

## Agricultural Employer Overtime Tax Credit

Oregon law requires agricultural employers to pay certain workers for overtime hours worked (ORS 653.272) and provides for a refundable personal or corporate income tax credit for employers for a percentage of wages paid as overtime pay (ORS 315.133). The wage requirement and credit began in the 2023 tax year.

### Overview

The AEOTC Application is available online only through Revenue Online (ROL). Taxpayers who apply for the tax credit by January 31 are granted an automatic filing extension. They may start filing their returns after they receive an acknowledgment notice of their eligible credit amount. Taxpayers will claim the refundable credit on their income tax return. The law specifies the hour threshold at which an employer must pay overtime for different years, industries, and number of employees.

### Agricultural Employer Overtime Tax Credit

Year	Tax credit as a percentage of overtime paid				
	Overtime threshold	More than 50 FTE*	26 to 50 FTE* & dairies with more than 25 FTE*	Not more than 25 FTE*	Dairies with not more than 25 FTE*
2023	55 hours	60%	75%	90%	100%
2024	55 hours	60%	60%	80%	100%
2025	48 hours	45%	60%	80%	100%
2026	48 hours	30%	50%	60%	100%
2027	40 hours	15%	50%	60%	100%
2028	40 hours	15%	50%	60%	100%

\*FTE is full-time equivalent

The tax credit is for a percentage of the difference between the overtime pay and the base wage. The annual limit for credits to all eligible employers is \$55 million. If the total amount of approved applications is greater than the annual credit limit, all approved credit amounts are proportionality reduced to meet the limit. The law also includes a provision allowing a three-year net operating loss carryback (ORS 317.346).

### Annual Application Timeline:

- Application period – January 1 - 31
- Department of Revenue (DOR) reviews applications for eligibility criteria – January to February
- Appeal requests in response to denied or adjusted applications – Due from applicant within 30 days of notice
- DOR notifies qualified applicants of their approved credit – By June 1
- Taxpayers file returns claiming the credit by extension deadline – October 15

### Applications for tax year 2023

The first application filing period for the AEOTC was January 1 – 31, 2024, for overtime paid during calendar year 2023.

### Applications

The department received **369** applications for tax year 2023 and issued **344** Notice of Acknowledgement letters. Of these applicants, **32** were from the dairy sector. The total amount of credit requested was **\$7.8** million, but **\$5.3** million in credits was ultimately allowed.

During the initial review, **45** applications were denied, however some were later approved or adjusted through the appeal process. Appeal requests must have been submitted within 30 days of the denial or adjustment notice.

### The entity types that filed:

- Corporations (including S-Corps) – 52 percent
- Partnerships – 25 percent
- Personal income tax – 23 percent

## Commodities

Agricultural employers who qualify for the tax credit grow a variety of commodities. The applicant is required to list a North American Industry Classification System (NAICS) code on the application. Many of the codes that were listed were generic to “crop farming” in addition to codes for dairies, ranching, nursery, and other agricultural industries. Dairies have different qualifications and are eligible for a larger credit, so we tracked their codes specifically.

The average allowed credit was estimated<sup>1</sup> to be:

- Dairy sector (NAICS 11212 and 112120) – \$24,000.
- Crop Production (NAICS 111) – \$13,000.
- Animal Production and Aquaculture (NAICS 112) – \$10,000, not including dairy.

The total agriculture overtime hours were estimated<sup>2</sup> to be:

- Dairy sector (NAICS 11212 and 112120) – 151,000 hours.
- Crop Production (NAICS 111) – 728,000 hours.
- Animal Production and Aquaculture (NAICS 112) – 55,000 hours, not including dairy.

## Outreach

The department has been proactive in sharing information about the AEOTC with agricultural employers. In 2023, staff attended 27 county fairs and 18 other in-person events, informing agricultural sector employers and taxpayers about the program. DOR staff attended the Dairy Farmers Convention, Nursery Convention, agricultural shows in western and eastern Oregon, agricultural employer conferences, and the Governor’s Occupational Safety and Health Conference. When there was opportunity, DOR presented at those events, several times in both English and Spanish. In 2024, the department has continued active outreach including, but not limited to, attending and presenting at FARWEST (Nursery Convention) and hosting an informational booth at the Oregon State Fair.

## Observations - next steps

- Encourage employers and applicants to establish their ROL account and access early, and to start the application process early.
- Require pass-through entities (PTE) to submit shareholder or partnership information as part of the application process.
- Increase understanding of the difference between base wages versus overtime wages. The credit is allowed for a percentage of the overtime portion over the base wage.
- Employers that perform agricultural and farm labor contractors (FLCs) activities need to separate the wages and hours from their agricultural business since FLCs may not apply for the tax credit. See our infographic for [FLCs and Actual Hours Worked Examples](#).

The **2024 application period will open by January 1, 2025**. Applications must be submitted no later than January 31, 2025. The department will make minor changes to the application that reflect taxpayer experience feedback in 2024. The number of applications is expected to increase each application period as the qualifying threshold of overtime hours decreases.

## Contact

View resources and FAQs on the [Agriculture Employer Overtime Tax Credit web page](#). [Subscribe to DOR’s agriculture overtime email list](#) to receive updates.

Contact DOR’s Agriculture Overtime team at [Ag.Overtime@dor.oregon.gov](mailto:Ag.Overtime@dor.oregon.gov)

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<sup>1 & 2</sup> The average allowed credits and overtime (OT) hours are calculated by pro rating the allowed credit and OT hours based on the percentages of business activity in each NAICS code, determined by the percentage of total employee hours in each NAICS code as reported by the taxpayer. The application submitted by the taxpayer does not pro-rate OT hours and allowed credit on the application, instead provides the total number. To split the allowed credit and OT hours into appropriate NAICS code, this pro rating was required.