

D R A F T

SUMMARY

Increases percentage of federal earned income credit allowable as credit against Oregon personal income tax. Increases amount of standard deduction. First applies to tax years beginning on or after January 1, 2020.

Extends sunset for earned income tax credit.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; amending ORS 315.266 and
3 316.695 and section 6, chapter 880, Oregon Laws 2007; and prescribing an
4 effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 315.266 is amended to read:

7 315.266. (1)[(a)] In addition to any other credit available for purposes of
8 ORS chapter 316, an eligible resident individual shall be allowed a credit
9 against the tax otherwise due under ORS chapter 316 for the tax year in an
10 amount equal to [*eight*] **15** percent of the earned income credit allowable to
11 the individual for the same tax year under section 32 of the Internal Revenue
12 Code.

13 [*(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with*
14 *a dependent under the age of three at the close of the tax year, the credit al-*
15 *lowed under this section shall be in an amount equal to 11 percent of the*
16 *earned income credit allowable to the individual for the same tax year under*
17 *section 32 of the Internal Revenue Code.*]

18 (2) An eligible nonresident individual shall be allowed the credit com-
19 puted in the same manner and subject to the same limitations as the credit

1 allowed a resident by subsection (1) of this section. However, the credit shall
2 be prorated using the proportion provided in ORS 316.117.

3 (3) If a change in the taxable year of a taxpayer occurs as described in
4 ORS 314.085, or if the Department of Revenue terminates the taxpayer's
5 taxable year under ORS 314.440, the credit allowed by this section shall be
6 prorated or computed in a manner consistent with ORS 314.085.

7 (4) If a change in the status of a taxpayer from resident to nonresident
8 or from nonresident to resident occurs, the credit allowed by this section
9 shall be determined in a manner consistent with ORS 316.117.

10 (5) If the amount allowable as a credit under this section, when added to
11 the sum of the amounts allowable as payment of tax under ORS 316.187 or
12 316.583, other tax prepayment amounts and other refundable credit amounts,
13 exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year after
14 application of any nonrefundable credits allowable for purposes of ORS
15 chapter 316 for the tax year, the amount of the excess shall be refunded to
16 the taxpayer as provided in ORS 316.502.

17 (6) The Department of Revenue may adopt rules for purposes of this sec-
18 tion, including but not limited to rules relating to proof of eligibility and the
19 furnishing of information regarding the federal earned income credit claimed
20 by the taxpayer for the tax year.

21 (7) Refunds attributable to the earned income credit allowed under this
22 section do not bear interest.

23 **SECTION 2.** ORS 316.695 is amended to read:

24 316.695. (1) In addition to the modifications to federal taxable income
25 contained in this chapter, there shall be added to or subtracted from federal
26 taxable income:

27 (a) If, in computing federal income tax for a tax year, the taxpayer de-
28 ducted itemized deductions, as defined in section 63(d) of the Internal Reve-
29 nue Code, the taxpayer shall add the amount of itemized deductions deducted
30 (the itemized deductions less an amount, if any, by which the itemized de-
31 ductions are reduced under section 68 of the Internal Revenue Code).

1 (b) If, in computing federal income tax for a tax year, the taxpayer de-
2 ducted the standard deduction, as defined in section 63(c) of the Internal
3 Revenue Code, the taxpayer shall add the amount of the standard deduction
4 deducted.

5 (c)(A) From federal taxable income there shall be subtracted the larger
6 of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except
7 as provided in subsection (8) of this section, for purposes of this subpara-
8 graph, "standard deduction" means the sum of the basic standard deduction
9 and the additional standard deduction.

10 (B) For purposes of subparagraph (A) of this paragraph, the basic stand-
11 ard deduction is:

12 (i) [~~\$3,280~~] **\$6,560**, in the case of joint return filers or a surviving spouse;

13 (ii) [~~\$1,640~~] **\$3,280**, in the case of an individual who is not a married in-
14 dividual and is not a surviving spouse;

15 (iii) [~~\$1,640~~] **\$3,280**, in the case of a married individual who files a sepa-
16 rate return; or

17 (iv) [~~\$2,640~~] **\$5,280**, in the case of a head of household.

18 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years
19 beginning on or after January 1, 2003, the Department of Revenue shall an-
20 nually recompute the basic standard deduction for each category of return
21 filer listed under subparagraph (B) of this paragraph. The basic standard
22 deduction shall be computed by dividing the monthly averaged U.S. City
23 Average Consumer Price Index for the 12 consecutive months ending August
24 31 of the prior calendar year by the average U.S. City Average Consumer
25 Price Index for the second quarter of 2002, then multiplying that quotient
26 by the amount listed under subparagraph (B) of this paragraph for each
27 category of return filer.

28 (ii) If any change in the maximum household income determined under
29 this subparagraph is not a multiple of \$5, the increase shall be rounded to
30 the next lower multiple of \$5.

31 (iii) As used in this subparagraph, "U.S. City Average Consumer Price

1 Index” means the U.S. City Average Consumer Price Index for All Urban
2 Consumers (All Items) as published by the Bureau of Labor Statistics of the
3 United States Department of Labor.

4 (D) For purposes of subparagraph (A) of this paragraph, the additional
5 standard deduction is the sum of each additional amount to which the tax-
6 payer is entitled under subsection (7) of this section.

7 (E) As used in subparagraph (B) of this paragraph, “surviving spouse” and
8 “head of household” have the meanings given those terms in section 2 of the
9 Internal Revenue Code.

10 (F) In the case of the following, the standard deduction referred to in
11 subparagraph (A) of this paragraph shall be zero:

12 (i) One of the spouses in a marriage filing a separate return where the
13 other spouse has claimed itemized deductions under subparagraph (A) of this
14 paragraph;

15 (ii) A nonresident alien individual;

16 (iii) An individual making a return for a period of less than 12 months
17 on account of a change in the individual’s annual accounting period;

18 (iv) An estate or trust;

19 (v) A common trust fund; or

20 (vi) A partnership.

21 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s
22 itemized deductions are the amount of the taxpayer’s itemized deductions as
23 defined in section 63(d) of the Internal Revenue Code (reduced, if applicable,
24 as described under section 68 of the Internal Revenue Code) minus the de-
25 duction for Oregon income tax (reduced, if applicable, by the proportion that
26 the reduction in federal itemized deductions resulting from section 68 of the
27 Internal Revenue Code bears to the amount of federal itemized deductions
28 as defined for purposes of section 68 of the Internal Revenue Code).

29 (2)(a) There shall be subtracted from federal taxable income any portion
30 of the distribution of a pension, profit-sharing, stock bonus or other retire-
31 ment plan, representing that portion of contributions which were taxed by

1 the State of Oregon but not taxed by the federal government under laws in
2 effect for tax years beginning prior to January 1, 1969, or for any subsequent
3 year in which the amount that was contributed to the plan under the Inter-
4 nal Revenue Code was greater than the amount allowed under this chapter.

5 (b) Interest or other earnings on any excess contributions of a pension,
6 profit-sharing, stock bonus or other retirement plan not permitted to be de-
7 ducted under paragraph (a) of this subsection may not be added to federal
8 taxable income in the year earned by the plan and may not be subtracted
9 from federal taxable income in the year received by the taxpayer.

10 (3)(a) Except as provided in subsection (4) of this section, there shall be
11 added to federal taxable income the amount of any federal income taxes in
12 excess of the amount provided in paragraphs (b) to (d) of this subsection,
13 accrued by the taxpayer during the tax year as described in ORS 316.685, less
14 the amount of any refund of federal taxes previously accrued for which a tax
15 benefit was received.

16 (b) The limits applicable to this subsection are:

17 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax
18 year is less than \$125,000, or, if reported on a joint return, less than \$250,000.

19 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax
20 year is \$125,000 or more and less than \$130,000, or, if reported on a joint
21 return, \$250,000 or more and less than \$260,000.

22 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax
23 year is \$130,000 or more and less than \$135,000, or, if reported on a joint
24 return, \$260,000 or more and less than \$270,000.

25 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax
26 year is \$135,000 or more and less than \$140,000, or, if reported on a joint
27 return, \$270,000 or more and less than \$280,000.

28 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax
29 year is \$140,000 or more and less than \$145,000, or, if reported on a joint
30 return, \$280,000 or more and less than \$290,000.

31 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more

1 for the tax year, or, if reported on a joint return, \$290,000 or more, the limit
2 is zero and the taxpayer is not allowed a subtraction for federal income taxes
3 under ORS 316.680 (1) for the tax year.

4 (d) In the case of spouses in a marriage filing separate tax returns, the
5 amount added shall be in the amount of any federal income taxes in excess
6 of 50 percent of the amount provided for individual taxpayers under para-
7 graphs (a) to (c) of this subsection, less the amount of any refund of federal
8 taxes previously accrued for which a tax benefit was received.

9 (e) For purposes of this subsection, the limits applicable to a joint return
10 shall apply to a head of household or a surviving spouse, as defined in sec-
11 tion 2(a) and (b) of the Internal Revenue Code.

12 (f)(A) For a calendar year beginning on or after January 1, 2008, the De-
13 partment of Revenue shall make a cost-of-living adjustment to the federal
14 income tax threshold amounts described in paragraphs (b) and (d) of this
15 subsection.

16 (B) The cost-of-living adjustment for a calendar year is the percentage by
17 which the monthly averaged U.S. City Average Consumer Price Index for the
18 12 consecutive months ending August 31 of the prior calendar year exceeds
19 the monthly averaged index for the period beginning September 1, 2005, and
20 ending August 31, 2006.

21 (C) As used in this paragraph, "U.S. City Average Consumer Price
22 Index" means the U.S. City Average Consumer Price Index for All Urban
23 Consumers (All Items) as published by the Bureau of Labor Statistics of the
24 United States Department of Labor.

25 (D) If any adjustment determined under subparagraph (B) of this para-
26 graph is not a multiple of \$50, the adjustment shall be rounded to the next
27 lower multiple of \$50.

28 (E) The adjustment shall apply to all tax years beginning in the calendar
29 year for which the adjustment is made.

30 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year
31 nonresident individual shall add to taxable income a proportion of any ac-

1 crued federal income taxes as computed under ORS 316.685 in excess of the
2 amount provided in subsection (3) of this section in the proportion provided
3 in ORS 316.117.

4 (b) In the case of spouses in a marriage filing separate tax returns, the
5 amount added under this subsection shall be computed in a manner consist-
6 ent with the computation of the amount to be added in the case of spouses
7 in a marriage filing separate returns under subsection (3) of this section. The
8 method of computation shall be determined by the Department of Revenue
9 by rule.

10 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married
11 individuals living apart as defined in section 7703(b) of the Internal Revenue
12 Code.

13 (6)(a) For tax years beginning on or after January 1, 1981, and prior to
14 January 1, 1983, income or loss taken into account in determining federal
15 taxable income by a shareholder of an S corporation pursuant to sections
16 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of
17 determining Oregon taxable income, to the extent that as income or loss of
18 the S corporation, they were required to be adjusted under the provisions
19 of ORS chapter 317.

20 (b) For tax years beginning on or after January 1, 1983, items of income,
21 loss or deduction taken into account in determining federal taxable income
22 by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the
23 Internal Revenue Code shall be adjusted for purposes of determining Oregon
24 taxable income, to the extent that as items of income, loss or deduction of
25 the shareholder the items are required to be adjusted under the provisions
26 of this chapter.

27 (c) The tax years referred to in paragraphs (a) and (b) of this subsection
28 are those of the S corporation.

29 (d) As used in paragraph (a) of this subsection, an S corporation refers
30 to an electing small business corporation.

31 (7)(a) The taxpayer shall be entitled to an additional amount, as referred

1 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

2 (A) For the taxpayer if the taxpayer has attained age 65 before the close
3 of the taxpayer's tax year; and

4 (B) For the spouse of the taxpayer if the spouse has attained age 65 before
5 the close of the tax year and an additional exemption is allowable to the
6 taxpayer for such spouse for federal income tax purposes under section 151(b)
7 of the Internal Revenue Code.

8 (b) The taxpayer shall be entitled to an additional amount, as referred to
9 in subsection (1)(c)(A) and (D) of this section, of \$1,000:

10 (A) For the taxpayer if the taxpayer is blind at the close of the tax year;
11 and

12 (B) For the spouse of the taxpayer if the spouse is blind as of the close
13 of the tax year and an additional exemption is allowable to the taxpayer for
14 such spouse for federal income tax purposes under section 151(b) of the
15 Internal Revenue Code. For purposes of this subparagraph, if the spouse dies
16 during the tax year, the determination of whether such spouse is blind shall
17 be made immediately prior to death.

18 (c) In the case of an individual who is not married and is not a surviving
19 spouse, paragraphs (a) and (b) of this subsection shall be applied by substi-
20 tuting "\$1,200" for "\$1,000."

21 (d) For purposes of this subsection, an individual is blind only if the
22 individual's central visual acuity does not exceed 20/200 in the better eye
23 with correcting lenses, or if the individual's visual acuity is greater than
24 20/200 but is accompanied by a limitation in the fields of vision such that
25 the widest diameter of the visual field subtends an angle no greater than 20
26 degrees.

27 (8) In the case of an individual with respect to whom a deduction under
28 section 151 of the Internal Revenue Code is allowable for federal income tax
29 purposes to another taxpayer for a tax year beginning in the calendar year
30 in which the individual's tax year begins, the basic standard deduction (re-
31 ferred to in subsection (1)(c)(B) of this section) applicable to such individual

1 for such individual's tax year shall equal the lesser of:

2 (a) The amount allowed to the individual under section 63(c)(5) of the
3 Internal Revenue Code for federal income tax purposes for the tax year for
4 which the deduction is being claimed; or

5 (b) The amount determined under subsection (1)(c)(B) of this section.

6 **SECTION 3.** Section 6, chapter 880, Oregon Laws 2007, as amended by
7 section 1, chapter 750, Oregon Laws 2013, is amended to read:

8 **Sec. 6.** ORS 315.266 applies to tax years beginning before January 1,
9 [2020] **2026.**

10 **SECTION 4. (1) The amendments to ORS 315.266 by section 1 of this**
11 **2019 Act apply to tax years beginning on or after January 1, 2020, and**
12 **before January 1, 2026.**

13 **(2) The amendments to ORS 316.695 by section 2 of this 2019 Act**
14 **apply to tax years beginning on or after January 1, 2020.**

15 **SECTION 5. This 2019 Act takes effect on the 91st day after the date**
16 **on which the 2019 regular session of the Eightieth Legislative Assem-**
17 **bly adjourns sine die.**

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