

Enrolled
Senate Bill 36

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CHAPTER

AN ACT

Relating to the correction of erroneous material in Oregon tax law; amending ORS 308.146, 308.153, 308.166, 308A.362, 316.147, 316.157, 316.158, 316.372, 323.455 and section 3, chapter 868, Oregon Laws 2007, and section 19, chapter 5, Oregon Laws 2013 (special session); and repealing ORS 308A.380, 314.705 and 314.710.

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

SECTION 1. ORS 308.146 is amended to read:

308.146. (1) The maximum assessed value of property [*shall equal*] **equals** 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(2) Except as provided in subsections (3) and (4) of this section, the assessed value of property to which this section applies [*shall equal*] **equals** the lesser of:

- (a) The property's maximum assessed value; or
- (b) The property's real market value.

(3) Notwithstanding subsections (1) and (2) of this section, the maximum assessed value and assessed value of property [*shall*] **must** be determined as provided in ORS 308.149 to 308.166 if:

- (a) The property is new property or new improvements to property;
- (b) The property is partitioned or subdivided;
- (c) The property is rezoned and used consistently with the rezoning;
- (d) The property is first taken into account as omitted property;
- (e) The property becomes disqualified from exemption, partial exemption or special assessment;

or

(f) A lot line adjustment is made with respect to the property, except that the total assessed value of all property affected by a lot line adjustment [*shall*] **may** not exceed the total maximum assessed value of the affected property under subsection (1) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, if property is subject to partial exemption or special assessment, the property's maximum assessed value and assessed value [*shall*] **must** be determined as provided under the provisions of law governing the partial exemption or special assessment.

(5)(a) Notwithstanding subsection (1) of this section, when a portion of property is destroyed or damaged due to fire or act of God, for the year in which the destruction or damage is reflected by a reduction in real market value, the maximum assessed value of the property [*shall*] **must** be reduced to reflect the loss from fire or act of God.

(b) This subsection does not apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the damaged or destroyed property is property that, when added to the assessment and tax roll, constituted minor construction for which no adjustment to maximum assessed value was made.

(c) As used in this subsection, “minor construction” has the meaning given that term in ORS 308.149.

(6)(a) If, during the period beginning on January 1 and ending on July 1 of an assessment year, any real or personal property is destroyed or damaged, the owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property, may apply to the county assessor to have the real market and assessed value of the property determined as of July 1 of the current assessment year.

(b) The person described in paragraph (a) of this subsection [shall] **must** file an application for assessment under this section with the county assessor on or before the later of:

(A) August 1 of the current year; or

(B) The 60th day following the date on which the property was damaged or destroyed.

(c) If the conditions described in this subsection are applicable to the property, then notwithstanding ORS 308.210, the property [shall] **must** be assessed as of July 1, at 1:00 a.m. of the assessment year, in the manner otherwise provided by law.

(7)(a) Paragraph (b) of this subsection applies if:

(A) A conservation easement or highway scenic preservation easement is in effect on the assessment date;

(B) The tax year is the first tax year in which the conservation easement or highway scenic preservation easement is taken into account in determining the property’s assessed value; and

(C) A report has been issued by the county assessor under ORS 271.729 within 12 months preceding or following the date the easement was recorded.

(b) The assessed value of the property [shall] **must** be as determined in the report issued under ORS 271.729, but may be further adjusted by changes in value as a result of any of the factors described in ORS 309.115 (2), to the extent adjustments do not cause the assessed value of the property to exceed the property’s maximum assessed value.

(8)(a) Notwithstanding subsection (1) of this section, when a building is demolished or removed from property, for the year in which the [demolishment] **demolition** or removal of the building is reflected by a reduction in real market value, the maximum assessed value of the property may be reduced to reflect the [demolishment] **demolition** or removal of the building.

(b) This subsection does not apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the demolished or removed property is property that, when added to the assessment and tax roll, constituted minor construction for which no adjustment to maximum assessed value was made.

(c) To receive the reduction in maximum assessed value of the property under this subsection, the property owner must file an application with the county assessor after the [demolishment] **demolition** or removal and on or before December 31 following the assessment date if the [demolishment] **demolition** or removal occurred:

(A) Before the January 1 assessment date; or

(B) During the period beginning January 1 and ending on the July 1 assessment date if the property owner has applied to have the real market and assessed value of the property determined under subsection (6) of this section.

(d) As used in this subsection:

(A) “Minor construction” has the meaning given that term in ORS 308.149.

(B) “Property owner” means an owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property.

NOTE: Updates vocabulary and syntax throughout.

SECTION 2. ORS 308.153 is amended to read:

308.153. (1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property *[shall be]* **is** the sum of:

(a) The maximum assessed value determined under ORS 308.146; and

(b) The product of the value of the new property or new improvements determined under subsection (2)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year.

(2)(a) The value of new property or new improvements *[shall equal]* **equals** the real market value of the new property or new improvements reduced (but not below zero) by the real market value of retirements from the property tax account.

(b) If the maximum assessed value of property is adjusted for fire or act of God or for *[demolishment]* **demolition** or removal of a building under ORS 308.146, the reduction in real market value due to fire or act of God or *[demolishment]* **demolition** or removal of the building may not be considered to be a retirement under this subsection.

(3) The property's assessed value for the year *[shall equal]* **equals** the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

NOTE: Updates vocabulary and syntax throughout.

SECTION 3. ORS 308.166 is amended to read:

308.166. (1) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.156, the maximum assessed value *[shall]* **must** first be determined under ORS 308.153 and then further adjusted under ORS 308.156.

(2) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.159, the maximum assessed value *[shall]* **must** first be determined under ORS 308.153 and then further adjusted under ORS 308.159.

(3) If the maximum assessed value of property is subject to adjustment under both ORS 308.156 and 308.159, the maximum assessed value *[shall]* **must** first be determined under ORS 308.156 and then further adjusted under ORS 308.159.

(4) If the maximum assessed value of property is subject to adjustment under all of ORS 308.153, 308.156 and 308.159, the maximum assessed value *[shall]* **must** first be determined under subsection (1) of this section and then further adjusted under ORS 308.159.

(5) If the maximum assessed value of property is subject to adjustment for fire or act of God, the maximum assessed value *[shall]* **must** first be determined under ORS 308.146 (5)(a) and then may be adjusted as provided in subsections (1) to (4) of this section.

(6) If the maximum assessed value of property is subject to adjustment for *[demolishment]* **demolition** or removal of a building, the maximum assessed value *[shall]* **must** first be determined under ORS 308.146 (8)(a) and then may be adjusted as provided in subsections (1) to (4) of this section.

NOTE: Updates vocabulary and syntax throughout.

SECTION 4. ORS 308A.380 is repealed.

NOTE: Repeals outdated statute.

SECTION 5. ORS 308A.362 is amended to read:

308A.362. (1) **As soon as possible, but not later than April 1 of the year following the year of receipt of the application,** the State Department of Fish and Wildlife shall *[immediately]* notify the county assessor and the applicant of *[its]* **the department's** approval or disapproval of an application *[which shall in no event be later than April 1 of the year following the year of receipt of the application]*. Subject to subsection (2) of this section *[and the mileage limitation of ORS 308A.380]*, an application not denied by April 1 *[shall be]* **is** deemed approved, and the land that is the subject of the application *[shall be]* **is** considered to be land that qualifies under ORS 308A.359.

(2) An application for land described in ORS 308A.359 (2)(a)(B) [shall] **may** be approved only if **the application is** filed on or before five years after the date the land became land no longer outside adopted urban growth boundaries or planned or zoned as forest or agricultural land.

(3) An application for land described in ORS 308A.360 (1) may be approved only if ordinances or resolutions authorizing the exemption have been adopted by the city and county in which the land is located and these ordinances or resolutions are in effect on the date of application.

(4) The department may not approve more than 50 applications for land described in ORS 308A.360 (1) for any tax year. **The department shall hold** an application that is not approved because of the limitation imposed by this subsection [shall be held] for consideration for the next tax year.

(5)(a) When the department approves land for designation as riparian under ORS 308A.359, it shall enter an order of approval and file a copy of the order with the county assessor within 10 days. Upon receipt of the order, the county assessor shall enter a notation on the assessment roll that the land described in the order is exempt from ad valorem taxation.

(b) If the land is as described in ORS 308A.360 (1), the exemption [shall apply] **applies** only to the ad valorem property taxes of the city and county that have authorized the exemption.

(6) On approval of an application filed under ORS 308A.356, for each year of designation the assessor shall indicate on the assessment and tax roll that the property is exempt from taxation as riparian land or, in the case of land described in ORS 308A.360 (1), partially exempt from taxation. The assessor shall also indicate on the tax roll that the land is subject to potential additional taxes as provided by ORS 308A.368, by adding the notation “designated riparian land (potential add'l tax).”

(7) Any owner whose application for designation has been denied may appeal to the department under the provisions of ORS chapter 183 governing contested cases.

NOTE: Deletes reference to repealed statute in (1). See section 4 (repealing ORS 308A.380). Updates syntax.

SECTION 6. ORS 314.705 and 314.710 are repealed.

NOTE: Repeals outdated statutes related to former Multistate Tax Compact (repealed by section 4, chapter 407, Oregon Laws 2013).

SECTION 7. Section 3, chapter 868, Oregon Laws 2007, as amended by section 45, chapter 913, Oregon Laws 2009, is amended to read:

Sec. 3. ORS 315.262 [is repealed on] **applies to tax years beginning before** January [2] 1, 2016.

NOTE: Conforms sunset of tax credit provision to standard legislative style.

SECTION 8. ORS 316.147 is amended to read:

316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

(1) “Eligible taxpayer” includes any individual who must pay taxes otherwise imposed by this chapter and:

(a) Who pays or incurs expenses for the care of a [“]qualified individual,[”] as defined in subsection (2) of this section, through a payment method determined by rule of the Department of Revenue; and

(b) Who has a [“]household income,[”] as defined by ORS 310.630, for the taxable year, not to exceed the maximum amount of household income allowed in ORS 310.640 (1989 Edition) for a homeowner or renter refund.

(2) “Qualified individual” includes an individual at least 60 years of age on the date that the expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

(a) Whose household income, as defined by ORS 310.630, does not exceed \$7,500 for the calendar year in which the taxable year of the taxpayer begins;

(b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project Independence;

(c) Who is certified by the Department of Human Services; and

(d) Whose care or any portion thereof is not paid for under ORS chapter 414.

NOTE: Conforms punctuation to legislative style in (1).

SECTION 9. ORS 316.157 is amended to read:

316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax liability of the taxpayer or nine percent of net pension income.

(2) For purposes of this section:

(a) "Eligible individual" means any individual who is receiving pension income and who has attained the following age before the close of the taxable year:

(A) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, the individual must attain 58 years of age before the close of the taxable year.

(B) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, the individual must attain 59 years of age before the close of the taxable year.

(C) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, the individual must attain 60 years of age before the close of the taxable year.

(D) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, the individual must attain 61 years of age before the close of the taxable year.

(E) For taxable years beginning on or after January 1, 1999, the individual must attain 62 years of age before the close of the taxable year.

(b) "Household income" has that meaning given in ORS 310.630 except that "household income" shall not include Social Security benefits received by the taxpayer or the spouse of the taxpayer.

(c) "Net pension income" means:

(A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the following amounts:

(i) Any Social Security benefits received by the eligible individual, or by the spouse of the individual, during the taxable year; and

(ii) The excess, if any, of household income over \$30,000.

(B) For an eligible individual filing a return other than a joint return, the lesser of the pension income of the eligible individual received during the taxable year or the excess, if any, of \$7,500 over the sum of the following amounts:

(i) Any Social Security benefits received by the eligible individual during the taxable year; and

(ii) The excess, if any, of household income over \$15,000.

(d) "Pension income" means income included in Oregon taxable income from:

(A) Distributions from or pursuant to an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of section 401 of the Internal Revenue Code;

(B) Distributions from or pursuant to a public retirement system of this state or a political subdivision of this state, or a public retirement system created by an Act of this state or a political subdivision of this state, or the public retirement system of any other state or local government;

(C) Distributions from or pursuant to a federal retirement system created by the federal government for any officer or employee of the United States, including any person retired from service in the United States Civil Service, the Armed Forces of the United States or any agency or subdivision thereof;

(D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan which satisfies the requirements of section 457 of the Internal Revenue Code;

(E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity or trust or simplified employee pension which satisfies the requirements of section 408 of the Internal Revenue Code; and

(F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

(e) "Social Security benefits" means Social Security benefits, as defined in section 86 of the Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

(3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085, or if the Department of Revenue terminates the tax year of the eligible individual under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS [316.085] **314.085**.

(4) If a change in the status of the eligible individual from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with subsection (1) of this section.

NOTE: Corrects typographical error in (3).

SECTION 10. ORS 316.158 is amended to read:

316.158. (1) It is the intent of the Legislative Assembly that no part of ORS 316.157 be the law if any part of ORS 316.157 is held to be invalid or unconstitutional. However, no amended return or payment of additional taxes shall be required for any year prior to the year in which any part of ORS 316.157 is held to be invalid or unconstitutional by a court of last resort.

(2) Except as provided in subsection (1) of this section, it is the intent of the Legislative Assembly that the provisions of **this section and** ORS 238.445, 310.635, 316.087, 316.157, [316.158,] 316.680 and 316.695 be severable as provided in ORS 174.040.

NOTE: Conforms internal reference to legislative style in (2).

SECTION 11. ORS 316.372 is amended to read:

316.372. (1) **As used in this section, “parent” includes an individual who is entitled to the services of a minor by reason of having parental rights and duties with respect to the minor.**

[1] (2) Except as provided in subsection [(2)] (3) of this section, a minor shall file a return and include [therein] **on the return** all items of **the minor’s** income, including income attributable to personal services[, and such]. Income **included on the minor’s return** shall not be included on the return of the parent. All expenditures by the parent or the minor attributable to [such] **the minor’s** income are considered to have been paid or incurred by the minor. However, any tax assessed against the minor[, to the extent,] **that is** attributable to income from personal services[, if] **and that is** not paid by the minor[,] **is** for all purposes [shall be] considered [as having also been] **to be** properly assessed against the parent. [For the purposes of this section the term “parent” includes an individual who is entitled to the services of a minor by reason of having parental rights and duties in respect of such minor.]

[(2)] (3) If a parent is eligible to elect and elects to include the interest and dividend income of a child on the parent’s federal income tax return under section 1(g)(7)(B) of the Internal Revenue Code, the parent shall be considered to have elected to include the interest and dividend income of the child on the return filed by the parent for the same taxable period for purposes of this chapter. The child need not in such case file a return for purposes of this chapter for the taxable period to which the election applies.

NOTE: Conforms defined term to legislative style in (1); updates syntax and punctuation in (2).

SECTION 12. ORS 323.455, as amended by section 5, chapter 114, Oregon Laws 2014, is amended to read:

323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. The department may pay expenses for administration and enforcement of ORS 323.005 to 323.482 out of moneys received from the tax imposed under ORS 323.030 (1). Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account. After the payment of administrative and enforcement expenses and refunds, 89.65 percent shall be credited to the General Fund, 3.45 percent is appropriated to the cities of this state, 3.45 percent is appropriated to the counties of this state and 3.45 percent is continuously appropriated to the Department of Transportation for the purpose of financing and improving transportation services for elderly individuals and individuals with disabilities as provided in ORS 391.800 to 391.830.

(2) The moneys appropriated to cities and counties under subsection (1) of this section shall be paid on a monthly basis within 35 days after the end of the month for which a distribution is made.

Each city shall receive such share of the money appropriated to all cities as its population, as determined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the total population of the cities of the state, and each county shall receive such share of the money as its population, determined under ORS 190.510 to 190.590 last preceding such apportionment, bears to the total population of the state.

(3) The moneys appropriated to the Department of Transportation under subsection (1) of this section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities and counties under this section.

(4) Of the moneys credited to the General Fund under [subsections (1) and (5)(b)] **subsection (1)** of this section, 51.92 percent shall be dedicated to funding the maintenance and expansion of the number of persons eligible for the medical assistance program under ORS chapter 414, or to funding the maintenance of the benefits available under the program, or both, and 5.77 percent shall be credited to the Tobacco Use Reduction Account established under ORS 431.832.

(5) All moneys received by the Department of Revenue from the tax imposed by ORS 323.030 (4) shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of refunds, the balance shall be credited [as follows:]

[a) 76.92 percent] to the Oregon Health Authority Fund established by ORS 413.101[for the purpose of providing] **and shall be used to provide** the services described in ORS 430.630.

[b) 23.08 percent to the General Fund.]

NOTE: Properly sets forth transition from provisions of statute applicable until January 1, 2016, to provisions applicable thereafter.

SECTION 13. Section 19, chapter 5, Oregon Laws 2013 (special session), is amended to read:

Sec. 19. (1) The amendments to ORS 323.030 and 323.455 by sections 14 and 17, **chapter 5, Oregon Laws 2013 (special session)**, [of this 2013 special session Act] apply to distributions of cigarettes occurring on or after January 1, 2014, and before January 1, 2016.

(2) The amendments to ORS 323.030 by section 15, **chapter 5, Oregon Laws 2013 (special session)**, [of this 2013 special session Act] apply to distributions of cigarettes occurring on or after January 1, 2016, and before January 1, 2018.

(3) The amendments to ORS 323.030 by section 16, **chapter 5, Oregon Laws 2013 (special session)**, [of this 2013 special session Act] apply to distributions of cigarettes occurring on or after January 1, 2018.

(4) The amendments to ORS 323.455 by section 18 [of this 2013 special session Act], **chapter 5, Oregon Laws 2013 (special session)**, **and by section 12 of this 2015 Act** apply to distributions of cigarettes occurring on or after January 1, 2016.

NOTE: Specifies applicable date for technical fix to ORS 323.455. See section 12 (amending ORS 323.455).

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

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Tina Kotek, Speaker of House

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Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

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Jeanne P. Atkins, Secretary of State