

# Chapter 310

## 1987 REPLACEMENT PART

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## 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• **310.045** [1965 c 604 §2, repealed by 1969 c 612 §5]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, and the date when approved by the electors,

(e) The amount levied inside any statutory limitation,

(f) Each amount levied outside any statutory limitation and the date when approved by the electors, and

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

(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, 1985 c 784 §2]

**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 the 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 310 060 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, 1985 c 319 §2]

**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 September 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 September 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 1985 c 613 §5]

**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]

**310.315 School district tax levy; ballot title; contents.** (1) The ballot title for any measure which authorizes a school district tax levy for one year for operating purposes in addition to the amount authorized in section 11a, Article XI of the Oregon Constitution shall consist of

(a) The following caption and question

**SCHOOL DISTRICT OPERATING LEVY**

Question Shall \_\_\_\_\_ school district levy \$\_\_\_\_\_ in (fiscal year) in excess of the amount levied for operating purposes in (prior fiscal year) and outside its tax base?

(b) 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 by 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) ORS 250 035 and 310 390 do not apply to a ballot title prepared under this section [1987 c 183 §2]

**310 320** [Repealed by 1953 c 311 §7]

**310.330 Municipal corporation tax levy; notice; election.** (1) Whenever it is neces-

sary 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; ballot title for metropolitan service district tax base election; 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) For a measure which establishes a new tax base for a metropolitan service district organized under ORS chapter 268, the caption shall state that the measure establishes a tax base. The caption may identify the functions or activities to be funded by the tax base and such identification shall not make the caption insufficient, not concise or unfair under ORS 255.155. The question shall include the name of the district, the dollar amount of the proposed tax base and the fiscal year in which the tax base will first be effective. Except as provided in this subsection, the remainder of this section applies to a measure which establishes a new tax base for a metropolitan service district.

(4) 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, 1987 c 732 §1]

**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 subdivi-

sion 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 287 526 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 310 315 and 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, 1987 c 183 §3]

**310 400** [1953 c 133 §1, repealed by 1971 c 646 §6]

**310.402 Time for tax base elections; 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

(2) For purposes of subsection (3) of section 11a, Article XI of the Oregon Constitution, tax base elections for a school district, as defined in ORS 328 715 and for which a tax base may be established, shall be held in any year, but only on the third Tuesday in May

(3) The ballot title for a tax base 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

(4) 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, 1987 c 16 §6]

**Note** The amendments to 310 402 by section 73, chapter 267, Oregon Laws 1987, are repealed January 1, 1994 See section 82, chapter 267, Oregon Laws 1987 The text is set forth for the user's convenience

**310 402** (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 biennial primary election

(2) For purposes of subsection (3) of section 11a, Article XI of the Oregon Constitution, tax base elections for a school district, as defined in ORS 328 715 and for which a tax base may be established, shall be held in any year, but only on the third Tuesday in May

(3) The ballot title for a tax base 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

(4) As used in this section, "municipal corporation" has the meaning given that term by ORS 294 311 (19)

**310 410** [1957 c 426 §1, repealed by 1967 c 293 §37]

**310 575** [1983 s s c 5 §1, repealed by 1987 c 89 §1]

## 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, as amended on or before December 31, 1986, 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 excluded from federal gross income

(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 which are excluded from federal gross income

(O) Welfare payments, except for payments for which the welfare recipient receives no direct payment for

(i) Medical care, drugs, and medical supplies, and

(ii) In-home care services including home-care, companion, housekeeper and personal care services

(P) Nontaxable dividends

(Q) Nontaxable interest not included in federal adjusted gross income

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

(S) 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 net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties

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

(C) 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

(D) 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

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

(F) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316 707 to 316 737

(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 ss 1 c 18 §1, 1983 c 162 §62 1983 c 634 §2, 1985 c 214 §1, 1985 c 802 §37, 1987 c 293 §66]

**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 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

(3) Each tenant-stockholder claiming the refund 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, 1985 c 784 §3]

**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]

**310.637 Refund not subject to garnishment.** A refund, allowed pursuant to ORS 310 635 or 310 640, is not subject to the garnishment provisions of ORS 29 125 to 29 395, except by a government entity [1987 c 399 §3]

**Note** 310 637 was enacted into law by the Legislative Assembly and was added to and made a part of ORS 310 630 to 310 706 but was not added to or made a part of any other series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

**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 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 or ORS 310 635 for less than \$5

(3) The property tax refund granted under this section applies to property taxes levied 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.

(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, 1985 c 784 §4]

310.641 [1979 c 241 §16, 1981 c 624 §3, 1981 c 789 §2, 1982 s s 3 c 4 §1, repealed by 1985 c 784 §10]

**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

(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, 1985 c 784 §5]

**310.645 Limitations on refund and rental assistance.** (1) Only one taxpayer per household per year shall be granted the homeowner refund or elderly rental assistance 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

(5) If a husband and wife living in the same homestead at the end of the year are taxpayers claiming a homeowner or renter refund, they shall file a joint claim for refund under ORS 310 630 to 310 690. A claim filed under this subsection shall be treated as having been filed by one taxpayer

(6) Except as provided in subsection (5) of this section, each renter entitled to a refund under ORS 310 640 or 310 641 (1983 replacement

part) shall file a claim. The claim shall be based on household income of the claimant and on the contract rent the claimant actually paid during the year. The claim shall also state the total contract rent paid by all others who may have lived in the homestead during the same period the claimant lived in the homestead. The refunds permitted under ORS 310 640 and 310 641 (1983 replacement part) shall be computed as follows

(a) A ratio shall be computed which is the total rent the claimant paid divided by the total rent paid for the homestead during the time of the year the taxpayer resided in the homestead

(b) The rent constituting property tax based on the rent the claimant paid shall be computed and adjusted as required by ORS 310 640 (1)(b)

(c) Multiply the lesser of the refund computed under paragraph (b) of this subsection or the maximum refund allowed to the claimant under the table provided in ORS 310 640 (1)(c) by the ratio computed under paragraph (a) of this subsection. This is the maximum refund allowable to a renter under ORS 310 640

(d) The maximum property tax relief the claimant is entitled to is the amount determined under ORS 310 641 (1983 replacement part) multiplied by the ratio computed under paragraph (a) of this subsection [1971 c 747 §4, 1973 c 752 §5, 1977 c 841 §6, 1979 c 780 §8, 1985 c 299 §1]

**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 or 310 640, 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, 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 suspense account referred to in ORS 310 692

(5) The department may make separate property tax refunds upon request by a husband or wife who has filed a joint claim, the refund payable to each spouse being one-half the total refund for the joint claim [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, 1985 c 299 §2, 1985 c 761 §30, 1985 c 784 §6]

**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 the claim of the taxpayer, 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 and its share of the common elements 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 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, 1985 c 784 §7]

**310 679** [1977 c 778 §2, repealed by 1985 c 761 §27]

**310 680** [1971 c 747 §11, repealed by 1973 c 752 §12]

**310 681** [1977 c 716 §2, repealed by 1985 c 761 §27]

**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 Suspense account to pay refunds.** (1) Amounts necessary to pay refunds

authorized by ORS 307 244 and 310 630 to 310 690 may be transferred to a suspense account established under ORS 293 445 from the appropriation made by the Legislative Assembly to fund the homeowner and renter refund program

(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 suspense account referred to in subsection (1) of this section 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 refunds granted under ORS 307 244 and 310 630 to 310 690. If the sum of the obligations is estimated to be greater than the amounts credited to the suspense account referred to in ORS 293 445 for the fiscal year for those obligations, the maximum dollar amounts payable under ORS 310 640, shall be proportionally 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 310 640 shall be one-half of the maximum dollar amount paid on behalf of a homeowner under ORS 310 640. No claim for payment or refund shall accrue to a taxpayer under ORS 310 640 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, 1985 c 761 §10, 1985 c 784 §8]

**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]

**310 810** [1979 c 241 §1, 1981 c 790 §1, repealed by 1985 c 784 §10]

**310 820** [1979 c 241 §2, 1981 c 790 §2, 1982 ss 1 c 33 §7, 1982 ss 3 c 4 §2, repealed by 1985 c 784 §10]

**310 830** [1979 c 241 §3, 1981 c 790 §3, repealed by 1985 c 784 §10]

**310 840** [1979 c 241 §4, 1981 c 790 §4, repealed by 1985 c 784 §10]

**310 850** [1979 c 241 §5, 1981 c 790 §5, repealed by 1985 c 784 §10]

**310 860** [1979 c 241 §6, 1981 c 678 §7, 1981 c 790 §6, repealed by 1985 c 784 §§10, 20]

**310 870** [1979 c 241 §7, 1981 c 790 §7, repealed by 1985 c 784 §10]

**310 880** [1979 c 241 §8, 1981 c 790 §8, repealed by 1985 c 784 §§10, 20]

**310 890** [1981 c 624 §11, 1982 ss 3 c 4 §3, repealed by 1985 c 784 §§10, 20]