1998

OREGON DEFERRAL OF REINVESTED CAPITAL GAIN

DEPARTMENT OF REVENUE USE ONLY
Date Received

Taxpayer Name (as shown on return)	Social Security Number	
Business Name (if different from taxpayer)	Federal Identification Number	BIN (if known)

If qualifying capital gain is reported by a partnership, limited liability company or partnership, S corporation or fiduciary, complete the following:

☐ Partnership ☐ Limited Liability Company ☐ Limited Liability Partnership ☐ S Corporation ☐ Fiduciary

Name of Entity:__________ Federal ID Number: __________ Owner's pro rata share:__________

☐ **Notice of Inconsistent Treatment,** see page 4.

SECTION A — DECLARATION OF INTENT TO REINVEST		
	Property A	**Property B**
1. Description of property sold (see instructions)		
2. SIC code (see instructions)		
3. Date property acquired		
4. Date property sold		
5. Sale proceeds		
6. Cost or other basis (see instructions)		
7. Total gain on sale of property (line 5 minus line 6)		
8. Nonqualifying gain (see instructions)		
9. Capital gain qualifying for deferral (line 7 minus line 8)		
10. Federal tax attributable to qualified capital gain (see instructions)		
11. Reinvestment required for full deferral of capital gain (line 5 minus line 10—see instructions)		
SECTION B — REINVESTMENT OF PROCEEDS		
12. Amount reinvested		
13. Percentage of capital gain that may be deferred (divide line 12 by line 11)		
14. Maximum deferral (line 13 times line 9)		
15. Amount actually deferred, if less		
SECTION C — REINVESTED ASSET INFORMATION		
16. Date new property acquired		
17. Description of property acquired		
18. Type of investment (check one)	☐ Qualifying asset ☐ Qualifying business interest ☐ Qualified investment fund	☐ Qualifying asset ☐ Qualifying business interest ☐ Qualified investment fund
19. SIC Code (see instructions)		

I elect to defer Oregon state income tax on the capital gain shown above, as provided for in ORS 316.877. I agree to report the capital gain as an addition to taxable income when required by Oregon statute.

Signature	Date
X	

INSTRUCTIONS FOR OREGON DEFERRAL OF REINVESTED CAPITAL GAIN

What is deferral of reinvested capital gain?

As an incentive to reinvest in Oregon businesses, Oregon allows certain taxpayers to elect to postpone paying Oregon income tax on certain capital gains.

The deferral may be elected for certain assets sold or disposed of on or after January 1, 1996 and before January 1, 2000. You must make a qualified reinvestment within six months of the date (before or after) the asset was sold and before January 1, 2000.

Who may make the election?

Eligible taxpayers are individuals, partnerships, limited liability companies, limited liability partnerships, and S corporations. C corporations cannot make this election.

Which gain qualifies?

You must have capital gain from the sale of an asset used in a business, held for the production of income, or that meets the definition of "expansion shares." For example, capital gain from the sale of a warehouse, manufacturing equipment, breeding livestock, business cars, and rental property may be deferred.

Gain characterized as ordinary income does not qualify. Other examples of gains that do not qualify for the deferral are: accounts receivable, depreciation recapture, copyrights, or investment property (other than expansion shares). Investment property generally means property that produces interest, royalties, or dividends.

How much capital gain may I defer?

You may defer the amount of gain determined under federal law, with any required Oregon modifications.

For tax year 1997 or later. The amount of capital gain you may defer is the portion of capital gain considered reinvested. Use the following formula to calculate the amount of capital gain you may defer:

$$\frac{\text{Proceeds reinvested}}{\text{Total proceeds} - \text{federal tax attributable to capital gain}} \times \text{Capital gain} = \text{Capital gain eligible for deferral}$$

Example: Bob sold an asset for $110,000 with a basis of $10,000, resulting in $100,000 capital gain. Federal tax on the capital gain equals $20,000. Bob reinvests $50,000 of the proceeds in a qualifying asset. If Bob sold the asset June 1, 1997, he may elect to defer up to $55,555 of the $100,000 capital gain for Oregon purposes. (Total proceeds of $110,000 less federal tax of $20,000 = $90,000; proceeds reinvested $50,000 / $90,000 × $100,000 = $55,555.) To defer all of the capital gain, Bob must reinvest at least $90,000. His Oregon subtraction would then be $100,000.

For tax year 1996. The amount of capital gain you could defer on your 1996 Oregon return is the lesser of the gain you realized or the amount you reinvested.

If Bob sold the asset in 1996, he could have elected to defer up to $50,000 of the $100,000 capital gain on his 1996 Oregon return. The deferred amount is the lesser of the capital gain realized, $100,000, or the amount reinvested, $50,000.

How do I make this election?

You must file an "Oregon Deferral of Reinvested Capital Gain" form to report information about the asset sold and the qualified reinvestment of the capital gain.

What happens if I elect to defer but don't reinvest?

If you filed a declaration of intent to reinvest, but did not actually reinvest, you must amend your original return and pay the tax on the amount previously deferred. Interest is charged from the date that the tax would have been due if you had not made the declaration, until the tax is paid.

When must I recognize the deferred capital gain?

Certain events may require you to recognize deferred capital gain. You must make an "addition" on your Oregon return if any of the following events occur:

1. An asset that you have reinvested in ceases to be an asset held for use in Oregon in a qualified business activity.
2. An investment fund ceases to be a qualified investment fund. However, if an investment fund holds an interest in an activity that is later disqualified, the fund has twelve months to dispose of its interest in that business.
3. The business ceases day-to-day operations or ceases to be a qualified business activity.

   Note: in each of the above situations, you may continue to defer capital gain if you file a declaration of intent to reinvest and meet all of the reinvestment requirements.
4. You or your estate dispose of an asset or interest due to your disability or death. However, if a related party assumes or inherits your interest or asset as a result of your disability or death, they may choose to continue the deferral of capital gain by making an election.

If you defer capital gain and later dispose of an asset or interest that you reinvested in, you may elect to continue capital gain postponement by making a new investment in one or more new qualified interests or assets. You must file a new declaration statement.

Terms

Adjusted net equity. The net equity of the business (total assets less total liabilities) plus all dividends or distributions made by the business.

Expansion shares. Shares of stock may be "expansion shares" if the business meets all of the following requirements.

- the stock has unlimited voting rights (or can be converted into shares that have those rights);
- the stock was issued directly to you (or to a partnership, S corporation, limited liability company, or limited liability partnership owned by you) in exchange for money or property to be used by the business in its operations;
- the business had less than $5 million in revenues during the 12 months immediately preceding the date of your first equity investment in the business.

In addition, at the time the shares were issued:

- the business did not have any publicly traded shares, and
- the "adjusted net equity" of the business was not more than all previous equity investments made in the business.

Federal tax attributable to capital gain. This is the difference between the federal tax computed with the capital gain and without the capital gain.

If the capital gain is being deferred on the sale of an asset using the installment method of reporting, the taxpayer calculates federal tax attributable to the capital gain as if the capital gain had been fully reported in the year of the sale. The amount subtracted on the Oregon return cannot exceed the amount of capital gain otherwise includible in Oregon taxable income.

If the reinvestment is less than the amount required for full deferral of capital gain, the taxpayer must prorate the subtraction over the life of the installment sale. Note: You cannot elect to defer capital gain on installment sales occurring before January 1, 1996.

Qualified business asset. An asset that is held for use in Oregon in a qualified business activity.

Qualified business activity. A business meeting all the following requirements:

- the business must be owned by an individual, partnership, limited liability company, limited liability partnership, S corporation, or C corporation.
- the principal place from which that trade or business is directed or managed is within Oregon.
- there aren't more employees and independent contractors outside of Oregon than within Oregon.
- investment income (interest, dividends, royalties, etc.) is incidental to the business and is not derived in the ordinary course of business.
- the business activity must be one listed in the Oregon statute. The list is derived from the Standard Industrial Classification (SIC) Manual, and includes activities such as:

—Agriculture, forestry, or fishing (Division A)
—Mining (Division B)
—Construction (Division C)
—Manufacturing (Division D)
—Transportation, communications (Division E)
—Wholesale trade (Division F)
—Retail trade (Division G)
—Some service activities will qualify but some will not. Refer to the SIC manual.

- Some business activities that do not qualify for reinvestment include:

—Finance
—Insurance
—Real estate development or rental activities
—Health services
—Legal services.

Qualified investment fund. A partnership, limited liability company, limited liability partnership, or S corporation organized and operated only for the purpose of obtaining qualified business interests or qualified business assets. The fund may acquire investment property on an interim or incidental basis only until a suitable qualified business interest or qualified business asset is located by the fund.

Qualified reinvestment. Reinvestment of proceeds must be made either directly or indirectly in a qualified business asset as follows:

For sales made in tax year 1997 or later. You may reinvest by:

- investing in a qualified business asset, or
- obtaining an interest in a qualified business activity or qualified investment fund.

Your basis in the qualified business property is not reduced by the amount of capital gain deferred.

For sales made in tax year 1996. You could have reinvested by:

- obtaining an ownership interest in a C corporation that conducts a qualified business activity, or
- investing in a qualified business activity in which you materially participate.

Filing Instructions

Individuals. If you are electing to defer capital gain under these provisions and you have met the reinvestment requirements, complete all sections of the Oregon Deferral of Reinvested Capital Gain form. Attach it to your Oregon Individual Income Tax return.

If you are electing to defer capital gain, but you have not met the reinvestment requirements before filing your individual return, you should complete Section A only. Make a copy of the form and keep it with your records. Attach the original form, with Section A completed, to your 1998 Oregon Individual Income Tax return. When you have met the reinvestment requirements, complete all sections on the copy you retained. Mail it within 60 days to: Research, Oregon Department of Revenue, 955 Center Street NE, Salem OR 97310-2501.

Partnerships, Limited Liability Companies (LLCs), Limited Liability Partnerships (LLPs), S Corporations and Fiduciaries. A partnership, LLC, LLP, S corporation or fiduciary may elect to defer qualifying capital gain on behalf of its owners. The entity must meet the reinvestment requirements within six months of the sale of the qualifying asset. Attach a copy of the completed form to the entity's tax return. Issue a separate form to each owner, using the name and identification number as shown on the owner's federal Schedule K-1 to complete the heading on the form. In Sections A, B and C of the form, show the owner's pro rata share of reported amounts.

If the entity does not make the election, the owners may elect individually to defer their pro rata share of the capital gain by reinvesting within six months of the entity's year-end. The entity must complete Section A of the form, reporting the owner's pro rata share on lines 5 through 11. Owners who meet the reinvestment requirements prior to the due date of their individual income tax return should complete Sections B and C of the form and file it with their tax return.

Owners who have not met the reinvestment requirements by the due date of their individual income tax return should see "filing instructions" above.

Individuals. If a partnership, LLC, LLP, S corporation or fiduciary has elected deferral of capital gain, you may opt out of the election by not claiming the subtraction on your individual return. See the instructions for "Notice of Inconsistent Treatment" below.

Line Instructions—for lines not fully explained on the form.

Notice of Inconsistent Treatment. If a partnership, LLC, LLP, S corporation, or fiduciary has elected to defer capital gain, an individual may opt out of the election by not claiming the subtraction on their individual return. Check this box for "Notice of Inconsistent Treatment." Attach the form to your individual return. Be sure to keep a copy of the form with your records.

Line 1. Identify the assets that qualify for capital gain deferral, including name and taxpayer identification number, if applicable. If expansion shares were sold, identify by name and number of shares (e.g., 100 shares XYZ Corporation).

Line 2. Enter the code from the 1987 Standard Industrial Classification (SIC) Manual for the business activity in which the qualifying asset was used.

Line 6. Enter the adjusted basis of the asset(s), as determined for Oregon tax purposes.

Line 8. Enter the amount of gain included in line 7 that does not qualify for deferral (e.g., depreciation recapture or other ordinary income).

Line 10. Enter the difference between your federal tax calculated on your federal taxable income including the capital gain and your federal tax calculated on your federal taxable income without the capital gain.

Line 11. Your proceeds less your federal tax attributable to the capital gain is the amount you can reinvest which would allow full deferral of the capital gain.

Line 13. Calculate the percentage of capital gain you are allowed to defer. Line 12 divided by line 11.

$$\frac{\text{Proceeds reinvested}}{\underset{\text{proceeds}}{\text{Total}} - \underset{\text{to capital gain}}{\text{federal tax attributable}}} = \text{Percentage for deferral}$$

Line 14. Figure the maximum amount of deferral you may claim. Multiply line 13 by line 9.

Line 15. Enter the amount you actually elect to defer. This amount cannot exceed the amount on line 14. Enter your capital gain deferral as a subtraction on your Oregon return.

Assistance

For questions about Oregon's deferral of reinvested capital gain, write to: Oregon Department of Revenue, 955 Center Street NE, Salem OR 97310-2501.

Telephone:	Salem	503-378-4988
	Toll-free within Oregon	1-800-356-4222

The toll-free number is available January through April.

Internet: www.dor.state.or.us

TTY (hearing or speech impaired only): These numbers are answered by machine only and are not for voice use. The year-round toll-free number within Oregon is 1-800-886-7204. In Salem, the number is 503-945-8617.

Habla Español? Linea de mensaje. Las personas que necesitan asistencia en Español pueden dejar un mensaje. El número disponible todo el año en Salem es 503-945-8618.

A message line is available all year for those who need assistance in Spanish. The number in Salem is 503-945-8618.

Americans with Disabilities Act (ADA). In compliance with ADA, this information is available in alternative formats upon request by calling 503-378-4988.