

2013 OR H 3367 , Enacted - Final

Oregon

SUMMARY: Amend personal income tax and corporate taxation; relates to research tax credits, acquisition costs for agricultural farm worker housing tax credits, media production services company tax credits, biomass producers, revenue impact statements, legislative tax expenditures, personal tax deduction for taxpayer medical care, income tax filing by husband and wife, credits against taxes for contributions and personal income tax credits for medical practitioners engaged in a rural practice or a rural hospital.~SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

Text Deleted

Text Added

Text Vetoed

Current Legislative Status

02/25/2013 INTRODUCED.

03/04/2013 To HOUSE Committee on REVENUE.

06/21/2013 Public Hearing Scheduled.

07/01/2013 From HOUSE Committee on REVENUE: Do pass as amended.

07/01/2013 Printed A Engrossed Text.

07/01/2013 In HOUSE: Second Reading.

07/01/2013 Passed HOUSE. *****To SENATE.

07/02/2013 To SENATE Committee on FINANCE AND REVENUE.

07/07/2013 From SENATE Committee on FINANCE AND REVENUE: Do pass with amendment.

07/07/2013 Printed B Engrossed Text.

07/07/2013 In SENATE: Second Reading.

07/07/2013 Passed SENATE. *****To HOUSE for concurrence.

07/08/2013 HOUSE concurred in SENATE amendments.

07/08/2013 Eligible for GOVERNOR'S desk.

08/14/2013 Signed by GOVERNOR.

08/14/2013 Chaptered. Chapter No. 750

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session: Oregon 77th Legislative Assembly - 2013 Regular Session

cite: 2013 OR H 3367

Enacted - Final

August 14, 2013

Revenue

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled

House Bill 3367

Sponsored by COMMITTEE ON REVENUE

CHAPTER 750

AN ACT

Relating to tax expenditures; creating new provisions; amending ORS 173.025, 284.367, 284.368, 314.752, 315.050, 315.141, 315.163, 315.164, 315.167, 315.169, 315.172, 315.514, 315.521, 315.613, 315.616, 316.102, 316.502, 316.695, 317.147, 317.154, 455.380, 456.508, 456.510, 456.585 and 566.340 and section 19, chapter 954, Oregon Laws 2001, sections 7 and 10, chapter 826, Oregon Laws 2005, section 66, chapter 832, Oregon Laws 2005, section 6, chapter 880, Oregon Laws 2007, sections 2b, 7b and 18, chapter 906, Oregon Laws 2007, sections 20, 24, 25, 27, 28, 34 and 36, chapter 913, Oregon Laws 2009, and section 29, chapter 377, Oregon Laws 2013 (Enrolled House Bill 2492); repealing section 5, chapter 880, Oregon Laws 2007, and section 28, chapter 377, Oregon Laws 2013 (Enrolled House Bill 2492); and prescribing an effective date.

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

SECTIONS NOT PERTAINING TO THE FILM INCENTIVE HAVE BEEN OMITTED.

SECTION 48. ORS 284.367, as amended by section 15, chapter 730, Oregon Laws 2011, is amended to read:

284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund shall be credited to the fund.

(2) Moneys in the Oregon Production Investment Fund shall consist of:

- (a) Amounts donated to the fund;
- (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;
- (c) Other amounts deposited in the fund from any source; and
- (d) Interest earned by the fund.

(3) Ninety-five percent of moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purposes of making:

- (a) Reimbursements to filmmakers under ORS 284.368;
- (b) Payments to a tax credit marketer for marketing services provided by the marketer as described in ORS 284.369; and
- (c) Refunds described in ORS 315.514 (5).

(4) Five percent of moneys in the fund are continuously appropriated to the department for the purpose of making reimbursements to local filmmakers *or local media production services companies* under ORS 284.368 (3). *Total annual reimbursements to local media production services companies may not exceed five percent of the moneys deposited annually in the fund. On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year may be used by the department for the purpose of making reimbursements to filmmakers under ORS 284.368 (2).*

(5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

SECTION 49. ORS 284.368 is amended to read:

284.368. (1) As used in this section:

- (a) "Actual Oregon expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a film, *or for media production services*, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.
- (b) "Film" means a television movie or one or more episodes of a single television series, or a movie produced for release to theaters, video or the Internet. "Film" does not include the production of a commercial or one or more segments of a newscast or sporting event.
- (c) "Filmmaker" means a person who owns a television or film production company.
- (d) "Local filmmaker" means a person who owns a television or film production company that has its

principal place of business in this state.

(e) “Local media production services company” means a media production services company that has its principal place of business in this state.

(f) “Media production services” includes postproduction services and interactive video game development. “Media production services” does not include the production of a commercial or one or more segments of a newscast or sporting event.

(g) “Media production services company” means a person who is engaged in media production services.

~~(e)~~ **(h)** “Resident of this state” has the meaning given that term in ORS 316.027.

(2)(a) The Oregon Business Development Department may reimburse a filmmaker for a portion of the actual Oregon expenses incurred by the filmmaker.

(b) Maximum reimbursement for a single film shall be the total of:

(A) 10 percent of payments made for employee salaries, wages and benefits for work done in Oregon; and

(B) 20 percent of all other actual Oregon expenses.

(c) To qualify for reimbursement under this subsection, total actual Oregon expenses for the film must equal or exceed ~~-\$750,000-~~ **\$1 million** .

(3)(a) The department may reimburse a local filmmaker **or local media production services company** for all or a portion of the actual Oregon expenses **, up to \$1 million,** incurred by the local filmmaker **or local media production services company** .

(b) To qualify for reimbursement under this subsection:

(A) Total actual Oregon expenses paid for the film **or media production services** must be at least \$75,000 ~~-and less than \$750,000-~~ ;

(B) The local filmmaker **or local media production services company** must have spent 80 percent of the film's payroll on employees who are residents of this state; and

(C) The local filmmaker **or local media production services company** must have employed or contracted with a public accountant certified under ORS 673.040 for the provision of payroll services.

(4) Reimbursement under this section shall be made from moneys credited to or deposited in the Oregon Production Investment Fund during the biennium in which the actual Oregon expenses were paid or any prior biennium. A reimbursement may not be made to the extent funds are not available in the fund to make the reimbursement.

(5)(a) Total actual Oregon expenses supporting a claim for reimbursement under this section must be verified by the Oregon Film and Video Office. The filmmaker **or local media production services company** must submit to the office proof of the actual Oregon expenses. The proof must include any documentation that may be required by the office in its discretion to verify the actual Oregon expenses.

(b) The office may charge the filmmaker **or local media production services company** for costs reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for a review or audit of the supporting documentation by an accountant or auditor. The office may require the department to deduct the costs incurred by the office in performing its review or audit from any reimbursement made to the filmmaker **or local media production services company** under this section.

(c) The office may adopt rules that establish a procedure for the submission and verification of actual Oregon expenses.

SECTION 50. ORS 315.514 is amended to read:

315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an

auction of tax credits under this section. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of ~~-\$6-~~ \$10 million are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed ~~-\$6-~~ \$10 million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

(b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year but may not be carried forward for any tax year thereafter.

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2018.

(7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer, the amount shall be allowed without proration under ORS 316.117.

(8) If the amount of contribution for which a tax credit certification is made is allowed as a deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable income for Oregon tax purposes.

SECTION 51. *The amendments to ORS 284.367, 284.368 and 315.514 by sections 48 to 50 of this 2013 Act apply to fiscal years beginning on or after July 1, 2013.*

SECTION 52. *This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.*