

Fiduciary Income Tax

This publication is a guide, not a complete statement, of Oregon Revised Statutes (ORS) and Oregon Department of Revenue Administrative Rules (OAR). For more information, refer to the laws and rules at, www.oregon.gov/dor.

New information

New for 2015, you may file your Fiduciary Income Tax Return through the Federal and State e-filing program. For more information about e-filing, visit us at www.oregon.gov/dor.

Kicker refund. Oregon's surplus credit (known as the "kicker") will be claimed as a credit on your 2015 tax return. The credit is 5.6 percent of your 2014 tax liability. You may choose to donate your surplus credit to the Oregon State School Fund. See page 5 for more information and instructions for calculating your credit and donating your credit to the Oregon State School Fund. You must file a 2015 return to claim your kicker credit, even if you don't have an obligation to file.

Reminders

Do you need a new FEIN (federal employer identification number)?

Estates

You **are** required to obtain a new FEIN if any of the following statements are true:

- A trust is created with funds from the estate (not simply a continuation of the estate).
- You represent an estate that operates a business after the owner's death.

You **aren't** required to obtain a new FEIN if the following statement is true:

- The administrator, personal representative, or executor changes.

Trusts

You **are** required to obtain a new FEIN if any of the following statements are true:

- One person is the grantor/maker of many trusts. Each trust must have its own FEIN.
- A trust changes to an estate.
- A living or inter vivos trust changes to a testamentary trust.
- A revocable trust changes to an irrevocable trust.
- A living trust terminates by distributing its property to a residual trust.

You **aren't** required to obtain a new FEIN if any of the following statements are true:

- The trustee changes.
- The grantor or beneficiary changes their name or address.

Note: If you need a new FEIN, apply for one with the IRS by using federal Form SS-4. For more information about a FEIN, see IRS Publication 1635, *Understanding Your EIN*, available on the IRS website at www.irs.gov.

Extension of time to file. Oregon accepts the same automatic extension of time to file allowed by the Internal Revenue Service (IRS). The automatic extension of time to file is five months. If you timely applied to the IRS for the **five-month** automatic extension to file, check the "Extension to file" box on your Form 41. Oregon accepts a valid federal extension.

Payment. You may pay online at www.oregon.gov/dor or by mail. If by mail, send a completed 41-V, *Oregon Fiduciary Tax Payment Voucher*, 150-101-172 and check or money order to:

Oregon Department of Revenue
PO Box 14110
Salem OR 97309-0910

Estates and trusts aren't required to make estimated tax payments to Oregon. Your full payment is due on the original due date of the tax return; don't include your five-month extension period.

Federal election. Oregon accepts the federal election made by the executor of an estate and the trustee of a qualified revocable trust to treat the trust as part of the estate. Internal Revenue Code (IRC) section 645.

If you made this election for your federal return, check the "A Trust Filing as an Estate" box on Form 41, box A, and fill in the date of death. Include a copy of the required federal Form 8855, *Election to Treat a Qualified Revocable Trust as Part of an Estate*.

Confirmation of mailing. We can't respond to requests for receipt of returns, extensions, or payments. If you want verification that your envelope reached us, send it by certified mail.

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Change of name or address. It is important, if you change the name or address of your trust or estate, to check the appropriate box(es) on Form 41, page 1.

Deferral of gain. Did you file federal Form 8824 because you are deferring gain on exchanged property? If so, check the box on the front of Form 41, "Form 24 is included." Then complete and include Form 24, *Oregon Like-Kind Exchanges/Involuntary Conversions*, 150-800-734, with the return.

In the year that the gain is finally recognized for federal purposes, you will need to file a return and report the portion of the gain that is subject to Oregon taxation.

Capital gain on liquidated farm assets. A reduced tax rate is available if you sold or exchanged capital assets used in farming activities. The sale or exchange must represent a substantially complete termination of a farming business you own. The sale can't be to a family member. See instructions for line 25 (ORS 316.045).

Filing requirements

A fiduciary return must be filed for:

- Resident estates or trusts required to file a federal Form 1041 or 990-T.
- All estates and trusts upon termination to report the final distribution to beneficiaries.
- Ancillary Oregon estates with federal gross income of \$600 or more for the tax year.
- Nonresident estates with federal gross income of \$600 or more from Oregon sources for the tax year.
- All estates that want to establish a fiscal tax year, even if the estate had less than \$600 of federal gross income for the tax year.
- Part-year resident trusts with federal gross income of \$600 or more from Oregon sources for the tax year.
- Nonresident trusts with federal gross income of \$600 or more from Oregon sources for the tax year.

Note: If you had a tax liability in 2014, you need to file a 2015 return to claim your surplus refund (kicker) credit, even if you don't meet the filing requirements to file a 2015 return.

Residency definitions

- **Estates.** An estate is an Oregon resident if the personal representative is appointed by an Oregon court, or if the estate administration is in Oregon. All other estates are nonresidents. An estate can't be a part-year resident.
- **Trusts.** A trust is a resident if the trustee is an Oregon resident or if the trust administration is in Oregon. If there are several trustees and one is an Oregon resident, the trust is an Oregon resident trust. A trust can be a part-year resident if a trustee moves in or out of Oregon during the tax year. See part-year resident instructions.

- If a trustee is a corporate fiduciary engaged in interstate trust administration, the trust is an Oregon resident only if the trustee conducts the major part of the trust's administration in Oregon.

- **Funeral trust.** A resident funeral trust is a qualified funeral trust (QFT) that has the meaning given in IRC section 685. A resident funeral trust is required to be established under the law of this state, or is established by contract, for the funeral home or cemetery to provide services or merchandise in Oregon.

Name of fiduciary. Enter the name and address of the executor or trustee in the space marked "Name of fiduciary." If there are co-fiduciaries, enter the name and address of the one who signs the return.

Other returns required of fiduciaries. File the final applicable (Form 40, *Oregon Individual Income Tax return*, 150-101-040, Form 40N, *Oregon Nonresident Return*, 150-101-304, or Form 40P, *Oregon Part-Year Resident Return*, 150-101-055) for a deceased taxpayer's last tax year, the year of death. If a federal Form 1040NR is required for a nonresident beneficiary, a Form 40N, may be required. If a federal return is required for a minor, incompetent person, missing person, or conservatee, an Oregon return must be filed. If a person who is incompetent or is now deceased failed to file a prior year individual income tax return as required, the trustee is required to file the return.

If Form 5227 or Form 1041-A is required for federal income tax, file a copy of that form with the Oregon Department of Revenue. Don't attach a Form 41. Mark the copy "Oregon Information Copy." Usually no Oregon report or copy is required if the only federal returns are Form 990 (exempt organizations), Form 990-PF (private foundations), or Form 4720 (certain charities).

If you file Form 990-T and you're a corporation, file Form 20, *Oregon Corporation Excise Tax Return*, 150-102-020. If a federal Form 990-T is filed, also file Oregon Form 41 for your trust. Don't complete Form 41, lines 1, 2, 5, 5a, and 6. From Form 990-T, enter any unrelated business taxable income on Form 41, line 23, and the fiduciary adjustment on line 5b. Also complete Form 41, Schedule 1, column B.

Is your original due date for Form 990-T the 15th day of the 5th month after the end of your tax year? Example: Your organization year end is December 31, 2015. Your original due date for Form 990-T is May 15, 2016. At the top of Form 41 write, "Original due date May 15, 2016."

Bankruptcy estates. Your return will consist of Oregon forms 41 and 40, and copies of your federal forms 1041 and 1040. Oregon Form 41 is used only as a transmittal for Form 40. If you request a prompt determination (aka: rapid audit), include your written request with Form 41.

Period covered by the return. The return must be for the same tax year used for filing the federal return. Trusts are required to file on a calendar year.

When and where to file the return. All trust and estate returns filing for the 2015 calendar year are due by **April 18**. Estate returns for other tax periods, fiscal year or short period, are due by the 15th day of the fourth month following the close of the estate's year. **Example:** Your estate is on a fiscal year starting June 1, 2015, and ending May 31, 2016. The 2015 Form 41 is due by September 15, 2016. Mail the return to:

Oregon Department of Revenue
PO Box 14110
Salem OR 97309-0910

Signature. The fiduciary or officer representing the fiduciary must sign the return and provide the fiduciary's phone number.

Accounting period. The accounting period must be the same as for federal income tax purposes. Show the same accounting period on your Form 41-V and your Form 41.

Accounting method. The accounting method must be the same as for federal income tax purposes. If the method is changed, adjustments must be made to avoid duplication or omission of income and deductions.

Amended return. If you need to amend your tax return, use the Form 41 for the specific tax year. Include a complete narrative explanation with your reason for amending, a complete copy of the amended federal Form 1041, and all supporting documents.

Unused loss carryovers. IRC sections 172 and 1212 apply to an estate or trust and the beneficiaries. Include a copy of the federal loss carryover schedule with Form 41.

Income taxable to the grantor or substantial owner. Any part of trust income taxable to the grantor or another person under IRC sections 671 through 678 isn't taxed on a fiduciary return. However, the income information must be shown on Schedule ASC-FID and be included with Form 1041. Include this schedule with Form 41 to show Oregon additions and subtractions to federal taxable income. If the grantor trust is exempt from filing Form 1041 under IRC regulation 1.671-4, it's also exempt from filing Form 41 (OAR 150-316.382).

Returns for estates and complex trusts. On Oregon Form 41, lines 1 through 7, allocate the income and Oregon modifications between the estate or trust and the beneficiary if an authorized distribution was made or required during the tax year. The fiduciary must provide the beneficiary with income distribution and Schedule K-1, *Oregon Fiduciary Adjustment Information*, 150-101-002, on federal Form 1041. Include a copy of each K-1 with Form 41. See instructions for line 6.

Transferee. The money and property of a taxpayer who has died passes to a person, estate or trust, called the transferee. The transferee may be liable for the obligations and liabilities of the deceased person. The liability includes tax, interest, and penalty. The transferee's liability is limited to the value of the property acquired from the decedent (ORS 314.310).

Extension of time for filing

The extension of time to file a fiduciary tax return is five months.

If you need more time to file, send your payment and Form 41-V to: Oregon Department of Revenue, PO Box 14110, Salem OR 97309-0910.

When you make a payment, consider the Form 41-V payment voucher as your extension request and check the "extension payment" box. If you aren't making an Oregon payment, complete and file the federal extension Form 7004 with the IRS. Keep a copy of your complete federal extension form. Check the "Extension to file" box on Form 41, page 1. If we need a copy of your extension, we'll ask you to provide one.

An extension of time to file your return isn't an extension of time to pay your tax. All tax due must be paid by the original due date of the return to avoid penalties.

When you file your return

- If applicable, check the box on the front of Form 41 indicating "Extension to file."
- Include the amount you paid with Form 41-V, on line 14.

Form 41 instructions

Simple trusts without capital gains or losses, or estates terminating in this tax year, must complete Form 41, lines 2, 5a, and 6 on the front, and lines 22-42 on the back.

If there are no distributions to the beneficiary, begin on line 4.

Line 3. Percentage. When computing the percentage round to four decimal places. For example, 12.34558 percent should be 12.3456 percent.

Line 5a. Enter the fiduciary adjustment allocable to the beneficiary (ORS 316.287 and OAR 150-316.287). If the adjustment is a **subtraction**, the beneficiary's share is limited to an amount equal to the distribution of income taxable on the beneficiary's individual return. A fiduciary adjustment **addition** increases the beneficiary's income. The beneficiary's share of the addition is limited as follows: Subtract the taxable portion of the distribution from the total amount of the distribution. The balance is the beneficiary's share, unless the amount of the addition is smaller.

Any amount of a fiduciary adjustment not allocable to a beneficiary is an adjustment to the fiduciary's taxable income.

Line 6. A copy of federal Form 1041, Schedule K-1 or an acceptable substitute, for each beneficiary, must be filed with Form 41. The total of the income and Oregon fiduciary adjustment reported on all Schedules K-1 must equal the amount entered on line 6. Each beneficiary's share of the fiduciary adjustment must either be shown at the bottom of their K-1 on a blank line or on a separate sheet included with the K-1. Mark it "Oregon fiduciary addition (or subtraction)" and write in the amount the beneficiary is to report.

Don't break the fiduciary adjustment down into separate components.

Example: An Oregon fiduciary adjustment includes a \$3,300 federal tax subtraction, a \$600 U.S. government interest subtraction, and a \$1,300 Oregon tax addition. The amount reported to the beneficiary is an Oregon fiduciary adjustment subtraction of <\$2,600>.

If you have a capital gain, which isn't distributed to the beneficiaries, line 2 plus line 5a won't equal line 6. Include a statement with your return and explain there is an undistributed capital gain on Form 1041, Schedule B, line 6.

Line 8. Tax. Use the 2015 rate schedule on Form 41, page 2, to figure the tax.

Line 9a. Enter the amount of net long-term capital gains (NLTCG) from Schedule 1, column B, line 25.

Line 9b. Multiply line 9a by 5 percent to figure the reduced tax on the liquidated farm assets.

Line 11. Tax credits. Use Schedule ASC-FID, 150-101-167, to report the amount and description of any credits claimed. Use the numeric description code shown below. The total of all credits from Schedule ASC-FID is entered on Form 41, line 11. The amount claimed can't be greater than the tax on line 10. **Don't include payments or claim of right credit on line 11; see line 14.**

Common credits include:

Credit for income taxes paid to another state

[Code 802] (ORS 316.082, 316.131, 316.292).

Resident estates and trusts. Generally, you can claim this credit if the estate or trust has income that is taxed by both Oregon and another state. An Oregon resident trust that has income taxed by Arizona, California, Indiana, or Virginia may not claim the credit on the Oregon return. The credit should be claimed on the nonresident return for that state. If the trust is a resident of Oregon and also a resident of another state, the credit may be claimed on the Oregon return. Include a copy of the return you filed with the other state and proof of payment of the tax. No credit is allowed if the tax has been claimed as a deduction. If a deduction for the other state's tax was claimed on Form 1041, it must be added to income on Oregon Form 41, Schedule 2, line 40.

How much is the credit? Your credit is the smallest of:

- Your Oregon tax after all other credits, or
- The tax you actually paid to the other state, or
- The amount figured using the formula below.

Modified adjusted gross income (MAGI)

Full-year residents. Your modified adjusted gross income is your total income (amount on federal Form 1041, line 9), modified by Oregon additions and subtractions (Form 41, line 42).

(MAGI taxed by both states x Oregon tax after subtracting your total MAGI.)

www.oregon.gov/dor

Nonresident estates and trusts. Oregon will allow a credit for taxes paid to another state if all of the following conditions are met:

- The estate or trust is a nonresident of Oregon.
- The estate or trust is a resident of Arizona, California, Indiana, or Virginia.
- The estate or trust has income that is taxed by both Oregon and the resident state.

Business Energy

[Code 839] (ORS 315.354, 315.357).

2012 was the last year this credit was being certified. To claim this credit for your qualifying project you must have:

- Filed a preliminary certification application with the Oregon Department of Energy (ODOE) on or before April 15, 2011;
- Received preliminary certification from the ODOE before July 1, 2011; and
- Received final certification from the ODOE before January 1, 2013, or demonstrated evidence of beginning construction before April 15, 2011.

Any Oregon business with investments in energy conservation, recycling, renewable energy resources, or less-polluting transportation fuels may qualify for this tax credit.

Oregon cultural trust contributions

[Code 807] (ORS 315.675).

Did you make a donation to an Oregon nonprofit cultural organization during the tax year? If so, you can make a matching donation to the Trust for Cultural Development Account and get an Oregon tax credit. You may get a credit of up to 100 percent of the amount of the matching contribution. The maximum credit is \$500 per taxpayer.

If you claim your Oregon cultural trust contribution as a deduction, you must add back that amount to income. Part-year residents and nonresidents must multiply the allowable credit by your Oregon percentage. Any credit not used this year is lost. For more information about the Oregon Cultural Trust, contact the Oregon Arts Commission or go to their website at www.culturaltrust.org.

Other credits. For information about the following credits, see the ORS cited next to the code. This list isn't all-inclusive.

- Agriculture workforce housing [code 835] ORS 315.164.
- Alternative fuel vehicle fund carryforward [code 800] ORS 315.336.
- Biomass production/collection [code 838] ORS 315.141, 315.144.
- Crop donation [code 843] ORS 315.156.
- Political contributions [code 809] ORS 316.102.
- Pollution control facilities [code 857] ORS 315.304.
- Renewable energy development contributions [code 859] ORS 315.326.
- Riparian land carryforward [code 862] ORS 315.113.
- University venture fund [code 864] ORS 315.521.
- Wolf depredation [code 892] ORS 315.174.
- Credit code unknown [code 999].

Line 13a. Oregon withholding and tax payments. Fill in any Oregon withholding supported by Form W-2 or Form 1099. Match the FEIN on Form W-2 or Form 1099 with the FEIN reported on Form 41. Also, match the recipient's name on the Form W-2 or Form 1099 to the name of the trust or estate on Form 41. Include any Form W-2 or Form 1099 showing Oregon withholding reported on Line 13a.

If you claim credit for Oregon withholding and don't include Form W-2 or 1099 we won't give you credit for the withholding and will:

- Send you a bill, or
- Reduce your refund, or
- Deny your full refund.

Line 13b. Fill in any Oregon withholding or payments supported by Oregon Form OR-18 or OR-19. Match the FEIN on Form OR-18 or Form OR-19 with the FEIN reported on Form 41. Also, match the recipient's name on the Form OR-18 or Form OR-19 to the name of the trust or estate on Form 41. **Don't** attach Form OR-18 or Form OR-19.

Line 14a. Payments and claim of right credit. Fill in any payments you made for tax year 2015. Include any payments made with an extension. Also include any claim of right credit allowed. A claim of right exists when you are taxed on income in one year and in a future year find you have no right to that income and must repay it. Oregon allows a claim of right credit if your federal tax liability is computed under IRC 1341(a). Include a statement showing the computation of your claim of right credit.

14b. Surplus credit (kicker). The Oregon surplus credit is a refundable credit claimed on your 2015 Oregon tax return. The credit is 5.6 percent of your 2014 Oregon tax liability (2014 Form 41, line 10) as adjusted or amended, reduced by any 2014 credit claimed for income taxes paid to another state. The surplus credit percentage has been determined by the Oregon Department of Administrative Services in accordance with Oregon Revised Statute 291.349. In order to claim the Oregon surplus credit, you must file a 2015 return, even if you're not otherwise required to do so. You must have filed your 2014 Oregon return before you can claim a surplus credit on your 2015 Oregon return. Your credit is 5.6 percent.

Amended returns. If your 2014 return is amended or adjusted after you claim your 2015 surplus credit, you will also need to amend your 2015 return to change the surplus credit amount. If your amended return reduces your 2014 tax liability, you may owe additional tax on your 2015 return if your kicker is reduced.

Surplus credit worksheet

1. Tax before credits reported on your **2014** Oregon Form 41, line 10. 1. _____
2. Credit for income taxes paid to another state included on your **2014** Oregon Form 41, line 11. 2. _____

3. Total 2014 tax before credits and after income taxes paid to another state (subtract line 2 from line 1). If line 2 is more than line 1, enter -0-. 3. _____

4. Oregon surplus credit percentage (decimal value). The 2015 Oregon surplus credit percentage is 5.6 percent. This amount has been filled in for you. 4. _____ 0.056

5. **Surplus credit amount.** Multiply line 3 by line 4. Round to the nearest dollar. **This is your surplus credit amount.** 5. _____

Claiming your surplus credit. If you would like to claim your surplus credit, enter this amount on your 2015 Oregon Form 41, line 14b. Enter -0- on the **"Donation"** line below and **don't mark the box.**

Donating your surplus credit. You can elect to donate all your surplus credit to the Oregon State School Fund. The fund is used for public elementary and secondary education. If you would like to donate your **entire** surplus credit to the Oregon State School Fund, enter -0- on your 2015 Oregon Form 41, line 14b. Check the box on **"Donation"** line below and enter the surplus credit amount (from line 5 above) in the amount box. Your refund will first offset to any amount owing on your original 2015 Oregon return and any other past due liabilities prior to being donated to the Oregon State School Fund. **Note: This election is irrevocable and donates your entire state surplus refund.**

If you would like to donate a portion of your refund to the Oregon State School Fund, follow the steps from the "Claiming your surplus credit" section listed above. You can then either send a check to the school district of your choice or to the Oregon State School Fund, which will be distributed to all school districts. The Oregon State School Fund's address is:

Oregon Department of Education
 Attn: OFA Cashier
 255 Capitol St NE
 Salem OR 97301

Line 18. Penalty. Include a penalty payment if you:

- Mail any tax due after the due date (even if you have an extension to file).
- File your return showing tax due after the due date (including any extended due date).

Penalty is 5 percent of the unpaid balance of your tax. If you get an extension, the penalty won't be charged if you:

- Pay at least 90 percent of the tax due by the original due date of the return; **and**
- Pay the balance of tax and interest when you file within the extension period; **and**

- Pay any interest due either when the return is filed or within 30 days of our billing.

If you file more than three months after the due date, including extensions, add an additional penalty of 20 percent.

Line 19. Interest. If you don't pay the tax by the original due date, interest will be charged on any unpaid tax.

For periods beginning	Annual	Monthly	Daily
January 1, 2016	4%	0.3333%	0.0110%
January 1, 2015	4%	0.3333%	0.0110%
January 1, 2014	4%	0.3333%	0.0110%

Interest rate may change once a calendar year.

Interest periods generally begin on the 16th day of the month the return is due. Returns are due on the 15th unless the 15th falls on a Saturday, Sunday, or holiday.

Interest is figured daily for periods of less than a month. A month, for example, is May 16 to June 15. Here's how to figure daily interest:

$$\text{Tax} \times \text{Daily interest rate} \times \text{Number of days}$$

Interest continues to accrue on any unpaid tax during an extension of time to file.

Example: Your return and tax payment was due on April 18, 2016. You filed your return timely and pay the tax due of \$3,200 on June 2, 2016. Your interest is figured starting on April 19, 2016, through June 2, 2016, as follows:

$$\$3,200 \times 0.3333\% \text{ monthly rate} \times 1 \text{ month (April 19 through May 18)} = \$10.67.$$

$$\$3,200 \times 0.0110\% \text{ daily rate} \times 16 \text{ days (May 19 through June 2)} = \$5.63.$$

Your total interest is \$16.30; include this interest with your tax payment.

Additional interest on deficiencies and delinquencies. Interest will increase by one-third of 1 percent per month (4 percent annually) on deficiencies or delinquencies if the following occur:

- You file a return showing taxes owing, **or** we assess an existing deficiency, **and**
- The tax assessed isn't paid within 60 days after the return is filed or the notice of assessment is issued, **and**
- You haven't filed a timely appeal.

Line 20. Total due. You may pay online at www.oregon.gov/dor or enclose a check or money order with your return and Form 41-V payable to "Oregon Department of Revenue." Write your daytime phone number, FEIN, and your accounting period on your check. Don't send cash or postdated checks.

Line 21. Refund. We can't apply your fiduciary income tax refund as a payment to your next tax year. Don't write in any instructions for refund application on line 21.

Donation. See instructions above for line 14b.

Schedule 1—Oregon changes

Line 24. Changes in depreciation. Enter your depreciation difference between Oregon and federal. You will need the *Oregon Depreciation Schedule*, 150-101-025 if your federal and state depreciation are different.

Line 25. Other changes. Changes include differences between the federal return and the Oregon return in gains or losses from the sale of property. Also use this line to report differences in capital gains from the sale of farm use and forest use lands acquired from a decedent who died before 1987. Enter the amount in column B. Also enter the amount in column A if an authorized distribution was made, and the gains qualify for inclusion in distributable net income.

Electing small business trust. Amounts not included in federal distributable net income of an electing small business trust under IRC Section 641(c) must be included in column B, line 25.

Net long-term capital gain (NLTCG). Enter the NLTCG from farm assets that wasn't distributed as a negative number in Schedule 1, column B, line 25. The subtraction can't exceed the amount of income that is reported for the fiduciary from federal Form 1041, line 22.

Line 29. Oregon changes distributed. Enter Oregon changes from column A, line 26, that were distributed to the beneficiaries. Enter zero if the amount on federal Form 1041, Schedule B, line 8 or line 11, is less than the amount on Schedule B, line 7.

The total of this line, plus the amounts from federal Form 1041, Schedule B, lines 12 and 15, can't exceed the amount on Schedule B, line 8 or 11.

Schedule 2—Fiduciary adjustment

This schedule is for figuring net Oregon modifications to federal taxable income.

Line 31. Federal income tax subtraction. This subtraction can't exceed \$6,450 for 2015. To figure the subtraction, deduct the amount on federal Form 1041, Schedule G, lines 5 and 6, from the amount on federal Form 1041, line 23. For additional federal tax paid for years before 2015, see instructions for line 34.

Line 32. Interest on U.S. obligations. Enter the amount of interest from U.S. government obligations included in federal income and not otherwise deducted. U.S. government interest received from another fiduciary should be subtracted on line 34 in that fiduciary's adjustment. Don't subtract that income a second time on this line. The total of interest or dividends from U.S. obligations included on federal Form 1041 must be reduced by the deductions allocable to such income (see Form 1041 instructions, *Allocation of Deductions for Tax Exempt Income*). Use the same formula to allocate deductions to U.S. government interest.

Line 34. Other subtractions. Enter other subtractions required by ORS 316.680 and ORS 316.695 that don't have a specific line. Use Schedule ASC-FID to report the amount and description of each item not reported elsewhere on your

return. Use the numeric description code from the list below. The total of all "Other subtractions" from Schedule ASC-FID is entered on Form 41, Schedule 2, line 34.

For information about the following subtractions, see the ORS cited next to the code. This list isn't all-inclusive.

- Artist's charitable contribution [code 301] (ORS 316.838).
- Basis of business assets transferred to Oregon [code 358] (ORS 316.707).
- Depreciation difference for Oregon [code 354] (ORS 316.707, 316.739).
- DISC dividend payments [code 352] (ORS 316.749).
- Federal business credits [code 340] (ORS 316.716).
- Federal income tax from a prior year [code 309] (ORS 316.680, 316.685, 316.695).
- Fiduciary adjustment from another Oregon estate or trust [code 310] (ORS 316.697).
- Film production labor rebate [code 336] (ORS 316.698, 317.394).
- Foreign tax [code 311 and 603] (ORS 316.690).
- Gain or loss on the sale of depreciable property with a different basis for federal and Oregon purposes [code 355] (ORS 316.716).
- Interest from Oregon state and local government bonds [code 317] (ORS 286A.140, 316.267).
- Land donations to educational institutions [code 316] (ORS 316.852).
- Mobile home park capital gain [code 338] (ORS 317.792).
- Net operating loss [code 321] (ORS 316.028).
- Partnership or S corporation modifications for Oregon [code 323] (ORS 314.712, 314.752).
- Passive activity losses [code 356] (ORS 314.300).
- Tuition and fees deduction [code 308] (ORS 316.699).
- Subtraction code unknown [code 399].

Line 37. Interest on obligations of other states. Enter interest income from bonds of a state or political subdivision other than Oregon. (This type of income from another fiduciary is included in that fiduciary's adjustment and shouldn't be duplicated on this line.)

Line 38. Depletion. If natural resource depletion entered on Form 1041 is in excess of the adjusted basis of the property, enter the excess on this line.

Line 39. Estate tax paid on "income in respect of a decedent" (IRD). To figure the amount of the federal estate tax deduction that must be added to taxable income on the Oregon return, use this formula:

- A = IRD included in federal taxable income
- B = IRD not taxable by Oregon
- C = estate tax deducted on Form 1041

$$\frac{B}{A} \times C = \$ \text{_____} \text{ amount of the addition}$$

Enter amount on line 39.

Example:

- A: \$21,000 IRD included in federal taxable income.
- B: \$10,000 IRD not taxable by Oregon.
- C: \$1,170 federal estate tax deducted on Form 1041.

$(\$10,000 \div \$21,000) \times \$1,170 = \562 —amount of your Oregon addition on line 39.

Line 40. Other additions. Enter other additions required by ORS 316.680 and 316.695 that don't have a specific line. Use Schedule ASC-FID to report the amount and description of each difference not already reported elsewhere on your return. Use the numeric description code from the list below. The total of all "Other additions" from Schedule ASC-FID is entered on Form 41, Schedule 2, line 40.

Deductions allowed under IRC sections 2053 or 2054 may be claimed on either Form OR706, *Oregon Estate Transfer Tax Return*, 150-104-001; or Form 41, *Oregon Fiduciary Income Tax Return*; but not both. The personal representative of an estate may make different elections for federal and Oregon returns. If the deductions are claimed on Form 41, include a statement that the deductions aren't being claimed on Form OR706. For federal purposes, those deductions may be taken on either Form 706, *federal Estate Tax Return*; or Form 1041, *federal Income Tax Return for Estates and Trusts*, under IRC 642(g). See OAR 150-118.010(2).

Common "other additions" include:

Federal income tax refunds

[Code 109] (ORS 316.680, 316.685, 316.695).

Did you get a federal tax refund in 2015 because you filed an amended federal return for a prior year or were audited? If so, you must add back the part of your refund that was claimed as part of your federal tax subtraction on your Oregon return for the prior year.

Income taxes paid to another state

[Code 148] (ORS 316.082).

If you want to claim the credit for income tax paid to another state on your Oregon return, and you deducted the other states income tax on your federal Form 1041, line 11, the amount you deducted must be added back to income on your Oregon Form 41, Schedule 2, line 40.

For information about the following additions, see the ORS cited next to the code. This list isn't all-inclusive.

- 529 Oregon college savings network plan nonqualified withdrawal [code 117] [ORS 316.680(2)].
- Accumulation distribution from a trust [code 132] (ORS 316.737).
- Basis of business assets transferred to Oregon [code 150] (ORS 316.707).
- Business credit, unused [code 122] (ORS 316.680).
- Claim of right income repayments [code 103] (ORS 315.068).
- Contributions to child care fund [code 142] (ORS 315.213).
- Contributions to Oregon cultural trust [code 143] (ORS 315.675).
- Contributions to Oregon production investment fund [code 144] (ORS 315.514).

- Contributions to renewable energy development fund [code 145] (ORS 315.326).
- Contributions to university venture fund [code 146] (ORS 315.521).
- Depletion in excess of property basis [code 151] [ORS 316.680(2)(d)].
- Depreciation difference for Oregon [code 152] (ORS 316.707, 316.739).
- Disposition of inherited Oregon farmland or forestland [code 106] (ORS 316.844).
- Fiduciary adjustment from another Oregon estate or trust [code 133] (ORS 316.697).
- Gain or loss on the sale of depreciable property with different basis for Oregon [code 154] (ORS 316.716).
- Lump-sum payment from a qualified retirement plan [code 139] [ORS 316.680(2)(H), 316.737].
- Net operating loss non-Oregon source [code 116] (ORS 316.028).
- Oregon deferral of reinvested capital gain [code 118] (ORS 316.874).
- Partnership or S corporation modifications for Oregon [code 119] (ORS 314.712–314.752).
- Passive activity losses [code 155] (ORS 314.300).
- Addition code unknown [code 199].

Part-year resident and nonresident fiduciaries

Use Schedule P, *Part-Year Resident Trusts*, 150-101-051, to figure the Oregon tax. File Schedule P with Form 41.

Oregon taxes gross income from **all sources** for the portion of the tax year the trust was an Oregon **resident** and gross income from **Oregon sources only** while the trust was a **nonresident**.

All federal deductions are allowed for the portion of the year the trust was an Oregon resident. But only deductions directly related to Oregon sources are allowed while the trust was a nonresident.

A part-year resident trust required to file Form 41 must include a copy of federal Form 1041 as filed. See “Filing requirements” instructions. To determine your total Oregon taxable income for the year, you may choose to complete a second “pro forma, mock” federal Form 1041, using only Oregon source income and deductions, or you may develop a schedule of the amounts of income, gain, loss, and deductions for Oregon. The full federal exemption amount is allowed. If you choose to complete a “pro forma, mock” federal Form 1041, write “Oregon Source Income” at the top of the form to distinguish it from the actual federal Form 1041 you filed for federal tax purposes.

Use the figures from the Oregon source Form 1041 (or Oregon source schedule) you prepared, to complete Form 41. Complete lines 1 through 7 and Form 41, Schedules 1 and 2 as though the Oregon source amounts were the only income and deductions for the tax year. The full federal tax subtraction is allowed on line 31 based on the federal liability from Form 1041 and subject to the \$6,450 limit.

Then complete Schedule P, using the figures from Form 1041, to figure Oregon tax. Write this amount on Oregon Form 41, line 8.

Nonresident estates and trusts—A nonresident estate or trust required to file Form 41 must include a copy of federal Form 1041 as filed. See “Filing requirements” instructions. Oregon taxes only Oregon-source income received by the estate or trust. Deductions are allowed if they are directly related to Oregon-source income. The only exception is the federal tax subtraction, which must be apportioned as shown below.

To determine your total Oregon taxable income for the year, you may choose to complete a second federal Form 1041 using only Oregon-source income and deductions (a “pro forma, mock” return), or you may develop a schedule of the amounts of income, gain, loss, and deductions for Oregon. The full federal exemption amount is allowed. If you choose to complete a “pro forma, mock” federal Form 1041, write “Oregon-Source Income” at the top of the form to distinguish it from the actual federal Form 1041 you filed for federal tax purposes.

Federal tax subtraction for nonresidents—The federal tax subtraction must be apportioned to determine the amount related to Oregon sources. Use this formula:

- A = Form 41, line 30, (Oregon-source items only)
- B = Form 41, line 30, (all source items)
- C = Federal tax (lesser of actual liability or \$6,450)

$$\frac{A}{B} \times C = \$ \text{_____ amount of the subtraction}$$

Enter on Form 41, Schedule 2, line 31.

Oregon source income

Oregon is permanently tied to the federal definition of gross income as found in the Internal Revenue Code. This tie is retroactive to December 31, 2010.

Examples of Oregon source income are: wages or other compensation for services performed in Oregon; income or loss from business activities in Oregon, including rents, S corporations, and partnerships; gain or loss from the sales of real or tangible personal property located in Oregon; income from intangible personal property if the property has acquired Oregon business situs.

For more information, see OAR 150-316.127 and the 2015 Oregon Nonresident and Part-Year Resident income tax booklet.

How to assemble the return

Assemble your Oregon fiduciary return in the following order:

1. Form 41, pages 1 and 2. Include Form W-2 or 1099 if they show Oregon withholding. If applicable, include the following:
 - 1a. Bankruptcy estates. Written request for a prompt audit.

- 1b. Election for Final Tax Determination for Income Taxes and Application for Discharge from Personal Liability for *Tax of a Decedent's Estate*, 150-101-151. You may also file this separately after you file Form 41.
2. Schedule P (if part-year resident trust).
3. Schedule ASC-FID, if applicable.
4. "Pro forma, mock" Form 1041 or a schedule of Oregon-source income and deductions, if the return is from a part-year resident trust or nonresident estate or trust.
5. Form 24, *Like-Kind Exchanges/Involuntary Conversions*, 150-800-734.
6. A copy of federal Form 1041 and all schedules, including Schedule K-1.
7. A copy of federal Form 8855, *Election to Treat a Qualified Revocable Trust as Part of an Estate*, if it applies.
8. Credit for income tax paid to another state. Include the other state's tax return and proof of income tax payment.

Authorize your preparer. To authorize your preparer to discuss your return with us, check the box located between the signature lines for the fiduciary and the preparer. To authorize a person other than the preparer, include a signed *Tax Information Authorization and Power of Attorney for Representation*, 150-800-005.

Have questions? Need help?

E-file

Email: trustestate.electronicfiling@oregon.gov (for estate and trust e-filing questions only).

www.oregon.gov/dor

- Forms: www.oregon.gov/dor/forms
- Email: estate.help.dor@oregon.gov

This email address isn't secure and confidentiality can't be ensured. General tax and policy questions only.

Telephone

Salem..... (503) 378-4988
 Toll-free from Oregon prefix..... 1 (800) 356-4222

Monday through Friday..... 7:30 a.m.–5:00 p.m.
Closed Thursdays from 9:00 a.m.–11:00 a.m. Closed on holidays.

Extended hours during tax season. Wait times may vary.

Asistencia en español:

Salem.....(503) 378-4988
 Gratis de prefijo de Oregon.....1 (800) 356-4222

TTY (hearing or speech impaired; machine only):

Salem.....(503) 945-8617
 Toll-free from Oregon prefix1 (800) 886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers for information in alternative formats.

Correspondence

Include your federal employer identification number (FEIN) and a daytime phone number for faster service.

Write to: Oregon Department of Revenue, 955 Center St NE, Salem OR 97301-2555.

Amended return



Form 41

Oregon Fiduciary Income Tax Return

Tax year 2015

For office use only. Date received, Payment, Penalty date, Federal employer identification number (FEIN) of trust or estate, Oregon business identification number (BIN), Extension to file, Form 24 is included.

or Fiscal year Month Day Year beginning: Ending: Month Day Year

Name of trust or estate, Name of fiduciary, Title (TTEE or PR), Street address or PO Box, City, State, ZIP code, A. Check only one box, B. This is, C. Check one box, D. If exempt organization.

Include a copy of federal Form 1041, Schedule K-1s, applicable schedules, 1099 and W-2 (Round to nearest dollar)

Table with 2 columns: Beneficiary column, Fiduciary column. Rows 1-21 detailing tax calculations from Form 41, Schedule 1, 2, and 1041, Schedule K-1.

Donation: Oregon surplus credit (kicker). If you elect to donate your kicker to the State School Fund, check the box and write the amount of the kicker calculation here: This election is irrevocable.

Name of estate or trust

FEIN



00471501020000

Schedule 1—Oregon changes to distributable net income (DNI) and taxable income of fiduciary (TIF) (see instructions)

Table with 2 columns: (Column A) DNI and (Column B) TIF. Rows include: 22. Distributable net income (from federal Form 1041, Schedule B, line 7); 23. Taxable income of fiduciary (from federal Form 1041, line 22); 24. Difference in depreciation for Oregon; 25. Other changes; 26. Line 24 plus line 25; 27. Revised distributable net income; 28. Total taxable income; 29. Changes included on column A, line 26, that were distributed; 30. Revised taxable income of fiduciary.

Schedule 2—Fiduciary adjustment (see instructions)

Table with 2 columns: Subtractions and Additions. Rows include: 31. 2015 federal income tax subtraction—limited to \$6,450; 32. Interest on U.S. obligations; 33. Oregon income tax refund; 34. Other subtractions; 35. Add lines 31 through 34; 36. Oregon income tax deducted; 37. Interest on obligations of other states; 38. Depletion in excess of adjusted basis; 39. Estate taxes; 40. Other additions; 41. Add lines 36 through 40; 42. Fiduciary adjustment (difference between lines 35 and 41). Includes checkboxes for 'added or' and 'subtracted'.

2015 rate schedule—compute the tax using the following rates (see instructions)

Table with 2 columns: If your taxable income is: and Your tax is:
Not over \$3,350 5% of taxable income
Over \$3,350 but not over \$8,400..... \$168 plus 7% of the excess over \$3,350
Over \$8,400 but not over \$125,000..... \$521 plus 9% of the excess over \$8,400
Over \$125,000 \$11,015 plus 9.9% of the excess over \$125,000

Under penalty of false swearing, I declare that the information in this return and any included forms or statements is true, correct, and complete.

Signature of fiduciary (with 'X' mark), Print name, Date, Title (if applicable), Daytime phone.

Check the box to authorize the following individual(s) to receive and provide confidential tax information relating to this return.

Preparer's information form including: Preparer's name (print), Title, License number, Preparer's mailing address, City, State, ZIP code, Signature of preparer (with 'X' mark), Phone, Date.

Mail to: Oregon Department of Revenue, PO Box 14110, Salem OR 97309-0910.