

**LEVY OF PROPERTY TAX; TAX REDUCTION PROGRAMS**  
**OREGON ADMINISTRATIVE RULES 310**  
(OAR 310)

DEPARTMENT OF REVENUE  
DIVISION 310  
LEVY OF PROPERTY TAX; TAX REDUCTION PROGRAMS

**OAR 150-310.055 Adjustment of Operating Tax Rate Limitation for Gap Bonds**

(1) For purposes of this rule the following definitions apply:

(a) A "Qualifying Taxing District Obligation," also known as "Gap Bond," means any portion of a local taxing district 1997-98 levy that was used to repay:

(A) Principal and interest for any bond issued before December 5, 1996, and secured by a pledge or explicit commitment of ad valorem property taxes or a covenant to levy or collect ad valorem property taxes;

(B) Principal and interest for any other formal, written borrowing of moneys executed before December 5, 1996, for which ad valorem property tax revenues have been pledged or explicitly committed, or that are secured by a covenant to levy or collect ad valorem property taxes;

(C) Principal and interest for any bond issued to refund an obligation described in paragraph (A) or (B) of this section.

(b) "Operating Tax Rate Limit" means the maximum rate of operating taxes certified by the Department of Revenue that a district may impose.

(c) "Operating Taxes" means ad valorem property taxes that are subject to a permanent rate limit under section 11, Article XI of the Oregon Constitution, or statutory rate limit under ORS 310.236(4), if applicable.

(2) Any taxing district whose Operating Tax Rate Limit was established in 1997-98 and whose operating levy certification for 1997-98 included levy amounts for Gap Bonds which were part of a tax base or other permanent continuing levy authority must have its Operating Tax Rate Limit increased for the tax year following the repayment of the debt obligation as outlined in this rule.

(3) In the year in which the Gap Bond debt is repaid the district must send a letter at least 30 days prior to the end of the fiscal year to the county assessor of each county in which the district imposes taxes with a copy directed to the: Property Tax Division, Oregon Department of Revenue, PO Box 14380, Salem Oregon 97309-5075. At a minimum, the letter must include the following information:

- (a) Name of the taxing district;
  - (b) Levy amount identified as Gap Bonds on the 1997-98 M-50 Form;
  - (c) Amount of Gap Bond debt paid by that levy which has been retired during the current tax year.
- (4) Within 30 days of receipt of its copy, the Department of Revenue must send a letter to the district and a copy of the letter to the county assessor(s): The letter must include the following information:
- (a) The name of the district;
  - (b) The Operating Tax Rate Limit before recalculation;
  - (c) The new Operating Tax Rate Limit increase after recalculation;
  - (d) The tax year for which the new Operating Tax Rate Limit increase will first apply.
- (5) The Department of Revenue must calculate the increase in the Operating Tax Rate Limit for the district by:
- (a) Calculating the percentage the Measure 5 operating tax was reduced in the Measure 50 calculations to arrive at the Measure 50 tax without compression.
  - (b) Applying the reduction percentage in subsection (a) above to the Gap Bond or portion of Gap Bond authority.
  - (c) Adding the resulting amount remaining after the reduction calculation in (b) above to the Measure 50 (M50) tax without compression.
  - (d) Dividing the new total amount calculated in subsection (c) by the 1997-98 assessed value used to calculate the operating rate limit of the taxing district to arrive at the new Operating Tax Rate Limit. The rate will be carried out seven places and truncated.
- (6) The final Operating Tax Rate Limits after all Gap Bond debt is repaid and the calculations, as done by the Department of Revenue, are shown in the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 305.100  
Stats. Implemented: ORS 310.055

Hist.: REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; REV 5-2000, f. & cert. ef. 8-3-00; REV 3-2001, f. 7-31-01, cert. ef. 8-1-01

**OAR 150-310.060-(A) Notice of Property Tax Levy to the Assessor**

(1) "Entity" means a taxing district with the authority to levy ad valorem tax or any other tax on property that is required or authorized to be placed on the assessment and tax roll for the current fiscal year, a unit of government with the authority to place an amount on the assessment and tax roll, or a nongovernmental unit with the authority to place an amount on the assessment and tax roll.

(2) On or before July 15 of each year any entity placing an amount on the assessment and tax roll shall file the following with the county assessor:

(a) Two copies of the notice of categorization and certification, (form LB-50, ED-50 or UR-50),

(b) Two copies of the ordinances or resolutions to adopt the budget, to make appropriations, to levy the taxes, and to categorize the taxes.

(3) If the documentation described in subsection (2) cannot be filed by July 15, the entity must submit to the assessor by July 15 a written request for an extension of time to file (see OAR 150-294.555(2)-(A) for details). The entity must file the required documents by the date extended.

(4) If any of the items of documentation are not submitted, or not complete in their entirety, notice to the assessor shall be considered incomplete and the entity must be notified by the assessor. The assessor must not place the tax levy or any other amount on the tax roll for any entity until the assessor has received the required copies of all documentation.

(5) The assessor must transmit one copy of the notice of categorization and certification (form LB-50, ED-50 or UR-50) and one copy of the ordinances or resolutions to the Department of Revenue within seven days of receipt of the complete documentation from the entity.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.060

Hist.: 10-73; TC 18-1979, f. 12-20-79, cert. ef. 12-31-79; RD 15-1982, f. 12-6-82, cert. ef. 12-31-82; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84, Renumbered from 150-310.060; RD 12-1987, f. 12-18-87, cert. ef. 12-31-87; RD 2-1994, f. 12-15-94, cert. ef. 12-31-94; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02

**OAR 150-310.060(4) Guidelines for Nongovernmental Units Using Assessment and Tax Roll**

(1) "Property tax moneys" includes ad valorem taxes, taxes on property, as defined in ORS 310.140(1), and other amounts specifically authorized by law to be included on the roll that is certified for collection under 310.060. Property tax moneys shall be deposited in the unsegregated tax collections account as required under 311.385.

(2) An entity that is not a governmental unit that has specific statutory authority to place an amount on the assessment and tax roll must notify the county assessor of the amount no later than July 15 of each year as required under ORS 310.060. Notice of the amount must be on the forms prescribed by the Department of Revenue.

(3) Unless otherwise provided by law, the provisions of ORS 311.806 do not apply when any entity that is not a governmental unit certifies an amount specifically authorized by law to be included on the assessment and tax roll, and the amount on individual properties is calculated by the entity. Any claim for refund of such amount due to an error in calculation of the amount shall be made to the entity. The entity shall pay any refunds it determines to be due to errors in calculation of the amount out of the funds available to the entity. Such refunds shall not be paid from the unsegregated tax collections account, and the assessor shall not be required to redetermine the amount of other taxes imposed on the property for which the refund is made.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.060

Hist.: RD 4-1993, f. 12-30-93, cert. ef. 12-31-93

**150-310.060(7) [Renumbered to 150-294.311(6)]**

**OAR 150-310.070-(A) Excessive and Illegal Levies**

(1) If any municipal corporation submits a tax levy to the assessor which exceeds constitutional or statutory limitations, the Department of Revenue shall notify the assessor and the excessive portion of the levy shall not be entered on the tax roll.

(2) If the Department of Revenue determines that the levy otherwise fails to meet the requirements provided by law, then upon the notification by the Department of Revenue the assessor shall not enter any tax levy upon the tax roll that does not meet statutory requirements.

(3) Upon discovery that a levy fails to meet the requirements provided by law, the Department of Revenue shall notify, by mail, the municipal corporation and the county assessor of the defects. The assessor shall change the levy in accordance with proper instructions.

The municipal corporation shall comply by submitting a revised Form LB-50 reflecting the changes in the levy, plus an amended resolution and budget document to reflect the reduced revenue and appropriated expenditures.

[Forms: The forms referred to in this rule are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 280.060

Hist.: RD 15-1982, f. 12-6-82, cert. ef. 12-31-82; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84, Renumbered from 150-310.070

### **OAR 150-310.090 Tax Rate Computation**

- (1) The county assessor shall compute the tax rate for each district that levies an ad valorem tax by dividing the district's levy after offsets by the assessed value used to compute the tax rate. The computed tax rate shall be carried to seven decimal places and truncated. A separate tax rate shall be calculated for each category of levy of a taxing district.
- (2) In the event that total taxes extended against a property exceed the limitation imposed on a category of taxes defined by Subsection (1) of Section 11b, Article XI of the Oregon Constitution, the taxes imposed upon such property in that category shall be reduced evenly by the percentage necessary to meet the limitation for that category as defined in this rule.
- (3) For each property in the county, those taxes to be imposed for the purpose of funding the public school system, but not to pay principal and interest on exempt bonded indebtedness, shall be limited to the amount provided in the following schedule for each \$1,000 of real market value of the property: [Schedule not included. See ED. NOTE.]
- (4) For each property in the county, those taxes to be imposed for the purpose of funding other government operations, but not to pay principal and interest on exempt bonded indebtedness, shall be limited to \$10 for each \$1,000 of real market value of the property.
- (5) If the taxes in either category to be imposed on any property exceed the limit established for that category in Subsection (3) and (4) of this section, the assessor shall reduce the taxes by applying a reduction percentage. The reduction percentage shall be calculated by subtracting the limit for the category from the total taxes to be imposed in that category and dividing the difference by the amount of the combined tax in the category. The assessor shall then subtract from the taxes that would otherwise be imposed, that proportion of the taxes in the category obtained by multiplying the reduction percentage times the taxing unit's total tax within the category.
- (6) After application of the reduction percentage to the taxes within each category, the total amount of taxes to be imposed on the property in either category may be different from the

maximum amount that may be imposed due to rounding. In such a case, the tax amount for the district that has the greatest amount of taxes in that category shall be adjusted so that the amount of taxes to be imposed is equal to the maximum that may be imposed.

(7) The reduction percentage shall be carried to at least seven (7) digits.

(8) Alternately, the county may use the reciprocal of the reduction percentage to determine the amount of taxes that may be imposed on a property. When using the reciprocal, the amount of taxes imposed is calculated by multiplying the taxes extended by the reciprocal percentage. The result is the amount of taxes imposed.

(9) The difference between the taxes imposed and the taxes extended is the amount of loss reported by the assessor under ORS 311.105(A).

(10) When computing additional taxes for specially assessed properties that were disqualified prior to June 30, 1991, no compression of taxes is required. If specially assessed property is disqualified for tax year beginning on or after July 1, 1991, the provisions of ORS 310.165(4) apply for computing the additional taxes. The maximum tax will be based on the real market value of the property for each year of special assessment. [Example not included. See ED. NOTE.]

[ED. NOTE: Schedules & Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.090

Hist.: RD 12-1987, f. 12-18-87, cert. ef. 12-31-87; 6-1988(Temp), f. & cert. ef. 9-2-88 thru 12-31-88; RD 9-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1991, f. 12-30-91, cert. ef. 12-31-91

### **OAR 150-310.110 Joint District Apportionment Formula**

(1) When a taxing district extends into more than one county and it levies a dollar amount ad valorem levy, the total of the levy must be apportioned among the counties in which it lies according to the assessed value to be used to compute the tax rate of the district in each county. The percentage of value in each county must be calculated to enough digits so that the tax rate for that levy will be the same in each county when truncated at the seventh (7th) digit.

(2) Separate apportionments must be done for each category of levy subject to the limits of Section 11b, Article XI of the Oregon Constitution.

(3) Example: The example district lies in two counties and has a levy subject to the School Operations limit. The levy is \$1,000. The example shows only one category of levy, if the district has more than one category, separate allocations would be done for each category of levy. [Example not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.110

Hist.: RD 12-1987, f. 12-18-87, cert. ef. 12-31-87, Renumbered from 150-310.105; RD 3-1991, f. 12-30-91, cert. ef. 12-31-91; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 10-2002, f. & cert. ef. 12-31-02

### **Elderly Rental Assistance Program**

#### **OAR 150-310.630(4) Definition of Gross Rent**

"Gross rent" means the amount actually paid during the calendar year for the occupancy of a homestead in Oregon in that calendar year. This includes charges for the use of appliances and furnishings. Advance rental payments are not included in gross rent in the month paid but for the month actually used. Delinquent rental payments are not considered rent unless the delinquent payment is made within the same calendar year as the period that the rent was incurred in. Cleaning deposits, key deposits, or other rental deposits are not considered paid for the occupancy of a homestead and are not part of gross rent. Gross rent does not include housing provided "for the convenience of the employer," since no rent is actually paid.

Examples:(a) "A," an apartment manager, is required to live in an apartment provided by his employer. "A" cannot file for a property tax refund since he is not actually paying rent.

(b) "A," a minister, is required to live in a house provided by the church. "A" cannot file for a property tax refund since he is not actually paying rent.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 11-73; 12-31-77, Renumbered from 150-310.630(7); TC 9-1978, f. 12-5-78, cert. ef. 12-31-78; TC 8-1980, f. 11-28-80, cert. ef. 12-31-80, Renumbered from 150-310.630(9); RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 310.630(8)

#### **OAR 150-310.630(5) Definition of Homestead**

(1)(a) General. The homestead must be the "principal dwelling" of the person claiming elderly rental assistance. The principal dwelling is the primary place the taxpayer physically occupies for day-to-day living on December 31 of the year for which the claim is filed. The homestead is limited to the principal dwelling and the land area of the tax lot or the tax lots that the principal dwelling is built on. The number of acres is not significant in determining the land area included in the homestead.

(b) Temporary absence. The right to elderly rental assistance will not be lost by temporary absence from the homestead except in those instances where the homestead is temporarily rented to another party. Temporary absence is defined in OAR 150-310.630(11).

(c) Persons who rent from their children or other relatives qualify for assistance if they do, in fact, have a landlord-tenant relationship.

(2) Nursing Home Residents. Residents of a nursing home may file for elderly rental assistance based on the amount of rent that was paid, not to include medical expenses, assuming the claimant meets the qualifications specified under ORS 310.635.

(a) If the nursing home resident's spouse owns the home that the spouse resides in, the nursing home resident may file for elderly rental assistance based only on the nursing home rent and the nursing home resident's household income.

(b) If the nursing home resident's spouse rented a separate residence, each spouse may file a separate claim for elderly rental assistance, assuming each meets the qualifications specified under ORS 310.635. Each spouse's claim for elderly rental assistance will be based on the rent actually paid by that spouse. The household income limitations of ORS 310.630 will be applied separately to each spouse.

(3) Multiple Family Units. A multiple family unit may contain more than one homestead if a landlord-tenant relationship exists. The Department may segregate the value of the tenant's dwelling area from the total property value to determine the homestead of the owner-occupant. The dwelling area occupied by the tenant will qualify as a homestead and the tenant may file for elderly rental assistance based on the rent actually paid for that unit. Any person who operates a boarding house or rents rooms will be considered as maintaining a multiple family unit.

(4) Subleasing of a Living Unit. If a person who rents a dwelling area subleases part of that dwelling area to another person, the original renter must reduce the total rent paid by the amount of rent received from the sublessee in determining the amount of net rent that may be claimed for elderly rental assistance.

(5) Business Property. If the principal dwelling contains business property, and if the taxpayer claims a business expense based upon the use of such property, the value of the business property must be segregated out. The elderly rental assistance claim must be based only on the portion of rent paid for the residence.

(6) Mobile Home Residents. Taxpayers who reside in a mobile home and who rent either the land or the mobile home, or both, will qualify for elderly rental assistance if they meet the qualifications specified under ORS 310.635. The amount of the assistance will be based on the rent paid. The assistance will not include any property taxes paid on property that is owned by the taxpayer.



Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 12-71 as 150-310.631; 4-72; 12-72; 11-73; TC 9-1978, f. 12-5-78, cert. ef. 12-31-78, Renumbered from 150-310.630(3); RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; Renumbered 150-310.630(5); RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97, Renumbered from 310.630(5); REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 310.630(4)

### **OAR 150-310.630(8)(a)-(A) Pensions**

As used in ORS 310.630(8)(a)(A), "exempt pensions" does not include certain distributions from qualified retirement plans. Distributions that are excluded from adjusted gross income because they have been transferred or "rolled over" into an individual retirement arrangement (IRA) are not considered to be "exempt pensions." Such amounts should not be added to adjusted gross income for purposes of determining household income.

Example: Roseanna received a lump-sum distribution from her employer's qualified pension plan. Within 60 days of the distribution, Roseanna transferred all of the funds to an IRA. The amount of the lump-sum distribution is not included in household income.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: RD 3-1995, f. 12-29-95, cert. ef. 12-31-95, Renumbered from 150-310.630(7)(a)-(A); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 310.630(7)(a)-(A)

### **OAR 150-310.630(8)(a)-(C) Inheritances**

As used in ORS 310.630(8)(a)(C), "inheritances" include only property that passes by will or statutes of intestate succession. However, inheritances do not include any property that passes from a deceased spouse to a surviving spouse who lived together in the same household. An inheritance is considered to be received on the date of distribution of the property rather than on the date of the death of the decedent.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 12-31-77, 12-31-78, 12-31-84; Renumbered from 150-310.630(8) to 150-310.630(8)-(A); 12-31-85; RD 10-1986, f. & cert. ef. 12-31-86, Renumbered from 150-310.630(8)-(A); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01, Renumbered from 310.630(7)(a)-(C)

## **OAR 150-310.630(8)(a)-(D) Gifts**

(1) "Household income" includes all gifts, grants and scholarships in excess of \$500 regardless of whether they are taxable or nontaxable.

(2) Gifts include the transfer of property for less than adequate and full consideration in money or money's worth. The amount of the gift is the difference between the amount of the consideration and the market value of the gifted interest in the property. A transfer of property where possession or enjoyment is postponed until some future date is a gift when the donee actually receives the property. However, gifts do not include any transfer of property passing between husband and wife who are living together in the same household.

Example 1: Mike conveys real property to Leonard, but reserves a life estate for Mike. There is a gift to Leonard when Mike dies. The amount of the gift is the market value of the property on the date of Mike's death.

Example 2: Dee creates a joint bank account with Jennifer. All of the funds in the account are furnished by Dee. There is a gift to Jennifer when Jennifer draws upon the account for Jennifer's benefit to the extent of the amount withdrawn. There is also a gift to Jennifer when Dee dies and the remaining balance of the account passes to Jennifer.

Example 3: Mary creates a joint interest with Elizabeth in real property held not as tenants in common but with right of survivorship. This act is not a gift because of the cross contingent remainders that are indestructible by either tenant. Upon the death of Mary, the vesting of the total property is a gift to Elizabeth in the amount of the total market value of the property.

(3) Gifts include the creation of joint tenancy in real or personal property. The amount of the gift is the value of the joint tenancy in the real or personal property. The value of the joint tenancy is the real market value of the interest in the property. However, for purposes of this rule, a taxpayer may treat the value of the gift either as the real market value of the taxpayer's interest in the property or as the taxpayer's proportional share of the real market value of the property as a whole.

Example 4: Susan creates a joint tenancy in personal property under ORS 105.920 with Linda. Linda receives the right to one-half of the income from the property, or one-half the use of the property, and the right to sever the joint tenancy. The creation of the joint tenancy is a gift to Linda. For household income purposes, Linda's one-half interest in the personal property is valued at either real market value or one-half of the total real market value of the personal property. Later, upon the death of Susan, Linda becomes the sole owner of the property. The transfer of Susan's one-half interest in the personal property is a gift to Linda, again valued at either real market value or one-half of the total real market value of the personal property.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 12-31-77; 12-31-78; 12-31-84; Renumbered from 150-310.630(8) to 150-310.630(8)-(A), 12-31-85; RD 10-1986, f. & cert. ef. 12-31-86, Renumbered from 150-310.630(8)-(A); Renumbered from 150-310.630(8)(a)-(D) to 150-310.630(7)(a)-(D); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 150-310.630(7)(a)-(D)

### **OAR 150-310.630(8)(a)-(O) Welfare Payments -- Excludable Amounts**

(1) Welfare payments for medical care, drugs, and medical supplies are excludable from household income if the recipient doesn't receive such payments directly.

(2) Welfare payments for in-home services authorized and approved by the Department of Human Services or any of its divisions are excludable from household income. "In-home services" include but are not limited to home care services, nursing tasks, housekeeper services, meal preparation, assistance with shopping and transportation, and personal care services.

(3) Welfare payments for direct or indirect reimbursement of expenses paid or incurred for participation in work or training programs are excludable from household income. These payments include but are not limited to reimbursements for tuition, books, supplies, and transportation.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 10-7-85, 12-31-85, Renumbered from 150-310.630(8)-(B) to 150-310.630(8)(a)-(O); 12-31-86; 12-31-89, Renumbered from 150-310.630(8)(a)-(O) to 150-310.630(7)(a)-(O); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01, Renumbered from 150-310.630(7)(a)-(O); REV 4-2009, f. & cert. ef. 7-31-09

### **OAR 150-310.630(8)(b)-(F) Limitation of Losses in Computing Household Income**

To determine household income, each source of income (loss) must be considered separately. A business, a farm, rents, royalties, and income from the disposition of tangible or intangible property are separate sources of income or loss. To determine household income, combine all income or loss from each separate source. If any net loss results from such combination, the net loss is limited to \$1,000.

Example 1: In 1997, Elizabeth had retirement income of \$7,000, a farm loss of \$5,000 and a net operating loss deduction of \$2,000. Elizabeth's household income is figured below: [Example not included. See ED. NOTE.]

Net operating loss carrybacks or carryovers do not decrease household income for tax years beginning after December 31, 1981. In addition, the farm loss is limited to \$1,000.

Example 2: Assume the same facts as in Example 1 above. In addition to the farm loss, Elizabeth is a partner in a partnership. The partnership's main activity is farming. In 1997, the partnership had income of \$10,000. Elizabeth's share of the partnership income is \$6,000. Elizabeth's household income is figured below: [Example not included. See ED. NOTE.]

The farm income from the partnership is netted with Elizabeth's farm loss. This would also be the case if Elizabeth is a shareholder in an S Corporation that is primarily engaged in farming.

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 12-31-77; 12-31-78; 12-31-84; Renumbered from 150-310.630(8) to 150-310.630(8)-(A), 12-31-85; RD 10-1986, f. & cert. ef. 12-31-86, Renumbered from 150-310.630(8)-(A); Renumbered from 150-310.630(8)(b)-(F) to 150-310.630(7)(b)-(F); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 310.630(7)(b)-(F)

### **OAR 150-310.630(9) Definition of Contract Rent**

Contract rent means the amount actually paid during the calendar year for the occupancy of a homestead in Oregon in that calendar year. This includes charges for the use of appliances and furnishings. Advance rental payments are not included in contract rent in the month paid but for the month actually used. Delinquent rental payments are not considered rent unless the delinquent payment is made within the same calendar year as the period for which the rent was incurred. Cleaning deposits, key deposits, or other rental deposits are not considered paid for the occupancy of a homestead and are not part of contract rent. Contract rent does not include housing provided "for the convenience of the employer," since no rent is actually paid.

Examples.

(a) "A", an apartment manager, is required to live in an apartment provided by his employer. "A" cannot file for a property tax refund since he is actually paying contract rent.

(b) "A", a minister, is required to live in a house provided by the church. "A" cannot file for a property tax refund since he is not actually paying contract rent.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 11-73; 12-31-77, Renumbered; TC 8-1980, f. 11-28-80, cert. ef. 12-31-80

150-310.630(10) [Renumbered to 150-310.630(11)]

### **OAR 150-310.630(11) Definition of "Residing in" Oregon**

(1) A taxpayer is "residing in" Oregon on December 31 if their principal dwelling was located in Oregon on December 31. However, a taxpayer will be considered to be residing in Oregon if their principal dwelling was in Oregon on December 31 and they were away on a temporary absence. Temporary absences include absences for vacations, hospitalization and business travel. The term "residing in" does not require domicile. See OAR 150-310.630(5) for definition of principal dwelling.

(2) Renters don't have to be renting on December 31 to be considered as residing in Oregon on that date.

Examples:

(a) "A" rented an apartment in Eugene, Oregon, from January 1 to September 30. From October 1 through December 31, "A" lived with a family in Portland, Oregon. "A" is residing in Oregon on December 31.

(b) "A," a renter, lived in Oregon until August. Then the taxpayer moved to Idaho. "A" visited friends in Oregon during Christmas vacation and was in Oregon on December 31. "A" isn't residing in Oregon on December 31.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: Repealed by TC 19-1979, f. 12-20-79, cert. ef. 12-31-79; RD 12-1982(Temp) f. & cert. ef. 12-16-82; RD 14-1982, f. 12-6-82, cert. ef. 12-31-82; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91, Renumbered from 150-310.630(13); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01; Renumbered from 150-310.630(10))

### **OAR 150-310.635 Claimant Filing Rules for Elderly Rental Assistance**

(1)(a) General Rule. With respect to the calendar year for which the claim is filed, only renters residing in Oregon on December 31 are eligible claimants. A taxpayer who is a homeowner on December 31 of the calendar year for which the claim is filed does not qualify for elderly rental assistance. A claim may be filed only for a principal dwelling located in Oregon that is subject to Oregon property tax.

(b) "Household Income" Limitation. To qualify for elderly rental assistance, a claimant's household income must be less than \$10,000. Household income does not include the income of other related or unrelated individuals living with the taxpayer. Unless a husband and wife are living apart permanently on December 31, their income must be combined to determine their household income limit. "Household income" is defined in ORS 310.630.

(c) "Household Asset" Limitation.

(A) A taxpayer who has not attained the age of 65 by December 31 of the year for which the claim is filed must have household assets with a value of no more than \$25,000 on the same December 31 to be considered an eligible claimant. Unless a husband and wife are living apart permanently on December 31, the value of their assets must be combined to determine if the value of household assets is no more than \$25,000. For the purpose of this rule, a husband and wife filing a joint homeowner or renter refund claim are not subject to this limitation if at least one spouse is age 65 or over on December 31.

(B) As used in this rule, "household assets" means those assets as defined in ORS 310.651. Household assets include, but are not limited to the following:

(i) Real property (excluding the value of the homestead).

(ii) Tangible personal property used in a trade or business.

(iii) Intangible personal property such as stocks, bonds, certificates of deposit, and other evidence of debt as defined in ORS 310.651.

(C) The claimant must complete the Household Assets List on the refund claim form to verify that the value of the household assets on December 31 of the year of the claim does not exceed \$25,000. Completion of the Household Assets List is not required if at least one spouse on a joint claim is age 65 or over on December 31.

(d) Joint Claim for Spouses. In general, a husband and wife residing at the same principal dwelling on December 31 must file a joint elderly rental assistance claim for the calendar year. A joint claim will be treated as a claim filed by a single taxpayer. The department will not issue separate payments for a joint claim.

(2) A claimant who has rented more than one dwelling during the calendar year may file a claim for all rent paid during the calendar year if the claimant is residing in Oregon on December 31. "Residing in" Oregon is defined in OAR 150-310.630(11). Each roommate in a household may file an elderly rental assistance claim for any period during the year. The roommate's claim should be based on the household income of that claimant, the portion of rent paid by the claimant during the calendar year, and the value of the household assets of that claimant on December 31. Rent does not include advance rent or deposits for keys, cleaning, or security. See ORS 310.635 for computation of the refund.

(3) Examples. For the purpose of the following examples assume "A" and "B" are not husband and wife.

(a) "A" and "B" sold their home in August and together moved into a rented home for the remainder of the year. "A" and "B" may each file an elderly rental assistance claim as a renter for the period August through December. "A's" claim must be based only on "A's" household income, household assets, and the portion of rent "A" paid. "B's" claim must be based only on "B's" household income, household assets, and the portion of the rent "B" paid.

(b) "A" owns a home for the entire calendar year. "A" rents the home to "B" from January 1 to December 1. On December 2, "A" moves into the house with "B" for the remainder of the year. "B" may file a claim for elderly rental assistance for the calendar year if "B" is residing in Oregon and is not a homeowner on December 31.

(c) "A" rented an apartment by herself from January through July. In August "A" and "B" moved into another apartment together. "A" and "B" both paid half of the rent for the new apartment during August through December. "B" paid no rent before moving into the apartment with "A." Both "A" and "B" qualify for elderly rental assistance. "A" and "B" must file their elderly rental assistance forms as follows:

(A) "A" may file a claim showing the rent and utilities she paid. "A" may claim the rent she paid from January through July at her old address. She may claim only her own rent and utilities (the amount she actually paid) at the new address from August through December. "A" should consider only her own assets for purposes of the household assets limitation.

(B) "B" may file a claim showing only the rent she paid at the new address from August through December. "B" should show only her own household income and will consider only her own assets for purposes of the household asset limitation.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.635

Hist.: 11-73; 4-74; 9-74; 3-16-78; 12-31-79; 9-16-82; 12-31-82; 12-31-89; 12-31-90; 12-31-91; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97, Renumbered from 150-310.640; REV 9-1999, f. 12-30-99, cert. ef. 12-31-99; REV 8-2001, f. & cert. ef. 12-31-01

#### **OAR 150-310.635(7) Government Entity**

For purposes of this statute, a government entity includes all local, state, and federal agencies or governing bodies.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.635

Hist.: RD 13-1987, f. 12-18-87, cert. ef. 12-31-87; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97, Renumbered from 150-310.637

## **OAR 150-310.657 Determination and Payment of Elderly Rental Assistance Claims**

(1) Elderly Rental Assistance claims filed on or before July 1 of each year will be processed on or before November 15 of the same year. If the department determines that the claimant is eligible for elderly rental assistance, the department will determine the amount to which the claimant is entitled under ORS 310.635 and 310.692.

(a) If the department grants a claim for elderly rental assistance in whole or in part, payment will be made on or before November 15 of the year in which the claim is filed. If the department denies a claim, in whole or in part, the department will notify the claimant on or before November 15 of the year in which the claim is filed.

(b) Prior to payment on or before November 15 of each year, the department will determine the total amount of eligible claims to be paid in that year and, if necessary, will prorate the payments as provided in ORS 310.692.

(c) After the claims, determined by the department to be eligible for payment on or before November 15 of each year, have been paid, no payments will be made until the following year. Amended claims or appeals to claim denials, that result in additional elderly rental assistance will be included in the total amount of eligible claims to be paid in the following year and will be subject to any proration determined for that year.

Example 1: Mrs. Jones files a 2001 Form 90R on June 15, 2002. The department processes the form and a prorated check is issued to her on November 15, 2002. Mrs. Jones files an amended 2001 Form 90R on November 29, 2002 and the department determines that she is eligible for an additional payment. Her additional claim amount is processed with timely filed 2002 claims eligible for payment on or before November 15, 2003, and is subject to any proration determined for claims paid in 2003.

Example 2: Mr. Smith files a 2001 Form 90R on June 15, 2002. The department processes the form and determines that Mr. Smith is not eligible for elderly rental assistance, because he did not spend more than 20 percent of his total household income on rent and utilities. The department notifies him of the denial of his claim, and Mr. Smith appeals to the Magistrate Division of the Tax Court. Mr. Smith provides additional utility receipts and the Magistrate determines that he is eligible for elderly rental assistance. However, the appeal is resolved after all of the funds allocated for elderly rental assistance payments in 2002 have already been paid. In that case, Mr. Smith's claim amount is processed along with timely filed 2002 claims eligible for payment on or before November 15, 2003 and is subject to any proration determined for claims paid in 2003.

(2) Eligible claims for elderly rental assistance filed after July 1 are included with other claims eligible to be paid in the next year and will be subject to any proration determined for claims paid in that following year.



Example 3: Mrs. Lee files a 2001 Form 90R on July 15, 2002. Since Mrs. Lee filed her 2001 form after July 1, 2002, her form is processed in the following year along with timely 2002 forms. If she is eligible for elderly rental assistance, her claim amount is eligible for payment in November 2003 and is subject to any proration applicable to payments made in 2003.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.657

Hist.: REV 3-2002, f. 6-26-02, cert. ef. 6-30-02

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