

# D R A F T

## SUMMARY

Requires certain institutions seeking property tax exemption to file information return that states basis for exemption claim in terms derived from Oregon case law. Requires information return to be accompanied by institution's most recently required and timely filed Form 990 and Form CT-12. Requires institution that files Form 990-N to file information return containing information on institution's most recently required and timely filed Form 990-N. Denies exemption for noncompliance. Provides for clawback of exempt taxes upon discovery that information in return or in exemption claim was misleading or false. Requires county assessors to keep information returns as public records.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to exemption from taxation for property of certain charitable insti-  
3 tutions; creating new provisions; amending ORS 307.130; and prescribing  
4 an effective date.

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

### **SECTION 1. (1) As used in this section:**

7 (a) **“Reporting institution” means an incorporated literary, benevo-**  
8 **lent, charitable or scientific institution.**

9 (b) **“Reporting institution” does not mean an art museum, rehabil-**  
10 **itation facility or volunteer fire department as those terms are defined**  
11 **in ORS 307.130 or a retail store described in ORS 307.130.**

12 (2)(a) **Except as provided in subsection (5) of this section, a report-**  
13 **ing institution seeking exemption for property under ORS 307.130 must**  
14 **file an information return that meets the requirements of this section**  
15 **with the assessor of the county in which the property is located on or**

1 before April 1 preceding each tax year for which exemption is claimed.

2 (b) When the property to which an information return relates is  
3 acquired after March 1 and before July 1, the information return for  
4 that year must be filed within 30 days after the date of acquisition of  
5 the property.

6 (c) The provisions of ORS 307.162 (2) relating to late filing apply to  
7 the filing of an information return under this section.

8 (3)(a) The information return must state:

9 (A) The basis for the reporting institution's claim to have charity  
10 as its primary object.

11 (B) The manner in which the reporting institution performs in  
12 furtherance of its charitable object.

13 (C) The ways in which the reporting institution's performance in-  
14 volves a gift or giving, including the percentage of the reporting  
15 institution's total expenses as reported on the reporting institution's  
16 Internal Revenue Service Form 990 that involve a gift or giving.

17 (D) With respect to all property for which exemption is claimed:

18 (i) The basis for claiming that the property is exclusively used by  
19 the reporting institution in accomplishing its charitable goals.

20 (ii) The ways in which the property substantially contributes to  
21 furthering the reporting institution's charitable goals.

22 (iii) The number of days in the previous property tax year that the  
23 property was used for purposes unrelated to the reporting institution's  
24 charitable object.

25 (b) Each response under this subsection must be 100 words or less  
26 and may include other quantifying statistics in addition to those re-  
27 quired.

28 (4) The information return must be accompanied by the most re-  
29 cently required and timely filed Form 990 and Department of Justice  
30 Form CT-12 of the reporting institution or by a link to a version of the  
31 form that is publicly available on the Internet.

1 (5) Instead of the information return required under this section,  
2 a reporting institution that files a Form 990-N with the Internal Rev-  
3 enue Service shall file with the county assessor an information return  
4 that contains the information set forth on the most recently required  
5 and timely filed Form 990-N of the reporting institution.

6 (6) The Department of Revenue shall prescribe the form of the in-  
7 formation return. Information returns must be filed under penalties  
8 for false swearing.

9 (7) The property of the reporting institution may not be granted  
10 exemption under ORS 307.130 for the property tax year if:

11 (a) The information return is not timely filed.

12 (b) The information return does not contain the statements re-  
13 quired under subsection (3) of this section.

14 (c) The information return is not accompanied by the forms re-  
15 quired under subsection (4) of this section.

16 (d) The reporting institution has not filed the most recently re-  
17 quired Form 990 or Form CT-12, or Form 990-N, as applicable.

18 (8)(a) For each property tax year that property of a reporting in-  
19 stitution subject to this section is exempt under ORS 307.130, the  
20 county assessor shall indicate on the assessment and tax roll that the  
21 property is exempt from property taxation and is subject to potential  
22 additional taxes.

23 (b) Upon discovery by the county assessor that any information set  
24 forth in an information return filed under this section, or in a claim  
25 for exemption under ORS 307.130 filed under ORS 307.162, with respect  
26 to property described in paragraph (a) of this subsection, was mis-  
27 leading or false, the property shall be disqualified for the exemption.  
28 Additional taxes shall be imposed on the property on the next assess-  
29 ment and tax roll following the disqualification and shall be collected  
30 and distributed in the same manner as other ad valorem property  
31 taxes.

1 (c) The additional taxes shall be imposed in an amount equal to the  
2 property taxes that were not imposed on the property because of the  
3 exemption for up to the five immediately preceding property tax years,  
4 plus interest computed at the rate provided under ORS 311.505 (2).

5 (d) The additional taxes described in this subsection shall be deemed  
6 assessed and imposed in the year to which the additional taxes relate.

7 (e) The amount determined to be due under this subsection may be  
8 paid to the tax collector prior to the time of the next general property  
9 tax roll, pursuant to the provisions of ORS 311.370.

10 (9) County assessors shall keep information returns filed under this  
11 section as public records.

12 **SECTION 2.** ORS 307.130, as amended by section 48, chapter 701, Oregon  
13 Laws 2015, and section 2, chapter 686, Oregon Laws 2017, is amended to read:

14 307.130. (1) As used in this section:

15 (a) “Art museum” means a nonprofit corporation organized to display  
16 works of art to the public.

17 (b) “Nonprofit corporation” means a corporation that:

18 (A) Is organized not for profit, pursuant to ORS chapter 65 or any pred-  
19 ecessor of ORS chapter 65; or

20 (B) Is organized and operated as described under section 501(c) of the  
21 Internal Revenue Code as defined in ORS 305.842.

22 (c) “Rehabilitation facility” means a facility defined in ORS 344.710 or a  
23 facility that provides individuals who have physical, mental or emotional  
24 disabilities with occupational rehabilitation activities of an educational or  
25 therapeutic nature, even if remuneration is received by the individual.

26 (d) “Volunteer fire department” means a nonprofit corporation organized  
27 to provide fire protection services in a specific response area.

28 (e) “Welfare program” means a program to provide food, shelter, clothing  
29 or health care, including dental service, to needy persons without charge.

30 (2) Upon compliance with ORS 307.162, **and, in the case of a reporting**  
31 **institution as defined in section 1 of this 2019 Act, section 1 of this 2019**

1 **Act**, the following property owned or being purchased by art museums, vol-  
2 unteer fire departments, or incorporated literary, benevolent, charitable and  
3 scientific institutions shall be exempt from taxation:

4 (a) Except as provided in ORS 748.414, only real or personal property, or  
5 a proportion of the property, that is actually and exclusively occupied or  
6 used in the literary, benevolent, charitable or scientific work carried on by  
7 such institutions.

8 (b) Parking lots used for parking or any other use as long as that parking  
9 or other use is permitted without charge for no fewer than 355 days during  
10 the tax year.

11 (c) All real or personal property of a rehabilitation facility or any retail  
12 outlet of the facility, including inventory.

13 (d) All real and personal property of a retail store dealing exclusively in  
14 donated inventory, if the inventory is distributed without cost as part of a  
15 welfare program or where the proceeds of the sale of any inventory sold to  
16 the general public are used to support a welfare program.

17 (e) All real and personal property of a retail store if:

18 (A) The retail store deals on a regular basis in inventory at least one-half  
19 of which is donated and consigned;

20 (B) The individuals who operate the retail store are all individuals who  
21 work as volunteers; and

22 (C) The inventory is either distributed without charge as part of a welfare  
23 program, or sold to the general public and the sales proceeds used exclu-  
24 sively to support a welfare program.

25 (f) The real and personal property of an art museum that is used in con-  
26 junction with the public display of works of art or used to educate the public  
27 about art, but not including any portion of the art museum's real or personal  
28 property that is used to sell, or hold out for sale, works of art, reproductions  
29 of works of art or other items to be sold to the public.

30 (g) All real and personal property of a volunteer fire department that is  
31 used in conjunction with services and activities for providing fire protection

1 to all residents within a fire response area.

2 (h) All real and personal property, including inventory, of a retail store  
3 owned by a nonprofit corporation if:

4 (A) The retail store deals exclusively in donated inventory; and

5 (B) Proceeds of the retail store sales are used to support a not-for-profit  
6 housing program whose purpose is to:

7 (i) Acquire property and construct housing for resale to individuals at or  
8 below the cost of acquisition and construction; and

9 (ii) Provide loans bearing no interest to individuals purchasing housing  
10 through the program.

11 (i) All real and personal property, including inventory, of a retail store  
12 owned by a nonprofit corporation if:

13 (A) The retail store deals exclusively in donated inventory;

14 (B) The retail store operates with substantial support from volunteers;  
15 and

16 (C) All net proceeds of the retail store sales are donated:

17 (i) To a nonprofit corporation that provides animal rescue services;

18 (ii) To a manufacturer or provider of goods or services in return for which  
19 an entity described in sub-subparagraph (i) of this subparagraph receives an  
20 equivalent value of goods or services from the manufacturer or provider;

21 (iii) To an entity that provides spaying and neutering services for pets  
22 of individuals residing in households with an annual household income at  
23 or below 80 percent of the area median income; or

24 (iv) For the purpose of aiding domesticated animals, regardless of whether  
25 the animals are in the custody of the county shelter, in furtherance of the  
26 purpose for which the nonprofit corporation was organized.

27 (3) An art museum or institution shall not be deprived of an exemption  
28 under this section solely because its primary source of funding is from one  
29 or more governmental entities.

30 (4) An institution shall not be deprived of an exemption under this section  
31 because its purpose or the use of its property is not limited to relieving pain,

1 alleviating disease or removing constraints.

2 **SECTION 3. Section 1 of this 2019 Act and the amendments to ORS**  
3 **307.130 by section 2 of this 2019 Act apply to property tax years begin-**  
4 **ning on or after July 1, 2020.**

5 **SECTION 4. (1) No later than January 31, 2020, each county assessor**  
6 **shall provide notice of the information return requirements under ORS**  
7 **307.130 and section 1 of this 2019 Act to all reporting institutions, as**  
8 **defined in section 1 of this 2019 Act, whose property has been granted**  
9 **exemption under ORS 307.130 for the property tax year beginning on**  
10 **July 1, 2019.**

11 **(2) Notwithstanding the filing deadline under section 1 (2) of this**  
12 **2019 Act, for the property tax year beginning on July 1, 2020, a re-**  
13 **porting institution may file an information return under section 1 of**  
14 **this 2019 Act on or before December 15, 2020, if the return is accom-**  
15 **panied by a late filing fee of the greater of \$200 or one-tenth of one**  
16 **percent of the real market value as of the most recent assessment date**  
17 **of the property for which the reporting institution is claiming ex-**  
18 **emption under ORS 307.130.**

19 **SECTION 5. Section 4 of this 2019 Act is repealed on January 2, 2022.**

20 **SECTION 6. This 2019 Act takes effect on the 91st day after the date**  
21 **on which the 2019 regular session of the Eightieth Legislative Assem-**  
22 **bly adjourns sine die.**

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