

316.116 Credit for alternative energy device or alternative fuel vehicle; rules.

(1)(a) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred for construction or installation of each of one or more alternative energy devices in a dwelling.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under this chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related equipment.

(c) A credit against the taxes otherwise due under this chapter is not allowed for an alternative energy device that does not meet or exceed all applicable federal, state and local requirements for energy efficiency, including equipment codes, the state building code, specialty codes and any other standards.

(2)(a) In the case of a category one alternative energy device that is not an alternative fuel device, the credit shall be based upon the first year energy yield of the alternative energy device that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective or noncollective investment.

(b) The credit allowed under this section for each category one alternative energy device for each dwelling may not exceed the lesser of \$1,500 or the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space heating, cooling, electrical energy or domestic water heating for tax years beginning on or after January 1, 1998.

(c) For each category one alternative energy device used for swimming pool, spa or hot tub heating, the credit allowed under this section shall be based upon 50 percent of the cost of the device or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is lower, up to \$1,500 for tax years beginning on or after January 1, 1998.

(d) For each alternative fuel device, the credit allowed under this section is 25 percent of the cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed in service on or after January 1, 1998.

(e)(A) For each category two alternative energy device that is a solar electric system or fuel cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of installed output or \$6,000. The State Department of Energy may by rule provide for a lesser amount of incentive as market conditions warrant, taking into consideration factors including the availability of bulk purchasing of alternative energy devices.

(B) For each category two alternative energy device that is a wind electric system, the credit allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in kilowatt hours per year multiplied by \$2.

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each alternative energy device, whichever is less. Unused credit amounts may be carried forward as provided in subsection (6) of this section, but may not be carried forward to a tax year that is more than five tax years following the first tax year for which any credit was allowed with respect to the category two alternative energy device that is the basis for the credit.

(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit for each device allowed under this paragraph may not exceed 50 percent of the total installed cost of the category two alternative energy device.

(3) To qualify for a credit under this section, all of the following are required:

(a) The alternative energy device must be purchased, constructed, installed and operated in accordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

(b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser and must:

(A) Use the dwelling or dwellings served by the alternative energy device as a principal or secondary residence; or

(B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

(c) In the case of an alternative fuel device, unless the verification form and certificate are transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be the contractor who constructs the dwelling that incorporates the alternative fuel device into the dwelling or installs the fueling station in the dwelling.

(d) The credit must be claimed for the tax year in which the alternative energy device was purchased if the device is operational by April 1 of the next following tax year.

(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric plug-in charging, it must be purchased before January 1, 2010.

(4) The credit provided by this section does not affect the computation of basis under this chapter.

(5) The total credits allowed under this section in any one year may not exceed the tax liability of the taxpayer.

(6) Any tax credit otherwise allowable under this section that 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 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, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(9) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(10) A husband and wife who file separate returns for a taxable year may each claim a share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each. However, a husband or wife living in a separate principal residence may claim the tax credit in the same amount as permitted a single person.

(11) As used in this section, unless the context requires otherwise:

(a) "Collective investment" means an investment by two or more taxpayers for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(b) "Noncollective investment" means an investment by an individual taxpayer for the acquisition, construction and installation of an alternative energy device for one or more dwellings.

(c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (9).

(12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit allowed under subsection (1) of this section plus any similar credit allowed for federal income tax purposes may not exceed the cost to the taxpayer for the acquisition,

construction and installation of the alternative energy device. [1977 c.196 §8; 1979 c.670 §2; 1981 c.894 §3; 1983 c.684 §14; 1983 c.768 §1; 1987 c.492 §1; 1989 c.626 §6; 1989 c.880 §§9,11; 1995 c.746 §19; 1997 c.325 §41; 1997 c.534 §3; 1999 c.21 §41; 1999 c.623 §1; 2005 c.832 §5; 2007 c.843 §29; 2009 c.909 §47; 2011 c.730 §69]

Note: Section 5a, chapter 832, Oregon Laws 2005, provides:

Sec. 5a. (1) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for which the credit would otherwise be allowed with respect to an alternative energy device begins on or after January 1, 2018.

(2) A taxpayer may not be allowed a credit under ORS 316.116 if the first tax year for which the credit would otherwise be allowed with respect to an alternative fuel vehicle or related equipment begins on or after January 1, 2012. [2005 c.832 §5a; 2007 c.843 §35; 2009 c.913 §12; 2011 c.83 §16; 2011 c.730 §67]

Note: Sections 74 and 75, chapter 730, Oregon Laws 2011, provide:

Sec. 74. The amendments to ORS 316.116, 469.160 [renumbered 469B.100], 469.165 [renumbered 469B.103], 469.170 [renumbered 469B.106] and 469.172 [renumbered 469B.112] by sections 69 to 72 of this 2011 Act apply to alternative energy devices certified by the State Department of Energy on or after January 1, 2012, and to tax years beginning on or after January 1, 2012. [2011 c.730 §74]

Sec. 75. The State Department of Energy may not issue certifications for more than \$10 million in potential tax credits for third-party alternative energy device installations in any tax year. [2011 c.730 §75]

(Temporary provisions relating to tax credit for manufactured dwelling park closures)

Note: Sections 17 and 18, chapter 906, Oregon Laws 2007, provide:

Sec. 17. (1) As used in this section:

(a) “Household” has the meaning given that term in ORS 310.630.

(b) “Manufactured dwelling” has the meaning given that term in ORS 446.003.

(c) "Manufactured dwelling park" means a place within this state where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(d) "Rental agreement" means a contract under which an individual rents space in a manufactured dwelling park for siting a manufactured dwelling.

(2) A credit of \$5,000 against the taxes otherwise due under this chapter is allowed to an individual who:

(a) Rents space in a manufactured dwelling park for a manufactured dwelling that is owned and occupied by the individual as the individual's principal residence on the date that the landlord delivers notice that the park, or a portion of the park, is being closed and the rental agreement for the space is being terminated because of the exercise of eminent domain, by order of a federal, state or local agency or by the landlord; and

(b) Ends tenancy at the manufactured dwelling park site in response to the delivered notice described in paragraph (a) of this subsection.

(3) For purposes of subsection (2) of this section:

(a) Tenancy by the individual at the manufactured dwelling park site ends on the last day that a member of the individual's household occupies the manufactured dwelling at the manufactured dwelling park site; and

(b) Tenancy by the individual at the manufactured dwelling park site does not end if the manufactured dwelling park is converted to a subdivision under ORS 92.830 to 92.845 and the individual buys a space or lot in the subdivision or sells the manufactured dwelling to a person who buys a space or lot in the subdivision.

(4) Notwithstanding subsection (2) of this section, if the manufactured dwelling park, or a portion of the park, is being closed and the rental agreement of the individual is being terminated because of the exercise of eminent domain, the credit amount allowed to the individual is the amount described in subsection (2) of this section, reduced by any amount that was paid to the individual as compensation for the exercise of eminent domain.

(5) An individual may not claim more than one credit under this section for tenancies ended during the tax year.

(6) If, for the year in which the individual ends the tenancy at the manufactured dwelling park, the amount of the credit allowed by this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 and 316.583 plus other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by this chapter or ORS chapter 314 for the tax year, reduced by any

nonrefundable credits allowable for purposes of this chapter for the tax year, the amount of the excess shall be refunded to the individual as provided in ORS 316.502.

(7) If more than one individual in a household qualifies under this section to claim the tax credit, the qualifying individuals may each claim a share of the available credit that is in proportion to their respective gross incomes for the tax year. [2007 c.906 §17]

Sec. 18. Section 17, chapter 906, Oregon Laws 2007, applies to individuals whose household ends tenancy at a manufactured dwelling park during a tax year that begins on or after January 1, 2007, and before January 1, 2014. [2007 c.906 §18; 2009 c.913 §33]