

# D R A F T

## SUMMARY

Prescribes amount of expenses for which tax credit for employment-related dependent care expenses may be claimed by removing limitations based on earned income of individual spouse, in case of joint tax filers.

Applies to tax years beginning on or after January 1, 2018.

Aligns sunset for additional personal exemption tax credit allowed for spouse of person with severe disability with sunset for additional credit for person with severe disability.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax credits; creating new provisions; amending ORS 315.264 and  
3 section 43, chapter 913, Oregon Laws 2009; and prescribing an effective  
4 date.

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

6 **SECTION 1.** Section 43, chapter 913, Oregon Laws 2009, is amended to  
7 read:

8 **Sec. 43.** A credit may not be claimed under ORS 316.765 for tax years  
9 beginning on or after January 1, 2016, **and before January 1, 2019, or on**  
10 **or after January 1, 2022.**

11 **SECTION 2.** ORS 315.264, as amended by section 7, chapter 111, Oregon  
12 Laws 2018, is amended to read:

13 315.264. (1)(a) A credit against the tax otherwise due under ORS chapter  
14 316 shall be allowed a taxpayer in an amount equal to a percentage of  
15 employment-related expenses of a type allowable as a credit pursuant to  
16 section 21 of the Internal Revenue Code, notwithstanding the limitation im-  
17 posed by section 21(c) of the Internal Revenue Code, and limited as provided

1 in paragraph (c) of this subsection.

2 (b) The credit allowed under this section may be claimed for expenses for  
 3 care of a qualifying individual that allow a nonmarried taxpayer to seek  
 4 employment or to attend school on a full-time or part-time basis.

5 (c) The employment-related expenses for which a credit is claimed under  
 6 this section may not exceed the *[least]* **lesser** of:

7 (A) Earned income taxable by Oregon and reportable on the taxpayer's  
 8 return; **or**

9 *[(B) The lesser amount of earned income taxable by Oregon earned by either  
 10 spouse, if reportable on a joint return; or]*

11 *[(C)]* **(B)** \$12,000 for a taxpayer for which there is one qualifying indi-  
 12 vidual, or \$24,000 for a taxpayer for which there are two or more qualifying  
 13 individuals.

14 (d) The limitations in paragraph *[(c)(C)]* **(c)(B)** of this subsection shall  
 15 be reduced by the aggregate amount excludable under section 129 of the  
 16 Internal Revenue Code for the tax year.

17 (2) The applicable percentage described in subsection (1) of this section  
 18 shall be determined in accordance with the following table:

19 \_\_\_\_\_

20	Greater of Federal					
21	or Oregon Adjusted					
22	Gross Income, as		Applicable percentage based on age of youngest			
23	Percentage of Federal		qualifying individual on January 1 of tax year			
24	Poverty Level					
25	_____					
26				At least 6 years		
27				but less than		
28			At least	13, or at least		
29			3 years	13 but less	18 years or	
30	Greater	Less than	Under 3	but less	than 18 if	older if
31	than	or equal to	years	than 6	disabled	disabled

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1	0%	10%	10%	8%	5%	5%
2	10%	20%	20%	18%	15%	5%
3	20%	30%	30%	28%	25%	10%
4	30%	40%	40%	38%	35%	20%
5	40%	50%	50%	48%	45%	30%
6	50%	60%	55%	53%	50%	35%
7	60%	70%	60%	58%	55%	40%
8	70%	80%	65%	63%	60%	45%
9	80%	90%	70%	68%	65%	50%
10	90%	110%	75%	73%	70%	55%
11	110%	120%	71%	69%	66%	50%
12	120%	130%	66%	64%	61%	45%
13	130%	140%	61%	59%	56%	39%
14	140%	150%	55%	53%	50%	33%
15	150%	160%	50%	48%	45%	28%
16	160%	200%	47%	45%	42%	25%
17	200%	210%	45%	43%	40%	22%
18	210%	220%	40%	38%	35%	20%
19	220%	230%	35%	33%	30%	15%
20	230%	240%	30%	28%	25%	10%
21	240%	250%	20%	18%	15%	5%
22	250%	260%	10%	8%	5%	5%
23	260%	280%	6%	6%	4%	4%
24	280%	300%	4%	4%	4%	4%
25	300%	-	0%	0%	0%	0%

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27 (3) The applicable percentage for a household in excess of eight members  
 28 shall be calculated as if for a household size of eight members.

29 (4) The credit under this section is not allowed to a taxpayer with federal  
 30 adjusted gross income or Oregon adjusted gross income, whichever is greater,  
 31 in excess of 300 percent of the federal poverty level.

1 (5) In order to ensure compliance with the eligibility requirements of the  
2 credit allowed under this section, the Department of Revenue shall be af-  
3 farded access to utilization data maintained by the Department of Human  
4 Services in its administration of the Employment Related Day Care program.

5 (6) The Department of Revenue may assess a penalty in an amount not  
6 to exceed 25 percent of the amount of credit claimed by the taxpayer against  
7 any taxpayer who knowingly claims or attempts to claim any amount of  
8 credit under this section for which the taxpayer is ineligible, or against any  
9 individual who knowingly assists another individual in claiming any amount  
10 of credit for which the individual is ineligible.

11 (7) The Department of Revenue may adopt rules for carrying out the  
12 provisions of this section and prescribe the form used to claim a credit and  
13 the information required on the form.

14 (8) A nonresident individual shall be allowed the credit computed in the  
15 same manner and subject to the same limitations as the credit allowed a  
16 resident by subsection (1) of this section. However, the credit shall be pro-  
17 rated using the proportion provided in ORS 316.117.

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

22 (10) If a change in the status of a taxpayer from resident to nonresident  
23 or from nonresident to resident occurs, the credit allowed by this section  
24 shall be determined in a manner consistent with ORS 316.117.

25 (11) If the amount allowable as a credit under this section, when added  
26 to the sum of the amounts allowable as payment of tax under ORS 316.187  
27 or 316.583, other tax prepayment amounts and other refundable credit  
28 amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax  
29 year after application of any nonrefundable credits allowable for purposes  
30 of ORS chapter 316 for the tax year, the amount of the excess shall be re-  
31 funded to the taxpayer as provided in ORS 316.502.

1 (12) Any amount that is refunded to the taxpayer under this section and  
2 that is in excess of the tax liability of the taxpayer does not bear interest.

3 **SECTION 3. The amendments to ORS 315.264 by section 2 of this**  
4 **2019 Act apply to tax years beginning on or after January 1, 2018.**

5 **SECTION 4. This 2019 Act takes effect on the 91st day after the date**  
6 **on which the 2019 regular session of the Eightieth Legislative Assem-**  
7 **bly adjourns sine die.**

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