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Chapter 315 — Personal and Corporate Income or Excise Tax Credits

2005 EDITION

ORS 315.104

315.104 Reforestation; rules. (1) A credit against the taxes otherwise due under ORS chapter 316 (or if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed in an amount equal to 50 percent of reforestation project costs actually paid or incurred to reforest underproductive Oregon forestlands. Such costs include, but are not limited to site preparation, tree planting and other silviculture treatments considered necessary by the State Forester to establish commercial, hardwood or softwood stands on appropriate sites. Subject to subsection (5) of this section:

(a) One-half of the credit shall be taken in the tax year for which the State Forester, after physical inspection of the forestland, issues a preliminary certificate under ORS 315.106 certifying that the land qualifies as underproductive Oregon forestland and that the reforestation project undertaken meets the requirements of this section and the specifications established by the State Forester and the costs appear to be reasonable; and

(b) One-half of the credit shall be taken in the tax year for which the State Forester, after further physical inspection of the land and project, certifies that the new forest is established in accordance with the specifications of the State Forester.

(2) No credit shall be allowed under either subsection (1)(a) or (b) of this section unless written certification containing the following statements accompanies the claim for the credit or is otherwise filed with the Department of Revenue:

(a) A preliminary certificate issued by the State Forester under ORS 315.106 that the land and project meet the preliminary specifications established by the State Forester or that the new forest is established, whichever is applicable at the time.

(b) A statement by the landowner or person in possession of the land that the land within the project area will be used for the primary purpose of growing and harvesting trees of an acceptable species.

(c) A statement that the landowner or person in possession of the land is aware that maintenance practices, including release, may be needed to insure that a new forest is established and will remain established.

(3) For purposes of this section, reforestation project costs shall not include:

(a) Costs paid or incurred to reforest any forestland that has been commercially logged to the extent that reforestation is required under the Oregon Forest Practices Act, except costs paid or incurred to reforest forestland following a hardwood harvest, conducted for the purposes of converting underproductive forestlands, as determined by administrative rule.

(b) That portion of costs or expenses paid through a federal or state cost share, financial assistance or other incentive program.

(c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants, or those costs paid or incurred to grow hardwood timber described under ORS 321.267 (3) or 321.824 (3).

(d) Any costs paid or incurred to purchase or otherwise acquire the land.

(e) The cost of purchase or other acquisition of tools and equipment with a useful life of more than one year.

(4) To qualify for the credit:

(a) The project must be completed to specifications approved by the State Forester.

(b) The taxpayer's portion of the project costs must be \$500 or more.

(c) The taxpayer must be a private individual, corporation, group, Indian tribe or other native group, association or other nonpublic legal entity owning, purchasing under recorded contract of sale or leasing at least five acres of Oregon commercial forestland.

(5) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such 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. In all cases the taxpayer must be the person who made the investment into the project.

(6) The credit provided by this section shall be in addition to and not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled with respect to the reforestation project and the credit shall not affect the computation of basis for the property.

(7) In compliance with ORS chapter 183, the Department of Revenue and the State Forestry Department may adopt rules consistent with law for carrying out the provisions of this section.

(8) As used in this section, "underproductive Oregon forestlands" means Oregon commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

(9) If, for any reason other than those specified in subsection (10) of this section, a new forest is not established by the last day of the second taxable year following the taxable year for which the preliminary certificate was issued, the State Forester shall so report to the Department of

Revenue. The report filed under this subsection shall be the basis for the department to recover any credit granted under subsection (1)(a) of this section. If, however, the new forest is not established within the time required by this subsection on account of the reasons specified in subsection (10) of this section, any credit allowed under subsections (1)(a) and (5) of this section shall not be recovered but no further credit as provided under subsections (1)(b) and (5) of this section shall be allowed.

(10) Subject to requalification under this section in the manner applicable for the original claim, including obtaining a new preliminary certificate, a taxpayer may claim an additional credit or credits for reestablishing a new planting in the event that the new forest is destroyed by a natural disaster or is not established for reasons beyond the control of the taxpayer, if the measures taken in completing the original or earlier project would normally have resulted in establishing the minimum number of trees per acre anticipated by the project.

(11) Any owner affected by a determination, regarding the reforestation tax credit made by:

(a) The State Forester, except for a denial of a request for a preliminary certificate due to the annual reforestation credit cost limitation calculated under ORS 315.108, may appeal that determination in the manner provided for in ORS 526.475 (1).

(b) The Department of Revenue, may appeal that determination in the manner provided for in ORS 526.475 (2). [1993 c.730 §8 (enacted in lieu of 316.094, 317.102 and 318.110); 1995 c.746 §23; 2001 c.359 §1; 2003 c.454 §122; 2003 c.621 §97a]

Note: Section 5, chapter 605, Oregon Laws 1987, provides:

Sec. 5. No tax credit shall be allowed under ORS 315.104 based upon reforestation project costs if the preliminary certificate is not issued on or before December 31, 2011. [1987 c.605 §5; 1989 c.887 §4; 1995 c.746 §28; 2001 c.359 §3]