

Chapter 316

1973 REPLACEMENT PART

Personal Income Tax

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GENERAL PROVISIONS

316.002 Short title. This chapter may be cited as the Personal Income Tax Act of 1969. As used in this chapter, the term "this chapter" refers only to the Personal Income Tax Act of 1969.
[1969 c.493 §1]

316.005 [1953 c.304 §1; repealed by 1969 c.493 §99]

316.007 Policy. It is the intent of the Legislative Assembly, by the adoption of this chapter, in so far as possible, to make the Oregon personal income tax law identical in effect to the provisions of the federal Internal Revenue Code of 1954 relating to the measurement of taxable income of individuals, estates and trusts, modified as necessary by the state's jurisdiction to tax and the revenue needs of the state; to achieve this result by the application of the various provisions of the federal Internal Revenue Code relating to the definition of income, exceptions and exclusions therefrom, deductions (business and personal), accounting methods, taxation of trusts, estates and partnerships, basis, depreciation and other pertinent provisions relating to gross income as defined therein, modified as provided in this chapter, resulting in a final amount called "taxable income"; and to impose a tax on residents of this state measured by taxable income wherever derived and to impose a tax on the income of nonresidents that is ascribable to sources within this state.
[1969 c.493 §2; 1971 (s.s.) c.4 §1]

316.010 [1953 c.304 §2; 1953 c.552 §1; repealed by 1969 c.493 §99]

316.012 Terms have same meaning as in federal laws. Any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter. Any reference in this chapter to the laws of the United States or to the Internal Revenue Code means the Internal Revenue Code of 1954, and amendments thereto in effect and operative on December 31, 1971, and other laws of the United States relating to federal income taxes in effect and operative on December 31, 1971. Any change in the laws of the United States or in the Internal Revenue Code of 1954 relating to federal income taxes which takes effect or becomes operative after December 31, 1971 (regardless of the date of enactment of the

change by the United States Congress) shall not apply to this chapter except where the Legislative Assembly has specifically provided otherwise.

[1969 c.493 §3; 1971 (s.s.) c.4 §2]

316.015 [1953 c.304 §3; 1953 c.552 §2; 1959 c.211 §3; 1959 c.593 §1 (referred and rejected); 1963 c.627 §2 (referred and rejected); repealed by 1969 c.493 §99; amended by 1969 c.520 §41]

316.016 Effect of federal political contribution deduction on state tax liability. Notwithstanding ORS 316.012, no modification may be made to federal taxable income on account of a deduction for a political contribution lawfully taken on a taxpayer's federal income tax return.
[1973 c.119 §2]

Note: 316.016 applies to tax years ending on or after October 5, 1973. See 1973 c.119 §4.

316.017 [1969 c.493 §3a; repealed by 1969 c.493 §3b]

316.020 [1953 c.304 §4; repealed by 1969 c.493 §99]

316.022 General definitions. (1) "Department" means the Department of Revenue.

(2) "Director" means the Director of the Department of Revenue.

(3) "Individual" means a natural person, including aliens and minors.

(4) A "nonresident" means an individual who is not a resident of this state.

(5) "Taxable income" means the taxable income defined in subsections (a) and (b), section 63, Internal Revenue Code of 1954, with such additions, subtractions and adjustments as are prescribed by this chapter.

(6) "Taxpayer" means any natural person, estate, trust, or beneficiary whose income is in whole or in part subject to the taxes imposed by this chapter, or any employer required by this chapter to withhold personal income taxes from the compensation of employes for remittance to the state.
[1969 c.493 §§4, 5, 6, 7, 9 and 1969 c.520 §42b]

316.025 [1953 c.304 §5; repealed by 1957 c.632 §1 (314.075 and 314.080 enacted in lieu of 316.025, 316.030, 317.015 and 317.020)]

316.027 "Resident" defined. (1) "Resident" or "resident of this state" means:

(a) An individual who is domiciled in this state unless he (A) maintains no permanent place of abode in this state, and (B) does maintain a permanent place of abode elsewhere, and (C) spends in the aggregate not more than 30 days in the taxable year in this state; or

(b) An individual who is not domiciled in this state but maintains a permanent place of abode in this state and spends in the aggregate more than 200 days of the taxable year in this state is presumed to be a resident unless he proves that he is in the state only for a temporary or transitory purpose.

(2) For purposes of paragraph (b) of subsection (1) of this section, a fraction of a calendar day shall be counted as a whole day.

[1969 c.493 §8]

316.030 [1953 c.304 §6; repealed by 1957 c.632 §1 (314.075 and 314.080 enacted in lieu of 316.025, 316.030, 317.015 and 317.020)]

316.032 Department to administer law; policy as to federal conflicts. (1) The Department of Revenue shall administer and enforce this chapter.

(2) In so far as is practicable in the administration of this chapter, the department shall apply and follow the administrative and judicial interpretations of the federal income tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two or more federal courts, the department shall follow the rule observed by the United States Commissioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of the department to audit the return of any taxpayer or to determine any fact relating to the tax liability of any taxpayer.

[1969 c.493 §10]

316.035 [1953 c.304 §117; repealed by 1969 c.493 §99 and 1969 c.520 §49]

316.037 Imposition and rate of tax. A tax is imposed for each taxable year on the entire taxable income of every resident of this state and on the taxable income of every non-resident that is derived from sources within this state. The amount of the tax shall be determined in accordance with the following table:

If the taxable income is:	The tax is:
Not over \$500	4% of taxable income
Over \$500 but not over \$1,000	\$20 plus 5% of the excess over \$500
Over \$1,000 but not over \$2,000	\$45 plus 6% of the excess over \$1,000
Over \$2,000 but not over \$3,000	\$105 plus 7% of the excess over \$2,000

Over \$3,000 but not over \$4,000	\$175 plus 8% of the excess over \$3,000
Over \$4,000 but not over \$5,000	\$255 plus 9% of the excess over \$4,000
Over \$5,000	\$345 plus 10% of the excess over \$5,000

[1969 c.493 §11]

316.040 [1953 c.304 §7; repealed by 1969 c.493 §99]

316.042 Amount of tax where joint return used. In the case of a joint return of husband and wife, pursuant to subsection (2) of ORS 316.122 or pursuant to ORS 316.367, the tax imposed by ORS 316.037 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section, a return of a head of household or a surviving spouse, as defined in subsection (b) of section 1 and subsection (b) of section 2 of the Internal Revenue Code, shall be treated as a joint return of husband and wife.

[1969 c.493 §12]

316.047 Transitional provision to prevent doubling income or deductions. If any provision of the Internal Revenue Code or of this chapter requires that any amount be added to or deducted from federal gross income or the net income taxable under this chapter that previously had been added to or deducted from net income taxable under the Oregon law in effect prior to the taxpayer's taxable year as to which this chapter is first effective, then, in such event, appropriate adjustment shall be made to the net income for the year or years subject to this chapter so as to prohibit the double taxation or the double deduction of any such amount that previously had entered into the computation of taxable income. Differences such as the difference in basis of property used by the taxpayer for federal and Oregon income tax returns and on account of the treatment of operating losses shall be resolved by application of this principle. However, the department, in its audit of a return, shall not apply any adjustment under this section which, in its opinion, if applied would result in an increase or decrease of tax liability of less than \$25. Where applicable, the provisions of ORS 314.275 shall be utilized.

[1969 c.493 §13]

COMPUTATION OF TAXABLE INCOME**(Generally)**

316.055 [1953 c.304 §8; 1953 c.552 §3; 1957 (s.s.) c.15 §1; 1963 c.627 §3 (referred and rejected); repealed by 1969 c.493 §99]

316.060 [1953 c.304 §9; 1955 c.596 §1; part derived from 1955 c.596 §4; 1957 c.586 §1; 1957 (s.s.) c.15 §2; 1959 c.593 §2 (referred and rejected); 1963 c.627 §4 (referred and rejected); 1963 c.627 §4 (referred and rejected); repealed by 1969 c.493 §99; amended by 1969 c.520 §42]

316.062 Taxable income of resident. The entire taxable income of a resident of this state is his federal taxable income as defined in the laws of the United States, with the modifications, additions and subtractions provided in this chapter.
[1969 c.493 §14]

316.065 [1953 c.304 §10; repealed by 1959 c.593 §14 (referred and rejected); repealed by 1963 c.627 §23 (referred and rejected); repealed by 1969 c.493 §99]

316.066 Definitions for ORS 316.067. As used in ORS 316.067 and in this section, unless the context requires otherwise:

(1) "Architectural barriers" means physical design features in a building existing on October 5, 1973, that restrict the full use of the building by physically handicapped persons.

(2) "Building" means a building or structure or that part of a building or structure and its related sidewalks, curbing, driveways and entrances that are located in Oregon and open to the general public.

(3) "Renovation project" means elimination of architectural barriers by the owner or contract purchaser of a building. "Renovation project" includes, but is not limited to, one or more of the following:

(a) Ground level entrance.

(b) Ramped entrance.

(c) Providing freedom of movement between public use areas.

(d) Providing a bathroom or restroom with toilet stall for use of physically handicapped persons.

[1973 c.753 §2]

Note: 316.066 applies with respect to tax years ending on and after October 5, 1973. See 1971 c.753 §8.

316.067 Modification of taxable income.

(1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commis-

sion or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this section shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this section, and by any expenses incurred in the production of interest or dividend income described in this section to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.072, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts received in the taxable year in compensation for personal services rendered in prior years, from a pension, annuity, retirement or similar fund under a public retirement system established by the United States, including the retirement system for the performance of service in the Armed Forces of the United States, or by this state or any municipal corporation or political subdivision of this state (but excluding the Public Employees' Retirement System established by ORS chapter 237). In the case of a public retirement system established by the United States, including the retirement system for the performance of service in the Armed Forces of the United States, the maximum amount excludable from taxable income from such pensions or annuities shall be in the amount of \$2,400.

(d) The amount of any payments received from the Public Employees' Retirement Fund under ORS 237.001 to 237.315 which are exempt from state taxation under ORS 237.201.

(e) Compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed \$3,000 per annum.

(f) For taxable years open to audit on October 5, 1973, the amount of any deferred income which was added to federal taxable income for state tax purposes under paragraph (e) of subsection (2) of this section in a prior taxable year and which is now added to federal taxable income. For purposes of this paragraph, the amount subtracted shall not exceed the amount of gain now reported on the federal return. If the

gain is a capital gain or subject to capital gain treatment, the adjustments under this paragraph shall be similar to the adjustments made under paragraph (e) of subsection (2) of this section in the prior year.

(g) For taxable years beginning on and after January 1, 1972, any expenses under paragraph (f) of subsection (1) of ORS 118.070 and paragraph (c) of subsection (2) of ORS 118.070 that have not been deducted in computing federal taxable income and have not been and will not be claimed as deductions for Oregon inheritance tax purposes under ORS 118.070.

(h) The entire cost of a renovation project, as defined in ORS 316.066. The cost of the renovation project shall be subtracted for the taxable year in which the renovation project is completed and is in addition to any depreciation or amortization of the cost of the renovation project. If the building that is the subject of the renovation project is owned by more than one owner, or being purchased by more than one contract purchaser, the cost of the renovation project shall be apportioned among the owners or contract purchasers as their interests may appear.

(2) There shall be added to federal taxable income:

(a) Interest or dividends on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States which by the laws of the United States are exempt from federal income tax but not from state income taxes.

(c) The amount of any Oregon income taxes deducted on the taxpayer's federal income tax return for the taxable year, less any refunds or abatement of Oregon income taxes paid or credited to the taxpayer during the taxable year.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 614 and 615, Internal Revenue Code of 1954.

(e) For taxable years beginning on and after January 1, 1969, the amount of any gain which is deferred for tax recognition purposes upon the voluntary or involuntary conversion or exchange of tangible real or personal property where the property newly

acquired by the taxpayer has a situs outside the jurisdiction of the State of Oregon.

(f) For taxable years beginning on and after January 1, 1972, any expenses under paragraph (f) of subsection (1) of ORS 118.070 and paragraph (c) of subsection (2) of ORS 118.070 that have been or will be claimed as deductions for Oregon inheritance tax purposes in an amount not to exceed the deductions actually claimed by the taxpayer on the federal income tax return for the same taxable year.

(g) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(3) In the case of amounts received from the retirement system for performance of service in the Armed Forces of the United States as described in paragraph (c) of subsection (1) of this section the \$2,400 exclusion shall be granted only to retirees age 65 or older and such exclusion is further reduced dollar for dollar to the extent of any earned income received during the taxable year. "Earned income" means salaries, wages, or professional fees and other amounts received as compensation for personal services rendered, past or present, but does not include amounts received from such retirement system. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors only 50 percent of the income from such trade or business shall be considered to be from personal services.

[1969 c.493 §15; 1971 c.686 §12; 1971 c.736 §1; 1973 c.1 §1; 1973 c.88 §1; 1973 c.402 §18; 1973 c.753 §3]

Note: The amendments to subsection (3) of 316.067 by section 18, chapter 402, Oregon Laws 1973, apply to taxable years ending on or after September 9, 1971. See 1973 c.402 §33.

Note: The amendments to 316.067 by section 3, chapter 753, Oregon Laws 1973, apply with respect to tax years ending on or after October 5, 1973. See 1973 c.753 §8.

Note: Section 1, chapter 751, Oregon Laws 1973, provides:

Sec. 1. (1) In addition to the adjustments to federal taxable income required by ORS 316.067, there shall be added to federal taxable income the amount of any federal income taxes in excess of \$3,000, accrued by the taxpayer during the taxable year as described in ORS 316.072, less the amount of any refund of federal taxes previously accrued for which the tax benefit was received.

(2) In addition to the adjustments required by ORS 316.117, the taxable income of a nonresident individual shall add to his taxable income a proportion of any accrued federal income taxes as computed under ORS 316.072 in excess of \$3,000 in the proportion provided in subsection (6) of ORS 316.117.

(3) This section shall apply to tax years beginning on and after January 1, 1974, and before January 1, 1975.

316.070 [1953 c.304 §13; repealed by 1969 c.493 §99]

316.072 Federal income tax deductions; accrual method of accounting required. (1) Notwithstanding ORS 314.275 and any provision of the Personal Income Tax Act of 1969, for tax years beginning on and after January 1, 1969, the federal income tax deduction provided by ORS 316.067 shall be reported by the taxpayer on the accrual method of accounting. Any adjustments to the federal income tax deduction now or hereafter required by Oregon law, including but not limited to the elimination of the self-employment tax, also shall be computed and eliminated according to the accrual method of accounting.

(2) Cash basis taxpayers who have made payments of taxes for years beginning prior to January 1, 1969, in tax years beginning on or after January 1, 1969, shall be entitled to a deduction for such taxes paid for those years in accordance with their usual method of accounting.

(3) Cash basis taxpayers receiving a refund of federal income taxes paid for years beginning prior to January 1, 1969, in tax years beginning on and after January 1, 1969, shall include such refunds in income in accordance with the method of accounting in effect for tax years beginning prior to January 1, 1969.

[1969 c.467 §6]

316.074 Exemption for service in Vietnam on missing status. (1) Any compensation or gratuity received from any source by any individual by reason of civilian or military service on and after February 28, 1961, during the Vietnam conflict, for any month during any part of which such individual is in a missing status as a result of that conflict, is exempt from tax under ORS chapter 316. Any such compensation or gratuity is exempt from tax without regard to:

(a) The identity of the recipient of the compensation or gratuity;

(b) The death of the individual whose service in a missing status results in payment of the compensation or the gratuity; or

(c) A date of death established for the individual whose service in a missing status results in payment of the compensation or the gratuity.

(2) As used in this section:

(a) "Compensation" does not include any pension or retirement allowance.

(b) "Missing status" means the status of an individual who is carried or determined

to be in a status of missing; missing in action; interned in a foreign country; captured, beleaguered or besieged by a hostile force; or detained in a foreign country against his will. "Missing status" does not include the status of an individual for a period during which he is officially determined to be absent from his post of duty without authority.

(3) If income exempt from tax under this section has been included on a return resulting in a tax paid to the State of Oregon, the person who filed the return, a surviving spouse or the executor as defined in ORS 118.005, may apply for a refund of any tax paid on such income. Notwithstanding ORS 314.415, a claim for refund may be made any time prior to June 30, 1981.

(4) In addition to the income tax relief provided by subsections (1), (2) and (3) of this section and notwithstanding ORS 316.012 as amended by chapter 4, Oregon Laws 1971 (special session), any provision in the laws of the United States or in the Internal Revenue Code of 1954 providing income tax relief for returning prisoners of war, persons in a missing status, their spouses, heirs, devisees or executors shall apply to the measurement of the taxable income of individuals, estates and trusts under this chapter in the same taxable year as that provided in such federal laws.

[1973 c.475 §§2, 3]

316.075 [1953 c.304 §11; 1953 c.522 §4; 1959 c.593 §3 (referred and rejected); 1963 c.627 §5 (referred and rejected); repealed by 1969 c.493 §99]

316.076 Deduction for physician in medically disadvantaged area. (1) Any person who becomes licensed under ORS chapter 677 on or after January 1, 1974, during the period in which he practices medicine in any medically disadvantaged area of this state may deduct as an expense from income earned from his practice of medicine an amount equal to his annual expense incurred for each year in attending medical school, including tuition, fees, living expenses and other actual and necessary expenses, but not to exceed \$10,000 for any year.

(2) In order to qualify for the exemption granted by subsection (1) of this section, the person must apply to the department on or before April 15, on a form prescribed by the department and accompanied by evidence from the Board of Medical Examiners for the State of Oregon certifying that the person has practiced medicine in a

medically disadvantaged area in the preceding calendar year.

(3) The deduction authorized by subsection (1) of this section shall be applicable to no more than four tax years, or so long as the person remains qualified, whichever is less.

[1973 c.644 §6]

316.077 Fiduciary adjustment. There shall be added to or subtracted from federal taxable income, as the case may be, the taxpayer's share of the fiduciary adjustment determined under ORS 316.287.

[1969 c.493 §16]

316.079 Tax credit for certain disabilities. A \$50 credit, against income taxes owed, shall be allowed a taxpayer who as of the close of his taxable year has suffered a permanent and complete loss of function of both legs or both arms or one leg and one arm as certified to by a public health officer. The certificate shall be in a form prescribed by the department and shall be filed with the first return in which the credit is claimed.

[1973 c.120 §2]

Note: 316.079 applies to taxable years beginning after December 31, 1973. See 1973 c.120 §3.

316.080 [1953 c.304 §12; renumbered 316.475]

316.081 Special computation of gain where farm use value used. Notwithstanding any other provision of this chapter, when gain is included in federal taxable income:

(1) From property which is taxable under this chapter and which was valued for inheritance tax purposes under ORS 118.155, or

(2) From property the basis of which is computed in whole or in part with respect to property that was valued for inheritance tax purposes under ORS 118.155,

there shall be added to federal taxable income the difference between the taxable gain that would otherwise be determined under this chapter and the gain that would be taxable had the basis for federal tax purposes been computed using the farm use value provided for under ORS 118.155 instead of the basis computed pursuant to section 1014 of the Internal Revenue Code.

[1973 c.503 §15]

(Residents)

316.082 Credit for taxes paid another state. (1) A resident individual shall be al-

lowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on him for the taxable year by another state of the United States, a foreign country or the District of Columbia on income derived from sources therein and that is also subject to tax under this chapter.

(2) The credit provided under this section shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to his entire adjusted gross income as modified by this chapter.

(3) The department shall provide by regulation the procedure for obtaining credit provided by this section and the proof required.

(4) No credit allowed under this section or ORS 316.292 shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction, unless the tax is restored to income on the Oregon return.

[1969 c.493 §17]

316.087 Federal retirement income tax credit. A resident individual shall be allowed a credit against the tax otherwise due under this chapter in an amount equal to 25 percent of the retirement income tax credit the taxpayer is entitled to and claims as a credit on his federal income tax return for the same year to the extent that the income on which the credit is based or calculated is subject to tax under this chapter. If income on which the credit is based or calculated is subtracted in part under ORS 316.067, the credit shall be considered to have been based or calculated on the subtracted income first.

[1969 c.493 §18; 1971 c.736 §2]

316.092 [1969 c.493 §19; repealed by 1973 c.402 §30]

Note: Section 31, chapter 402, Oregon Laws 1973, provides:

Sec. 31. Notwithstanding the repeal of ORS 316.092 by section 30 of this Act, a taxpayer who has received certification of any pollution control facility and has applied for and is receiving tax relief under ORS 316.092 for such facility on the effective date of such repeal [October 5, 1973] shall be entitled to receive tax relief as if no repeal had taken place.

316.097 Credit for pollution control facility. (1) A credit against taxes imposed by this chapter for taxpayers owning a pollution control facility or facilities certified under ORS 468.170 shall be allowed if the taxpayer has not claimed an exemption therefor under ORS 307.405.

(2) For a facility qualifying under paragraph (a) of subsection (1) of ORS 468.165, the maximum credit allowed in any one tax year shall be the lesser of the tax liability of the taxpayer or the following portion of the cost of the facility:

(a) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 80 percent or more, five percent of the cost of the facility.

(b) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 60 percent or more and less than 80 percent, four percent of the cost of the facility.

(c) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 40 percent or more and less than 60 percent, three percent of the cost of the facility.

(d) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 20 percent or more and less than 40 percent, two percent of the cost of the facility.

(e) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is less than 20 percent, one percent of the cost of the facility.

(3) For a facility qualifying under paragraph (b) of subsection (1) of ORS 468.165, the maximum credit allowed in any one tax year shall be five percent of the cost of the facility or facilities, but shall not exceed the tax liability of the taxpayer.

(4) To qualify for the credit the pollution control facility must be erected, constructed or installed in accordance with the provisions of subsection (1) of ORS 468.165.

(5) (a) The taxpayer who is allowed the credit must be the owner of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution or a person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property. As used in this paragraph, "owner" includes a contract purchaser; and

(b) The facility must be owned or leased during the tax year by the taxpayer claiming the credit and must have been in use and operation during said tax year.

(6) Regardless of when the facility is erected, constructed or installed, a credit under this section may be claimed by a taxpayer:

(a) For a facility qualifying under paragraph (a) of subsection (1) of ORS 468.165, only in those tax years which begin on or after January 1, 1967.

(b) For a facility qualifying under paragraph (b) of subsection (1) of ORS 468.165, in those tax years which begin on or after January 1, 1973.

(7) For a facility qualifying under paragraph (a) of subsection (1) of ORS 468.165, the maximum total credit allowable shall not exceed:

(a) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 80 percent or more, 50 percent of the cost of such facility or facilities.

(b) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 60 percent or more and less than 80 percent, 40 percent of the cost of such facility or facilities.

(c) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 40 percent or more and less than 60 percent, 30 percent of the cost of such facility or facilities.

(d) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is 20 percent or more and less than 40 percent, 20 percent of the cost of such facility or facilities.

(e) If the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air or water pollution is less than 20 percent, 10 percent of the cost of such facility or facilities.

(8) For a facility qualifying under paragraph (b) of subsection (1) of ORS 468.165, the maximum total credit allowable shall not exceed 50 percent of the cost of such facility.

(9) The credit provided by this section is in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled under this chapter for such year to the extent of the highest percentage figure certified by the Environmental Quality Commission as the portion of the actual cost properly allocable

to the prevention, control or reduction of pollution.

(10) Upon any sale, exchange, or other disposition of a facility, notice thereof shall be given to the Environmental Quality Commission who shall revoke the certification covering such facility as of the date of such disposition. The transferee may apply for a new certificate under ORS 468.170, but the tax credit available to such transferee shall be limited to the amount of credit not claimed by the transferor.

(11) 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. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (6) of this section.

(12) Notwithstanding any other provisions of this chapter, the taxpayer's adjusted basis for determining gain or loss shall be further decreased by any tax credits allowed under this section.

[See 316.480; 1973 c.831 §8]

316.102 Credit for political contributions. (1) Unless a taxpayer has claimed a deduction for a political contribution on his federal tax return for the taxable year, a credit against taxes shall be allowed for contributions made in the taxable year to political parties or to or for the use of a candidate for federal, state or local elective office whose name is listed on a primary, general or special election ballot in this state. A like credit shall be allowed for contributions made to committees and associations organized in support of or in opposition to ballot measures or questions. The credit shall be the lesser of:

(a) One-half of the total contribution, not to exceed \$12.50 on a separate return; one-half of the total contribution, not to exceed \$25 on a joint return; or

(b) The tax liability of the taxpayer.

(2) Tax claim for tax credit shall be substantiated by submission, with the tax return, of official receipts of the candidate,

agent, committee or association to whom contribution was made.

[1969 c.432 §2; 1973 c.119 §3]

Note: The amendment to 316.102 applies to tax years ending on or after October 5, 1973. See 1973 c.119 §4.

316.105 [1953 c.304 §14; 1953 c.552 §5; repealed by 1969 c.493 §99]

316.106 [1967 c.274 §7; repealed by 1969 c.493 §99]

316.107 Federal tax credits allowable only as specified. No credits applied directly to the income tax calculated for federal purposes pursuant to the Internal Revenue Code shall be applied in calculating the tax due under this chapter except those applicable under ORS 316.082, 316.087 and 316.292. [1969 c.493 §20; 1973 c.402 §19]

316.108 [1967 c.118 §2; repealed by 1969 c.493 §99]

316.110 [1953 c.304 §15; 1953 c.552 §6; 1957 c.582 §1; 1961 c.506 §1; 1963 c.253 §1; repealed by 1969 c.493 §99]

316.111 [1965 c.360 §2; repealed by 1969 c.493 §99]

316.112 [1959 c.211 §2; 1963 c.627 §5 (referred and rejected); repealed by 1969 c.493 §99]

316.113 [1967 c.61 §2; repealed by 1969 c.493 §99]

316.114 [1967 c.449 §2; repealed by 1969 c.493 §99]

316.115 [1953 c.304 §16; 1959 c.555 §1; subsection (4) derived from 1959 c.555 §2; repealed by 1969 c.493 §99]

(Nonresidents)

316.117 Taxable income; deductions allowed. (1) The taxable income of a nonresident individual is his adjusted gross income attributable to sources within this state determined by ORS 316.127 less the deductions allowed by this section.

(2) A nonresident who has claimed the standard deduction as defined in section 141 of the Internal Revenue Code for federal purposes shall be allowed the deduction in the proportion provided in subsection (6) of this section.

(3) A nonresident taxpayer shall be entitled to claim the personal exemptions as defined in section 151 of the Internal Revenue Code in the proportion provided in subsection (6) of this section.

(4) A nonresident who itemizes deductions shall be allowed a deduction for the items deductible under the Internal Revenue Code in the same proportion provided in subsection (6) of this section.

(5) A nonresident taxpayer shall be allowed to deduct the amount of any accrued federal income taxes as computed under ORS 316.072 in the proportion provided in subsection (6) of this section.

(6) The proportion for making the proration required under this section is the federal adjusted gross income of the taxpayer from Oregon sources divided by the taxpayer's federal adjusted gross income from all sources. If the numerator of the fraction described in this subsection is greater than the denominator, the proportion of 100 percent shall be used in the prorations required by this section.

[1969 c.493 §21; 1971 c.672 §1; 1973 c.269 §1]

Note: The amendment to 316.117 applies to taxable years beginning after December 31, 1970. See 1973 c.269 §4.

Note: See text of section 1, chapter 751, Oregon Laws 1973, in 316.067 note.

316.122 Separate or joint federal returns for husband and wife. (1) If the federal taxable income of husband and wife (both nonresidents of this state) is determined on separate federal returns, their taxable incomes in this state shall be separately determined.

(2) If the federal taxable income of husband and wife (both nonresidents) is determined on a joint federal return, their tax shall be determined in this state on their joint taxable income.

(3) If either husband or wife is a nonresident and the other a resident, separate taxes shall be determined on their separate taxable incomes in this state on such forms as the department shall prescribe, unless both elect to determine their joint taxable income in this state as if both were residents. If a husband and wife (one being a resident, the other a nonresident) file a joint federal income tax return but determine their taxable income in this state separately, they shall compute their taxable incomes in this state as if their federal adjusted gross incomes had been determined separately.

[1969 c.493 §22]

316.125 [1953 c.304 §17; repealed by 1969 c.493 §99]

316.127 Income of nonresident from Oregon sources. (1) The adjusted gross income of a nonresident derived from sources within this state is the sum of the following:

(a) The net amount of items of income, gain, loss and deduction entering into his federal adjusted gross income that are derived

from or connected with sources in this state including (A) his distributive share of partnership income and deductions and (B) his share of estate or trust income and deductions; and

(b) The portion of the modifications described in ORS 316.067 and 316.077 that relate to adjusted gross income derived from sources in this state, including any modifications attributable to him as a partner.

(2) Items of income, gain, loss and deduction derived from or connected with sources within this state are those items attributable to:

(a) The ownership or disposition of any interest in real or tangible personal property in this state; and

(b) A business, trade, profession or occupation carried on in this state.

(3) Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property, constitutes income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession or occupation carried on in this state.

(4) Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses and deductions derived from or connected with sources in this state, under regulations to be prescribed by the department, but otherwise shall be determined in the same manner as the corresponding federal deductions.

(5) Notwithstanding subsection (3) of this section, the distributed and undistributed taxable income of an electing small business corporation for federal income tax purposes derived from or connected with sources in this state does constitute income derived from sources within this state for a nonresident individual who is a shareholder of such a corporation, and a net operating loss of such corporation derived from or connected with sources in this state does constitute a loss or deduction connected with sources in this state for such a nonresident individual.

(6) If a business, trade, profession or occupation is carried on partly within and partly without this state, the determination of net income derived from or connected with sources within this state shall be made by apportionment and allocation under ORS 314.605 to 314.670.

(7) Compensation paid by the United States for service in the Armed Forces of the United States performed by a nonresident does not constitute income derived from sources within this state.

(8) The "adjusted gross income," as used in this section, means the adjusted gross income as defined in section 62 of the Internal Revenue Code with the necessary adjustments to items of Oregon income required by ORS 316.047, 316.062, 316.067, 316.072, 316.077 except for any adjustment required for federal income taxes by subsection (1) of ORS 316.067 or for Oregon income taxes by subsection (2) of ORS 316.067 or both.

[1969 c.493 §23; 1971 c.672 §2; 1973 c.269 §2]

Note: Section 4, chapter 269, Oregon Laws 1973, provides:

Sec. 4. The amendments to ORS 316.117 and 316.127 by sections 1 and 2 of this 1973 Act apply to taxable years beginning after December 31, 1970, except that the amendments to subsection (5) of ORS 316.127 shall apply only to taxable years beginning after December 31, 1972.

COLLECTION OF TAX AT SOURCE OF WAGES

316.160 [1953 c.304 §18; 1965 c.26 §3; repealed by 1969 c.493 §99]

316.162 Definitions for ORS 316.162 to 316.212. As used in ORS 316.162 to 316.212:

(1) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under ORS 316.182, except that if no such certificate is in effect, the number of withholding exemptions claimed is considered to be zero.

(2) "Wages" means remuneration for services performed by an employe for his employer, including the cash value of all remuneration paid in any medium other than cash, except that "wages" does not include remuneration paid:

(a) For active service in the Armed Forces of the United States as to which no withholding is required by the Internal Revenue Code.

(b) To an employe of a common carrier to the extent that section 26(a), title 49, United States Code prohibits the remuneration from withholding for state income taxes.

(c) For domestic service in a private home, a local college club or a local chapter of a college fraternity or sorority.

(d) For casual labor not in the course of the employer's trade or business.

(e) To an employe whose services to the employer consist solely of labor in connection with the planting, cultivating or harvesting of seasonal agricultural crops if the total amount paid to such employe is less than \$150 annually.

(f) To seamen who are exempt from garnishment, attachment or execution under title 46 of the United States Code.

(g) To persons temporarily employed as emergency forest fire fighters.

(h) To employes' trusts exempt from tax under provisions of the federal Internal Revenue Code.

(i) After December 31, 1970, and before July 1, 1975, to an employe who is not a resident of Oregon, working in the state for less than 120 days in any calendar year, engaged in any phase of motion picture production, television production or television commercials, but only if a prior application for exemption provided in subsection (4) of this section is furnished by the employe to the department.

(3) "Employer" means:

(a) A person who is in such relation to another person that he may control the work of that other person and direct the manner in which it is to be done; or

(b) An officer or employe of a corporation, or a member or employe of a partnership, who as such officer, employe or member is under a duty to perform the acts required of employers by ORS 316.167, 316.182, 316.197, 316.202 and 316.207.

(4) The application required by paragraph (i) of subsection (2) of this section shall contain the name of the employe, his permanent address, his social security number and such other information which the department deems necessary.

[1969 c.493 §24; 1971 c.690 §1; 1973 c.229 §1]

316.165 [1953 c.304 §19; repealed by 1969 c.493 §99]

316.167 Withholding of tax required.

(1) Every employer at the time of the payment of wages to any employe shall deduct and retain from such wages an amount determined, at the employer's election, either (a) by a "percentage method" withholding table or (b) by "wage bracket" withholding tables, prepared and furnished under the rules and regulations of the department. However, in the case of wages paid to an employe whose services to the employer consist solely of labor in connection with the planting, cultivating or harvesting of seasonal agricultural

crops, the amount withheld shall be one percent of the total wages paid without regard to any withholding exemptions.

(2) Except in the case of an agricultural employe, the amount withheld shall be computed on the basis of the total amount of the wages and the number of withholding exemptions claimed by the employe, without deduction for any amount withheld.
[1969 c.493 §25]

316.170 [1953 c.304 §20; repealed by 1969 c.493 §99]

316.172 Tax withholding tables to be prepared by department. (1) The department shall prepare a table for use with the percentage method that provides for the deduction and withholding of a tax equal to a specific percent (to be determined by the department) of the amount by which the wages for a given payroll period (daily, weekly, biweekly, semi-monthly, monthly, quarterly, semiannually or annually, as the case may be) exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption for each payroll period (such amount being determined by the department for each such period). The determinations of the department shall result, so far as is practicable, in withholding from the employe a sum substantially equivalent to the amount of the tax that the employe will be required to pay under this chapter upon such wages. To accomplish this purpose, the department may make special provision for employes who are in the state for limited periods of time.

(2) The department shall prepare tables for use in computing withholding of tax by wage brackets. The wage brackets shall be graduated so that the amount withheld is, as far as practicable, substantially equivalent to the amount of the tax that the employe will be required to pay under this chapter upon such wages.

[1969 c.493 §26; 1973 c.402 §20]

Note: The amendments to 316.172 are effective on and after January 1, 1973. See 1973 c.402 §33.

316.175 [1953 c.304 §21; repealed by 1969 c.493 §99]

316.177 Withholding exemptions. An employe shall be entitled to the same number of withholding exemptions as the number of withholding exemptions to which he is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employe, except where the employe

claims a different number of withholding exemptions in this state.

[1969 c.493 §27]

316.180 [1953 c.304 §22; repealed by 1969 c.493 §99]

316.182 Exemption certificate. An employer shall use the exemption certificate filed by the employe with the employer under the income tax withholding provisions of the Internal Revenue Code for determining the number of withholding exemptions to be used in computing the tax to be withheld under ORS 316.167 and 316.172. However, the department may require such exemption certificate to be filed on a form prescribed by the department in any circumstance where the department finds that the exemption certificate filed under the Internal Revenue Code does not properly reflect the number of withholding exemptions allowable under this chapter, except no exemption certificate need be procured from an employe whose wages consist of wages as defined in paragraph (e) of subsection (2) of ORS 316.162.

[1969 c.493 §28]

316.185 [1953 c.304 §23; 1955 c.129 §1; subsection (5) derived from 1955 c.129 §2; 1965 c.26 §4; repealed by 1969 c.493 §99]

316.187 Amount withheld is in payment of employe's tax. The amounts deducted from the wages of an employe during any calendar year in accordance with ORS 316.167 and 316.172 shall be considered to be in part payment of the tax on such employe's income for his taxable year which begins within such calendar year, and the return made by the employer pursuant to ORS 316.202 shall be accepted by the department as evidence in favor of the employe of the amounts so deducted from his wages.

[1969 c.493 §29]

316.190 [Amended by 1953 c.304 §24; 1955 c.92 §1; subsection (3) derived from 1955 c.92 §2; repealed by 1969 c.493 §99]

316.192 Refunds to employes. (1) If the total amount deducted under ORS 316.167 and 316.172 exceeds the amount of the tax on the employe's entire income as computed under this chapter, or when his income is not taxable under this chapter, the department, after examining or auditing the annual return filed by the employe in accordance with ORS 314.385, shall refund the amount of the excess deducted, with interest thereon as provided by law. No refund shall be made to an employe who fails to file such return within two years after the due date of the return in respect of

which the tax withheld might have been credited. If the excess tax deducted is less than \$1, no refund shall be made and in no event shall the excess be allowed as a credit against any tax accruing on a return filed for a year subsequent to the year during which such excess was withheld.

(2) The department may make separate refunds of withheld taxes upon request by a husband or wife who has filed a joint return, the refund payable to each spouse being proportioned to the gross earnings of each shown by the information returns filed by the employer or otherwise shown to the satisfaction of the department. If a taxpayer entitled to a refund under this section dies, the department may issue a draft for payment of such refund under the terms and conditions set out in ORS 293.490 to 293.500, exercising the same powers and subject to the same restrictions pursuant to which the State Treasurer is authorized to pay the amounts of warrants, checks or orders under those statutes.
[1969 c.493 §30; 1971 c.333 §2]

316.195 [1953 c.304 §25; repealed by 1969 c.493 §99]

316.197 Payment to department by employer. (1) Except as provided in subsection (2) of this section, each employer quarterly, on or before the last day of April, July, October and January, shall pay over to the department the amount required by ORS 316.167 and 316.172 to be deducted and retained from the wages paid to any employe during the preceding three months.

(2) If the amount of taxes required to be deducted and retained from wages by any employer, pursuant to ORS 316.167 and 316.172, amounts to \$100 or more during the first or second month of the calendar quarter, the employer shall pay such amount over to the department on or before the 15th day of the following month. Amounts deducted and retained in the third month and any amounts deducted but not paid to the department in the second or third month of each calendar quarter shall be paid to the department on or before the last day of the month following the end of such quarter.

(3) Every amount so paid over shall be accounted for as part of the collections under this chapter. No employe has any right of action against his employer in respect of any moneys deducted from his wages and paid over in compliance or intended compliance with this section.
[1969 c.493 §31]

316.200 [1953 c.304 §26; 1965 c.26 §5; repealed by 1969 c.493 §99]

316.202 Reports by employer; effect of failure to report. (1) With each payment made by him to the department, every employer shall deliver to the department, on a return in the form prescribed by the department showing the total amount of wages, salaries, bonuses or other emoluments paid to his employes, the amount deducted therefrom in accordance with ORS 316.167 and 316.172, and supply such other information as the department may require. The employer is charged with the duty of advising the employe of the amount of moneys withheld, in accordance with such regulations as the department may prescribe, using printed forms furnished or approved by the department for such purpose.

(2) The employer shall make an annual return to the department on forms provided or approved by it, summarizing the total compensation paid and the tax withheld for each employe during the calendar year and shall file the same with the department before February 16 of the year following that for which report is made. Failure to file the annual report without reasonable excuse on or before the 30th day after notice has been given to the employer of his failure subjects the employer to a penalty of \$100.
[1969 c.493 §32; 1973 c.83 §1]

316.205 [1953 c.304 §27; repealed by 1957 c.632 §1 (314.280 enacted in lieu of 316.205 and 317.180)]

316.207 Liability for tax; warrant for collection. (1) Every employer who deducts and retains any amount under ORS 316.167 and 316.172 shall hold the same in trust for the State of Oregon and for the payment thereof to the department in the manner and at the time provided in ORS 316.167 and 316.172.

(2) At any time the employer fails to remit any amount withheld, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.
[1969 c.493 §33]

316.210 [1953 c.304 §28; repealed by 1957 c.632 §1 (314.285 enacted in lieu of 316.210 and 317.185)]

316.212 Application of penalties, interest and jeopardy assessment; employer as taxpayer. The provisions of the income tax laws in ORS chapter 314 and this chapter, relating to penalties, interest, misdemeanors and jeopardy assessments, apply to employers subject to the provisions of ORS 316.162 to 316.212, and for these purposes any amount deducted or required to be deducted and remitted to the department under ORS 316.162 to 316.212 is considered the tax of the employer and with respect to such amount he is considered as a taxpayer.
[1969 c.493 §34]

ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

316.215 Period for computation of taxable income. (1) For purposes of the tax imposed by this chapter, a taxpayer's taxable year shall be the same as his taxable year for federal income tax purposes.

(2) If a taxpayer's taxable year is changed for federal income tax purposes, his taxable year for purposes of the tax imposed by this chapter shall be similarly changed. If a change in taxable year results in a taxable period of less than 12 months, the standard deduction and the deduction for personal exemption allowed by the Internal Revenue Code shall be prorated under regulations prescribed by the department.

(3) Notwithstanding subsections (1) and (2) of this section, if the department terminates the taxpayer's taxable year under ORS 314.440 (relating to tax in jeopardy), the tax shall be computed for the period determined by such action.
[1969 c.493 §35]

316.217 Accounting method. (1) For purposes of the tax imposed by this chapter, a taxpayer's method of accounting shall be the same as his method of accounting for federal income tax purposes. If no method of accounting has been regularly used by the taxpayer, taxable income for purposes of this chapter shall be computed under such method that in the opinion of the department fairly reflects income.

(2) If a taxpayer's method of accounting is changed for federal income tax purposes, his method of accounting for purposes of this chapter shall similarly be changed and used in the first return filed after such change is effective. ORS 314.275 applies to the degree applicable.
[1969 c.493 §36]

316.222 Adjustments to prevent duplications or omissions. In computing a taxpayer's taxable income for any taxable year under a method of accounting different from the method under which the taxpayer's taxable income for the previous year was computed, there shall be taken into account those adjustments which are determined, under regulations prescribed by the department, to be necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted.
[1969 c.493 §37]

316.227 Effect of accounting change. (1) If a taxpayer's method of accounting is changed, other than from an accrual to an instalment method, any additional tax that results from adjustments determined to be necessary solely by reason of the change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the taxpayer used the method of accounting from which the change is made, under ORS 314.275.

(2) If a taxpayer's method of accounting is changed from an accrual to an instalment method, any additional tax for the year of such change of method and for any subsequent year that is attributable to the receipt of instalment payments properly accrued in a prior year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such instalment payments, under regulations prescribed by the department.
[1969 c.493 §38]

ESTATES AND TRUSTS

(Generally)

316.255 [1953 c.304 §29; repealed by 1959 c.581 §1 (316.256 enacted in lieu of 316.255)]

316.256 [1959 c.581 §2 (enacted in lieu of 316.255); subsection (4) derived from 1959 c.581 §11; repealed by 1969 c.493 §99]

316.257 [1963 c.435 §4; repealed by 1969 c.493 §99]

316.258 [1961 c.225 §2; repealed by 1969 c.493 §99]

316.260 [1953 c.304 §30; repealed by 1969 c.493 §99]

316.265 [1953 c.304 §31; 1953 c.552 §7; repealed by 1959 c.581 §3 (316.266 enacted in lieu of 316.265)]

316.266 [1959 c.581 §4 (enacted in lieu of 316.265); last sentence derived from 1959 c.581 §11; last sentence of subsection (6) enacted as 1961 c.225 §3; 1969 c.103 §1; repealed by 1969 c.493 §99]

316.267 Application of chapter to estates and certain trusts. The tax imposed by this chapter on individuals applies to the taxable income of estates and trusts, except for trusts taxed as corporations under ORS chapter 317 or 318.

[1969 c.493 §39; 1973 c.115 §3]

Note: The amendments to 316.267 apply to tax years ending after December 31, 1971. See 1973 c.115 §7]

316.270 [1953 c.304 §32; repealed by 1969 c.493 §99]

316.272 Computation and payment on estate or trust. The taxable income of an estate or trust shall be computed in the same manner as in the case of an individual except as otherwise provided by this chapter. The tax shall be computed on such taxable income and shall be paid by the fiduciary.

[1969 c.493 §40]

316.275 [1953 c.304 §33; 1959 c.591 §19; subsection (2) derived from 1959 c.591 §21; repealed by 1969 c.493 §99]

316.277 Associations taxable as corporations exempt from chapter. (1) An association, trust or other unincorporated organization that is taxable as a corporation for federal income tax purposes is not subject to tax under this chapter, but is taxable as a corporation under ORS chapter 317 or 318, or both, as provided therein.

(2) An association, trust or other unincorporated organization that is not taxable as a corporation for federal income tax purposes but by reason of its purposes or activities is exempt from federal income tax except with respect to its unrelated business taxable income, is taxable under this chapter on such federally taxable income.

[1969 c.493 §41; 1973 402 §21]

316.279 Treatment of business trusts and business trusts income. A domestic or foreign business trust of the type defined in ORS 128.560 is subject to tax under ORS chapter 317 or 318 and amounts distributed by it to its shareholders shall be treated as distributions by a corporation for the purposes of ORS chapters 316, 317 and 318.

[1973 c.115 §2]

Note: 316.279 applies to tax years ending after December 31, 1971. 1973 c.115 §7.

316.280 [1953 c.304 §34; 1953 c.552 §8; 1955 c.256 §1; paragraph (d) of subsection (6) of 1957 Replacement Part derived from 1955 c.256 §2; repealed by 1959 c.581 §5 (316.281 enacted in lieu of 316.280)]

316.281 [1959 c.581 §6 (enacted in lieu of 316.280); subsection (8) derived from 1959 c.581 §11; 1965 c.99 §1; repealed by 1969 c.493 §99]

(Resident Estates and Trusts)

316.282 Definitions for ORS 316.282 to 316.298. (1) A "resident trust" means a trust of which the fiduciary is a resident of Oregon, or a trust the administration of which is carried on in Oregon.

(2) "Resident estate" means an estate of which the fiduciary was appointed by an Oregon court or the administration of which is carried on in Oregon.

(3) The "taxable income" of a resident estate or trust means its federal taxable income modified by the addition or subtraction, as the case may be, of its share of the fiduciary adjustment determined under ORS 316.287.

[1969 c.493 §§42, 43]

316.285 [1953 c.304 §35; repealed by 1959 c.581 §7 (316.286 enacted in lieu of 316.285)]

316.286 [1959 c.581 §8 (enacted in lieu of 316.285); subsection (6) derived from 1959 c.581 §11; repealed by 1969 c.493 §99]

316.287 "Fiduciary adjustment" defined; shares proportioned. (1) The "fiduciary adjustment" is the net amount of the modifications described in ORS 316.067 and 316.077 (ORS 316.077 being applicable if the estate or trust is a beneficiary of another estate or trust) that relates to its items of income or deduction of an estate or trust.

(2) The respective shares of an estate or trust and its beneficiaries (including solely for the purpose of this allocation, nonresident beneficiaries) in the fiduciary adjustment shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustment shall be in proportion to his share of the estate or trust income for such year, under state law or the terms of the instrument, that is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of the fiduciary adjustment shall be allocated to the estate or trust.

(3) The department may by regulation authorize the use of such other methods of determining to whom the items comprising the fiduciary adjustment shall be attributed, as may be appropriate and equitable, on such terms and conditions as the department may require.

[1969 c.493 §44]

316.290 [1953 c.304 §36; repealed by 1959 c.581 §9 (316.291 enacted in lieu of 316.290)]

316.291 [1959 c.581 §10 (enacted in lieu of 316.290); subsection (4) derived from 1959 c.581 §11; repealed by 1969 c.493 §99]

316.292 Credit for taxes paid another state or country. A resident estate or trust shall be allowed the credit provided in ORS 316.082 (relating to an income tax imposed by another state or foreign country) except that the limitation shall be computed by reference to the taxable income of the estate or trust.

[1969 c.493 §45]

316.295 [1953 c.304 §37; 1965 c.202 §1; repealed by 1969 c.493 §99]

316.296 [1965 c.154 §2; repealed by 1969 c.493 §99]

316.297 [1963 c.343 §2; repealed by 1969 c.493 §99]

316.298 Accumulation distribution credit. (1) A resident beneficiary of a trust whose adjusted gross income includes all or part of an accumulation distribution by such trust, as defined in section 665 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due under this chapter for all or a proportionate part of any tax, paid by the trust under this chapter for any preceding taxable year, that would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the Internal Revenue Code.

(2) The credit under this section shall not reduce the tax otherwise due from the beneficiary under this chapter to an amount less than would have been due if the accumulation distribution or his part thereof were excluded from his adjusted gross income.

[1969 c.493 §46]

316.299 [1965 c.178 §2; repealed by 1969 c.493 §99]

(Nonresident Estates and Trusts)

316.302 Definitions for ORS 316.302 to 316.317. A "nonresident estate or trust" means an estate or trust that is not a resident.

[1969 c.493 §47]

316.305 [1953 c.304 §38; 1963 c.283 §2; 1963 c.627 §7 (referred and rejected); repealed by 1969 c.493 §99]

316.306 [1955 c.608 §2; repealed by 1969 c.493 §99]

316.307 Taxable income of nonresident estate or trust. For purposes of ORS 316.302 to 316.317:

(1) Items of income, gain, loss and deduc-

tion mean those derived from or connected with sources in this state.

(2) Items of income, gain, loss and deduction entering into the definition of federal distributable net income include such items from another estate or trust of which the first estate or trust is a beneficiary.

(3) The source of items of income, gain, loss or deduction shall be determined under regulations prescribed by the department in accordance with the general rules in ORS 316.127 as if the estate or trust were a nonresident individual.

(4) The taxable income of a nonresident estate or trust consists of:

(a) Its share of items of income, gain, loss and deduction that enter into the federal definition of distributable net income;

(b) Increased or reduced by the amount of any items of income, gain, loss or deduction that are recognized for federal income tax purposes but excluded from the federal definition of distributable net income of the estate or trust;

(c) Less the amount of the deduction for its federal exemption.

[1969 c.493 §48]

316.310 [1953 c.304 §39; 1957 c.18 §1; repealed by 1969 c.493 §99]

316.312 Determination of Oregon share of income. (1) The share of a nonresident estate or trust of items of income, gain, loss and deduction entering into the definition of distributable net income and the share for purpose of ORS 316.127 of a nonresident beneficiary of any estate or trust in estate or trust income, gain, loss and deduction shall be determined as follows:

(a) To the amount of items of income, gain, loss and deduction that enter into the definition of distributable net income there shall be added or subtracted, as the case may be, the modifications described in ORS 316.067 and 316.077 to the extent they relate to items of income, gain, loss and deduction that also enter into the definition of distributable net income. No modification shall be made under this section that has the effect of duplicating an item already reflected in the definition of distributable net income.

(b) The amount determined under paragraph (a) of this subsection shall be allocated among the estate or trust and its beneficiaries (including, solely for the purpose of this allocation, resident beneficiaries) in proportion to their respective shares of federal distributable net income. The amounts so allocated have the same character as for federal income

tax purposes. If an item entering into the computation of such amounts is not characterized for federal income tax purposes, it has the same character as if realized directly from the source from which realized by the estate or trust, or incurred in the same manner as incurred by the estate or trust.

(c) If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the net amount determined under paragraph (a) of this subsection shall be in proportion to his share of the estate or trust income for such year, under state law or the terms of the instrument, that is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of such net amount shall be allocated to the estate or trust.

(2) The department may by regulation establish such other method or methods of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources in this state, and in the modifications related thereto, as may be appropriate and equitable.

[1969 c.493 §49]

316.315 [1953 c.304 §10; 1955 c.285 §1; subsection (4) of 1955 Replacement Part derived from 1955 c.285 §2; 1957 c.540 §1; 1959 c.593 §4 (referred and rejected); 1963 c.627 §8 (referred and rejected); 1967 c.127 §1; repealed by 1969 c.493 §99]

316.317 Credit to beneficiary for accumulation distribution. A nonresident beneficiary of a trust whose adjusted gross income derived from sources in this state includes all or part of an accumulation distribution by such trust, as defined in section 665 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due under this chapter, computed in the same manner and subject to the same limitation as provided by ORS 316.298 with respect to a resident beneficiary.

[1969 c.493 §50]

316.320 [1953 c.304 §41; 1957 c.73 §1; 1965 c.410 §5; repealed by 1969 c.493 §99]

316.325 [1953 c.304 §42; repealed by 1969 c.493 §99]

316.330 [1953 c.304 §43; 1955 c.580 §1; repealed by 1969 c.493 §99]

316.335 [1953 c.304 §44; 1957 (s.s.) c.15 §3; repealed by 1969 c.493 §99]

316.336 [1961 c.608 §2; repealed by 1969 c.493 §99]

316.337 [1957 c.16 §2; repealed by 1969 c.493 §99]

316.340 [1953 c.304 §45; 1953 c.552 §9; 1955 c.589 §1; repealed by 1969 c.493 §99]

PARTNERS AND PARTNERSHIPS

316.342 Partnership not taxable. A partnership as such is not subject to the tax imposed by this chapter. Persons carrying on business as partners are liable for the tax imposed by this chapter only in their separate or individual capacities.

[1969 c.493 §51]

316.345 [1953 c.304 §46; 1953 c.552 §10; 1959 c.593 §5 (referred and rejected); 1963 c.627 §9 (referred and rejected); 1965 c.337 §1; repealed by 1969 c.493 §99]

316.347 Partnership income has same character as under federal law. (1) Each item of partnership income, gain, loss or deduction has the same character for a partner under this chapter as it has for federal income tax purposes. If an item is not characterized for federal income tax purposes, it has the same character for a partner as if realized directly from the source from which realized by the partnership or incurred in the same manner as incurred by the partnership.

(2) If a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by a special provision in the partnership agreement with respect to such item, and the principal purpose of such provision is the avoidance or evasion of tax under this chapter, the partner's distributive share of such item and any modification required with respect thereto shall be determined in accordance with his distributive share of the taxable income or loss of the partnership generally (that is, exclusive of those items requiring separate computation under section 702 of the Internal Revenue Code).

[1969 c.493 §52]

316.350 [1953 c.304 §47; repealed by 1969 c.493 §99]

316.352 Income of nonresident partner. (1) In determining the adjusted gross income of a nonresident partner of any partnership, there shall be included only that part derived from or connected with sources in this state of the partner's distributive share of items of partnership income, gain, loss and deduction entering into his federal adjusted gross income, as such part is determined under regulations prescribed by the department in accordance with the general rules in ORS 316.127.

(2) In determining the sources of a nonresident partner's income, no effect shall be given to a provision in the partnership agreement which:

(a) Characterizes payments to the partner as being for services or for the use of capital, or allocated to the partner, as income or gain from sources outside this state, a greater proportion of his distributive share of partnership income or gain than the ratio of partnership income or gain from sources outside this state to partnership income or gain from all sources, except as authorized in subsection (4) of this section; or

(b) Allocates to the partner a greater proportion of a partnership item of loss or deduction connected with sources in this state than his proportionate share, for federal income tax purposes, of partnership loss or deduction generally, except as authorized in subsection (4) of this section.

(3) Any modification described in ORS 316.067 and 316.077 that relates to an item of partnership income, gain, loss or deduction, shall be made in accordance with the partner's distributive share, for federal income tax purposes of the item to which the modification relates, but limited to the portion of such item derived from or connected with sources in this state.

(4) The department may, on application, authorize the use of such other methods of determining a nonresident partner's portion of partnership items derived from or connected with sources in this state, and the modifications related thereto, as may be appropriate and equitable, on such terms and conditions as it may require.

(5) A nonresident partner's distributive share of items of income, gain, loss or deduction shall be determined under subsection (1) of ORS 316.347. The character of partnership items for a nonresident partner shall also be determined under subsection (1) of ORS 316.347. The effect of a special provision in a partnership agreement, other than a provision referred to in subsection (2) of this section, having as a principal purpose the avoidance or evasion of tax under this chapter, shall be determined under subsection (2) of ORS 316.347.

[1969 c.493 §53]

316.353 [1957 (s.s.) c.15 §6; subsection (6) derived from 1957 (s.s.) c.15 §8; 1959 c.92 §1; 1963 c.627 §12 (referred and rejected); 1965 c.410 §6; repealed by 1969 c.493 §99]

316.355 [1953 c.304 §48; repealed by 1969 c.493 §99]

316.360 [1953 c.304 §49; repealed by 1969 c.493 §99]

RETURNS; PAYMENTS

316.362 Persons required to make returns. An income tax return with respect to the tax imposed by this chapter shall be made by the following:

(1) Every resident individual (a) who is required to file a federal income tax return for the taxable year, or (b) who has federal net income of more than \$600 if single or more than \$1,200 if married, or (c) who, having attained the age of 65 before the close of his taxable year, has federal net income of more than \$1,200 if single, more than \$1,800 if married and his spouse has not attained the age of 65, or more than \$2,400, if both have attained the age of 65, before the close of the taxable year.

(2) Every nonresident individual (a) who has federal gross income from sources in this state of more than \$600 if single and \$1,200 if married, or (b) who, having attained the age of 65 before the close of his taxable year, has federal gross income from sources within this state of more than \$1,200 if single, more than \$1,800 if married and his spouse has not yet attained the age of 65, or more than \$2,400 if both have attained the age of 65, before the close of the taxable year, or (c) who have any taxable income.

(3) Every resident estate or trust that is required to file a federal income tax return.

(4) Every nonresident estate that has federal gross income of \$600 or more for the taxable year from sources within this state.

(5) Every nonresident trust that for the taxable year has from sources within this state (a) any taxable income, or (b) gross income of \$600 or more regardless of the amount of taxable income.

(6) Nothing contained in this section shall preclude the department from requiring any individual, estate or trust to file a return when, in the judgment of the department, a return should be filed.

[1969 c.493 §54]

316.365 [1953 c.304 §50; 1953 c.552 §11; 1957 c.586 §15; 1959 c.593 §6 (referred and rejected); 1961 c.411 §1; 1963 c.627 §13 (referred and rejected); repealed by 1969 c.493 §99]

316.367 Joint return by husband and wife. (1) A husband and wife may make a joint return with respect to the tax imposed by this chapter even though one of the spouses has neither gross income nor deductions, except that:

(a) No joint return shall be made under this chapter if the spouses are not permitted to file a joint federal income tax return;

(b) If the federal income tax liability of either spouse is determined on a separate federal return, their income tax liabilities under this chapter shall be determined on separate returns;

(c) If the federal income tax liabilities of husband and wife, other than a husband and wife described in subsection (2) of this section, are determined on a joint federal return, they shall file a joint return under this chapter and their tax liabilities shall be joint and several; and

(d) If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this chapter, they may elect to file separate or joint returns and pursuant to such election their liabilities shall be separate or joint and several.

(2) If either husband or wife is a resident and the other is a nonresident, they shall file separate income tax returns in this state on such forms as may be required by the department, in which event their tax liabilities shall be separate; but they may elect to determine their joint taxable income as if both were residents and, in such case, their liabilities shall be joint and several.
[1969 c.493 §55]

316.370 [1953 c.304 §51; repealed by 1969 c.493 §99]

316.372 Minor to file return; unpaid tax assessable against parent. A minor shall file his own return and include therein all items of income, including income attributable to his personal services, and such income shall not be included on the return of his parent. All expenditures by the parent or the minor attributable to such income are considered to have been paid or incurred by the minor. However, any tax assessed against the minor, to the extent, attributable to income from personal services, if not paid by the minor, for all purposes shall be considered as having also been properly assessed against the parent. For the purposes of this section the term "parent" includes an individual who is entitled to the services of a minor by reason of having parental rights and duties in respect of such minor.
[1969 c.493 §56]

316.375 [1953 c.304 §52; 1957 c.16 §3; repealed by 1969 c.493 §99]

316.377 Individual under disability. An income tax return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by

his duly authorized agent, his committee, guardian, conservator, fiduciary or other person charged with the care of his person or property other than a receiver in possession of only a part of the individual's property.
[1969 c.493 §57]

316.380 [1953 c.304 §53; repealed by 1969 c.493 §99]

316.382 Returns by fiduciaries. (1) An income tax return, in the name of the decedent, for any deceased individual shall be made and filed by his executor, administrator or other person charged with the care of his property, and this duty extends to any unfiled return prior to decedent's death. The tax shall be levied upon and collected from his estate. A final return of a decedent shall be due when it would have been due if the decedent had not died.

(2) The income tax return of an estate or trust shall be made and filed by the fiduciary thereof, whether the income is taxable to the estate or trust or to the beneficiaries thereof. If two or more fiduciaries are acting jointly, the return may be made by any one of them.
[1969 c.493 §58]

316.385 [1963 c.435 §2; repealed by 1969 c.493 §99]

316.387 Final account of a fiduciary; tax settlement. (1) No final account of a fiduciary shall be allowed by any court unless the account shows, and the judge of the court finds, that all taxes imposed by this chapter upon the fiduciary that have been payable have been paid, and that all taxes that may become due are secured by bond, deposit or other security acceptable to the department. No order closing an estate shall be entered unless the fiduciary files with the clerk of the court the department's certificate of release, or shows that 60 days have elapsed since the mailing to the department of a request for such release and that the department has not filed any objection to the final account.

(2) For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the department, on behalf of the state, may agree upon the amount of taxes at any time due or to become due from such fiduciaries under this chapter with respect to a tax return or returns of or for a decedent individual or an estate or trust, and payment in accordance with such agreement shall be in full satisfaction of the taxes to which the agreement relates.

[1969 c.493 §59; 1971 c.333 §3]

316.390 [1963 c.435 §3; repealed by 1969 c.493 §99]

316.392 Notice of qualification of receiver and others. Every receiver, trustee in bankruptcy, assignee for benefit of creditors or other like fiduciary, shall give notice of his qualification as such to the department, as may be required by regulation.
[1969 c.493 §80]

316.397 Change of status from resident to nonresident. The taxable income of an individual who changes his status during his taxable year from resident to nonresident or from nonresident to resident shall be determined as provided in this chapter for residents and for nonresidents as if the individual's taxable year for federal income tax purposes were limited to the period of his resident and nonresident status respectively. For purposes of making the computation required by this section, the personal exemptions and itemized deductions, exclusive of Oregon state income taxes as provided in subsection (2) of ORS 316.067, or standard deduction deducted on his federal tax return and the federal tax deduction shall be allowed in each period in the proportion that the federal adjusted gross income of the taxpayer from Oregon sources bears to the total federal adjusted gross income from all sources. If the numerator of the fraction is greater than the denominator, the proportion of 100 percent shall be used in the prorations required by this section.
[1969 c.493 §61; 1971 c.332 §1]

316.402 [1969 c.493 §62; repealed by 1971 c.332 §2]

316.405 [1965 c.410 §2; 1967 c.110 §1; repealed by 1969 c.493 §99]

316.406 [1959 c.591 §21; repealed by 1965 c.410 §7]

316.407 Time and place for filing returns and paying tax. (1) The income tax return required by this chapter shall be filed with the department on or before the 15th day of the fourth month following the close of the taxpayer's taxable year. A person required to make and file a return under this chapter, without assessment, notice or demand, shall pay any tax due thereon to the Department of Revenue on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return).

(2) The tax may be paid in four instalments, each consisting of one-fourth of the total amount of the tax. The first instalment shall be paid to the department at the time fixed by law for filing the return. The second

instalment shall be paid on or before three months thereafter. The third instalment shall be paid on or before six months thereafter. The fourth instalment shall be paid on or before nine months thereafter. However, if the income consists wholly or in part of wages, salaries, bonus or other emoluments for services as an employe, the tax shall be paid in instalments of not less than one-quarter of the amount of the tax remaining after crediting the total amount deducted from such wages, salary, bonus or other emoluments, pursuant to ORS 316.167. Taxes paid in instalments bear interest at the rate of one percent per month for each month or fraction of a month during which the tax or instalment remains unpaid, computed from the due date of the return to date of payment.

(3) If any instalment is not paid by the due date thereof, the department may, at its option, declare the entire unpaid balance of the tax immediately due and take such action as may be necessary to enforce collection thereof. If, at the request of the taxpayer, the time for filing the return is extended, interest at the rate of two-thirds of one percent per month or fraction of a month, from the time when the return was originally required to be filed to the time of payment, shall be added and paid, except that the interest rate shall be one percent per month where payment is made by instalments under subsection (2) of this section.

(4) If the total amount of the tax is \$25 or less, the whole amount of the tax shall be paid at the time of filing the return.

(5) The tax may be paid with uncertified check during such time and under such regulations as the department shall prescribe, but if a check so received is not paid by the bank on which it is drawn the taxpayer by whom such check is tendered remains liable for the payment of the tax and for all legal penalties the same as if the check had not been tendered.

[1969 c.493 §63; 1971 c.354 §6]

316.408 [1959 c.591 §2; 1963 c.388 §3; 1963 c.627 §14 (referred and rejected); repealed by 1965 c.410 §7]

316.410 [1959 c.591 §3; repealed by 1965 c.410 §7]

316.411 [1963 c.388 §§2, 4; repealed by 1965 c.410 §7]

316.412 [1959 c.591 §4; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.414 [1959 c.591 §5; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.415 [1965 c.410 §3; repealed by 1969 c.493 §99]

316.417 Date return considered made or advance payment made. (1) A return filed before the last day prescribed by law for the filing thereof is considered as filed on the last day. An advance payment of any portion of the tax made at the time the return was filed is considered as made on the last day prescribed by law for the payment of the tax or, if the taxpayer elected to pay the tax in instalments, on the last day prescribed for the payment of the first instalment. The last day prescribed by law for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer by the department.

(2) ORS 305.820 applies to returns filed by mail and to due dates that fall on a Saturday, Sunday or legal holiday.
[1969 c.493 §64]

316.420 [1959 c.591 §6; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.422 [1969 c.493 §65; repealed by 1971 c.354 §7]

316.425 [1965 c.410 §4; repealed by 1969 c.493 §99]

316.426 [1959 c.591 §7; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.430 [1959 c.591 §8; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.432 [1959 c.591 §9; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.434 [1959 c.591 §10; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.436 [1959 c.591 §11; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.438 [1959 c.591 §12; repealed by 1963 c.627 §23 (referred and rejected); repealed by 1965 c.410 §7]

316.440 [1959 c.591 §13; repealed by 1965 c.410 §7]

316.442 [1959 c.591 §14; repealed by 1965 c.410 §7]

316.444 [1959 c.591 §15; repealed by 1965 c.410 §7]

316.446 [1959 c.591 §16; repealed by 1965 c.410 §7]

316.448 [1959 c.591 §17; repealed by 1965 c.410 §7]

316.450 [1959 c.591 §18; repealed by 1965 c.410 §7]

316.454 [1965 c.248 §3; repealed by 1969 c.493 §99]

316.455 [1953 c.304 §54; 1953 c.552 §12; 1955 c.596 §2; 1957 c.586 §2; 1957 (s.s.) c.15 §4; 1963 c.486 §1; 1963 c.627 §15 (referred and rejected); 1965 c.248 §1; repealed by 1969 c.493 §99]

316.457 Department may require copy of federal return. If directed to do so by the department, through regulations or instructions upon the state income tax return form, every taxpayer required by this chapter to file an income tax return with the department shall also file with such return a true copy of the federal tax return filed by the taxpayer pursuant to the requirements of the Internal Revenue Code for the same taxable year. The department may, in its discretion, promulgate regulations or instructions that permit taxpayers to submit specified excerpts from federal returns in lieu of submitting copies of the entire federal return.
[1969 c.493 §66]

316.462 Change of election. Any election expressly authorized by this chapter may be changed on such terms and conditions as the department may prescribe by regulation.
[1969 c.493 §67]

316.467 Partnership information return. Every partnership having a resident partner or having any income derived from sources in this state, determined in accordance with the applicable rules as in the case of a non-resident individual, shall make a return for the taxable year setting forth all items of income, gain, loss and deduction, and the names and addresses of the individuals (whether residents or nonresidents) who would be entitled to share in the net income, if distributed, and the amount of the distributive share of each individual, and such other pertinent information as the department may prescribe by regulations and instructions. Such return shall be filed on or before the 15th day of the fourth month following the close of each taxable year. For purposes of this section, "taxable year" means a year or period which would be a taxable year of the partnership if it were subject to tax under this chapter.
[1969 c.493 §68]

316.472 Tax treatment of common trust fund; information return required. (1) The tax treatment of common trust funds and participants therein, under this chapter, is governed by the provisions of the Internal Revenue Code.

(2) Every bank or trust company maintaining a common trust fund shall make a return to the department for each tax year, stating specifically, with respect to such fund, the items of gross income and deductions, and shall include in the return information sufficient to identify the trusts and estates entitled

to share in the net income of the common trust fund and the amount of the proportionate share of each such participant. The return shall be made at such time as is designated by the department.
[1969 c.493 §69]

316.475 [Formerly 316.080; amended by 1961 c.218 §1; repealed by 1969 c.493 §99]

316.480 [1967 c.592 §7; 1969 c.340 §2; repealed by 1969 c.493 §99; see 316.097]

DISTRIBUTION OF REVENUE

316.502 Distribution of revenue to General Fund; working balance. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held by him in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million.
[1969 c.493 §70]

316.505 [1953 c.304 §55; 1953 c.552 §13; 1955 c.596 §3; subsection (3) derived from 1955 c.596 §4; 1957 c.586 §3; 1963 c.627 §16 (referred and rejected); repealed by 1969 c.493 §99]

316.510 [1953 c.304 §56; 1957 c.586 §4; repealed by 1969 c.493 §99]

316.512 [1965 c.592 §2; repealed by 1969 c.493 §99]

316.513 [1965 c.592 §3; repealed by 1969 c.493 §99]

316.515 [1953 c.304 §57; repealed by 1969 c.493 §99]

316.520 [1953 c.304 §58; repealed by 1957 c.632 §1 (314.355 enacted in lieu of 316.520)]

316.525 [1953 c.304 §59; repealed by 1969 c.493 §99]

316.530 [1953 c.304 §60; repealed by 1969 c.493 §99]

316.535 [1953 c.304 §61; repealed by 1957 c.632 §1 (314.360 enacted in lieu of 316.535)]

316.540 [1953 c.304 §62; repealed by 1969 c.493 §99]

316.545 [1953 c.304 §63; repealed by 1957 c.632 §1 (314.385 enacted in lieu of 316.545 and 317.355)]

316.550 [1953 c.304 §64; repealed by 1957 c.632 §1 (314.365 enacted in lieu of 316.550 and 317.365)]

316.555 [1953 c.304 §65; repealed by 1957 c.632 §1 (314.370 enacted in lieu of 316.555)]

316.560 [1953 c.304 §66; repealed by 1957 c.632 §1 (314.295 enacted in lieu of 316.560 and 317.375)]

316.565 [1953 c.304 §67; repealed by 1957 c.632 §1 (314.380 enacted in lieu of 316.565 and 317.380)]

316.570 [1953 c.304 §68; 1957 c.586 §16; 1959 c.632 §1; 1961 c.504 §2; 1969 c.166 §6; repealed by 1969 c.493 §99]

316.575 [1953 c.304 §69; 1955 c.595 §1; repealed by 1957 c.586 §19]

316.580 [1953 c.304 §70; 1955 c.595 §2; 1957 c.586 §17; renumbered 316.751]

316.585 [1953 c.304 §71; 1955 c.595 §3; 1957 c.586 §18; renumbered 316.770]

316.590 [1953 c.304 §72; repealed by 1969 c.493 §99]

316.605 [1953 c.304 §73; 1955 c.590 §1; repealed by 1957 c.632 §1 (314.405 enacted in lieu of 316.605 and 317.405)]

316.610 [1953 c.304 §74; 1953 c.552 §14; 1957 c.17 §1; repealed by 1957 c.632 §1 (314.410 enacted in lieu of 316.610 and 317.410)]

316.615 [1953 c.304 §75; 1953 c.552 §15; 1955 c.583 §1; 1957 c.23 §1; repealed by 1957 c.632 §1 (314.415 enacted in lieu of 316.615 and 317.415)]

316.620 [1953 c.304 §76; 1955 c.355 §1; repealed by 1957 c.632 §1 (314.420 enacted in lieu of 316.620, 317.370 and 317.420)]

316.625 [1953 c.304 §77; repealed by 1957 c.632 §1 (314.425 enacted in lieu of 316.625 and 317.425)]

316.630 [1953 c.304 §78; repealed by 1957 c.632 §1 (314.430 enacted in lieu of 316.630 and 317.430)]

316.635 [1953 c.304 §79; repealed by 1957 c.632 §1 (314.435 enacted in lieu of 316.635 and 317.435)]

316.640 [1953 c.304 §80; repealed by 1957 c.632 §1 (314.440 enacted in lieu of 316.640, 317.440 and 317.445)]

316.645 [1953 c.304 §81; 1961 c.504 §3; repealed by 1969 c.166 §8 and 1969 c.493 §99]

316.650 [1953 c.304 §82; 1953 c.552 §16; repealed by 1957 c.632 §1 (314.445 enacted in lieu of 316.650 and 317.455)]

316.655 [1953 c.304 §83; 1953 c.552 §17; repealed by 1957 c.632 §1 (subsections (1) and (2) of 314.450 enacted in lieu of 316.655 and 317.460)]

316.660 [1953 c.304 §84; repealed by 1957 c.632 §1 (314.455 enacted in lieu of 316.660 and 317.465)]

316.665 [1953 c.304 §85; 1953 c.552 §18; 1955 c.588 §1; repealed by 1957 c.632 §1 (314.460 enacted in lieu of 316.665 and 317.470)]

316.670 [1953 c.304 §86; repealed by 1957 c.632 §1 (314.465 enacted in lieu of 316.670 and 317.475)]

316.675 [1953 c.304 §87; 1953 c.552 §19; repealed by 1957 c.632 §1 (314.470 enacted in lieu of 316.675 and 317.480)]

316.705 [1953 c.304 §88; repealed by 1957 c.632 §1 (314.805 enacted in lieu of 316.705 and 317.505)]

316.706 [1957 c.586 §6; 1959 c.76 §1; 1961 c.506 §2; 1961 c.623 §1; repealed by 1969 c.493 §99]

316.710 [1953 c.304 §89; repealed by 1957 c.632 §1 (subsections (2), (3) and (4) of 306.040 enacted in lieu of 316.710)]

316.711 [1957 c.586 §7; 1959 c.593 §7 (referred and rejected); 1961 c.623 §2; repealed by 1969 c.493 §99]

316.714 [1957 c.586 §7; 1959 c.593 §8 (referred and rejected); 1963 c.627 §17 (referred and rejected); repealed by 1969 c.493 §99]

- 316.715** [1953 c.304 §90; repealed by 1957 c.632 §1 (314.810 enacted in lieu of 316.715)]
- 316.720** [1953 c.304 §91; repealed by 1957 c.632 §1 (314.815 enacted in lieu of 316.720 and 317.505)]
- 316.721** [1957 c.586 §12; repealed by 1969 c.493 §99]
- 316.725** [1953 c.304 §92; repealed by 1957 c.632 §1 (314.820 enacted in lieu of 316.725 and 317.520)]
- 316.730** [1953 c.304 §93; repealed by 1957 c.632 §1 (314.825 enacted in lieu of 316.730 and 317.525)]
- 316.731** [1957 c.586 §13; repealed by 1969 c.493 §99]
- 316.735** [1953 c.304 §94; repealed by 1957 c.632 §1 (314.830 enacted in lieu of 316.735 and 317.530)]
- 316.740** [1953 c.304 §95; 1957 c.75 §1; repealed by 1957 c.632 §1 (314.835 enacted in lieu of 316.740 and 317.535)]
- 316.741** [1957 c.586 §8; repealed by 1969 c.493 §99]
- 316.745** [1953 c.304 §96; repealed by 1957 c.632 §1 (314.840 enacted in lieu of 316.745 and 317.540)]
- 316.750** [1953 c.304 §97; repealed by 1957 c.632 §1 (314.845 enacted in lieu of 316.750 and 317.545)]
- 316.751** [Formerly 316.580; repealed by 1969 c.493 §99]
- 316.755** [1953 c.304 §98; repealed by 1957 c.632 §1 (314.850 enacted in lieu of 316.755)]
- 316.760** [1953 c.304 §99; repealed by 1957 c.632 §1 (314.855 enacted in lieu of 316.760 and 317.550)]
- 316.761** [1957 c.586 §9; 1963 c.627 §18 (referred and rejected); 1963 (s.s.) c.3 §1; repealed by 1969 c.493 §99]
- 316.770** [Formerly 316.585; amended by 1963 c.83 §1; repealed by 1969 c.493 §99]
- 316.775** [1957 c.586 §10; 1959 c.234 §3; repealed by 1969 c.493 §99]
- 316.780** [1957 c.586 §11; repealed by 1969 c.493 §99]
- 316.790** [1953 c.304 §116; 1957 c.528 §3; repealed by 1969 c.493 §99]

MISCELLANEOUS

316.802 Effect of chapter 493, Oregon Laws 1969. This chapter is intended to supersede any conflicting provisions of law in effect on August 22, 1969, to the extent of such conflict.
[1969 c.493 §71]

Note: Although ORS chapter 316 (1967 Replacement Part) was repealed by 1969 c.493 §99, two sections contained therein were amended by subsequent legislation: ORS 316.015 by 1969 c.520 §41 and ORS 316.060 by 1969 c.520 §42. For convenience of the user, these two sections are set forth below:

- 316.015.** The term "adjusted gross income" means the gross income minus:
 - (1) The deductions allowed by ORS 316.305 to 316.360 which:
 - (a) Are attributable to a trade or business carried on by the taxpayer, if such trade or business

does not consist of the performance of services by the taxpayer as an employee.

(b) Consist of expenses of travel, meals and lodging, paid or incurred by the taxpayer in connection with the performance by him of services as an employee, while away from home for a minimum period which lasts substantially longer than an ordinary day's work and during which his duties require him to obtain necessary rest away from such home.

(c) Consist of expenses, other than those described in paragraph (b) of this subsection, paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer.

(d) Are attributable to property held for the production of rents or royalties.

(e) Consist of federal income taxes paid or accrued during the tax year.

(f) Are attributable to nonbusiness bad debts or the worthlessness of securities.

(2) The deductions allowed by ORS 316.275 to 316.295 as losses from the sale or exchange of property.

(3) The expenses deductible under ORS 316.112.

(4) The deductions allowed by subsection (4) of ORS 316.405.

316.060. The rates shall be:

- (1) On the first \$500 of taxable income, or any part thereof, three percent.
- (2) On the second \$500 of taxable income, or any part thereof, four percent.
- (3) On the third \$500 of taxable income, or any part thereof, five percent.
- (4) On the fourth \$500 of taxable income, or any part thereof, six percent.
- (5) On all taxable income in excess of \$2,000, and not in excess of \$4,000, seven percent.
- (6) On all taxable income in excess of \$4,000, and not in excess of \$8,000, nine percent.
- (7) On all taxable income in excess of \$8,000, 9.5 percent.

316.805 [1953 c.304 §100; repealed by 1969 c.493 §99]

316.810 [1953 c.304 §101; repealed by 1969 c.493 §99]

316.815 [1953 c.304 §102; 1955 c.582 §1; repealed by 1969 c.493 §99]

316.820 [1953 c.304 §103; 1963 c.627 §19 (referred and rejected); repealed by 1969 c.493 §99]

316.825 [1953 c.304 §104; repealed by 1969 c.493 §99]

316.827 [1957 (s.s.) c.15 §7; last sentence derived from 1957 (s.s.) c.15 §8; 1963 c.627 §20 (referred and rejected); repealed by 1969 c.493 §99]

316.830 [1953 c.304 §105; repealed by 1969 c.493 §99]

316.835 [1953 c.304 §106; repealed by 1969 c.493 §99]

316.840 [1953 c.304 §107; 1961 c.506 §3; repealed by 1969 c.493 §99]

316.855 [1953 c.304 §108; 1963 c.305 §1; repealed by 1969 c.493 §99]

316.860 [1953 c.304 §109; repealed by 1969 c.493 §99]

316.865 [1953 c.304 §110; repealed by 1969 c.493 §99]

316.870 [1953 c.304 §111; repealed by 1969 c.493 §99]	316.885 [1953 c.304 §114; repealed by 1969 c.493 §99]
316.875 [1953 c.304 §112; repealed by 1969 c.493 §99]	316.990 [1953 c.304 §115; repealed by 1957 c.632 §1 (314.991 enacted in lieu of 316.990 and 317.990)]
316.880 [1953 c.304 §113; repealed by 1969 c.493 §99]	

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel

