California State Board of Equalization, 2024). To be fully exempt the property must receive government financing or low-income housing tax credits. Absent low-income housing tax credits or government financing, up to $20 million of AV is exempt. For low-to-moderate income households, incomes can increase up to 140 percent AMI, or up to 100% if the property does not receive low-income housing tax credits.

In Florida, property used as affordable housing is considered to serve a charitable purpose and is exempt (Florida Department of Revenue, 2021). For the property to be exempt, 70 housing units must be provided to households having extremely low-, very low- or low-income.

In Idaho, to qualify for the property tax exemption for low-income housing owned by nonprofit organizations, all housing units must be dedicated to low-income housing in the following manner: 55 percent of the units must be rented to households earning up to 60 percent of AMI, 20 percent of the units must be rented to households earning up to 50 percent of AMI and 25 percent of units must be rented to households earning up to 30 percent of AMI (Idaho Legislature, 2023). The percentages in that schedule apply to all units except the manager's unit.

Michigan offers a property tax exemption to charitable nonprofit housing organizations if the property will be occupied by low-income households (Michigan Department of Treasury, 2024). If the exemption is granted for a residential building lot, the exemption term is five years. If the exemption is granted for a single-family home, duplex or multi-unit building with fewer than four units, the exemption term is three years.

Texas offers a property tax exemption for affordable multi-unit rentals owned by public facility corporations (PFC), if at least 50 percent of units are reserved for low-income households (National Law Review, 2023). Specifically, at least 10 percent of the units must be for households with incomes up to 60 percent of AMI and at least 40 percent of units must be for households with incomes up to 80 percent of AMI. After a household qualifies, it cannot be disqualified if its income increases above 80 percent of AMI. The exemption is 30 years for existing property or 60 years for newly constructed property, with the option to request an additional 30 or 60 years, as applicable, if the same requirements continue to be met. Exempt properties are not disqualified if the PFC leases the property to a for-profit entity for operation. The exemption does not apply to property taxes imposed by a conservation and reclamation district that provides water/sewer/drainage services to the property unless the PFC agrees with the district to provide payment in lieu of taxes.

Washington offers a property tax exemption for nonprofit organizations renting housing to low- and moderate-income households (Washington State Legislature, 2023b). The exemption is for real and personal property owned or used by nonprofits providing rental housing or mobile home space to households having up to 60 percent of AMI. After the first exemption year, eligible households may have up to 80 percent of AMI. To qualify, at least 75 percent of occupied housing units (or lots in a mobile home park) must be occupied by qualifying households. If less than 75 percent are occupied by qualifying households, the rental housing or mobile home park is eligible for a partial exemption of real property and a full exemption of personal property. The partial exemption amount is the same as the proportion of units occupied by qualified households.

New or Rehabilitated Multi-Unit Rental Housing

ORS	Note: 307.867	Term	Up to 10 years
TER Number	2.109	Property	Real
Year Enacted	2017	Payment in Lieu of Tax	No
Sunset	1/1/2027	Some/All Districts	All*
Recent Change	2023	Mandatory/Option	Option
Full/Part./Spec. Assess.	Full/Partial	Clawback	Yes

*If 51 percent tax rate threshold is met.

Policy Purpose

Statute does not contain a specific policy purpose. Documentation and deliberation in revenue committees suggests the policy purpose is to increase the supply of workforce rental housing in Oregon. The revenue impact statement for the 2017 enacting legislation (HB 2377) states "[t]he policy purpose of this measure is to provide county and city governing bodies the ability to implement a targeted property tax exemption that encourages development of multi-unit rental property that is rented to households with annual income at or below 120 percent of the area median thereby increasing the development, rehabilitation and, ultimately, the supply of workforce and low income housing units." Deliberation in both revenue committees clarified that the purpose of the exemption relates to increasing the supply of low- and moderate-income housing to maintain and grow the local workforce, such as teachers, police officers and firefighters.

Description

Cities or counties may adopt an ordinance or resolution granting a property tax exemption for newly rehabilitated or constructed multi-unit rental housing. The ordinance must publish one of two exemption schedules that specifies the exemption amount (percent) and term, up to 10 years. Under the first schedule, the exemption amount is fixed and the number years, up to 10 years, depends on the share of units rented at affordable prices to households with income at or below 120 percent of AMI. Under the second schedule, the exemption term is fixed at 10 years and the exemption amount depends on the share of units rented at affordable prices to households with income at or below 120 percent of the AMI. The ordinance or resolution must include definitions for "area median income" and "affordable".

A property can only receive the exemption once. To qualify, construction of the multi-unit rental property must be completed after the ordinance has been adopted. Additionally, the application must be submitted for the first assessment year the property is rented for residential occupancy after construction has been completed. The ordinance becomes effective if the taxing districts representing at least 51 percent of the total combined tax rate within the defined area support the program. The exemption applies to the property tax levies of all taxing districts in which the property is located. Cities or counties have authority to adopt an ordinance that amends or repeals the exemption, subject to the 51 percent tax rate requirement. If the exemption is amended or repealed by ordinance, properties granted the exemption will continue receiving it on the same terms in effect at the time it was first granted.

An application for the upcoming fiscal year must be submitted before March 1, with some exceptions. If eligible rental property is in a city and county that have both adopted the exemption by ordinance, the applicant chooses which exemption it wants by submitting the application to either the city or county. The denial of an application or disqualification of a property are not appealable decisions. A clawback provision requires back taxes to be paid

if it is discovered the property was not qualified for the exemption. The exemption sunsets on January 1, 2027. However, any properties granted the exemption will continue receiving it on the same terms as prescribed by the ordinance.

Analysis

Workforce housing programs typically target households with incomes at 80 to 120 percent of AMI (Brookings Institution, 2019). That differs from low-income housing programs that target households earning up to 80 percent of AMI. Workforce housing programs often target critical workers employed in education, healthcare, law enforcement and emergency response that earn insufficient income to secure quality housing within reasonable proximity to their workplace but earn too much income to qualify for other affordable housing programs (Milken Institute, 2019). Affordable rental prices can be determined by applying AMI limitations to HUD's definition of affordable housing, which is "housing for which the occupant is paying no more than 30 percent of their income for gross housing costs, including utilities."

One way to measure achievement of the policy purpose is an increase the supply of workforce rental housing in Oregon as a result of the exemption. However, changes in housing supply could occur for many reasons unrelated to the exemption, such as zoning laws and interest rates. Alternative ways to measure achievement of the policy purpose are the number of new exempt housing units and the total number of exempt housing units since the exemption was enacted in 2017. The number of new units can help show recent changes in overall achievement.

It appears the exemption is achieving its policy purpose effectively so far, at least since 2023-24, when the first account was granted the exemption in Eastern Oregon. In 2024-25, the second account was granted the exemption in Southwest Oregon. The two accounts have about 400 units offered at affordable rental prices. The second account has 372 of those units, which represents significant growth over the prior year. Given that cities or counties have discretion over how to structure the exemption schedule (exemption amount and term), the exemption has potential to incentivize the development of more workforce rental housing in Oregon in the future. Like other property tax exemptions, it does not provide upfront financing, which may limit its effectiveness at increasing the supply of workforce rental housing. However, given that business loans may be necessary to construct or rehabilitate multi-unit rental housing, the degree to which the lack of upfront financing affects the effectiveness of the exemption may depend on lenders' preferences for their clients to have upfront financing. In terms of efficiency, multi-year exemptions and direct spending programs may be similar given both may require annual application or monitoring of whether tenants satisfy AMI limits.

The extent to which property owners, developers and tenants benefit from the exemption depends on the share of units rented at affordable prices because that determines the exemption amount and term. Property owners benefit directly from the reduction in property taxes, which reduce operating costs and increase profitability. Developers, who may also own and operate the property, benefit from the exemption if it helps secure financing that allows the project to move forward. Tenants benefit directly from the availability of rental units at affordable prices. That may allow tenants to live in the community where they are employed, rather than dealing with longer commutes, higher transportation costs, poorer living conditions or forgoing job opportunities altogether. However, those potential benefits will depend on other factors such as distances to surrounding bedroom communities and available travel modes (Milken Institute, 2019). Some other approaches to increase the supply of workforce housing have given employers undue power over their employees, with the potential for exploitation or abuse (Brookings Institution, 2019). For example, programs that disqualify households from rental assistance if tenants change jobs (even if there is no change in earnings) may be a disincentive for labor market mobility. With that said, some universities and school districts supply housing to some employees.

The surrounding community may experience spillover effects, or indirect benefits and costs, associated with workforce rental housing. By supporting labor market mobility for tenants, the exemption may increase labor productivity and have some environmental benefits associated with shorter travel commutes (Milken Institute, 2019). Since the value of public services are capitalized into local rental prices, there is a certain financial logic to local governments using public resources to subsidize workforce rental housing, especially in mostly residential suburbs (Brookings Institution, 2019). Providing rental assistance to all moderate-income households acknowledges that other moderate-income occupations can also provide community benefits. However, the influx of middle-income households may need to exceed a certain threshold for significant benefits to accrue (Quercia & Galster, 1997). In terms of potential costs, gentrification could occur if a sufficient influx of middle-income households drives up home values and displaces low-income households (Sturtevant, 2014). Lastly, low-income housing advocates may object to workforce housing programs because of the persistent shortage in low-income housing. For example, about one in five low-income households receive federal housing assistance (Scally et al., 2018).

To identify the impacts of incremental policy changes, it is necessary to have detailed data on the exemption and any other factors that have affected the supply of workforce rental housing in Oregon. That information is necessary to isolate the impact of the exemption from the other factors affecting the supply of workforce rental housing. However, information on program usage and legislative changes are limited. The only legislative change to the exemption was in 2023 (HB 2080), when the Legislature allowed cities or counties to adopt an alternate exemption schedule, where the exemption term is fixed at 10 years and the exemption amount depends on the share of units rented to households with low-to-moderate income. Ensuring the maximum 10-year exemption term could help secure project financing, especially if lenders expect it to be a full exemption. The property that is expected to start the exemption in 2025 began construction in June 2023, at about the same time that HB 2080 was passed by the 2023 Legislature. Given that any exemption can change in many ways, any further analysis of incremental changes will be guided by questions that may arise in the future.

If the exemption expires, new multi-unit rental housing developments will not be eligible for the exemption and will be taxable after January 1, 2027. Growth of the up-to-10-year partial exemption, of about one new account per year, will not continue. The expected result is marginally lower supply of workforce rental housing in Oregon, particularly low- and moderate-income rental housing, and less labor market mobility for tenants. Potential spillover effects of new multi-unit rental housing developments will be forgone (e.g., labor productivity, reduced travel pollution, gentrification). Furthermore, there will not be additional improvement values from new multi-unit rental housing developments added to the rolls after accounts reach their up-to-10-year maturity. Over the long-term, the forgone additional tax receipts from multi-unit rental housing developments are likely to exceed tax receipts from continued taxation of existing property where development would otherwise occur.

Legislative History

The new or rehabilitated multi-unit rental housing exemption is relatively new and has limited legislative history (see Appendix Table A1 for more detail). The 2017 Legislature enacted the exemption and set a sunset of January 1, 2027 (HB 2377). The only change to the exemption was in 2023 (HB 2080), when the Legislature allowed cities or counties to adopt an alternate exemption schedule, where the exemption term is fixed at 10 years and the exemption amount depends on the share of units rented to households with up to 120 percent of AMI.

Administrative Costs

Any administrative costs are mainly borne by cities or counties due to the annual application process and by assessor offices for assessment and taxation functions. Applications must be accompanied by a fee fixed by the city or county, as applicable, in an amount determined to compensate the city or county for the actual costs of processing the application. Late filing fees are required for applications submitted on or before April 1 of the property tax year ($200 and applicant demonstrates good and sufficient cause) and on or before December 31 of the property tax year (greater of $200 or one-tenth of one percent of the RMV of the eligible rental property). As is usually the case, DOR may incur marginal administrative and enforcement costs.

The fiscal impact statement for the enacting legislation in 2017 (HB 2377) reported no fiscal impact on DOR. Additionally, the fiscal impact statement says the “fees authorized by this bill could cover the administrative costs incurred by cities or counties and assessors offering this exemption. However, offering this property tax exemption may have a fiscal impact on the city or county, as well as on other entities funded through ad valorem property taxes in the jurisdiction.”

Similar Programs Available in Oregon

Oregon has other workforce housing incentives, including property tax exemptions, tax credits and direct spending. Those incentives may be substitutes for the new or rehabilitated multi-unit rental housing exemption because they relate to housing that is owner-occupied or a benefit of employment.

Under Oregon Laws 2021, chapter 527 (second note after ORS 307.867), Oregon offers a workforce housing property tax exemption (TER 2.113). Counties must specify the exemption amount (percent) and term (three to five years). The exemption is limited to newly constructed single-family homes (property improvements only) in rural counties (population less than 15,000), and each county cannot exempt more than five new properties per year. Although newly constructed homes are often purchased by higher income households, the owner of the newly constructed property cannot have annual income more than $75,000 (tax year 2022) or $150,000 if the owner files a joint income tax return.

Under ORS 307.555-558, land burdened by an affordable housing covenant requiring the land to be occupied by household having up to 120 percent AMI for at least 99 years and owned by an eligible covenant holder is property tax exempt if the improvements on the land are owner-occupied housing, or if owner-occupied housing is going to be built on the land in the next 10 years (TER 2.114). For owner-occupied condominium units burdened with an affordable housing covenant, 27 percent of the AV is property tax exempt. An eligible covenant holder is an agency of the United States Government, a public benefit corporation or religious corporation, a consumer housing cooperative, a mobile home park nonprofit cooperative or a federally recognized Indian tribe.

Oregon also offers tax incentivizes for the maintenance and development of agricultural workforce housing. However, those incentives are currently targeted more towards transient, seasonal lodging at farm labor camps, which may not be the same kind of multi-unit housing targeted by the new or rehabilitated multi-unit rental housing exemption. Specifically, under ORS 307.480-307.510, Oregon offers a property tax exemption for owning and operating agricultural workforce housing, childcare facilities and farm labor camps (TER 2.009). Oregon also offers an Agricultural Workforce Housing Tax Credit (AWHTC) under ORS 315.163-315.171 for agricultural workforce housing construction, rehabilitation or acquisition (TER 1.414). In recent years there has been interest

in making a larger portion of the credit for off-farm housing, rather than on-farm housing, consistent with recent trends in the location and type of housing in which agricultural workers reside.[12]

HUD's Good Neighbor Next Door Sales Program helps law enforcement officers, teachers (pre-Kindergarten through 12th grade) firefighters and emergency medical technicians become homeowners in lower-income neighborhoods (U.S. Department of Housing and Urban Development, 2024a). The program offers a 50 percent discount on the list price of homes. In return, an eligible buyer must commit to live in the property for 36 months as their principal residence. Eligible single-family homes located in revitalization areas are listed exclusively for sale through the Good Neighbor Next Door Sales program. Properties are available for purchase through the program for seven days.

Exemptions Available in Other States

Below are property tax exemptions available in other states to incentivize development of workforce housing. Only exemptions allowed statewide are described below.

In California, the “welfare exemption” for nonprofit corporations is available for property owned and operated by qualifying organizations and used exclusively to provide rentals for the elderly, disabled and low-to-moderate income households (California State Board of Equalization, 2024). To be fully exempt the property must receive government financing or low-income housing tax credits. Absent low-income housing tax credits or government financing, up to $20 million of AV is exempt. For low-to-moderate income households, incomes can increase up to 140 percent AMI, or up to 100% if the property does not receive low-income housing tax credits. Separately, from 2001-2008, California directed the redevelopment agencies funded by TIF to create a Low- and Moderate-Income Housing Fund (LMIHF) and to reserve at least 20 percent of their TIF funding to capitalize it. However, the redevelopment agencies and LMIHF incentives were dissolved in 2011 (Milken Institute, 2019). In 2014, California created Enhanced Infrastructure Financing Districts and allowed a private developer, not just local governments, to initiate the proposal for project funding. Bonds require 55 percent voter approval. However, there are no direct tax incentives and dedicated funding streams for workforce housing.

Iowa’s Workforce Housing Tax Incentive program is a state tax credit program designed to encourage the development of housing across Iowa (Iowa Economic Development Authority, 2022). The program emphasizes projects utilizing abandoned or vacant buildings. Housing developers receiving an award under this program are eligible to receive a state investment tax credit as well as a refund of sales, service and use taxes paid under the program. The amount of the investment tax credit is based on a percentage of the investment directly related to the construction or rehabilitation of housing. Tax credits are issued at the end of the project, upon project completion. Tax credits are transferrable, and credits may be carried forward for 5 years. Projects must include a local financial match. Match may be provided by the community in which the project will be located. Local match must be in the form of cash or a cash equivalent or in the form of property tax abatement, rebate, refund or reimbursement. The amount of local match must equal at least $1,000 per housing unit.

Michigan’s Brownfield Program uses TIF to reimburse brownfield related costs incurred for redeveloping properties that are contaminated, functionally obsolete, blighted or historic (Michigan Strategic Fund, 2023). The program allows Brownfield Redevelopment Authorities to use most of the tax off the increment to reimburse developers, local units of government or other investors for development activities. The Michigan Strategic Fund

[12] For more detail about AWHTC, see the 2023-25 TCR (LRO, 2023).

(MSF), with assistance from the Michigan Economic Development Corporation, administers the reimbursement of costs from state school taxes. Specifically, the MSF may authorize tax off the increment for School Operating ($18 per $1,000 of property value) and State Education ($6 per $1,000 of property value) taxes. Legislation in 2023 allowed the Brownfield Program to use TIF to develop housing on brownfields (Michigan State Housing Development Authority, 2024). The Housing TIF program requires projects have units targeted at tenants having up to 120 percent AMI. Brownfield Redevelopment Authorities and developers negotiate how many units in the development need to be targeted at tenants having up to 120 percent AMI.

New York enacted the Mitchell-Lama program in 1955, sponsored by New York State Senator MacNeil Mitchell and Assemblyman Alfred A. Lama. The program offers a combination of land (acquired by eminent domain), real property tax exemptions (partial and full), and subsidized mortgages for developers to build affordable rentals and cooperatively owned housing with a guaranteed return on investment of six percent per year or, later, seven and a half percent (NYU Furman Center, 2018; Mitchell-Lama Residents Coalition, 2024). The program was based on the Morningside Gardens housing cooperative, a co-op in Manhattan's Morningside Heights neighborhood. There were at least 225 Mitchell-Lama properties providing more than 104,000 housing units in New York City in 2017. Few, if any Mitchell-Lama properties have been built since 2000. The program originally served moderate- and middle-income households. However, over time, many residents have become elderly and low-income, and new residents are often low-income. To keep the developments affordable over time, many of them have received other forms of financing for renovations. In some cases, it has been necessary to increase the exemption amount to continue providing housing during times of rising costs (DeSalvo, 1971). After a certain number of years, owners of Mitchell–Lama limited equity housing co-operatives may decide according to their voting rules to privatize their building (Cooperators United for Mitchell-Lama, 2013). That may permit owners to sell their apartments and result in the loss of property tax exemptions and subsidized mortgage rates, potentially resulting in increased fees for remaining residents. Flip taxes or transfer taxes—fees paid by sellers or buyers upon the sale of a housing co-op apartment—are often used by co-op boards to fund property maintenance and can be a disincentive for co-op apartments sales. Separately, in a public-private partnership between the City of New York and Metropolitan Life Insurance company, eminent domain and property tax exemptions were used to develop Stuyvesant Town, a massive residential development containing more than 11,000 apartments on 80 acres (Brookings Institution, 2019).

In Washington, the Multifamily Housing Tax Exemption (MFTE) program offers property tax exemptions to incentivize development of affordable and market-rate housing in the state's urban areas (U.S. Department of Housing and Urban Development, 2024b). MFTE allows local governments to provide 8-, 10-, and 12-year property tax exemptions for the value of new housing construction, conversion, or rehabilitation for certain residential developments. The 8- and 10-year exemptions target production of multifamily housing in dense areas with no affordability requirement. The 12-year exemption requires at least 20 percent of the units in rentals or for-sale developments be targeted to households with up to 120 percent AMI.

APPENDIX

Legislative History of Exemptions Under Review

This appendix contains the legislative history of each property tax exemption under review in this report. Statutory changes can be technical in nature or policy oriented. Changes in bold are more policy oriented.

Table A1. Legislative Changes to Property Tax Exemptions by Year, Bill, Chapter and Section Number

Statute	Property Tax Exemption Number and Name (number refers to 2025-27 Governor's Tax Expenditure Report)				
Note under 307.430	**2.015 Brownfield Development**				
	Year	**Bill**	**Chapter**	**Section(s)**	**Change**
	2016	**HB 4084**	**96**	**1**	**Enacted program | Sunset on 1/1/2027**
	2019	**HB 2699**	**492**	**1**	**Allowed any other special assessment, exemption, or partial**
307.835	**2.026 Cargo Containers**				
	Year	**Bill**	**Chapter**	**Section(s)**	**Change**
	1979	SB 364	783	1,2	**Enacted program | Sunset on 1/1/1988**
	1987	HB 2245	583	1	Moved sunset to 1/1/1996
	1995	HB 2261	748	7	Moved sunset to 7/1/2002 | Made applicable to tax years
	2003	HB 2625	218	1	Moved sunset to 6/30/2010. Deleted currently unused retroactive cancellation of cargo container taxes before 1979
	2009	HB 2475	548	1	Moved sunset to 6/30/2014
	2013	HB 2904	213	1	Moved sunset to 6/30/2020
	2019	HB 2130	578	3	Moved sunset to 6/30/2026
307.841-867	**2.102 Vertical Housing Development Zone**				
	Year	**Bill**	**Chapter**	**Section(s)**	**Change**
	2001	**SB 763**	**888**	**9**	**Enacted program**
	2003	HB 2300	773	53	Allowed department to charge application fee
	2005	**HB 2199**	**119**	**1-11,13**	**Added to and made part of ORS chapter 307 | Disallowed reconstruction. Allowed rehabilitation | Disallowed commercial uses. Allowed nonresidential uses | Allowed certification and decertification of project portion | Allowed project development undertaken by private entity acting independently | Removed requirement for housing development to encourage efficient use of mass transit facilities within zone | Disallowed appeal and judicial or administrative review of certifications | Allowed department to conduct compliance monitoring and project decertification | Replaced partial exemption schedule based on number of floors of residential housing for schedule based on number of equalized floors allocated to residential housing | Required certain amounts of low income residential housing for land exemption | Required previously granted exemptions continue on same terms | Sunset on 12/31/2015**
	2013	**HB 2227**	**193**	**4,11,18-20**	**Set deadline for notifying assessor of approved application, consistent with certain other housing property tax exemptions | Required department notify assessor project is occupied or ready for occupancy and certified | Required clawback up to 10 years**

Statute	Tax Expenditure (TE) Name and TE Number (Number aligns with Governor's Tax Expenditure Report)

Year	Bill	Chapter	Section(s)	Change
2015	**HB 2126**	**507**	**1,2,4**	**Allowed local taxing districts to opt out of exemption | Moved sunset to 12/31/2025**
2017	**SB 310**	**326**	**1-11,13,14**	**Required project rehabilitation costs be at least 20% of RMV of improvements or land developments repaired or replaced | Required cities or counties designate zones and certify projects, rather than the department | Required cities and counties to consider potential household displacement within proposed zone | Required at least 50% of project ground floor be committed to nonresidential use | Required separate application for each phase of development | Clarified parking square footage not included in exemption amount calculations, unless allowed by cities or counties | Required previously granted exemptions continue on same terms**
2021	**SB 141**	**476**	**1-8**	**Replaced partial exemption schedule based on equalized floors with partial exemption schedule based on exemption multiplier**

307.540-548 — **2.108 Nonprofit Low-Income Rental Housing**

Year	Bill	Chapter	Section(s)	Change
1985	SB 503	660	1-6	**Enacted program | Sunset on 1/1/1994**
1987	SB 98	756	15	Moved application deadline to March 1
1993	SB 673	108	1,2	Moved sunset to 6/30/2004 | Clarified which property March 1 application deadline does not apply to
1993	**HB 2922**	**168**	**7**	**Redefined "low income" as income at or below 60% of AMI**
1993	SB 14	270	25	Clarified which property March 1 application deadline does not apply to
1995	**SB 724**	**702**	**2**	**Clarified exemption criteria are for property of corporation exempt under section 501(c) (3) or (4) of IRC | Expanded exemption to include certain partnerships**
1997	**SB 1215**	**541**	**133,133a**	**Moved application deadline to April 1 | Required application to describe property held for future development, if applicable**
1997	**SB 286**	**752**	**11,14**	**Exempted property held for future development | Required governing bodies to notify owner about proposed exemption termination for noncompliant property | Allowed owner and lenders to cure any noncompliance within specified timeframes | Required governing bodies adopt ordinance or resolution to disqualify property, without right of notice or appeal, where owner or lenders do not cure noncompliance | Required 10-year clawback for disqualified property held for future development**
2003	HB 2535	215	1	Moved sunset to 6/30/2014 | Clarified exemption applies to tax years, not assessment years
2005	HB 2446	94	39, 40	Clarified exemption statutes are ORS 307.540 to 307.548, not ORS 307.541 to 307.547
2011	HB 2354	191	1	Moved sunset to 6/30/2027
2013	**HB 2227**	**193**	**7,8,17**	**Moved application deadline from April 1 to March 1 | Extended period for governing bodies to send certification to assessor | Reduced number of clawback years under certain circumstances**

Statute	Tax Expenditure (TE) Name and TE Number (Number aligns with Governor's Tax Expenditure Report)

Year	Bill	Chapter	Section(s)	Change
2015	**HB 3082**	**141**	**1,2,3**	**Added alternate definition of “low income”, allowing maximum income to increase from 60% to 80% of AMI after the first year of exemption | Directed governing bodies to elect standard or alternative definition | Required governing bodies that do not elect definition to default to standard | Allowed governing bodies to change elected definition | Sunsets option to change elected definition on 6/30/2027**
2015	HB 2442	180	45	Updated name of Oregon Housing Stability Council for purpose of "low income" definition
2015	**HB 2130**	**310**	**1-5,7-10**	**Allowed governing bodies to establish reasonable maximum period property can be held for future development | Allows governing bodies to adopt additional criteria that do not conflict with other**
2021	**HB 2456**	**528**	**5**	**Added alternate “low income” definition, allowing income to be 80% of AMI, if average income of occupants is no more than 60% of AMI and property is awarded federal LIHTC tax credits**

Note under 307.867 — 2.109 New or Rehabilitated Multi-Unit Rental Housing

Year	Bill	Chapter	Section(s)	Change
2017	**HB 2377**	**624**	**1-4**	**Enacted program | Sunset on 1/1/2027**
2023	**HB 2080**	**398**	**25-27**	**Allowed local governments to adopt alternate exemption schedule, where term is fixed at 10 years and exemption amount depends on share of units rented to households with low-to-moderate income**

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