

House Bill 3811

Sponsored by Representative RUIZ

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the tax credit for farm work overtime paid. (Flesch Readability Score: 74.8).

Modifies the tax credit allowed for wages paid as overtime pay to agriculture workers. Increases the percentage of wages allowed as a credit. Allows a taxpayer to receive an advance payment of credit during the year in which wages are paid. Removes the annual cap on agricultural overtime credits allowed to all taxpayers in the state.

Applies to tax years beginning on or after January 1, 2026.
Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for overtime wages paid to agricultural workers; creating new provisions;
3 amending ORS 315.133, 315.136 and 653.277; repealing ORS 315.135 and 315.137; and prescribing
4 an effective date.

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

6 **SECTION 1.** ORS 315.133 is amended to read:

7 315.133. (1) As used in this section and ORS [*315.135 and*] 315.136:

8 (a) "Agricultural worker" has the meaning given that term in ORS 653.271.

9 (b) "Eligible employer" means an employer doing business in 2017 North American Industry
10 Classification System code 111, crop production, or code 112, animal production and aquaculture.

11 [*(c) "Full-time equivalent employee" means an employee or a combination of employees that perform*
12 *at least 2,080 hours of work for an employer in a calendar year.*]

13 (2)(a) A credit against taxes that are otherwise due under ORS chapter 316 or, if the taxpayer
14 is a corporation, under ORS chapter 317 or 318 is allowed for overtime compensation required under
15 ORS 653.272 to be paid, for work performed in Oregon, by an eligible employer to agricultural
16 workers on an hourly basis. The amount of the credit shall [*equal a percentage of the actual excess*
17 *paid to agricultural workers during the calendar year in which the tax year begins, as determined*
18 **under ORS 315.135**] **be computed by multiplying 1.18 by the total of the excess amounts paid**
19 **to agricultural workers in a tax year, as required under ORS 653.272, but may not include**
20 **any amount paid by the employer for any hour worked by an agricultural worker in excess**
21 **of 60 hours in a week.**

22 (b) A labor contractor licensed under ORS 658.410 may not claim a credit under this section.
23 An eligible employer may claim a credit under this section for wages paid to workers recruited,
24 solicited, supplied or employed by a labor contractor on behalf of the eligible employer.

25 (c) Notwithstanding ORS 317.090 (3), a credit under this section is allowed against the tax im-
26 posed under ORS 317.090.

27 (d) A credit is not allowed under this section for any overtime wages paid to an employee who

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

1 is exempt from the provisions of ORS 653.272 as a member of the immediate family of the employer.

2 (3) Prior to claiming the credit allowed under this section, a taxpayer is required to receive a
 3 notice of acknowledgment from the Department of Revenue, as provided in ORS 315.136, stating the
 4 maximum amount of credit that the taxpayer may claim for the calendar year.

5 (4) If the amount allowable:

6 (a) As a credit under this section against taxes imposed under ORS chapter 316, when added to
 7 the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax pre-
 8 payment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters
 9 314 and 316 for the tax year after application of any nonrefundable credits allowable for purposes
 10 of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as
 11 provided in ORS 316.502.

12 (b) As a credit under this section against taxes imposed under ORS chapter 317 or 318, when
 13 added to the sum of the amount of estimated tax paid under ORS 314.515 and any other tax pre-
 14 payment amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year (reduced
 15 by any nonrefundable credits allowable for purposes of ORS chapter 317 for the tax year), the
 16 amount of the excess shall be refunded to the taxpayer as provided in ORS 314.415.

17 (5) Any amount that is refunded to the taxpayer under this section and that is in excess of the
 18 tax liability of the taxpayer does not bear interest.

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

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

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

28 (9) The Department of Revenue shall adopt rules for the purposes of ORS 315.133 to 315.137,
 29 including policies and procedures for providing notice to taxpayers regarding the credit allowed
 30 under this section as required in ORS 315.136.

31 **SECTION 2.** ORS 315.136 is amended to read:

32 315.136. (1) In order to receive a [*notice of acknowledgment from the Department of Revenue in*
 33 *support of a*] tax credit allowed under ORS 315.133, a taxpayer shall submit to the Department of
 34 **Revenue** an application under this section. The application shall be made in the form and manner
 35 prescribed by the department [*and*].

36 **(2)(a) If the taxpayer seeks certification for an advance payment during the calendar**
 37 **year, as provided in section 3 of this 2025 Act, the application must be submitted by the**
 38 **taxpayer no later than September 1 of that calendar year.**

39 **(b) If the taxpayer seeks a notice of acknowledgment, the application** must be submitted
 40 by the taxpayer no later than January 31 following the calendar year for which the taxpayer seeks
 41 credit.

42 [(2)] **(3) The taxpayer must include with the application required under this section and section**
 43 **3 of this 2025 Act** the following:

44 (a) The address and tax identification number of the taxpayer.

45 (b) A statement by the taxpayer of the overtime hours worked and overtime wages paid, on an

1 hourly basis, to agricultural workers employed by the taxpayer and the amount of overtime wages
2 paid by or on behalf of the taxpayer as compensation to agricultural workers during the calendar
3 year. The taxpayer shall provide aggregate data as to employees of the taxpayer who received
4 overtime pay from the taxpayer and those who did not.

5 (c) The number of the license issued under ORS 658.410 to any labor contractor used to recruit,
6 solicit, supply or employ workers on behalf of the taxpayer, or other permit or registration numbers
7 issued to the labor contractor.

8 (d) If applicable, any license required under ORS 475C.065 or 571.281 or registration required
9 under ORS 475C.792.

10 *[(e) Any other information required by the department to verify the identity of the taxpayer or the
11 potential maximum amount of credit allowed to the taxpayer under ORS 315.133.]*

12 *[(3) Upon receipt of an application under this section, the department shall immediately allow an
13 extension, from the next applicable due date, for filing of the taxpayer's income or corporate excise tax
14 return.]*

15 *[(4) Not later than June 1 of the year in which the application under subsection (1) of this section
16 is filed, the department shall issue written notice to taxpayers that meet the application requirements
17 of this section. The notice of acknowledgment shall state the maximum amount of credit for which the
18 taxpayer is eligible for the tax year. The credit claimed may not exceed the actual amount of excess
19 paid as overtime wages to agricultural workers during the calendar year by the taxpayer.]*

20 **(e) If the taxpayer seeks certification for an advance payment under section 3 of this 2025
21 Act, the information described in paragraph (b) of this subsection as it relates to overtime
22 wages paid between January 1 and July 31 of the current calendar year.**

23 **(f) Any other information required by the department to verify the identity of the tax-
24 payer or the potential maximum amount of credit allowed to the taxpayer under ORS 315.133.**

25 **(4) Upon receipt of an application for a notice of acknowledgment under subsection (2)(b)
26 of this section, the department shall immediately allow an extension, from the next applica-
27 ble due date, for filing of the taxpayer's income or corporate excise tax return.**

28 **(5) Not later than June 1 of the year in which an application under subsection (1) of this
29 section is filed, the department shall issue written notice to those taxpayers that seek a
30 notice of acknowledgment and that meet the application requirements of this section. The
31 notice of acknowledgment shall state the maximum amount of credit for which the taxpayer
32 is eligible for the tax year.**

33 **(6) Not later than October 1 of the year in which an application under subsection (1) of
34 this section is filed that seeks certification for an advance payment under section 3 of this
35 2025 Act, the department shall issue a certification to those taxpayers that meet the appli-
36 cation requirements of this section. The certification shall state the credit amount for which
37 the taxpayer is eligible for the first seven months of the calendar year.**

38 **(7) The credit claimed under ORS 315.133 may not exceed the actual amount of excess
39 paid as overtime wages to agricultural workers during the calendar year by the taxpayer.**

40 **SECTION 3. (1) The Department of Revenue shall establish by rule a program for making
41 advance payments to taxpayers that qualify for the tax credit allowed under ORS 315.133, as
42 determined for the first seven months of the calendar year in which the overtime wages are
43 paid. Payments under this section may be made only to taxpayers confirmed by the depart-
44 ment to be Oregon residents.**

45 **(2) Any taxpayer that receives a certification of advance payment under ORS 315.136 may**

1 apply for and receive an advance payment. Advance payments under this section shall be
 2 issued by the department not later than November 1.

3 **SECTION 4.** (1) The Department of Revenue, in reviewing the tax returns of all taxpayers
 4 that have received advance payments under section 3 of this 2025 Act, shall:

5 (a) Confirm that, for the tax year during which advance payments were made as provided
 6 under section 3 of this 2025 Act, the taxpayer has claimed a credit under ORS 315.133;

7 (b) Reconcile the amounts claimed under ORS 315.133 against the amounts disbursed
 8 under section 3 of this 2025 Act and against the taxpayer's underlying tax liability, if im-
 9 posed; and

10 (c) Determine whether there is a difference in amounts claimed versus amounts dis-
 11 bursed and assess a deficiency against the taxpayer or provide a refund.

12 (2) If a taxpayer that has received any advance payments under section 3 of this 2025
 13 Act does not claim a credit under ORS 315.133, or does not provide sufficient substantiation
 14 of eligibility for the claimed amount, the Department of Revenue shall notify the taxpayer
 15 of any overpayment attributable to the advance payments made under section 3 of this 2025
 16 Act.

17 (3) The Department of Revenue shall discontinue payments under section 3 of this 2025
 18 Act if the department discovers that the taxpayer:

19 (a) Has ceased to do business in this state;

20 (b) Has moved out of this state since first receiving payments;

21 (c) Has changed or is likely to change tax filing status; or

22 (d) Is not reasonably likely to qualify for the tax credit under ORS 315.133 for the next
 23 upcoming tax year for which advance payments are otherwise to be made.

24 (4) Except as otherwise provided in this section and ORS 315.133 and section 3 of this 2025
 25 Act or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as
 26 to the audit and examination of returns, periods of limitation, determination of and notices
 27 of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds,
 28 conferences, appeals to the Oregon Tax Court, stays of collection pending appeal,
 29 confidentiality of returns and the penalties relative thereto, and the procedures relating
 30 thereto, apply to the determinations of taxes, penalties and interest under this section and
 31 ORS 315.133 and section 3 of this 2025 Act.

32 **SECTION 5.** ORS 653.277 is amended to read:

33 653.277. Following receipt of a report required under ORS 653.274 and submitted to a regular
 34 or interim committee of the Legislative Assembly, the Legislative Assembly shall consider making
 35 adjustments to the structure of the credit allowed under ORS 315.133 [*and shall revise the credit rate*
 36 *amounts provided in ORS 315.135*], if deemed appropriate by the Legislative Assembly.

37 **SECTION 6.** Sections 3 and 4 of this 2025 Act, the amendments to ORS 315.133 and 315.136
 38 by sections 1 and 2 of this 2025 Act and the repeal of ORS 315.135 and 315.137 by section 7
 39 of this 2025 Act apply to tax years beginning on or after January 1, 2026.

40 **SECTION 7.** ORS 315.135 and 315.137 are repealed.

41 **SECTION 8.** This 2025 Act takes effect on the 91st day after the date on which the 2025
 42 regular session of the Eighty-third Legislative Assembly adjourns sine die.