

# Chapter 310

## 1983 REPLACEMENT PART

### Levy of Property Tax; Tax Reduction Programs

- LEVY OF TAXES**
- (Mobile Homes)
- 310.010 Determination of amount of tax for county and other purposes
- 310.020 Levy of tax to defray county expenses
- 310.030 Levy of taxes required or permitted by law
- 310.040 Reducing levy where necessity for budget item eliminated
- 310.050 Making levy in dollars and cents
- 310.060 Giving notice of levy
- 310.065 Procedure where notice of levy not given
- 310.070 Procedure when levy exceeds limitations
- 310.090 Computation of rate of levy
- 310.100 Taxes to apply to property shown by assessment roll; furnishing certificate showing aggregate valuation of taxable property
- 310.105 Deduction of offsets from levy where taxing district lies in two or more counties
- 310.110 Apportionment of levy where taxing district lies in two or more counties; estimates
- 310.125 Special rule for computing maximum amount of certain continuing levies; purpose
- 310.130 Tax limitations after expansion of boundaries of taxing unit
- 310.135 Establishing new tax base; inapplicable to certain school districts
- (Floating Homes)
- 310.622 Mobile homes eligible as homesteads under tax laws of state
- 310.623 Floating home eligible as homestead
- (Homestead and Rental Assistance)
- 310.630 Definitions for ORS 310.630 to 310.690
- 310.631 Certain tenant-stockholders considered owners of homesteads for purposes of ORS 310.630 to 310.690
- 310.632 Policy
- 310.635 Eligibility; amount; processing claims; treatment of payments
- 310.640 Homestead tax refund; deductions for other programs; application
- 310.641 Renter refund entitlement; computation
- 310.642 Computation of refund for floating homes
- 310.645 Limitations on refund
- 310.657 Submission of claim; adjustment of claim by department; determination of tax attributable to homestead; payment of refunds
- 310.672 Filing of claim by agent or guardian
- 310.677 Refund available to residents of nonprofit homes for the elderly; claim forms; computation of relief by corporation
- 310.679 Fuel and utility rate relief; eligibility determined by department
- 310.681 Weatherization refund
- 310.690 Department, assessors and tax collectors to cooperate; rules
- 310.692 Tax Refund Revolving Checking Account to pay refunds
- 310.695 Construction
- 310.706 Applicability of ORS chapters 305 and 314; interest on refunds
- (State Partial Payment)
- 310.810 Definitions for ORS 310.810 to 310.890
- 310.820 Determination of portion of tax on homestead payable by state
- 310.830 Entitlement of property for partial tax payment under ORS 310.810 to 310.890; filing of claim; appeal of failure to file
- 310.840 Procedure for approval, disapproval of application for payment; effect of change in use; appeal
- 310.850 Annual entitlement to partial payment; application by agent
- 310.860 Payment of taxes by state for homesteads
- 310.870 Identification of eligible property; state payment of prepaid taxes; tax statement
- 310.880 Procedure if payment made for unqualified property; roll correction
- 310.890 When corporation entitled to partial payment
- MAXIMUM RATES**
- 310.575 Maximum rates; how computed
- TAX REDUCTION PROGRAMS**  
(Generally)
- 310.585 Distribution of certain property tax relief moneys to counties
- 310.595 Determination of apportionment to counties

# REVENUE AND TAXATION

## CROSS REFERENCES

Action or proceeding with respect to levy, fiscal year with respect to which taken, 294.095  
Administration of revenue laws generally, Ch. 305  
Administrative appeals, 305.265 to 305.285  
Appeal procedure, 305.280  
Appeal to tax court; small claims alternative, 305.570  
Authority of tax court to determine deficiency, 305.575  
Claim for refund of any tax paid, 305.270  
Department of Revenue to exercise general supervision over property taxation, 306.115  
Error or informality as affecting assessment or tax, 312.060  
General provisions relating to property taxation, Ch. 306  
Identification cards for persons 60 years of age or older, 305.350 to 305.365  
Interest on deficiency, delinquency or refund, 305.220  
Interest or penalties on taxes not affected by taking or pendency of appeal, 305.565  
Levy limitations, computation of true cash value, 308.207  
Lien, taxes as a, 311.405  
Limitation of power of state, county, municipality, district or body to tax, Const. Art. XI, §11  
Poll or head tax prohibited, Const. Art. IX, §1a  
Procedure on appeal from order of Department of Revenue, effect of pendency of appeal, 305.560 to 305.575  
Procedures and limitations on property taxation by local governmental units, see General Index, Volume 6, index entries under topic heading TAXATION, subtopic headings "School taxes" and "Local taxation"  
Property annexed to city, taxation at reduced ratio, 222.111  
Public officer failing to perform statutory duty as to taxes, penalty, 305.990  
Special rules for assessment and taxation of timber and timberland, Ch. 321  
Tax Court, Oregon, 305.405 to 305.555  
Taxes to be levied only in pursuance of law, Const. Art. IX, §3  
Uniformity of taxation, Const. Art. I, §32; Art. IX, §9  
Verification of documents filed under tax laws, falsification prohibited, 305.810, 305.815  
When tax document deemed filed with tax official, 305.820

## LEVY OF TAXES

Levy and collection of tax on:  
Companies and utilities assessed by the Department of Revenue, 308.635  
Small timber tracts, adjustment tax upon classification, 321.750  
Procedure for and limitations on levy by municipal corporations, 294.305 to 294.520 (Local Budget Law), 294.605 to 294.705 (Tax Supervising and Conservation Commission Law)  
Relief of tax where not collected because of erroneous proceeding or other cause, 311.120  
State tax levy, 291.342, 291.344, 311.657, 311.658

### 310.010

Collection of levies of all taxing agencies with county taxes, 311.255  
Determination of estimated local levy, 294.381

### 310.090

Offsets of property tax levies:  
Adjustment tax proceeds, classified small timber tracts, 321.755  
Severance tax proceeds, eastern Oregon timber, 321.515

### 310.090 to 310.130

Computation when appeal of valuations or claim for exception or cancellation pending, 308.020

### 310.630 to 310.690

Assessment of tax deficiencies, 305.265  
Fraternity, sorority or cooperative housing organization, 307.460  
Identification cards for persons 60 years of age or older, 305.350 to 305.365  
Nonprofit corporation Housing Assistance Exemption; property tax, 307.241 to 307.245  
Property of nonprofit corporation providing housing; necessity of filing claim to secure exemption, 307.242  
Residential Landlord Tenant Act, 91.700 to 91.895

**LEVY OF TAXES**

**310.010 Determination of amount of tax for county and other purposes.** The county court or board of county commissioners of each county shall, in July of each year, estimate and determine the amount of money to be raised for county purposes for the current fiscal year, and also the several amounts to be raised in the county for other purposes, as required or authorized by law. The determination shall be entered in its records.

**310.020 Levy of tax to defray county expenses.** The county court or board of county commissioners for each county in the state shall, in July of each year, levy a tax upon all taxable property in the county sufficient in amount to defray the expenses of the county for the current fiscal year.

**310.030 Levy of taxes required or permitted by law.** The county court or board of county commissioners shall, in July of each year, levy all taxes which by law it is required to levy, and any other taxes which it may determine to levy and by law it is permitted to levy.

**310.040 Reducing levy where necessity for budget item eliminated.** If after a tax levy has been made by any county court or board of county commissioners and before the extension of the levy upon the tax rolls, the necessity for any item contained in the budget upon which the levy is based is eliminated by act of the Legislative Assembly, the county court or board of county commissioners shall by appropriate order reduce the amount of the levy by the amount of such item. Thereupon the levy shall be extended upon the rolls as so reduced.

**310.045** [1965 c.604 §2; repealed by 1969 c.612 §5]

**310.050 Making levy in dollars and cents.** All counties, cities, school districts and other corporations, which are vested with the power of levying taxes, shall make their total levy in dollars and cents, and not otherwise. [Amended by 1959 c.181 §1; part renumbered 310.065; 1967 c.293 §3; 1979 c.689 §15]

**310.060 Giving notice of levy.** (1) Not later than July 15 of each year, every city, school district or other public corporation authorized to levy a tax shall give to the assessor of the county in which the principal office of the tax-levying body is located the documents required by ORS 294.555 (2) and shall give to the clerk of such county, or if such tax-levying entity is located in more than one county then to the assessor and the clerk of each other county wherein any part

thereof is located, notice in writing of the tax levy made by it for the current fiscal year, accompanied by a true copy of its budget as finally adopted. The notice shall state:

(a) The total amount of money to be raised by taxation;

(b) The amount levied inside the constitutional limitation;

(c) The amount levied for the payment of bonded indebtedness or interest thereon;

(d) Each amount levied outside the constitutional limitation, the date when approved and the portion of each levy which will be financed partially by the State of Oregon and which will be financed completely by the local taxpayers without any partial state payment;

(e) The amount levied inside any statutory limitation;

(f) Each amount levied outside any statutory limitation and the date when approved;

(g) If the levy is a fixed rate serial levy described in ORS 280.060 (1)(b):

(A) The rate of levy, in dollars per thousand of assessed value, and the rate of levy declared on the ballot measure submitted to the electorate; and

(B) If the fixed rate serial levy will be funded partially by the state or will be financed completely by local taxpayers without any partial state payment; and

(h) The adjusted levy of the district as defined in ORS 310.810 for the year for which the certification is made.

(2) The Department of Revenue may prescribe the form of notice. All amounts shall be stated in dollars and cents and the rate of levy in dollars and cents per thousand dollars of assessed value, as required by law. If the notice is given to the assessor and the clerk of more than one county, a copy of each other such notice given shall accompany every notice given. Upon the giving of the notice, every school district immediately shall supply a copy thereof to the school superintendent of the county wherein the district is located. Immediately upon receipt thereof every such notice and copy shall be filed in the office of the receiving officer.

(3) For good and sufficient reason, the county assessor may make such extension of time for the giving of the notice as the county assessor considers reasonable. [Amended by 1955 c.259 §1; 1967 c.293 §4; 1973 c.333 §2; 1979 c.241 §28a; 1981 c.790 §12]

**310.065 Procedure where notice of levy not given.** If the written notice of a tax levy is not given to the county assessor at the

time specified, or as extended, under ORS 310.060, the assessor shall not include such levy in his computation of the rate percent of levy under ORS 310.090. The rate percent of such levy shall be computed by the tax collector with the assistance of the assessor and extended on the rolls in the manner provided by law. [Formerly part of 310.050]

**310.070 Procedure when levy exceeds limitations.** If the levy reported to the clerk and assessor under ORS 310.050 is in excess of the constitutional or statutory limitations, or both, the assessor, upon the advice of the Department of Revenue, shall extend upon the tax roll of the county only such part of the levy as will comply with the constitutional and statutory limitations and requirements governing the levy. [Amended by 1967 c.293 §5; 1971 c.646 §3; 1981 c.790 §13; 1983 s.s. c.5 §19]

**310.080** [Repealed by 1957 c.626 §1]

**310.081** [Subsections (1) and (2) of 1961 Replacement Part enacted as 1957 c.626 §11; subsection (3) of 1957 Replacement Part enacted as part of 1957 s.s. c.2 §4; 1959 c.388 §9; repealed by 1963 c.570 §33]

**310.082** [1957 s.s. c.2 §4; repealed by 1959 c.388 §15]

**310.084** [1957 c.626 §12; repealed by 1963 c.570 §33]

**310.090 Computation of rate of levy.** Subject to ORS 310.070, the county assessor shall compute the rate of levy for each tax-levying body by dividing the assessed valuation into the total amount of money proposed to be raised by taxation, and the rate when so computed shall be expressed in the nearest even amount of dollars and cents, per thousand dollars of assessed value, that will produce the amount of money required to be raised. [Amended by 1967 c.293 §11]

**310.100 Taxes to apply to property shown by assessment roll; furnishing certificate showing aggregate valuation of taxable property.** Each tax levied by any municipal corporation, taxing district or political subdivision shall apply to all the taxable property therein, as shown by the assessment roll last compiled by the assessor. The assessor, upon the application of the governing body or of the duly accredited officer of any such municipal corporation, taxing district or political subdivision, shall furnish a certificate, properly verified, showing the aggregate valuation of the taxable property therein.

**310.105 Deduction of offsets from levy where taxing district lies in two or more counties.** (1) If a taxing district lying in two or more counties is entitled to offsets which

have been provided by statute, those offsets, except offsets for eastern Oregon severance tax provided in ORS 321.405 to 321.520, shall be deducted from the levy certified to the assessor or assessors before the apportionment provided in ORS 310.110 is made.

(2) The purpose of this section is to insure that the rate of taxation is uniform throughout the taxing district. [1971 c.720 §1; 1977 c.892 §37; 1979 c.438 §4]

**310.110 Apportionment of levy where taxing district lies in two or more counties; estimates.** (1) If a taxing district lies in two or more counties, the total amount of taxes levied by the district shall be apportioned on the basis of the equalized assessed value for the current assessment year, in the proportion that the equalized assessed value of the part of the district lying in each county bears to the equalized assessed value of the whole district. However, if a boundary change affecting such district becomes effective as to the levy being apportioned, an adjustment of the equalized assessed value shall be made so as to reflect said boundary change.

(2) Any assessor who is unable to certify the current assessed value for any joint district lying partially in the county by August 25 shall, with the cooperation of the Department of Revenue, estimate as closely as practicable the assessed value of that district for the purpose of apportioning the taxes to be levied by the joint district in the current year as equitably as is possible. The estimate shall be completed and certified to the assessor or assessors of the other counties on the fifth business day after August 25 and shall be used as the basis for the apportionment required by this section.

(3) Notwithstanding any provision of ORS 321.405 to 321.520, timber shall be considered as though it remained on the tax rolls at the appraised values established pursuant to ORS 321.485 (3), but only for the purpose of apportionment of the levy required by subsection (1) of this section. [Amended by 1953 c.194 §2; 1963 c.274 §1; 1967 c.199 §1; 1971 c.482 §1; 1977 c.892 §38; 1979 c.438 §5; 1981 c.804 §86]

**310.120** [Repealed by 1977 c.730 §4]

**310.125 Special rule for computing maximum amount of certain continuing levies; purpose.** (1) Effective for the fiscal year 1962-1963 and subsequent fiscal years, the authorized amount of any continuing property tax levy described in subsection (2) of this section shall be computed by multiplying the current true cash value of taxable property to which

the voted millage or percentage is to be applied by the ratio assigned by the Department of Revenue applicable to the county of the taxing unit involved as of January 1 of the calendar year in which the continuing levy was approved by the electors of the unit.

(2) The provisions of subsection (1) of this section shall apply only to continuing property tax levies which were approved by the electors of the taxing unit involved in a measure which:

(a) Was voted upon prior to July 21, 1953 (the effective date of ORS 310.400);

(b) Contained a reference to a millage or percentage of the property valuation of the taxing unit as either the sole basis or the upper limit of the amount of levy being proposed; and

(c) Was intended to apply the specified millage or percentage to the assessed valuation of property in the taxing unit.

(3) It is the purpose of this section to eliminate the unintended effect of changing county assessment ratios on property tax levies of a continuing nature which were voted in terms including a reference to a millage or percentage of the property valuation of the taxing unit involved. The Legislative Assembly finds that those electors who approved such measures assumed that assessment ratios would remain relatively stable and did not intend that their voted levy could be raised or lowered at will in future years by the county assessor or the legislature in changing the assessment ratio applicable to their property.

(4) This section does not apply to levies which were approved for the purpose of financing a fire and police disability and retirement fund. [1961 c.719 §§1, 2; 1975 c.189 §1]

**310.130 Tax limitations after expansion of boundaries of taxing unit.** When the boundaries of a county, municipality, district or other body to which the power to levy a tax shall have been delegated, have been expanded through annexation of territory, then for the purpose of applying the limitation contained in section 11, Article XI, Oregon Constitution, the tax base of said taxing unit for the fiscal year next following the annexation shall be increased by an amount equal to the equalized assessed valuation of the taxable property in the annexed territory for the fiscal year of the annexation multiplied by the millage rate within the tax base of the annexing unit for the fiscal year of the annexation, plus six percent of said amount.

**310.135 Establishing new tax base; inapplicable to certain school districts.** (1) In any year in which a proposal to establish a

new tax base may be submitted to the electors under section 11, Article XI of the Oregon Constitution, each taxing unit to which the power to levy an ad valorem property tax has been delegated shall submit to the electors the question of establishing a new tax base if:

(a) In three out of the four consecutive fiscal years immediately preceding the year in which a tax base proposal may be submitted to the electors, the taxing unit has submitted the question to the electors, received approval, and has levied outside its tax base for general operations under paragraph (a) of subsection (2) of section 11, Article XI, Oregon Constitution; and

(b) The taxing unit has not submitted to the electors and received approval of a new tax base in the even-numbered year immediately preceding.

(2) This section does not apply to a school district that is required to submit a tax base proposal under ORS 328.542. [1979 c.241 §53]

**Note:** 310.135 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 310 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## ELECTION UPON QUESTION OF INCREASING TAX LEVIES

**310.310 Manner of calling and holding elections.** Elections for voting upon the question of increasing the tax levy in the counties, municipalities and districts not possessing a separate legislative department, shall be called and held in the manner respectively provided by ORS 310.330 to 310.395. [Amended by 1953 c.311 §7]

**310.320** [Repealed by 1953 c.311 §7]

**310.330 Municipal corporation tax levy; notice; election.** (1) Whenever it is necessary in the estimation of the governing body of a municipal corporation to increase the amount of the tax levy over the amount limited by the Constitution except on vote of the people, the governing body shall make and enter an order or resolution for a special election on the question and shall prepare and file a ballot title with the county clerk not later than the date specified in the election law applicable to the particular municipal corporation. The county clerk shall give notice of the election as provided in the general election laws.

(2) The election thus called shall be held on the date specified in the order or resolution and conducted in the same manner as other general or special elections are conducted for the municipal corporation.

(3) As used in this section, "municipal corporation" has the meaning given that term by ORS 294.311 (19). [Amended by 1953 c.311 §7; 1967 c.105 §9; 1977 c.301 §14; 1979 c.316 §15; 1981 c.173 §46; 1981 c.391 §5a; 1983 c.350 §137]

**310.340** [Amended by 1953 c.311 §7; 1967 c.105 §10; 1979 c.316 §18; 1981 c.391 §6; repealed by 1981 c.173 §56]

**310.350** [Amended by 1979 c.316 §16; repealed by 1981 c.391 §13]

**310.360** [Amended by 1953 c.584 §2; 1965 c.100 §125; 1971 c.646 §2; 1975 c.770 §2; repealed by 1981 c.391 §13]

**310.370** [Repealed by 1971 c.647 §149]

**310.380** [Amended by 1953 c.311 §7; 1979 c.316 §17; repealed by 1981 c.391 §13]

**310.385** [1971 c.646 §1; repealed by 1981 c.391 §13]

**310.390** **Ballot title for levy in excess of base; oral statement in district not using printed ballot.** (1) Notwithstanding ORS 250.035, the ballot title of any measure which authorizes a tax levy in addition to the tax base provided in section 11, Article XI of the Oregon Constitution or which establishes a new tax base shall consist of:

(a) A caption of not more than 10 words by which the measure is commonly referred;

(b) A question of not more than 20 words which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement of not more than 150 words, explaining the chief purpose of the measure and giving reasons for the measure.

(2) The statement in the ballot title required in this section shall be plainly worded and factual and shall avoid as far as practicable the use of technical terms. The statement shall not advocate a yes or a no vote on the question.

(3) When the vote is taken by the electors of a road district or other district not using printed ballots in holding its elections, the oral statement of the question as shown by the records of the elections or the meetings at which they are held is sufficient. [Amended by 1953 c.311 §7; 1981 c.391 §7]

**310.395** **Ballot statements; excluded levies.** (1) Notwithstanding any other law and when not inconsistent with or otherwise provided for in the Oregon Constitution, whenever a proposed tax levy, whether a continuing fixed levy, continuing levy or levy for a single year, is submitted to a vote of the people by this state or any county, municipality, district or body to

which the power to levy a tax has been delegated, the statement in the ballot title for the measure submitted shall state the total amount of money to be raised by the proposed levy, in dollars and cents. If the statement in the ballot title for the measure submitted includes an estimated tax impact, it shall be based on the most current estimate of assessed value from the county assessor. The measure shall bear the statement: "The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate."

(2) Subsection (1) of this section does not apply to a levy described in ORS 280.060 (1)(b). For a levy described in ORS 280.060 (1)(b), an estimate of the total amount of money to be raised for each year of the proposed levy shall be stated in dollars and cents. If the levy described in ORS 280.060 (1)(b) raises more money than estimated, the excess collections above that estimate shall be considered a budget resource for the levy fund in the next fiscal year of the subdivision. This section has no application to elections and levies with respect to bonds, for which provision is made in ORS 287.004 to 287.026 and 287.052 to 287.528 or other laws.

(3) The statement or statements required by this section shall be added to and made a part of the 150 word statement required by ORS 310.390. The number of words contained in the statement required by this section shall not be included in the 150 word limitation. [1967 c.293 §2; 1971 c.646 §4; 1973 c.105 §1; 1977 c.730 §3; 1979 c.241 §28; 1981 c.391 §8; 1981 c.790 §1; 1983 c.514 §18; 1983 c.740 §89; 1983 s.s. c.5 §20]

**310.400** [1953 c.133 §1; repealed by 1971 c.646 §6]

**310.402** **Tax base elections to be held only at primary or general election; ballot title; notice.** (1) Under subsection (5), section 11, Article XI of the Oregon Constitution, tax base elections shall be held only at a regular state-wide general or primary election. The ballot title for the election shall comply with ORS 310.390 and shall specify in dollars and cents the amount of tax base in effect during the current fiscal year in which the election occurs and the amount of tax base in dollars and cents submitted to the electors for approval. The governing body of the municipal corporation holding the tax base election shall prepare and file a ballot title with the county clerk not later than the date specified in the election law applicable to the particular municipal corporation. The county clerk shall give notice of the election as provided in the general election laws.

(2) As used in this section, "municipal corporation" has the meaning given that term by ORS 294.311 (19). [1973 c.339 §2; 1977 c.884 §15; 1981 c.173 §47; 1981 c.391 §9]

310.410 [1957 c.426 §1; repealed by 1967 c.293 §37]

### MAXIMUM RATE

**310.575 Maximum rate; how computed.** (1) Beginning January 1, 1984, and for each year thereafter, except as provided in subsection (4) of this section, and in addition to the levy of taxes to pay bond principal and interest and in addition to the levy of serial tax levies authorized under ORS 280.040 to 280.130, the maximum rate that a taxing unit may levy in any year against any taxable property in the unit for ad valorem taxes is the higher of:

- (a) The 1983-1984 net tax rate.
- (b) The 1982-1983 net tax rate.
- (c) The 1981-1982 net tax rate.

(d) The rate necessary to raise the amount authorized within the unit's tax base, whether the tax base is established or increased before or after January 3, 1984.

(e) For new taxing units created before or after January 3, 1984, and which have never levied an ad valorem tax, the tax rate necessary to raise the amount contained in its first ad valorem tax levy.

(f) The rate necessary to raise the amount of ad valorem tax authorized by subsection (2) of this section.

(g) The temporary rate approved by the people under subsection (3) of this section.

(h) The net tax rate in any previous year in which the maximum rate imposed by this section was determined under paragraph (f) of this subsection. If the maximum rate in such previous year included a temporary increase that has expired, the net tax rate under this paragraph shall be determined as if the temporary increase had not existed in such previous year.

(2) If the assessed value of a taxing unit grows less than five percent in any year, the unit may levy in dollars and cents, in addition to the levy of taxes to pay bond principal and interest or serial tax levies authorized by ORS 280.040 to 280.130, the larger of:

(a) The amount authorized to be levied under paragraphs (a) to (e) or (g) of subsection (1) of this section; or

(b) The amount levied within the limit imposed by this section in the preceding year, plus six percent, except that the amount levied

in the preceding year shall not include any levy authorized by a temporary rate increase described in subsection (3) of this section that has expired.

(3)(a) A taxing unit may submit to the electors of the unit the question of temporarily increasing the tax rate limitation of the unit established under paragraphs (a) to (f) of subsection (1) of this section for a period not to exceed three years.

(b) The unit shall not submit a tax rate limitation measure provided by paragraph (a) of this subsection or a tax base increase measure authorized by section 11, Article XI of the Oregon Constitution at more than two elections for a given fiscal year. Except as provided in section 11, Article XI of the Oregon Constitution, the elections authorized by this section may be held on any of the election dates provided in ORS 255.345.

(c) The rate limitation increase measure authorized by this subsection may be combined with a measure to authorize a tax levy outside a taxing unit's tax base into a single measure. The passage of the single measure will both increase the rate limitation temporarily and give the taxing unit additional levying authority outside its tax base.

(4)(a) Subject to paragraph (b) of this subsection and if a taxing unit is unable to fund its operations for the ensuing year at the same dollar level as was spent for operations in the current year because of a reduction in non ad valorem tax revenues the taxing unit may levy in dollars and cents, in addition to the levy of taxes to pay bond principal and interest or to the levy serial taxes under ORS 280.040 to 280.130, an amount necessary to maintain the operations of the unit at the same dollar amount spent in the current fiscal year.

(b) The increased levying authority granted by this subsection shall not be available to any taxing unit if the reduction in non ad valorem tax revenues is caused by any act of the governing body.

(5)(a) If two or more taxing units are consolidated to form a new taxing unit, the new taxing unit's rate limitation will be determined under paragraph (e) of subsection (1) of this section.

(b) If two or more districts the boundaries of which do not overlap merge, the tax rate limitation of the continuing district before the merger shall be the tax rate limitation of the district after the merger unless changed as provided in this section.

(c) If two or more districts the boundaries of which overlap merge, the rate limitation of the continuing district shall be computed by adding the dollar amounts described in subparagraphs (A) and (B) of this paragraph and dividing the sum of those amounts by the assessed value of all the taxable property in the continuing district.

(A) The dollar amount of this subparagraph is obtained by multiplying the assessed value of all the taxable property in the district by the rate limitation of the continuing district.

(B) In those areas that are overlapping, the dollar amount is the sum of the assessed value of each overlapped area multiplied by the rate limitation of the district within that overlapped area which is being merged into the continuing district.

(C) For purposes of subparagraphs (A) and (B) of this paragraph:

(i) "Assessed value" means the assessed value in the fiscal year in which the merger occurred.

(ii) "Rate limitation" means the rate limitation in effect in the fiscal year in which the merger occurred.

(6) For purposes of this section, "net tax rate" means the tax rate extended on the tax roll for a given fiscal year minus any part of that tax rate which represents the levy extended on the roll for the payment of bond principal and interest or extended for a serial levy authorized pursuant to ORS 280.040 to 280.130. [1983 s.s. c.5 §1]

**Note:** 310.575 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 310 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### TAX REDUCTION PROGRAMS (Generally)

**310.585 Distribution of certain property tax relief moneys to counties.** Property tax relief money paid to the county treasurer pursuant to law, such as but not limited to senior citizens' property tax relief, inventory property tax relief, local property tax relief and such other property tax relief as may be hereafter enacted by the State of Oregon which do not require that the amounts be offset against a particular type of district's levy, shall be distributed by the county treasurer with the assistance of the tax collector to the taxing districts of the county in accordance with the schedule of percentages computed under ORS 311.390. [1969 c.595 §2]

**310.595 Determination of apportionment to counties.** To carry out the legislative intent of those statutes contained in Oregon

Revised Statutes requiring the county assessor, county treasurer or county tax collector to distribute moneys in the proportion that the rate percent of levy for each taxing unit bears to the total rate percent of levy of all units as shown on the tax roll for the fiscal year, the rates to be used for such apportionment shall be those specified in ORS 310.090 which are the computed rates necessary to raise the amounts required by ORS 311.105 (1)(d) for each district shown in the certificate filed with the tax collector under ORS 311.115 for such year. [1969 c.595 §3]

**310.600** [Formerly part of 310.710; 1969 c.612 §4; repealed by 1971 c.544 §7]

**310.605** [1965 c.604 §§1, 12; repealed by 1969 c.612 §5]

**310.608** [1969 c.612 §§1, 2; 1973 c.670 §1; 1977 c.819 §1; 1979 c.692 §5; 1981 c.374 §19; renumbered 307.400]

**310.610** [1965 c.604 §§5, 6; repealed by 1969 c.612 §5]

**310.611** [1977 c.819 §2; repealed by 1979 c.692 §13]

**310.615** [1965 c.604 §§4, 7, 8; 1967 c.521 §3; repealed by 1969 c.612 §5]

**310.620** [1965 c.604 §9; repealed by 1969 c.612 §5]

### (Mobile Homes)

**310.622 Mobile homes eligible as homesteads under tax laws of state.** A mobile home assessed under the ad valorem tax laws of this state shall be eligible to be a homestead for the purposes of all tax laws of this state giving a right or privilege to a homestead. For those mobile homes assessed as real property, the mobile home homestead includes land and improvements to the same extent that a homestead would be recognized if the mobile home were a conventional home. [1971 c.529 §11; 1977 c.884 §16]

### (Floating Homes)

**310.623 Floating home eligible as homestead.** A floating home, as defined in ORS 488.705, assessed under the property tax laws of this state shall be eligible to be a homestead for the purposes of all tax laws of this state giving a right or privilege to a homestead. [1977 c.615 §6]

**310.625** [1965 c.604 §10; 1969 c.595 §4; repealed by 1969 c.612 §5]

**(Homestead and Rental Assistance)**

**310.630 Definitions for ORS 310.630 to 310.690.** As used in ORS 310.630 to 310.690:

- (1) "Department" means the Department of Revenue.
- (2) "Director" means the Director of the Department of Revenue.
- (3) "Fuel and utility payments" include payments for heat, lights, water, sewer and garbage made solely to secure those commodities or services for the homestead of the taxpayer. "Payments for heat" mean those payments made to secure the commodities or services to be used as the principal source of heat for the homestead of the taxpayer and includes payments for natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use as a primary source of heat for the homestead. "Fuel and utility payments" do not include telephone service.
- (4) "Gross rent" means contract rent paid plus the fuel and utility payments made for the homestead in addition to the contract rent, during the calendar year for which the claim is filed.
- (5) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal property, whether owned or rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.
- (6) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing in the homestead during any part of the calendar year for which a claim is filed.
- (7) "Household income" means the aggregate income of the taxpayer and the spouse of the taxpayer who reside in the household, that was received during the calendar year for which the claim is filed. "Household income" includes payments received by the taxpayer or the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor child or minor children who are members of the household.
- (8) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code of 1954, as amended on or before December 31, 1982, even where the amendments take effect or become operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:
  - (a) There shall be added to adjusted gross income the following items of otherwise exempt income:
    - (A) The gross amount of any otherwise exempt pension less return of investment, if any.
    - (B) Child support received by the taxpayer.
    - (C) Inheritances.
    - (D) Gifts and grants, the sum of which are in excess of \$500 per year.
    - (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.
    - (F) Life insurance proceeds.
    - (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.
    - (H) Personal injury damages.
    - (I) Sick pay which is not included in federal adjusted gross income.
    - (J) Strike benefits.
    - (K) Worker's compensation, except for reimbursement of medical expense.
    - (L) Military pay and benefits.
    - (M) Veteran's benefits.
    - (N) Payments received under the federal Social Security Act.
    - (O) Welfare payments.
    - (P) Nontaxable dividends.
    - (Q) Unemployment benefits.
    - (R) Nontaxable interest not included in federal adjusted gross income.
    - (S) Rental allowance paid to a minister that is excluded from federal gross income.
    - (T) Income from sources without the United States that is excluded from federal gross income.
  - (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:
    - (A) The amount of the deduction for the percentage of the excess long term capital gains less short term capital losses provided by section 1202 of the federal Internal Revenue Code of 1954.
    - (B) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties.
    - (C) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
    - (D) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,

profession or other activity entered into for the production or collection of income.

(E) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for the production of rents, royalties or other income.

(F) The amount of any net operating loss carryovers or carrybacks included in federal adjusted gross income.

(G) The amount of moving expenses deducted from federal gross income.

(H) The amount of the deduction for two-earner married couples provided by section 221 of the Internal Revenue Code which was deducted on the federal return from federal gross income.

(I) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316.707 to 316.737 (sections 70, 73 and 76, chapter 162, Oregon Laws 1983).

(c) "Income" does not include any governmental grant which must be used by the taxpayer for rehabilitation of the homestead of the taxpayer or the amount of any payments made pursuant to ORS 310.630 to 310.690.

(9) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, including the right to use the personal property located therein. "Contract rent" does not include rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the homestead. "Contract rent" does not include advanced rental payments for another period and rental deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each other at arm's length, and the department is satisfied that the contract rent charged was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630 to 310.690. "Contract rent" for purposes of payments made to fraternities, sororities or cooperative housing organizations shall be as provided in ORS 307.460 (6).

(10) "Owned" includes being purchased under a recorded instrument of sale.

(11) "Rent constituting property taxes" means 17 percent of the contract rent actually paid in any calendar year by a taxpayer and the household of the taxpayer for the right to occupy their homestead in the calendar year, and which

rent constitutes the basis of a claim for property tax refund submitted in the succeeding calendar year for relief under ORS 310.630 to 310.690 by the taxpayer.

(12) "Statement of contract rent for which refund is claimed" means a declaration by the applicant, under penalties of false swearing, that the amount of contract rent designated is the actual amount both incurred and paid during the year for which a refund is claimed.

(13) "Taxpayer" means an individual whose homestead as of December 31, if the taxpayer is an owner, or if the taxpayer is a renter, during all or a portion of the year for which refund is claimed is the subject, directly or indirectly, of property tax levied by this state or a political subdivision or of payments made in lieu of taxes. If the taxpayer is a renter, the taxpayer must be residing in this state on December 31 of the year for which refund is claimed. [1971 c.747 §2; 1973 c.752 §1; 1975 c.616 §1; 1977 c.90 §3; 1977 c.841 §1; 1979 c.693 §1; 1979 c.780 §11; 1981 c.624 §1; 1982 s.s.1 c.18 §1; 1983 c.162 §62; 1983 c.634 §2]

**Note:** Section 6, chapter 613, Oregon Laws 1981, as amended by section 2, chapter 18, Oregon Laws 1982 (first special session), provides:

**Sec. 6.** Notwithstanding the definition of income contained in ORS 310.630 (8), for purposes of determining the amount of property tax refund payable under ORS 310.630 to 310.690 in 1982 or 1983 on the basis of 1981 or 1982 household income, whichever is applicable, "income" means "adjusted gross income" as defined in the federal Internal Revenue Code of 1954, as amended on December 31, 1980, relating to the measurement of taxable income of individuals, estates and trusts with the following modification:

(1) There shall be added to adjusted gross income the following items of otherwise exempt income:

(a) The gross amount of any otherwise exempt pension less return of investment, if any.

(b) Child support received by the taxpayer.

(c) Inheritances.

(d) Gifts and grants, the sum of which are in excess of \$500 per year.

(e) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.

(f) Life insurance proceeds.

(g) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

(h) Personal injury damages.

(i) Sick pay which is not included in federal adjusted gross income.

(j) Strike benefits.

(k) Worker's compensation, except for reimbursement of medical expense.

(L) Military pay and benefits.

(m) Veteran's benefits.

(n) Payments received under the federal Social Security Act.

(o) Welfare payments.

(p) Nontaxable dividends.

(q) Unemployment benefits.

(r) Nontaxable interest not included in federal adjusted gross income.

(s) Rental allowance paid to a minister that is excluded from federal gross income.

(t) Income from sources without the United States that is excluded from federal gross income.

(2) Adjusted gross income shall be increased due to the disallowance of the following deductions:

(a) The amount of the deduction for the percentage of the excess long term capital gains less short term capital losses provided by section 1202 of the federal Internal Revenue Code of 1954.

(b) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties.

(c) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

(d) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business, profession or other activity entered into for the production or collection of income.

(e) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for the production of rents, royalties or other income.

(f) The amount of any net operating loss carryovers or carrybacks included in federal adjusted gross income.

(g) The amount of moving expenses deducted from federal gross income.

(3) "Income" does not include any governmental grant which must be used by the taxpayer for rehabilitation of the homestead of the taxpayer or the amount of any payments made pursuant to ORS 310.630 to 310.690.

**Note:** Section 63, chapter 162, Oregon Laws 1983, provides:

**Sec. 63.** The amendments to ORS 316.012 by section 59 of this Act, section 61 of this Act and the amendments to ORS 310.630 by section 62 of this Act apply to tax years beginning on or after January 1, 1983.

**310.631 Certain tenant-stockholders considered owners of homesteads for purposes of ORS 310.630 to 310.690.** (1) A tenant-stockholder of a cooperative housing corporation shall be entitled to the owner property tax refund allowed under ORS 310.640 and

to the homestead tax payment under ORS 310.820 as provided in this section if:

(a) The tenant-stockholder may deduct from gross income for income tax purposes, pursuant to section 216 of the Internal Revenue Code, amounts paid or accrued to a cooperative housing corporation that represent tenant-stockholder's proportionate share of the property taxes paid or incurred by the corporation that are the subject of the property tax refund claim; and

(b) The apartment or unit owned or leased by the cooperative housing corporation that the tenant-stockholder is entitled to occupy due to status as a tenant-stockholder is the principal dwelling of the tenant-stockholder.

(2) For purposes of computing the refund to the tenant-stockholder, the property tax amount shall be the amount deductible, representing the proportionate share of property taxes, by the tenant-stockholder pursuant to section 216 of the Internal Revenue Code. For purposes of computing the state partial payment to the tenant-stockholder, the property tax amount shall be the property tax extended against the apartment or unit for the current year, determined under ORS 310.810 to 310.890.

(3) Each tenant-stockholder claiming the refund or payment granted under this section shall obtain a special form prescribed by the Department of Revenue for this purpose, complete the form and submit it to the department as provided under rules adopted by the department.

(4) As used in this section, "tenant-stockholder" and "cooperative housing corporation" have the meaning given those terms by section 216 of the Internal Revenue Code. [1977 c.90 §2; 1979 c.241 §14c; 1981 c.624 §4]

**310.632 Policy.** The Legislative Assembly finds that:

(1) There is a serious deficiency of rental housing available within the means of many Oregon households.

(2) The rental housing deficiency is felt most acutely by elderly households with incomes near poverty level.

(3) There is no economic possibility of filling this rental housing deficiency with new subsidized construction.

(4) In many areas there is a large enough supply of housing so that new construction is not justified; the problem is entirely one of inadequate income.

(5) Many of these near poverty level elderly households are having to spend in excess of half their incomes just for shelter.

(6) A rental assistance program operated through the Department of Revenue would alleviate this situation and, by reducing the proportion of income needed for rent, would enable these near poverty level elderly households to better provide for other necessities of life. [1975 c.672 §16]

**Note:** 310.632 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 310 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**310.635 Eligibility; amount; processing claims; treatment of payments.** (1) If a taxpayer is eligible for rental assistance and the amount of rental assistance is greater than the amount of renter refund allowable under ORS 310.640 (1)(b), the taxpayer shall be granted rental assistance in the amount specified in this section in lieu of the renter refund. A taxpayer is eligible for a rental assistance refund under this section if:

(a) The taxpayer is 58 years of age or older before the close of the calendar year immediately preceding the year in which the rental assistance is claimed;

(b) The household income of the taxpayer is less than \$5,000;

(c) The gross rent of the taxpayer is in excess of 40 percent of household income; and

(d) The taxpayer files a claim with the department as required by ORS 310.657.

(2) A taxpayer eligible for rental assistance under this section shall be paid by the department an amount equal to the positive difference between the taxpayer's gross rent, not to exceed \$2,100, and 40 percent of household income.

(3) The rental assistance payments required by subsection (2) of this section shall be made by the department during the month of October.

(4) The rental assistance granted under this section applies to gross rent paid in the calendar year for which the claim is filed. [1975 c.672 §18; 1977 c.841 §2; 1981 c.624 §5]

**310.638** [1975 c.672 §19; repealed by 1977 c.841 §13]

**310.640 Homestead tax refund; deductions for other programs; application.**

(1) Except as provided in subsection (2) of this section and ORS 310.635, each taxpayer shall be granted a refund of property tax for the preceding year in advance of billing of property taxes for the year in which the claim is filed under ORS 310.657 in an amount which is:

(a) For a homeowner, the property tax liability extended against the homestead of the homeowner in the year for which a claim is filed or the maximum refundable tax stated in the table in paragraph (c) of this subsection for the household income level of the homeowner, whichever is the lesser.

(b) For a renter, the rent constituting property tax paid for the occupancy of the homestead or homesteads in the year for which a claim is filed minus the amount paid pursuant to ORS 310.641, or the maximum refundable rent constituting property tax stated in the table in paragraph (c) of this subsection for the household income level of the renter, whichever is the lesser.

(c) The schedule referred to in paragraphs (a) and (b) of this subsection is:

Household Income	Maximum Refundable Owner Property Tax	Maximum Refundable Rent Constituting Property Tax
\$ 0 - 499	\$ 750	\$ 375
500 - 999	729	365
1,000 - 1,499	708	354
1,500 - 1,999	687	344
2,000 - 2,499	666	333
2,500 - 2,999	645	323
3,000 - 3,499	624	312
3,500 - 3,999	603	302
4,000 - 4,499	582	291
4,500 - 4,999	561	281
5,000 - 5,499	540	270
5,500 - 5,999	519	260
6,000 - 6,499	498	249
6,500 - 6,999	477	239
7,000 - 7,499	456	228
7,500 - 7,999	435	218
8,000 - 8,499	414	207
8,500 - 8,999	393	197
9,000 - 9,499	372	186
9,500 - 9,999	351	176
10,000 - 10,499	330	165
10,500 - 10,999	309	155
11,000 - 11,499	288	144
11,500 - 11,999	267	134
12,000 - 12,499	246	123
12,500 - 12,999	225	113
13,000 - 13,499	204	102
13,500 - 13,999	183	92
14,000 - 14,499	162	81
14,500 - 14,999	141	71
15,000 - 15,499	120	60
15,500 - 15,999	99	50
16,000 - 16,499	78	39
16,500 - 16,999	57	29
17,000 - 17,499	36	18

(2) No refund shall be granted under this section, ORS 310.635 or 310.641 for less than \$5.

(3) The property tax refund granted under this section and ORS 310.641, applies to property taxes levied or contract rent or rent constituting property taxes paid in the calendar year for which the claim is filed. If the taxpayer owns the homestead on December 31 of the calendar year for which the claim is filed, the taxpayer shall be considered an owner for purposes of the property tax refund granted by this section. Otherwise, the taxpayer shall be considered a renter.

(4) If a taxpayer owns the land upon which the abode is situated but rents the abode, or if the taxpayer owns the abode but rents the land upon which it is situated or to which it is attached, the total owner property tax shall be computed as follows:

(a) Determine an amount equal to the rent constituting property taxes for that part of the abode or land which is rented less any refund granted under ORS 310.641.

(b) Determine an amount equal to the property tax liability assessed against the abode or land which is owned.

(c) Add together the amounts determined in paragraphs (a) and (b) of this subsection. A taxpayer described in this subsection shall use the total owner property tax computed under this subsection to determine the refund which the taxpayer is entitled to under this section.

(5) A taxpayer subject to subsection (4) of this section shall not be entitled to any refund based on rent constituting property taxes except as provided in subsection (4) of this section.

(6) No refund shall be granted under this section or ORS 310.635 for any period during which the taxpayer's needs were included in a payment made by the Adult and Family Services Division pursuant to ORS 418.172. However, if it is determined that the taxpayer's needs were included in a payment made by the Adult and Family Services Division pursuant to ORS 418.172 and the taxpayer is eligible for the period for property tax or rental assistance under ORS 310.635 or this section in an amount greater than the payment made by the Adult and Family Services Division, the department shall refund the difference in the manner that other property tax and rental assistance refunds are made. The department and the Adult and Family Services Division shall cooperate in making any determination required by this subsection.

[1971 c.747 §3; 1973 c.752 §2; 1975 c.734 §1; 1977 c.841 §3; 1979 c.241 §14; 1979 c.780 §4; 1981 c.624 §2]

**310.641 Renter refund entitlement; computation.** Subject to ORS 310.692, in addition to any renter refund granted under ORS 310.640, each taxpayer who is a renter shall be granted a renter refund for the calendar year for which the claim is filed under ORS 310.657 in an amount that is equal to four and seven-tenths percent of the contract rent actually paid by the taxpayer and the household of the taxpayer for the right to occupy the homestead during the calendar year. However, the dollar amount of the refund under this section shall not exceed \$96. [1979 c.241 §16; 1981 c.624 §3; 1981 c.789 §2; 1982 s.s.3 c.4 §1]

**Note:** Section 5, chapter 4, Oregon Laws 1982 (third special session), provides:

**Sec. 5.** (1) The amendments to ORS 310.641 by section 1 of this Act first apply to contract rent paid in calendar years beginning on or after January 1, 1981.

(2) The amendments to ORS 310.820 and 310.890 by sections 2 and 3 of this Act first apply to property taxes billed for the 1982-1983 tax year.

**310.642 Computation of refund for floating homes.** (1) For purposes of ORS 310.630 to 310.690, if a taxpayer owns a floating home, as defined in ORS 488.705, that is the homestead of the taxpayer and rents moorage space to which the floating home is attached, the total owner property tax shall be computed as follows:

(a) Determine an amount equal to the rent constituting property taxes for the moorage which is rented, less any refund granted under ORS 310.641.

(b) Determine an amount equal to the property tax liability assessed against the floating home which is owned.

(c) Add together the amounts determined in paragraphs (a) and (b) of this subsection. A taxpayer described in this section shall use the total owner property tax computed under this subsection to determine the refund to which the taxpayer is entitled under ORS 310.640.

(2) A taxpayer subject to this section shall not be entitled to any refund based on rent constituting property taxes except as provided in this section. [1977 c.615 §5; 1979 c.241 §14a; 1981 c.624 §6]

**310.645 Limitations on refund.** (1) Only one taxpayer per household per year shall be granted the property tax or rental assistance refund provided under ORS 310.630 to 310.690.

(2) A taxpayer who is granted a homeowner refund shall not be granted a renter or rental assistance refund for the same calendar year.

(3) A homeowner refund shall be based upon property tax liability extended against only one homestead. Only one taxpayer shall be granted an owner refund based upon property tax liability extended against any one homestead.

(4) After October 5, 1973, if the Federal Government provides property tax relief directly to the individual, the refund granted under ORS 310.630 to 310.690 shall be reduced by the federal property tax relief received during the year for which a claim for refund under ORS 310.630 to 310.690 is filed if the federal law will permit.

[1971 c.747 §4; 1973 c.752 §5; 1977 c.841 §6; 1979 c.780 §8]

**310.650** [1971 c.747 §5; repealed by 1973 c.752 §12]

**310.655** [1965 c.615 §24; 1969 c.587 §5; 1971 c.374 §1; repealed by 1971 c.747 §21]

**310.657 Submission of claim; adjustment of claim by department; determination of tax attributable to homestead; payment of refunds.** (1) On or before April 15 following the year for which the claim is filed, a taxpayer claiming the property tax or rental assistance refund provided under ORS 310.635, 310.640 or 310.641, shall submit a claim to the department, together with a copy of the property tax statement or the statement of net rent for which refund is claimed. The claim shall be submitted on a form prescribed and furnished by the department. The department shall prepare blank forms for the claims and shall distribute them throughout the state. The department may require from the taxpayer any proof it considers necessary to determine if the taxpayer is eligible for refund or assistance pursuant to ORS 310.630 to 310.690.

(2) The department shall audit or examine the claim and:

(a) If it appears that the taxpayer is eligible for rental assistance, shall consider the claim as a claim for rental assistance and if the renter refund under ORS 310.640 for which the taxpayer is eligible is not greater in amount than the rental assistance, shall adjust the claim for rental assistance upward or shall allow or deny the claim in whole or in part; and

(b) If the taxpayer is eligible for owner refund, or is not eligible for rental assistance, or if the amount of rental assistance is less than the renter refund for which the taxpayer is eligible under ORS 310.640, shall consider the claim a claim for owner or renter tax refund and shall adjust the claim upward or shall allow or deny the claim in whole or in part.

(3) In its consideration of the claim the department may obtain information and assistance from any county assessor or county tax

collector to determine the amount of taxes attributable to the homestead, the status of any exemptions or any other matter considered necessary by the department.

(4) If the claim is allowed in whole or in part, the entire homeowner or renter refund, including renter refund under ORS 310.641, or elderly rental assistance shall be refunded during the month of October. The department shall send to the taxpayer a statement that clearly explains the determination made under subsection (2) of this section and the results of the determination. Where property tax refund has been granted, the statement shall indicate the amount of property tax refund, direct or indirect, occasioned by the payment. The department shall make the payments required by this section from the Tax Refund Revolving Checking Account created by ORS 310.692. [1971 c.747 §6; 1973 c.752 §3; 1977 c.761 §1; 1977 c.841 §18; 1979 c.241 §18; 1981 c.624 §7; 1981 c.789 §1]

**310.660** [1965 c.615 §21; 1967 c.521 §4; repealed by 1971 c.747 §21]

**310.662** [1971 c.747 §7; repealed by 1973 c.752 §12]

**310.665** [1965 c.615 §25; 1967 c.521 §5; repealed by 1971 c.747 §21]

**310.667** [1971 c.747 §8; repealed by 1973 c.752 §12]

**310.670** [1965 c.615 §26; repealed by 1969 c.595 §17]

**310.672 Filing of claim by agent or guardian.** If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer. [1971 c.747 §9]

**310.675** [1965 c.615 §20; repealed by 1967 c.521 §8]

**310.677 Refund available to residents of nonprofit homes for the elderly; claim form; computation of relief by corporation.** (1) Any resident of a nonprofit home for the elderly owned or being purchased by a corporation described in ORS 307.375 shall be entitled to the property tax refund allowed under ORS 310.640, as provided in this section. Only one resident per living unit shall be granted such property tax refund.

(2) Each corporation described in ORS 307.375 which has claimed the personal property tax exemption under ORS 307.370 shall obtain from the department special claim forms on which a resident may apply for the benefits of this section and furnish one such claim form to each resident prior to December 1.

(3) The corporation shall determine the amount of assessed value of the nonprofit home that is properly allocable to the living unit of the

resident under rules adopted by the department. The corporation shall then multiply this amount by the tax rate for the current property tax year which was applied to the nonprofit home. The product, after reduction for the state partial payment granted by ORS 310.810 to 310.890, shall be considered as the amount of property tax paid by the resident and shall be used by the resident in completing the claim form. A corporate officer or employe shall certify on the claim form that the property tax indicated thereon is correct.

(4) After the amount of property taxes has been determined as provided in subsection (3) of this section, the resident shall complete the special claim form and send it to the department as provided in ORS 310.630 to 310.690 for owner refund claims. [1971 c.747 §10; 1973 c.752 §6; 1979 c.241 §14b; 1981 c.624 §8]

**310.679 Fuel and utility rate relief; eligibility determined by department.** (1) Subject to subsection (7) of this section, in addition to the property tax refund granted pursuant to ORS 310.640, a taxpayer who is eligible for fuel and utility rate relief shall be granted a refund in an amount of \$50. A taxpayer is eligible for fuel and utility rate relief refund if:

(a) He is 60 years of age or older before the close of the calendar year for which the homeowner or renter property tax refund is claimed;

(b) His household income is less than \$5,000;

(c) He is eligible for owner or renter refund provided by ORS 310.640; and

(d) He files a claim with the department as provided in ORS 310.657.

(2) A taxpayer who receives rental assistance refund under ORS 310.635 for the year shall not be granted fuel and utility rate relief refund for the same year.

(3) Eligibility for fuel and utility rate relief refund shall be determined by the department by reference to the claim filed by the taxpayer pursuant to ORS 310.657.

(4) A resident of a nonprofit home for the elderly eligible for owner property tax refund under ORS 310.677 shall not be entitled to a fuel and utility rate relief refund.

(5) Notwithstanding ORS 310.635 (1) and 310.657 (2), for refunds granted in October 1977 and October 1978, the taxpayer shall be granted the greater of:

(a) The rental assistance that would be granted pursuant to a claim filed under ORS 310.657 for that year; or

(b) The amount of renter refund granted pursuant to a claim filed under ORS 310.657 plus fuel and utility rate relief refund granted by this section for the same year.

(6) The fuel and utility rate relief refund granted by this section shall be paid by the department from the Tax Refund Revolving Checking Account created by ORS 310.692.

(7) If the total refunds payable after September 1, 1978, are greater than the remaining moneys appropriated by section 3, chapter 778, Oregon Laws 1977, the available moneys shall be prorated among the refunds provided by subsection (1) of this section. No further refunds shall be made when the moneys appropriated are expended. No debt shall accrue to the state for payment of refunds nor shall tax claim for refund accrue to a taxpayer in the event such moneys are prorated or expended.

(8) This section shall apply to refunds payable in October 1977 and October 1978. [1977 c.778 §2]

**310.680** [1971 c.747 §11; repealed by 1973 c.752 §12]

**310.681 Weatherization refund.** (1) As used in this section:

(a) "Weatherization" means the purchase and installation of items primarily designed to improve the efficiency of space heating and energy utilization of the homestead. These items include but are not limited to caulking; weatherstripping and other infiltration preventive materials; ceiling and wall insulation; crawl space insulation; vapor barrier materials; timed thermostats; insulation of heating ducts, hot water pipes and water heaters in unheated spaces; storm doors and windows; double glazed windows and dehumidifiers.

(b) "Weatherization costs" or "costs incurred for weatherization" means those costs incurred by the taxpayer for weatherization of his homestead on or after October 4, 1977, and prior to July 1, 1979.

(2) Any taxpayer who claims and receives an owner property tax refund based upon his household income and his property tax liability for the calendar year 1976 shall receive a refund for costs incurred by him for weatherization of his homestead if:

(a) The taxpayer is issued a voucher by the department pursuant to subsection (3) of this section.

(b) The taxpayer, prior to January 1, 1980, presents the voucher to the department for payment, together with evidence satisfactory to the department that:

(A) The taxpayer has incurred costs in connection with weatherization of his homestead during the allowed time period.

(B) The taxpayer has weatherized his home to the extent of the costs so incurred.

(C) The taxpayer is not at the time the voucher is issued eligible under any federal program for grant, aid, assistance or other benefit for weatherization of his homestead.

(c) The taxpayer is 60 years of age or older on January 1, 1977.

(d) The property tax liability for the homestead upon which the owner refund granted to the taxpayer for the calendar year 1976 reflects an assessed value of less than \$30,000 for the homestead.

(3) The department shall issue a voucher for weatherization cost refund to each taxpayer granted an owner property tax refund based upon his household income for 1976 if the household income was less than \$7,500. The voucher shall bear the name and address of the taxpayer to whom it is issued and shall be presentable for payment only by the taxpayer or taxpayers to whom it is issued. The voucher shall contain or be accompanied by all information necessary to inform the taxpayer of his entitlement to, and the conditions for obtaining the weatherization cost refund granted by this section.

(4) The amount of the weatherization cost refund granted by this section shall be the lesser of the weatherization costs incurred or \$300.

(5) No taxpayer shall be granted weatherization cost refund for more than one homestead.

(6) The weatherization cost refund granted by this section shall be paid by the department from the Tax Refund Revolving Checking Account created by ORS 310.692, within 60 days after the taxpayer presents his voucher and the evidence required under subsection (2) of this section to the department. Refunds shall be paid according to priority based upon the date of claim and shall be paid until such time as the moneys appropriated by section 3, chapter 716, Oregon Laws 1977, are expended. No debt shall accrue to the state for payment of refunds nor shall tax claim for refund accrue to a taxpayer after such moneys are expended.

(7) Any proceeding for refund authorized by this section shall be within the jurisdiction of the small claims division of the Oregon Tax Court.

(8) The amount of weatherization cost refunded under this section shall not be used as the basis for tax credit or benefit under ORS chapter 316. [1977 c.716 §2]

**310.682** [1973 c.752 §2b; repealed by 1977 c.90 §4a; 1977 c.841 §13]

**310.685** [1971 c.747 §12; repealed by 1973 c.752 §12]

**310.690 Department, assessors and tax collectors to cooperate; rules.** The department, the assessors and the tax collectors shall cooperate in carrying out the purposes of ORS 310.630 to 310.690. In order to carry out the provisions contained in ORS 310.630 to 310.690, the department shall adopt such rules and prescribe such forms as are necessary. [1971 c.747 §13; 1973 c.752 §4; 1977 c.841 §8]

**310.692 Tax Refund Revolving Checking Account to pay refunds.** (1) There is established in the State Treasury the Tax Refund Revolving Checking Account. Amounts necessary to pay refunds and homestead tax payments authorized by ORS 307.244, 310.630 to 310.690 and 310.810 to 310.890 may be transferred from the appropriation to the Tax Refund Revolving Checking Account made by the Legislative Assembly to fund the state partial payment of property tax.

(2) If any portion of the tax liability for which refunds described in subsection (1) of this section are authorized are offset against the refund, the Department of Revenue shall transfer from the Tax Refund Revolving Checking Account to the General Fund an amount equal to the income tax liability.

(3) On or before September 15 of each fiscal year of each biennium, the Department of Revenue shall estimate the amount of money needed to make the homestead tax payments and renter refunds granted under ORS 310.641 and 310.820, that are based upon net property taxes billed and contract rent paid in the current year. If the sum of the homestead tax payments, the contract renter refund and other obligations is estimated to be greater than the amounts credited to the Tax Refund Revolving Checking Account for the fiscal year for those obligations, the maximum dollar amounts payable under ORS 310.641 or 310.820, shall be reduced in order that the state shall not accrue a debt in excess of the amount credited. In making the reduction, the maximum dollar amount allowed for a renter under ORS 310.641 shall be one-half of the maximum dollar amount paid on behalf of a homestead under ORS 310.820. No claim for payment or refund shall accrue to a taxpayer under ORS 310.641 or 310.820, in excess of the amount determined under this subsection. [1977 c.761 §3; 1979 c.241 §10; 1981 c.624 §13; 1981 c.790 §9; 1981 c.904 §1]

**310.695 Construction.** Any references in ORS 307.380, 308.215, 308.340, 310.630 to 310.695, 311.696 and 311.990 to the laws of the United States relating to income taxes or the Internal Revenue Code means the laws of the United States relating to income taxes or the Internal Revenue Code as they may be in effect for the taxable year of the taxpayer except where the Legislative Assembly has specifically provided otherwise. [1971 c.747 §20]

**310.700** [1973 c.752 §8; repealed by 1975 c.616 §2]

**310.705** [1965 c.615 §1; 1971 c.544 §2; repealed by 1973 c.752 §12]

**310.706 Applicability of ORS chapters 305 and 314; interest on refunds.** (1) Unless the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refund, conferences, appeals to the director of the department and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to ORS 310.630 to 310.690.

(2) No interest shall be allowed on property tax or rental assistance refunds payable by the department under ORS 310.630 to 310.690 pursuant to a claim filed after January 1, 1978.

(3) No refunds shall be made under ORS 310.630 to 310.690 to a taxpayer who fails to file such return within three years after the due date of the return. [1973 c.752 §9; 1977 c.841 §9; 1977 c.870 §62; 1981 c.624 §9]

**310.710** [1965 c.615 §11; 1967 c.293 §12; part renumbered 310.600; 1971 c.544 §3; repealed by 1973 c.752 §12]

**310.712** [1973 c.752 §10; repealed by 1977 c.841 §13]

**310.715** [1965 c.615 §2; 1967 c.293 §13; 1969 c.305 §1; repealed by 1971 c.544 §7]

**310.720** [1965 c.615 §2a; repealed by 1971 c.544 §7]

**310.725** [1965 c.615 §§3, 14; 1969 c.457 §3; repealed by 1971 c.544 §7]

**310.730** [1965 c.615 §4; 1967 c.293 §14; repealed by 1971 c.544 §7]

**310.735** [1965 c.615 §§5, 6; 1967 c.293 §15; 1971 c.353 §1; repealed by 1971 c.544 §7]

**310.740** [1965 c.615 §7; 1969 c.305 §2; repealed by 1971 c.544 §7]

**310.745** [1965 c.615 §8; repealed by 1967 c.293 §16 (310.746 enacted in lieu of 310.745)]

**310.746** [1967 c.293 §17 (enacted in lieu of 310.745); repealed by 1969 c.595 §17]

**310.750** [1965 c.615 §9; repealed by 1967 c.293 §18 (310.751 enacted in lieu of 310.750)]

**310.751** [1967 c.293 §19 (enacted in lieu of 310.750); repealed by 1969 c.595 §17]

**310.755** [1965 c.615 §10; 1967 c.293 §20; 1969 c.305 §5; repealed by 1969 c.595 §17]

**310.760** [1969 c.305 §4; repealed by 1971 c.544 §7]

**(State Partial Payment)**

**310.810 Definitions for ORS 310.810 to 310.890.** As used in ORS 310.395 and 310.810 to 310.890 unless the context otherwise requires:

(1) "Adjusted levy" means the base year operating levy multiplied by the product obtained by multiplying the population indicator by the inflation indicator.

(2) "Base year operating levy" means one of the following:

(a) The 1979-1980 operating levy of the taxing unit.

(b) The average of the 1977-1978, 1978-1979 and 1979-1980 operating levies of the taxing unit.

(c) The first operating levy of the taxing unit formed after March 31, 1979.

(d) If the taxing unit did not levy a tax in 1979-1980, either:

(A) The first operating levy of the taxing unit after 1979-1980; or

(B) The average of the 1977-1978 and 1978-1979 operating levies of the taxing unit.

(e) If the taxing unit did not make an operating levy as defined in this section for the fiscal year 1979-1980, but did levy serially partially for operations and partially for capital construction, the portion of the serial levy for 1979-1980 made other than for capital construction. If a serial levy described in this paragraph is used to compute the adjusted levy for the taxing unit, the serial levy shall not, in addition, be partially funded under ORS 310.820 (2)(a).

(f)(A) The operating levy made for the most recent fiscal year in which the entire operating levy was levied either:

(i) Within the tax base of the taxing unit; or

(ii) By means of a continuing levy authorized prior to October 3, 1979; or

(iii) By a combination of subsubparagraphs (i) and (ii) of this subparagraph. If this paragraph may be used to compute the adjusted levy for a taxing unit, it shall be used to compute the adjusted levy for the taxing unit; or

(B) The operating levy that was partially funded by the state made in either of the two most recent fiscal years immediately prior to a fiscal year described in subparagraph (A) of this paragraph.

(3) "Capital construction" means the acquisition of land upon which to construct a building, the acquisition of a building, the acquisition of an addition to a building which increases the square footage of the building, the construction of a building, the construction of an addition to an existing building which increases the square footage of the building or the acquisition of and installation of machinery and equipment which will become an integral part of a building or an addition to a building or a combination of those items.

(4) "Homestead":

(a) Means the principal residence owned and occupied by the taxpayer, located in Oregon and for which an application has been filed and approved under ORS 310.830 and 310.840.

(b) Includes the land area of the tax lot or tax lots on which the residence is located, but:

(A) Does not include land area in excess of one acre, or the minimum by zoning, whichever is greater; or

(B) If the zoning ordinance applicable for the property does not contain a specific minimum area of land upon which a residence may be constructed, does not include land area in excess of one acre.

(c) Does not include, if the residence is located on a tax lot or lots that include land area that is classified or designated or is otherwise specially assessed as farm or forest land under ORS 308.345 to 308.403, 321.257 to 321.375, 321.705 to 321.765 or 321.805 to 321.825, or as open space land under ORS 308.740 to 308.790, that portion of the land area so specially assessed.

(d) Includes, if the residence is located in a multiunit building, the portion of the building actually used as the principal place of abode and a percentage of the true cash value of the common elements and of the true cash value of the tax lot upon which the multiunit building is built (true cash value of the common elements and tax lot to be the true cash value determined by the assessor). The percentage of the value of the common elements and tax lot that is added to the value of the residence unit shall be computed by dividing the value of the residence unit by the total value of the building exclusive of the common elements, if any.

(e) Includes, if the residence is a part of a group of associated single family units on one tax lot, the single unit and the portion of the common tax lot allocated to it on the basis of the relative value of each unit.

(5) "Inflation indicator" means a percent rounded to the nearest one-tenth of one percent obtained by dividing the Portland Consumer Price Index for September of the current fiscal year by the Portland Consumer Price Index for the later of September 1978, or September of the fiscal year preceding the year used to compute the base year operating levy. For a taxing unit described in paragraph (c) or subparagraph (A) of paragraph (d) of subsection (2) of this section, the inflation indicator is 100 percent for the first year for which the district levies a tax. For a taxing unit having a base year operating levy described in subparagraph (B) of paragraph (f) of subsection (2) of this section, in determining the inflation indicator the "fiscal year preceding the year used to compute the base year operating levy" shall be the fiscal year preceding the year described in subparagraph (A) of paragraph (f) of subsection (2) of this section.

(6) "Minimum by zoning" means the minimum area of land upon which a residence may be constructed under the applicable zoning law or ordinance. If the area of the tax lot or lots is greater than the minimum area of land upon which a residence may be constructed but cannot be divided into two or more such minimum areas under the applicable zoning law or ordinance, the entire area of the tax lot or lots shall qualify as the homestead even though the area is in excess of the minimum by zoning.

(7) "Occupied" or "occupy" means to live or dwell in or on the property. The right to a partial payment of tax under ORS 310.810 to 310.890 shall not be lost if the owner is temporarily absent from the property unless the property is rented to another during the absence. Nor shall the right to a partial payment of tax be lost to the property if its owner is confined to a nursing home or other long term care facility unless the property is rented to another during the confinement.

(8) "Operating levy" means the total levy of the taxing unit for the fiscal year minus:

(a) Any levy made for the fiscal year for the payment of bond principal and interest; and

(b) Any serial levy made for the fiscal year wholly or partially for capital construction.

(9) "Own" means:

(a) To hold of record, either alone or together with another or others, a fee simple estate, a life estate, the right to possession under a trust instrument and includes the interest of a purchaser of a fee simple or life estate under a recorded instrument of sale.

(b) If the property is a mobile or floating home, to be the registered owner of the mobile or floating home before August 1, either alone or together with another or others.

(10) "Population indicator" means the greater of 100 percent or a percent rounded to the nearest one-tenth of one percent obtained by dividing the applicable figure indicative of population served by the taxing unit as of July 1 of the fiscal year in which the computation is made by the applicable figure indicative of population served by the unit as of the later of July 1, 1978, or July 1 of the fiscal year preceding the year used to compute the base year operating levy. For purposes of determining the population indicator:

(a) (A) For a city or a county, the figures indicative of population served are the figures estimated by the State Board of Higher Education under ORS 190.520 as the population of the city or county and filed with the Secretary of State no later than December 15.

(B) For a common or union high school district, the figures indicative of population served are the average daily membership of resident pupils of the district contained in the report filed with the Superintendent of Public Instruction under ORS 327.133 (1)(a).

(C) For an education service district, the figures indicative of population served are the sum of the average daily membership of resident pupils of the common or union high school districts filed under ORS 327.133 (1)(a) which have the principal administrative office located in the education service district.

(D) For a community college, the figures indicative of population served are the total number of full-time equivalent students who are residents of Oregon reported to the Superintendent of Public Instruction following the last term of the year under ORS 341.625 (4).

(E) For any other district, subject to paragraphs (b) and (c) of this subsection, one of the following shall apply:

(i) If the territory of the district includes more than 50 percent of any county, the population figures used for the county may be used as the figures indicative of population served for the district.

(ii) If the territory of the district includes more than 50 percent of a city, the population figures used for the city may be used as the figures indicative of population served for the district.

(iii) If the territory of the district includes more than 50 percent of the territory of each of two or more counties, or of two or more cities,

the combined population of those counties or cities may be used as the figures indicative of population served for the district.

(iv) If the district is a district which provides substantially only one service to customers, such as sewer or water, and the number of customers can be estimated from the number of accounts or billings, the number of customers may be used as the figures indicative of population served for the district.

(v) If the territory of the district does not include more than 50 percent of any city or county, and the district does not bill customers for the principal service that it provides, the population figures used for the county in which the major portion of the district lies may be used as the figures indicative of population served by the district.

(b) If a boundary change occurs for any taxing unit, the population indicator shall reflect any increase in population served on account of the boundary change. Any adjustment in a population indicator on account of a boundary change shall be made by the Department of Revenue with, if necessary, the assistance of the State Board of Higher Education and the taxing unit itself.

(c) If the taxing unit is a unit described in paragraph (c) or subparagraph (A) of paragraph (d) of subsection (2) of this section, the population indicator for the first year for which the unit levies a tax is 100 percent.

(d) If the taxing unit is a unit having a base year operating levy described in subparagraph (B) of paragraph (f) of subsection (2) of this section, in determining the population indicator, the "fiscal year preceding the year used to compute the base year operating levy" shall be the fiscal year preceding the year described in subparagraph (A) of paragraph (f) of subsection (2) of this section.

(11) "Portland Consumer Price Index" means the Consumer Price Index for All Urban Consumers (Portland - all items) as published by the Bureau of Labor Statistics of the United States Department of Labor for the Portland, Oregon Standard Metropolitan Statistical Area.

(12) "Taxpayer" means an individual who has filed a claim for payment under ORS 310.810 to 310.890. [1979 c.241 §1; 1981 c.790 §1]

**310.820 Determination of portion of tax on homestead payable by state.** (1) In accordance with subsection (2) of this section, upon compliance with ORS 310.830, the Department of Revenue shall pay a portion of the ad valorem property tax extended against the homestead of the taxpayer. Subject to ORS

310.692 (3), the amount paid shall be equal to 30 percent of the tax extended, or \$192, whichever is less. Payment shall be made by the department as provided in ORS 310.860.

(2) The state shall pay a portion of that ad valorem property tax extended against the homestead under subsection (1) of this section, but only to the extent the tax consists of:

(a) Tax extended pursuant to a serial levy made wholly or partially for capital construction and approved by the electors prior to October 3, 1979; and

(b) Tax extended pursuant to the operating levy or levies of the taxing unit that either:

(A) Do not exceed the adjusted levy of the taxing unit; or

(B) Consist of (i) the tax base of the taxing unit, and (ii) any continuing levy or levies authorized prior to October 3, 1979.

(3) Offsets to a taxing unit's tax levy shall be applied proportionally between the levy to be partially paid by the state under ORS 310.810 to 310.890 and the levy to be financed completely by local property taxpayers without any partial state payment. [1979 c.241 §2; 1981 c.790 §2; 1982 s.s.1 c.33 §7; 1982 s.s.3 c.4 §2]

Note: See note under 310.641.

**310.830 Entitlement of property for partial tax payment under ORS 310.810 to 310.890; filing of claim; appeal of failure to file.** (1) The entitlement of a homestead property to the partial tax payment granted by ORS 310.820 shall be determined as of January 1 of the assessment year. However:

(a) If the property qualifies as a homestead on January 1 of the assessment year and is disqualified after January 1 and remains disqualified on June 30 of the same assessment year, the property shall not be entitled to the partial payment.

(b) If the property does not qualify as a homestead on January 1 of the assessment year but does qualify for the partial payment after January 1 and is qualified on June 30 of the same assessment year, the property shall be entitled to the partial payment.

(2) Except as provided in this section, a taxpayer shall file a claim for the partial payment of ad valorem property tax provided by ORS 310.820 on behalf of the homestead no later than April 15 of the first year for which payment is desired. However, if the property is not a homestead on January 1 but becomes a homestead after January 1 and before July 1, the claim shall be filed within 30 days after the

property becomes a homestead but not later than August 1 of the assessment year.

(3) A claim need not be filed in order to secure the partial payment of ad valorem property tax on behalf of the property for a consecutive second or subsequent year. However:

(a) If the property is sold or otherwise transferred, is moved out of the county or is otherwise disqualified for the partial payment in the preceding year, a claim shall be filed within the time and in the manner provided in subsections (2) and (4) of this section; or

(b) If the ownership interest of record is a life estate, or a life estate under an instrument of sale, a claim for the partial payment shall be made each year in accordance with rules adopted by the Department of Revenue. The rules shall provide a time and manner for giving notice to the holder of the life estate of the necessity of filing the claim and shall provide the time and manner for filing the claim. If the claim is not filed within the time and in the manner provided in the rules, no partial state payment shall be made on behalf of the homestead for the assessment year.

(4) The claim filed pursuant to this section shall be filed with the county assessor on a form prescribed by the Department of Revenue. The claim shall set out the basis of the claim, designate the property to which the payment may apply and contain such other information as the department may require. There shall be attached to each claim the affidavit or affirmation of the claimant that the statements contained therein are true.

(5) Any taxpayer who fails to file a claim for homestead tax payment within the time required by this section, may appeal to the Director of the Department of Revenue. The appeal shall be made in the manner provided in ORS 305.275 for other appeals to the director and shall be made on or before December 15 of the year to which it applies. If the director finds that the sole reason for the denial of the state partial payment is failure to timely file and that, in the discretion of the director this failure was due to reasonable cause, the director shall issue an order granting the state partial payment. Upon receipt of the order of the director, the officer in charge of the assessment and tax rolls shall cause the proper entries to be made. If the taxes on the homestead property have been paid, the amount of the homestead tax payment shall be refunded in the manner provided in ORS 310.880. No appeal shall be taken from an order denying state partial payment issued pursuant to this subsection. [1979 c.241 §3; 1981 c.790 §3]

**310.840 Procedure for approval, disapproval of application for payment; effect of change in use; appeal.** (1)(a) An application for partial payment of ad valorem property tax made on behalf of a homestead property under ORS 310.830 shall be approved or disapproved by the county assessor. If the application is approved, the property shall be considered as homestead property.

(b) If the application is wholly or partially disapproved, if there is a failure to reapply for homestead classification under ORS 310.830 (3) or if the property is changed to a class other than homestead, the assessor shall notify the owner or person in possession in writing.

(c) The notice shall describe the property in general terms, and require the owner or person to appear at a specified time, not less than 60 days after the mailing of the notice, and to show cause, if any, why the application should not be disapproved or the property removed from the homestead class. If the taxpayer or person does not appear, or fails to show good and sufficient cause why the application should not be disapproved or property removed from the homestead class, the assessor and tax collector shall proceed to correct the assessment and tax rolls in the manner and using the procedures applicable for correction under ORS 311.205 for all years subject to correction under ORS 311.205 in which the property was erroneously classified as a homestead.

(2) A property that is classified as a homestead property shall receive the partial payment of ad valorem taxes provided in ORS 310.820 until the property is removed from the homestead class:

(a) Upon notice to the assessor from the taxpayer to remove the property from the homestead class;

(b) Upon failure of a taxpayer to reapply on behalf of the property for homestead classification as provided in ORS 310.830 (3); or

(c) Upon discovery that the property is no longer a homestead.

(3) If the use of the homestead property changes so that the property is no longer a homestead, the owner at the time of the change in use shall notify the assessor no later than July 1 following the change in use. If the notice required by this subsection is not given, a penalty equal to 20 percent of the amount of any unqualified partial payment made by the state for the assessment year for which notice should have been given and each assessment year thereafter in which an unqualified partial payment is made

shall be added to the assessment or tax roll under ORS 310.880.

(4) A taxpayer whose application filed under ORS 310.830 (2) to (4) has been denied, in whole or in part, or a taxpayer that has had the homestead classification removed, in whole or in part, may appeal to the Department of Revenue within the time and in the manner provided in ORS chapter 305. Orders of the department shall be subject to appeal as provided in ORS chapter 305. If any appeal results in a refund to a taxpayer, the refund shall be paid in the manner provided in ORS 310.880. [1979 c.241 §4; 1981 c.790 §4]

**310.850 Annual entitlement to partial payment; application by agent.** (1) Only one partial tax payment shall be made on behalf of any homestead for any year under ORS 310.810 to 310.890.

(2) If a taxpayer is unable to submit the taxpayer's own claim for payment of tax under ORS 310.830, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer. [1979 c.241 §5; 1981 c.790 §5]

**310.860 Payment of taxes by state for homesteads.** (1) On or before the date the roll is delivered to the tax collector under ORS 311.115, the county assessor shall determine the amount of ad valorem tax to be paid by the Department of Revenue for each homestead entitled to partial payment of ad valorem property tax under ORS 310.810 to 310.890 and the total of those amounts. The assessor thereupon shall certify the total amount to the department and to the county treasurer.

(2) The department shall pay to each county treasurer the total amount certified under subsection (1) of this section, before the three percent discount provided in ORS 311.505, in three approximately equal instalments. The first instalment shall be paid in November, the second instalment shall be paid in February and the remaining instalment shall be paid in May. The payments made by the department under this section shall be made from the Tax Refund Revolving Checking Account established by ORS 310.692.

(3) Payments made by the department to the various county treasurers under this section shall be distributed to the taxing units of the county in accordance with the schedule of percentages computed under ORS 311.390.

(4) ORS 311.105 (1)(e) shall be construed to include the amount paid by the state as a partial payment of ad valorem property tax under ORS

310.810 to 310.890. [1979 c.241 §6; 1981 c.678 §7; 1981 c.790 §6]

**310.870 Identification of eligible property; state payment of prepaid taxes; tax statement.** (1) The roll delivered to the tax collector under ORS 311.115 shall identify each homestead entitled to the partial payment of ad valorem tax under ORS 310.810 to 310.890. The method of identifying the homesteads may be determined by the Department of Revenue by rule in order to achieve uniformity.

(2)(a) If ad valorem property taxes are required to be prepaid and the procedures described in ORS 311.370 apply, the amount of the taxes that are required to be prepaid shall be computed and paid without regard to ORS 310.810 to 310.890 and in compliance with other applicable law. However, the state partial payment allowed for a homestead shall be allowed to the taxpayer if the property is otherwise qualified for the payment in the manner provided in paragraph (b) of this subsection.

(b) Following extension of the taxes under ORS 311.370 (1)(b) and at the time for making the adjustments under ORS 311.370 (4), the tax collector shall notify the county treasurer of the amount the state is obligated to pay under ORS 310.830 and the identity of the taxpayer who made the prepayment. Thereafter, the partial payment shall be made by the county treasurer to the taxpayer in the manner provided in ORS 310.880. Any tax to which ORS 311.370 is applicable shall be partially funded, if qualified, by the state in the manner provided in this subsection.

(3) In addition to other items required by ORS 311.250 to appear on the tax statement, the tax statement for a homestead entitled to partial payment of tax for the year shall contain the total amount of current ad valorem taxes due on the homestead that are paid or to be paid by the state under ORS 310.810 to 310.890. The total amount of current taxes due on the homestead and to be paid by the taxpayer shall be reduced by the amount paid or to be paid by the state on the tax statement. [1979 c.241 §7; 1981 c.790 §7]

**310.880 Procedure if payment made for unqualified property; roll correction.**

(1) If partial payment of ad valorem property taxes is made under ORS 310.810 to 310.890 on behalf of any property and that property is not qualified for the payment, or the payment should not otherwise have been made, the amount of the payment and any penalty imposed under ORS 310.840 (3) shall be added to the assessment or tax roll as an error correction under

ORS 311.205 and shall be due and payable, with or without interest, as provided under ORS 311.206.

(2) Additions for unqualified partial payments under ORS 310.810 to 310.890 and penalties imposed under ORS 310.840 (3) shall be considered subject to the provisions of ORS 311.220. However, in the event that additions for unqualified payments, penalties and interest are prevented from becoming a lien upon real property by reason of the provisions of ORS 311.220, the amount of the payments, penalties and interest shall be a debt due and owing from the person who received the partial payment and shall be subject to all the provisions of law relating to the collection of personal property taxes.

(3) All state partial payments extended to the roll after the certification under ORS 310.860 and all additional amounts added back to the roll under subsections (1) and (2) of this section shall be processed as follows:

(a) The county assessor shall report all roll corrections to the Department of Revenue on a format and at the time provided in subsection (4) of this section.

(b) For each report under paragraph (a) of this subsection, an accounting of funds by individual accounts due to the county, or of funds due to the department, shall be made. The account shall be based on 100 percent of the gross amount of taxes reported.

(4)(a) If any roll correction made by the county in connection with the state partial payment provided in ORS 310.810 to 310.890 results in a refund due to an owner of or person in possession of property, the refund shall be made directly to the person who paid the taxes by the appropriate officer. Funds necessary for the refunds shall be paid from the unsegregated tax collections account established under ORS 311.385. If any roll correction made by the county in connection with the state partial payment provided in ORS 310.810 to 310.890 results in any additional amount due to the county, the funds, when collected, shall be deposited to the unsegregated tax collections account established by ORS 311.385, to be distributed as other funds in the account are distributed.

(b) The accounting for roll corrections in connection with the state partial payment shall be held for reimbursement in a county treasurer's special adjustment account. The net balance of the account as of June 30 of each year shall be certified to the assessor for inclusion in the next certification under ORS 310.860. Interest paid or collected under ORS 310.840 (1)(c) or under

subsection (1) of this section, shall not be included in the treasurer's adjustment account.

(c) The net balance requiring either an additional payment or decrease in payment shall be a net increase or decrease in the available funds in the Tax Refund Revolving Checking Account established by ORS 310.692.

(d) No interest shall accrue or be paid by either the state or each county on the balance in the treasurer's special adjustment account provided in paragraph (b) of this subsection, or on the net balance described in paragraph (c) of this subsection. [1979 c.241 §8; 1981 c.790 §8]

**310.890 When corporation entitled to partial payment.** (1) A corporation described in ORS 307.375 is entitled to the state partial payment of property tax granted by ORS 310.810 to 310.890 for those living units and common elements owned or being purchased, or leased by the corporation under circumstances described in ORS 307.370 (2), if the corporation files a claim for the state partial payment as provided in subsection (2) of this section. Except as otherwise provided in this section, and unless the context otherwise requires, ORS 310.810 to 310.890 shall govern the state partial payment provided by this section.

(2) A corporation claiming the state partial payment granted by subsection (1) of this section shall file the claim with the county assessor on or before April 15 of the first year for which state partial payment is desired. No claim need be filed to obtain the state partial payment for a consecutive second or subsequent year. However, the claim shall be effective only for that property of the corporation that is living units and common elements on June 30 of the assessment year.

(3) The percentage amount of total tax extended against all living units and common elements owned or being purchased, or leased by the corporation under circumstances described in ORS 307.370 (2), that shall be paid by the state under this section shall be the same percentage as that paid by the state on behalf of a homestead under ORS 310.820. However, the maximum paid by the state under this section

for any one living unit and its share of the common elements shall not exceed \$192. Any amount paid on behalf of any one living unit and its share of the common elements in excess of the maximum shall be refunded to the state by the corporation on or before the next January 15 and shall be a net increase in the available funds in the Tax Refund Revolving Checking Account established under ORS 310.692.

(4)(a) Not later than January 15, 1983, and January 15 of each year thereafter, a corporation that has received credit for the state partial payment for living units and common elements granted by this section shall determine the assessed value of each living unit and its share of the common elements under rules adopted by the department. The corporation shall then multiply the amount of state payment made under subsection (1) of this section by the proportion that the assessed value of each living unit and its share of the common elements bears to the total assessed value of all living units and common elements. Subject to subsection (3) of this section, the product shall be considered as the amount of state partial payment made for the living unit and its share of the common elements, and shall be credited against the account of the resident of the living unit.

(b) The county assessor and Department of Revenue shall cooperate with the corporation in carrying out paragraph (a) of this subsection.

(c) Prior to March 1 of each year, the corporation shall satisfy the Department of Revenue that the corporation has carried out its duties under paragraph (a) of this subsection. If the corporation fails to satisfy the department that it has carried out its duties under paragraph (a) of this subsection, the department shall notify the assessor and the assessor shall deny any state partial payment under subsection (1) of this section for the next tax year, beginning July 1. [1981 c.624 §11; 1982 s.s.3 c.4 §3]

**Note:** See note under 310.641.

