

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

Purpose of this form

The fiduciary of a decedent's estate, trust, or bankruptcy estate uses Form OR-41 to report to the state of Oregon:

- The income, deductions, gains, losses, etc. of the estate or trust;
- The income that is either accumulated or held for future distribution or distributed currently to the beneficiaries; and
- Any income tax liability of the estate or trust.

New information

Visit www.oregon.gov/dor for possible updates to these instructions.

Federal tax subtraction

ORS 316.695 limits the amount of federal tax subtraction allowed based on the federal taxable income of the trust. The allowable subtraction is between \$0 and \$7,050. See instructions for Schedule 2, line 8 for more information.

Kicker refund

Oregon's surplus credit (known as the "kicker") is claimed as a refundable credit on your 2021 tax return. The credit is 17.341 percent of your 2020 tax liability from Form OR-41, line 10. You must file a 2021 return to claim your kicker credit, even if you don't have an obligation to file. You may elect to donate your surplus credit to the Oregon State School Fund. See the instructions for line 18 for more information.

AmeriCorps educational awards subtraction

If you received a national service, summer of service, or silver scholar educational award from the federal Corporation for National and Community Service in 2021, you may subtract the award amount to the extent that it is included in your federal taxable income. The amount you are awarded under 42 U.S.C. Section 12602 must be received after your required term of service is completed. You can't subtract any amount that you are deducting elsewhere on your return. See HB 2433 (2021).

Recapture credits for Oregon 529 College Savings Network and ABLE account contributions

If you claim a credit based on your contributions to an Oregon College or MFS 529 Savings Plan account or an ABLE account and later use the funds for a non-qualified purpose, your credit(s) may have to recaptured. For more information, see Publication OR-17.

Changes to qualified withdrawals from Oregon 529 College Savings Network accounts

Qualified withdrawals now include expenses related to apprenticeship programs and certain student loan payments. For more information, see Publication OR-17.

Data security breaches

Tax professionals suffering a data breach associated with tax return preparation must report the breach promptly to us. See our website for additional information.

Facsimile signatures

OAR 150-305-0460 has been amended to allow taxpayers, tax preparers, and authorized representatives of the taxpayer or declarant to sign paper returns, statements, other documents, or reports using a facsimile signature. A facsimile signature is a signature visibly affixed to a paper return using electronic or mechanical equipment or an electronic or mechanical device. This amendment applies to all open tax years.

Reduced tax rate for qualifying non-passive and business income

For tax years beginning on or after January 1, 2021, SB 139 (2021) modifies Oregon's reduced ORS chapter 316 tax rate for non-passive income of partners and S corporation shareholders and business income of sole proprietors. Note that SB 139 modifies the conditions that need to be met to claim the benefit of Oregon's reduced tax rate for non-passive and business income. SB 139 doesn't apply to C corporations who file under ORS chapter 317 or 318.

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Credits

Opportunity Grant Contributions Credit (ORS 315.643)

Effective January 1, 2021 through December 31, 2024, this credit can apply toward the current tax year or the previous tax year for contributions made before April 15 if a return has not yet been filed. This change is effective for tax years 2021 through 2023, for donations made prior to April 15, 2024. See HB 2456 (2021).

Oregon Production Investment Fund Contributions Credit (ORS 315.514)

For tax years beginning on or after January 1, 2021, and before January 1, 2024, this credit can apply toward the current tax year or the previous tax year for contributions made before April 15 if a return has not yet been filed. This change is effective for tax years 2021 through 2023, for donations made prior to April 15, 2024. See HB 2456 (2021).

Extended credits

- Individual Development Account (IDA) donation credit (ORS 315.271) is extended to tax years beginning before January 1, 2028.
- Oregon production investment fund (auction) credit (ORS 315.514) is allowed for tax years beginning before January 1, 2030.
- University Venture Fund Contributions credit (ORS 315.521) is allowed for tax years beginning before January 1, 2028.

Sunset credits

Beginning January 1, 2022, the following tax credits are no longer available, except for applicable carryforward purposes:

- Child Care Fund contributions (ORS 315.213).
- Bovine manure (ORS 315.176).

Looking ahead

General

Business Alternative Income Tax

SB 727 (2021) doesn't allow an LLC, partnership, or S corporation to pay taxes imposed under ORS chapter 317 or 318 on behalf of a C corporation partner or shareholder.

For tax years beginning on or after January 1, 2022, and before January 1, 2024, SB 727 allows electing LLCs, partnerships and S corporations to pay taxes imposed under ORS chapter 316 related to a partner's or shareholder's distributive share on behalf of their partners and shareholders. The partner or shareholder is then allowed a tax credit on their Oregon personal income tax return equal to the tax paid on their behalf by the LLC, partnership, or S corporation.

SB 727 will automatically sunset if the federal government repeals the state and local tax deduction limitation for personal income taxpayers.

Credits

Individual Development Account (IDA) donations (ORS 315.271)

For tax years beginning on or after January 1, 2022 and before January 1, 2028, this credit is allowed to be claimed for the prior year if the donation is made not later than April 15 following December 31 of the prior year. This change is effective for tax years 2022 through 2027, for donations made prior to April 15, 2028. See HB 2433 (2021).

Oregon affordable housing lender's credit (ORS 317.097)

Oregon statute was amended to allow a financial institution to claim the tax credit by purchasing bonds if the bond proceeds are used to finance the purchase of affordable housing. These amendments apply between January 1, 2022 and January 1, 2026. See HB 2433 (2021).

Reminders

Oregon due date

Generally, Form OR-41 is due by April 18, 2022 for 2021 calendar year taxpayers, excluding extensions. Fiscal year returns are due by the 15th day of the fourth month following the close of the tax year.

Tie to federal tax law

Oregon is tied to federal income tax laws as amended and in effect on April 1, 2021. Oregon exceptions to federal tax law:

- IRC Section 139A tax exemption for federal subsidies for employer prescription drug plans. If you have this type of business income, you'll have an addition on your Oregon return. Use addition code 123 on Schedule OR-ASC-FID.
- IRC Section 529 tax exemption for earnings on college savings plan funds used for K-12 tuition. Oregon College & MFS 529 Savings Plans may be used for higher education expenses only. If previously subtracted contributions are withdrawn and used for K-12 tuition, you'll have an addition on your Oregon return. Use addition code 117 on Schedule OR-ASC-FID.
- IRC Section 199A deduction for noncorporate qualified business income (QBID). Oregon is disconnected from the QBID. If you have this type of deduction on your federal return, you'll have an addition on your Oregon return. Use addition code 185 on Schedule OR-ASC-FID.

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 Internal Revenue Service (IRS) by using federal Form SS-4. For more information about a FEIN, see IRS Publication 1635, 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 IRS. If you timely applied to the IRS for the **five-and-a-half month** automatic extension to file (federal Form 7004), check the "Extension to file" box on your Form OR-41. Oregon accepts a valid federal extension.

Payment. You may pay online at www.oregon.gov/dor or see "Mailing addresses and payment instructions" on the last page of these instructions.

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, excluding extension.

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. IRC Section 645.

If you made this election for your federal return, check the "A trust filing as an estate" box on Form OR-41, box A, and fill in the date of death. Include a copy of the required federal Form 8855. Be sure to attach a copy of the death certificate.

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 or a private mail courier that offers tracking services.

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

Deferral of gain. Did you file federal Form 8824 because you are deferring gain on exchanged property? If business or investment property in Oregon was exchanged for property outside Oregon, check the box on the front of Form OR-41, "Form OR-24 is included." Then complete and include Form OR-24 with the return.

File Form OR-24 annually until the disposal of the like-kind property. In the year that the gain is finally recognized for federal purposes, you'll 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 Schedule 1, line 4. (ORS 316.045).

Pass-through entity (PTE) reduced tax rate. ORS 316.043 allows a taxpayer to claim a reduced tax rate for income from a PTE if certain conditions are met. See instructions for lines 9 and Schedule 1, line 4.

Filing requirements

A fiduciary return must be filed for:

- Resident estates or trusts required to file a federal Form 1041 or 990-T.
- All resident 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.

If you're a nonresident estate or trust and the only Oregon-source income you had for the tax year has been included in a composite filing by a pass-through entity, you're not required to file an OR-41.

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 below.

- **Interstate trust administration.** If the trustee is a corporate fiduciary engaged in interstate trust administration, the trust is considered to be a resident of Oregon and the place of administration for that trust is considered to be Oregon if the trustee conducts the major part of its administration of the trust in Oregon. In this context, “administration” relates to fiduciary decision making of the trust and not to the incidental execution of such decisions. Incidental functions include, but are not limited to, preparing tax returns, executing investment trades as directed by account officers and portfolio managers, preparing and mailing trust accountings, and issuing disbursements from trust accounts as directed by account officers. [OAR 150-316-0400(5)].

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 executor or trustee. 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 personal income tax return (Form OR-40, Form OR-40-N, or Form OR-40-P) for a deceased taxpayer’s last tax year, the year of death. If a federal Form 1040-NR is required for a nonresident beneficiary, Form OR-40-N 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 you filed a federal Form 1040-NR for a nonresident trust, you must file an Oregon Form OR-41 to report the income.

If you’re an executor/personal representative of an estate, you may be required to file an Estate Transfer Tax return (Form OR-706). If a decedent has a gross estate of \$1,000,000 or more and the estate contains any Oregon property, the estate is required to file an Oregon Estate Transfer Tax return.

If Form 5227 or Form 1041-A is required for federal income tax purposes, **only** file a copy of that form with us if there is **tax due** to Oregon. File a Form OR-41 and include a copy of the federal return.

Exempt organizations. If you file federal Form 990-T and you’re a corporation, file Form OR-20. If a federal Form 990-T is filed, also file Oregon Form OR-41 for your trust. Don’t complete Form OR-41, lines 1, 2, 5, 5a, and 6. From Form 990-T, enter any unrelated business taxable income on Form OR-41, Schedule 1, line 2, and the fiduciary adjustment on line 5b. Also complete Form OR-41, Schedule 1 and Schedule 2, column B.

Your original due date for federal Form 990-T is the 15th day of the 5th month after the end of your tax year. Example: Your organization year end is December 31, 2021. Your original due date for federal Form 990-T is May 16, 2022. **At the top of Form OR-41 write, “Original due date May 16, 2022.”**

Bankruptcy estates. Your return will consist of Oregon Forms OR-41 and OR-40, and copies of your federal Forms 1041 and 1040. Oregon Form OR-41 is used only as a transmittal for Form OR-40. Enter the tax amount computed on Form OR-40 on Form OR-41, line 8. If you request a prompt determination (aka: rapid audit), **you must** send your written request separately from Form OR-41. Send your request to:

Oregon Department of Revenue
Fiduciary/Estate Unit
955 Center St NE
Salem OR 97301-2555

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 2021 calendar year are due by **April 18, 2022**. 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, 2021 and ending May 31, 2022. The 2021 Form OR-41 is due by September 15, 2022.

See “Mailing addresses and payment instructions” below.

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 OR-41-V, if used, and your Form OR-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 OR-41 for the specific tax year. Check the “Amended” box on the front of the return. Include a complete narrative explanation for the changes, 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 OR-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 OR-ASC-FID and be included with

Form 1041. Include this schedule with Form OR-41 to show Oregon additions and subtractions to federal taxable income. If the grantor trust is exempt from filing Form 1041 under Treasury Regulation 1.671-4, it's also exempt from filing Form OR-41 (OAR 150-316-0445).

Returns for estates and complex trusts. On Oregon Form OR-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 on federal Form 1041. Include a copy of each K-1 with Form OR-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 for most fiduciary tax returns is five and a half months. This applies to estates (other than bankruptcy estates) and trusts filing federal Form 1041.

The extension of time to file for certain associations, trusts, or other unincorporated organizations that are not taxable as a corporation for federal tax purpose are allowed 6 months. This applies to federal 990-T filers other than corporations.

If you need more time to file, send your payment, federal Form 7004 or Form 8868, and Form OR-41-V to:

Oregon Department of Revenue
PO Box 14950
Salem OR 97309-0950

If you make a payment, check the "Extension payment" box on the Form OR-41-V. If you aren't making an Oregon payment, complete and file the federal extension Form 7004 or Form 8868 with the IRS. Keep a copy of your complete federal extension form. Check the "Extension to file" box on Form OR-41, page 1, and include a copy of the Form 7004 or Form 8868 with the return.

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 OR-41 indicating "Extension to file."
- Include the amount you paid with Form OR-41-V, on line 17.

Form OR-41 line instructions

Please note: Complete this form by beginning on page 3, schedule 1.

Simple trusts without capital gains or losses, or estates terminating in this tax year, must complete Form OR-41, lines 2, 5a, and 6 on the front, and Schedules 1 and 2, lines 1-19 on page 3.

If there are no distributions to the beneficiary, begin on line 4. If no distributions were made to beneficiaries, the fiduciary adjustment on line 5 should be carried over to line 5b.

Line 2. Distribution deduction. Enter the amount from federal Form 1041, Schedule B, line 15, plus Oregon Form OR-41, Schedule 1, line 6.

Line 2a. Tax-exempt income deducted in computing the distribution deduction on Line 2. Enter the amount from federal Form 1041, Schedule B, line 12.

Line 3. Percentage. When computing the percentage, round to four decimal places. For example, 12.34558 percent should be 12.3456 percent. The computed percentage can't be greater than 100 percent.

Line 5a. Enter the fiduciary adjustment allocable to the beneficiary. The number entered is a positive whole number. (ORS 316.287 and OAR 150-316-0410.) 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.

Check the appropriate box to indicate whether it's an addition or a subtraction.

Line 6. A copy of federal Form 1041, Schedule K-1 or an acceptable substitute, for each beneficiary, must be filed with Form OR-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 rate schedule on Form OR-41, page 3, to figure the tax.

Line 9. Reduced-rate tax amount and qualifying source(s). If you qualify for a reduced tax rate for net long-term capital gain (NLTCG) under ORS 316.045, see Worksheet OR-FCG at www.oregon.gov/dor/forms. This worksheet is for reference only; do **not** attach to Form OR-41.

To claim the reduced tax rate, you must check the NLTCG box on Form OR-41, line 9. Enter the amount you have computed and attach an explanation of how you computed the tax on your return. Name your attachment "FID Reduced Tax Rate Schedule."

If you qualify for a reduced tax rate for qualifying income under ORS 316.043 from a partnership or an S corporation, you may elect to use a reduced tax rate for PTE income. The reduced tax rate can be claimed for qualifying income up to \$5 million. This election is irrevocable. To determine if you qualify, refer to the instructions for Schedule OR-PTE-FY. This schedule is for reference only; do **not** attach it to Form OR-41.

To claim the reduced tax rate, you must check the PTE box on Form OR-41, line 9. Enter the amount you have computed and attach an explanation of how you computed the tax on your return. Name your attachment "FID Reduced Tax Rate Schedule."

If you qualify for more than one of these reduced tax rates, add the total tax from each source and report it all on this line.

Note: If you enter an amount on line 9, you should also have an amount entered on schedule 1, line 3.

Credits

Note: Refer to Publication OR-17 or Oregon statutes for additional information about credits.

All credit codes are separated into three categories: standard credits, carryforward credits, and refundable credits.

Standard credits are nonrefundable credits that can only be claimed on the current year's tax return. Credit amounts awarded and not used in the current tax year will be lost.

Carryforward credits are nonrefundable credits for which any unused portion in the current tax year may be carried forward to the following tax year. The number of years that a credit can be carried forward varies according to the carryforward rules of the credit.

If you have both standard credits and carryforward credits, standard credits should be used first so they aren't lost.

Refundable credits can only be claimed on your current year's tax return; however, any amount that is more than your tax will be refunded to you.

Line 11. Standard tax credits. Use Schedule OR-ASC-FID, Section 3, to report the amount and description of any standard credits claimed. See Appendix A for a list of available credits. The total of all standard credits from Schedule OR-ASC-FID, Section 3, is entered on Form OR-41, line 11. **Don't include payments or claim of right credit on line 11.**

Common standard 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 OR-41, Schedule 2, line 17.

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.

Divide your modified adjusted gross income (MAGI) taxed by both states by your total MAGI. Multiply the result by your Oregon tax after subtracting all other credits.

$$\frac{\text{Your MAGI taxed by both states}}{\text{Your total MAGI}} \times \text{Your Oregon tax after subtracting all other credits}$$

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 OR-41, Schedule 2, line 19).

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.

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.

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.

Line 13. Carryforward credits. Use Schedule OR-ASC-FID, Section 4, to report the amount and description of any carryforward credits claimed. See Appendix A for a list of available credits. The total of all carryforward credits from Schedule OR-ASC-FID, Section 4, is entered on Form OR-41, line 13. **Don't include payments or claim of right credit on line 13.**

Line 15. 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 OR-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 OR-41. Include any Form W-2 or Form 1099 showing Oregon withholding reported on line 15.

If you claim credit for Oregon withholding and don't attach 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 16. Payments with Form OR-18-WC or Form OR-19. Fill in any Oregon withholding or payments supported by Oregon Form OR-18-WC or Form OR-19. Match the FEIN on Form OR-18-WC or Form OR-19 with the FEIN reported on Form OR-41. Also, match the recipient's name on the Form OR-18-WC or Form OR-19 to the name of the trust or estate on Form OR-41. **Don't attach Form OR-18-WC or Form OR-19.**

Line 17. Payments prior to filing your return. Fill in any payments you made for this tax year prior to filing your return. Include any payments made with an extension. **Don't** include the tax due payment you send with your return or paid the same day you file your return if you send payment separately.

Line 18. Oregon surplus credit (kicker). The Oregon surplus credit is a refundable credit claimed on your 2021 Oregon tax return. The credit is 17.341 percent of your 2020 Oregon tax liability before credits (2020 Form OR-41, line 10) as adjusted or amended, reduced by any 2020 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 ORS 291.349.

In order to claim the Oregon surplus credit, you must file a 2021 return, even if you're not otherwise required to do so.

You must have filed your 2020 Oregon return before you can claim a surplus credit on your 2021 Oregon return.

Your credit is 17.341 percent.

1. Tax before credits reported on your 2020 Oregon Form OR-41, line 10. 1. _____
2. Credit for income taxes paid to another state reported on your 2020 Oregon Form OR-41, line 11. 2. _____
3. Total 2020 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). This amount has been filled in for you. 4. .17341
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 2021 Oregon Form OR-41, line 18. Enter -0- on line 28 and **don't mark the box on line 27.**

Donating your surplus credit. You can elect to donate 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 2021 Oregon Form OR-41, line 18. Check the box on line 27 and enter the surplus credit amount (from line 5 above) on Form OR-41, line 28. Your refund will first offset to any amount owing on your original 2021 Oregon return and any other past due liabilities prior to being donated to the Oregon State School Fund. Note: **This election is irrevocable after the due date of the original return.**

If you would like to donate a **portion** of your refund to the Oregon State School Fund, follow the steps to claim your surplus refund 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

Amended returns. If your 2020 return is amended or adjusted after you claim your 2021 surplus credit, you may need to file an amended 2021 return to adjust your surplus credit also.

Line 19. Total refundable credits. Use Schedule OR-ASC-FID, Section 5, to report the amount and description of any

refundable credits claimed. See Appendix A for a list of available credits. The total of all refundable credits from Schedule OR-ASC-FID, Section 5, is entered on Form OR-41, line 19.

Line 23. 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 have 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 24. 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 | Daily |
|-----------------------|--------|---------|
| January 1, 2022 | 4% | 0.0110% |
| January 1, 2021 | 4% | 0.0110% |
| January 1, 2020 | 6% | 0.0164% |

Interest rate may change once a calendar year.

Interest is figured daily. 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 15, 2021. You filed your return timely and pay the tax due of \$3,200 on May 31, 2021. Your interest is figured starting on April 16, 2021, through May 31, 2021, as follows:

$$\begin{array}{rcccccc} \$3,200 & \times & 0.0110\% & \times & 46 \text{ days} & = & \$16.19 \\ & & \text{daily rate} & & \text{(April 16} & & \\ & & & & \text{through May 31)} & & \end{array}$$

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 25. Total due. You may pay online at www.oregon.gov/dor or enclose a check or money order with your return payable to "Oregon Department of Revenue." Write your daytime phone number, FEIN, and your filing period

on your check. Don't send cash or postdated checks. Don't use red, purple, or gel ink pens. Don't include a payment voucher with your return.

Line 26. 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 26.

Line 27. Check this box only if you elect to donate your **total** kicker to the State School Fund. **This election is irrevocable after the due date of the original return.**

Line 28. Write in the amount of your total kicker calculation if you're electing to donate the entire amount. Otherwise, leave this line blank.

Schedule 1—Oregon changes

Line 1. Distributable net income. Enter the amount from federal Form 1041, Schedule B, line 7.

Line 2. Taxable income of fiduciary. Enter the amount from federal Form 1041, line 23.

Line 3. 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 3.

Reduced-rate tax on qualifying income. If you qualify for a reduced tax rate for qualifying income from farm NLTCG or a PTE, report the amount of income that is being taxed at a different rate on line 3 as a negative number. If you qualify for more than one of these, add the total income subject to a different rate and report it all on this line as a negative number. Be sure to attach a schedule showing how you computed the amount of income shown on this line.

Line 6. Oregon changes distributed. Enter Oregon changes from column A, line 3, 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 8. Federal income tax subtraction. To figure the subtraction, deduct the amount on federal Form 1041, Schedule

G, lines 6 and 7, from the amount on federal Form 1041, line 24. For additional federal tax paid for years before 2021, see instructions for Schedule 2, line 11.

ORS 316.695 limits the amount of federal tax subtraction allowed on an Oregon Form OR-41 return. The limitation is based on the federal taxable income of the trust. This amount is shown on Schedule 1, line 2 of the Oregon Form OR-41. The allowable subtraction is between \$0 and \$7,050.

Use the federal taxable income from Form OR-41, Schedule 1, line 2 to calculate the maximum allowable federal tax subtraction based on the following table to compute the amount to enter on Form OR-41, Schedule 2, line 8:

| Income level | Maximum subtraction allowed |
|---|-----------------------------|
| Federal taxable income is less than \$125,000 | \$7,050 |
| Federal taxable income is greater than or equal to \$125,000 and less than \$130,000 | \$5,650 |
| Federal taxable income is greater than or equal to \$130,000 and less than \$135,000 | \$4,200 |
| Federal taxable income is greater than or equal to \$135,000 and is less than \$140,000 | \$2,800 |
| Federal taxable income is greater than or equal to \$140,000 and is less than \$145,000 | \$1,400 |
| Federal taxable income is greater than or equal to \$145,000 | 0 |

Enter the lesser of the amount computed above or the amount shown on federal Form 1041, line 24 less federal Form 1041, Schedule G, lines 6 and 7.

Line 9. 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 Schedule 2, line 11 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 federal Form 1041 instructions). Use the same formula to allocate deductions to U.S. government interest.

Line 10. Oregon income tax refund included as income on federal Form 1041.

Line 11. Total other subtractions. Enter other subtractions that don’t have a specific line. Use Schedule OR-ASC-FID, Section 2, to report the amount and description of each item not reported elsewhere on your return. See Appendix A for a list of other subtractions. The total of all “Other subtractions” from Schedule OR-ASC-FID, Section 2, is entered on Form OR-41, Schedule 2, line 11. Refer to Publication OR-17 for additional information about subtractions. **Note:** All other additions and other subtractions must be reported on Schedule OR-ASC-FID. Fiduciary returns don’t use itemized deductions Schedule OR-A.

Line 14. 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 15. 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 16. 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 16.

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 = \557 —amount of your Oregon addition on line 16.

Line 17. Total other additions. Enter other additions that don’t have a specific line. Use Schedule OR-ASC-FID, Section 1, to report the amount and description of each difference not already reported elsewhere on your return. See Appendix A for a list of other additions. The total of all “Other additions” from Schedule OR-ASC-FID, Section 1, is entered on Form OR-41, Schedule 2, line 17. Refer to Publication OR-17 for additional information about additions. **Note:** All other additions and other subtractions must be reported on Schedule OR-ASC-FID. Fiduciary returns don’t use itemized deductions Schedule OR-A.

Deductions allowed under IRC Sections 2053 or 2054 may be claimed on either Form OR-706 or Form OR-41, 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 OR-41, include a statement that the deductions aren’t being claimed on Form OR-706. For federal purposes, those deductions may be taken on either federal Form 706 or federal Form 1041 under IRC Section 642(g). See OAR 150-118-0040. If you choose to make different elections for federal and Oregon, then you would report the addback as an “other addition” on Oregon Schedule OR-ASC-FID. Use addition code 199.

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 2021 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 claim the credit for income tax paid to another state on your Oregon return, and you deducted the other state's income tax on your federal Form 1041, line 11, the amount you deducted must be added back to income on your Oregon Form OR-41, Schedule 2, line 17.

Line 19. Fiduciary adjustment. Enter as a positive whole number. Check the appropriate box to indicate whether it's an addition or a subtraction.

Part-year resident and nonresident fiduciaries

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.

Part-year resident. Use Schedule OR-SCH-P to figure the Oregon tax. File Schedule OR-SCH-P, with Form OR-41. A part-year resident trust required to file Form OR-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 OR-41. Complete lines 1 through 7 and Form OR-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 8 based on the federal liability from Form 1041 and subject to the limitations as described earlier.

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

Nonresident estates and trusts. A nonresident estate or trust required to file Form OR-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're 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 OR-41, Schedule 1, line 7, (Oregon-source items only).
- B = Form OR-41, Schedule 1, line 7, (all source items).
- C = Federal tax (lesser of actual liability, \$6,950, or amount determined using income limitation).

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

Enter amount on Form OR-41, Schedule 2, line 8.

Oregon-source income

Oregon is permanently tied to the federal definition of gross income as found in the IRC. 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; and income from intangible personal property if the property has acquired Oregon business situs.

For more information, see ORS 316.127 and Publication OR-40-NP.

How to assemble the return

Assemble your Oregon fiduciary return in the following order:

1. Form OR-41, pages 1, 2, 3, and 4. Include Form W-2 or 1099 if they show Oregon withholding.
 - Bankruptcy estates. **Do not** include your written request for a prompt audit with your return. Mail it separately to: Oregon Department of Revenue, Fiduciary/Estate Unit, 955 Center St NE, Salem OR 97301-2555.
2. Schedule OR-SCH-P (if part-year resident trust).
3. Schedule OR-ASC-FID, if applicable. **Important:** You must include this schedule for correct processing if

you claim any other additions, other subtractions, or credits.

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 OR-24, if necessary.
6. A copy of federal Form 1041 or 1041-A and all schedules, including Schedule K-1.
7. A copy of federal Form 8855, 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.
9. A copy of federal Form 5227, **only** if you have tax due on your OR-41.

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 Form 150-800-005, *Tax Information Authorization and Power of Attorney for Representation*.

Mailing addresses and payment instructions

If you're including payment, mail your return *without* a payment voucher, to:

Oregon Department of Revenue
PO Box 14555
Salem OR 97309-0940

If you're not including a payment, mail your return to:

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

If you're paying separately from your return, mail a payment voucher with your payment, to:

Oregon Department of Revenue
PO Box 14950
Salem OR 97309-0950

Check or money order

- Make your check or money order payable to "Oregon Department of Revenue."
- Write your daytime phone number, FEIN, and your filing period on your check.
- Use blue or black ballpoint ink. Don't use red, purple, or gel ink pens.
- Don't include a payment voucher with your return.
- Don't send cash or postdated checks.

Do you have questions or need help?

Trust and estate help

Email: estate.help.dor@dor.oregon.gov

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

Forms

www.oregon.gov/dor/forms

General information

www.oregon.gov/dor
503-378-4988 or 800-356-4222
questions.dor@dor.oregon.gov

Contact us for ADA accommodations or assistance in other languages.

Correspondence

Include your FEIN and a daytime phone number for faster service.

Write to: Oregon Department of Revenue
Fiduciary/Estate Unit
955 Center St NE
Salem OR 97301-2555

Appendix A

Fiduciary Form OR-41

2021 Schedule OR-ASC-FID codes

Note: Refer to Publication OR-17 and Oregon law for additional information about additions, subtractions, and credits. All other additions and other subtractions without a specific line on the return must be reported on Schedule OR-ASC-FID. Fiduciary returns don't use itemized deductions or Schedule OR-A.

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| | |
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