



ADMINISTRATIVE RULE REVIEW

Amended Rule	Rule No. 150-315-0070	Last Revised Date October 20, 2016
	Page Page 1 of 4	
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated November 2016	Hearing Scheduled November 22, 2016

PURPOSE: To modify when a taxpayer must file a transfer notice when transferring an agriculture workforce housing credit under ORS 315.169 from the time of filing a tax return to within 30 days of transfer.

1 **150-315-0070**

2 **Agriculture Workforce Housing Credit**

3 (1) General Information.

4 (a) A credit is available to taxpayers who construct, install, or rehabilitate housing for agricultural  
5 workers and their immediate families.

6 (b) The credit is available for agriculture workforce housing projects that are physically begun on or after  
7 January 1, 1990.

8 (c) Depreciation and amortization expenses associated with the agriculture workforce housing project are  
9 not decreased by the amount of the tax credit allowed.

10 (d) The taxpayer's adjusted basis in the housing project is not decreased by any tax credits allowed.

11 (e) For tax years beginning on or after January 1, 2004, ORS 315.167 provides that the owner or operator  
12 of agriculture workforce housing or a contributor as described in ORS 315.163(6) must apply to the  
13 Oregon Housing and Community Services Department (OHCSO) for a letter of credit approval no later  
14 than six months after beginning an agriculture workforce housing project.

15 (2) Qualifications for the Tax Credit.

16 (a) The agriculture workforce housing project must be located in Oregon to qualify for the credit.

17 (b) The housing project must be limited to occupancy by agricultural workers during the tax year in order  
18 to qualify for the credit. If the housing is occupied at any time during the year by persons other than  
19 agricultural workers and their immediate families, the housing will not qualify for the credit. Nor can the  
20 housing be used for any other function except housing for agricultural workers.

21 (c) The taxpayer claiming the credit must:

22 (A) Obtain a letter of credit approval from the OHCSO; and

23 (B) Certify on an annual basis that any units that were occupied during the tax year were occupied only  
24 by agricultural workers or their immediate families. The letter of credit approval and the certification  
25 must be maintained in the taxpayer's records and made available to the department on request.



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- 1 (d) The OHCS D administers the application and eligibility process for this credit. See chapter 813,  
2 divisions 41 and 42 of the Oregon Administrative Rules, and contact OHCS D for more information.
- 3 (3) Computation of the Tax Credit For Projects Completed in Tax Years Beginning On or After January  
4 1, 2002
- 5 (a) The credit is equal to 50 percent of the costs directly associated with the construction or rehabilitation  
6 of the agriculture workforce housing project including costs for financing, construction, excavation,  
7 installation, and permits. Construction includes acquisition of new or used prefabricated or manufactured  
8 housing. Acquisition costs of land and existing improvements on that land used for the project are not  
9 included in the computation.
- 10 (b) The credit first may be claimed in the year the project is completed or in any of the nine succeeding  
11 tax years. No more than 20 percent of the total credit may be claimed in any one tax year. The housing is  
12 not required to be occupied prior to the end of the tax year in which the project is completed in order for  
13 the credit to be claimed.
- 14 (c) Tax credits not used in a tax year may be carried forward for up to nine years. Any credit carried  
15 forward is used first, before the allowable current year credit.
- 16 (d) Costs of rehabilitation include capital expenditures only. The allowable costs are those incurred for  
17 additions or improvements to property (or related facilities) with a useful life of five years or more.  
18 Rehabilitation costs do not include the cost of acquiring the building or an interest in the building.
- 19 (4) Computation of the Tax Credit for Projects Completed in Tax Years Beginning before January 1,  
20 2002. The credit is equal to 30 percent of costs described in subsection (3)(a) if completed after  
21 December 31, 1995, and 50 percent if completed before December 31, 1995. The credit is claimed in  
22 equal installments over a consecutive five-year period beginning in the year the agriculture workforce  
23 housing project is completed. The credits may be carried forward for up to five years. Otherwise, the  
24 computation of the credit is the same as specified in section (3) of this rule.
- 25 (5) Disallowance and Forfeiture of Tax Credit. The tax credit will be disallowed and any prior years'  
26 credits forfeited in the case of:



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- 1 (a) Fraud or misrepresentation by the taxpayer to obtain the credit.
- 2 (b) A taxpayer who is an owner or operator who fails to substantially comply with occupational health
- 3 and safety rules, regulations, or standards. The Department of Consumer and Business Services will
- 4 notify the department of any agriculture workforce housing project failing to substantially comply with
- 5 these standards.
- 6 (c) A taxpayer who is an owner or operator who fails to obtain required registration as an agriculture
- 7 workforce camp with the Department of Consumer and Business Services.
- 8 (d) A taxpayer who is an owner or operator of an agriculture workforce housing project that is not
- 9 operated by a person who holds a valid endorsement as a farmworker camp operator, if required under
- 10 ORS 658.730.
- 11 (6) Sale of Agriculture Workforce Housing Project. If the agriculture workforce housing project is sold,
- 12 the original investor may continue to claim the tax credit, provided all other provisions are met.
- 13 Example: LeRay began construction of an agriculture workforce housing project on his property on July
- 14 1, ~~1995~~2016. The project was completed on December 15, ~~1995~~2016, and on that date complied with the
- 15 applicable health and safety standards. The housing was registered with the Department of Consumer and
- 16 Business Services, and LeRay obtained endorsement as a farm camp operator. LeRay must claim the
- 17 credit on his ~~1995-2016~~ return, even though no units are occupied until ~~1996~~2017. If LeRay sells the
- 18 property, he may continue to claim the credit only by obtaining a statement from the new owner of the
- 19 property, certifying that any occupied units are occupied only by agricultural workers and their
- 20 immediate families. Upon audit or examination, LeRay must provide a statement for each year in which
- 21 the credit is claimed if requested by the department.
- 22 (7) Transfer of Credit to Contributor. For tax years beginning on or after January 1, 2005, an owner or
- 23 operator may transfer up to 100 percent of the total credit the owner or operator may claim. For tax years
- 24 beginning on or after January 1, 2002 and before January 1, 2005, an owner or operator of agriculture
- 25 workforce housing may transfer to one or more contributors up to 80 percent of the total credit the owner
- 26 or operator may claim. A contributor claiming the credit and the owner or operator must file a joint



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1 statement ~~to be attached to the return on which the credit is claimed~~[with the Department of Revenue](#)  
2 [within 30 days of transfer of the tax credit](#). The statement must include:

3 (a) The owner or operator's name, ~~and~~ federal employer ID number (FEIN), ~~); Oregon business~~  
4 ~~identification number (BIN), and designation as either the owner or operator;~~

5 (b) The contributor's name, ~~FEIN, and BIN~~[and FEIN](#):

6 (c) The amount ~~and percentage~~ of the credit transferred;

7 (d) The total amount of credit ~~the owner or operator may claim,~~ before any transfer to contributors; and

8 (e) Signatures of or on behalf of the owner or operator and the contributor.

9 **[Publications:** Contact the Oregon Department of Revenue for information about how to obtain a copy  
10 of the publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and  
11 ORS 183.355(1)(b).]

12 **Stat. Auth.:** ORS 305.100; [ORS 315.169](#)

13 **Stats. Implemented:** ORS 315.164; [ORS 315.169](#)

14