

Senate Bill 1528

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits expenses for which dependent care income tax credit may be claimed to lesser of each spouse's income on joint return and to earned income taxable by Oregon.

Applies to tax years beginning on or after January 1, 2019.

Allows, in years in which tax credits have been certified for contributions to Oregon Production Investment Fund, Legislative Assembly to appropriate to fund balance of amount allowed for certification but not certified.

Applies to fiscal years beginning on or after January 1, 2019.

Adjusts sunset date for property tax exemption for low income rental housing.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; amending ORS 307.517, 307.518, 307.523, 307.529,
3 307.535, 315.264 and 315.516; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.264 is amended to read:

6 315.264. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed
7 a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable
8 as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation im-
9 posed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (c) of this
10 subsection.

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

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

16 (A) **Earned** income [*earned in*] **taxable by** Oregon and reported on the taxpayer's return;

17 (B) **The lesser amount of earned income taxable by Oregon earned by each spouse, if**
18 **reported on a joint return;** or

19 [*(B)*] (C) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a
20 taxpayer for which there are two or more qualifying individuals.

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

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

25
26

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level		Applicable percentage based on age of youngest qualifying individual on January 1 of tax year				
		At least 6 years but less than				
		At least 3 years		13, or at least 13 but less		18 years or older if
Greater than	Less than or equal to	Under 3 years	but less than 6	than 18 if disabled	disabled	disabled
0%	10%	10%	8%	5%	5%	5%
10%	20%	20%	18%	15%	5%	5%
20%	30%	30%	28%	25%	10%	10%
30%	40%	40%	38%	35%	20%	20%
40%	50%	50%	48%	45%	30%	30%
50%	60%	55%	53%	50%	35%	35%
60%	70%	60%	58%	55%	40%	40%
70%	80%	65%	63%	60%	45%	45%
80%	90%	70%	68%	65%	50%	50%
90%	110%	75%	73%	70%	55%	55%
110%	120%	71%	69%	66%	50%	50%
120%	130%	66%	64%	61%	45%	45%
130%	140%	61%	59%	56%	39%	39%
140%	150%	55%	53%	50%	33%	33%
150%	160%	50%	48%	45%	28%	28%
160%	200%	47%	45%	42%	25%	25%
200%	210%	45%	43%	40%	22%	22%
210%	220%	40%	38%	35%	20%	20%
220%	230%	35%	33%	30%	15%	15%
230%	240%	30%	28%	25%	10%	10%
240%	250%	20%	18%	15%	5%	5%
250%	260%	10%	8%	5%	5%	5%
260%	280%	6%	6%	4%	4%	4%
280%	300%	4%	4%	4%	4%	4%
300%	-	0%	0%	0%	0%	0%

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

(4) The credit under this section is not allowed:

(a) To a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of the federal poverty level; or

1 (b) To any taxpayer who does not report earned income that is taxable by Oregon on the
2 taxpayer's return.

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

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

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

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

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

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

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

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

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

33 **SECTION 3.** ORS 315.516 is amended to read:

34 315.516. (1) In lieu of the issuance of certifications for tax credit under ORS 315.514 by the
35 Oregon Film and Video Office, the Legislative Assembly may, no later than 30 days prior to the end
36 of each fiscal year, appropriate to the Oregon Business Development Department for deposit into the
37 Oregon Production Investment Fund an amount equal to the total amount that would otherwise be
38 certified for tax credits during the upcoming fiscal year, based on the amount of contributions and
39 accompanying applications for credit received by the office during the fiscal year **and reduced by**
40 **the amount previously certified for the credit during the fiscal year.**

41 (2) If the Legislative Assembly makes the election allowed in subsection (1) of this section:

42 (a) **No additional amount of credits may be certified for the fiscal year; and**

43 [(a)] (b) Any contributions to the Oregon Production Investment Fund made for the upcoming
44 fiscal year and for which an application for a credit under ORS 315.514 is [pending] **denied** shall,
45 at the request of the taxpayer, be refunded by the Oregon Film and Video Office.]; and]

1 ***[(b) A credit under ORS 315.514 may not be claimed for any contribution made during the current***
 2 ***fiscal year.]***

3 **SECTION 4. The amendments to ORS 315.516 by section 3 of this 2018 Act apply to fiscal**
 4 **years beginning on or after January 1, 2019.**

5 **SECTION 5.** ORS 307.517 is amended to read:

6 307.517. (1) Property or a portion of the property is exempt from taxation as provided under ORS
 7 307.515 to 307.523 if:

8 (a) The property is:

9 (A) Offered for rent; or

10 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
 11 reasonable maximum period, if any, adopted by the governing body;

12 (b) The property, if occupied, is occupied solely by low income persons;

13 (c) The required rent payment reflects the full value of the property tax exemption;

14 (d) The exemption has been approved as provided in ORS 307.523, **pursuant to an application**
 15 **filed before July 1, 2020;**

16 (e) The housing units on the property were constructed after the local governing body adopted
 17 the provisions of ORS 307.515 to 307.523; and

18 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
 19 criteria adopted by the governing body.

20 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
 21 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
 22 this section.

23 (3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest
 24 in property is deemed to be a purchaser of that property if:

25 (a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real
 26 and personal property used in this activity on that property; or

27 (b) The rent payable has been established to reflect the savings resulting from the exemption
 28 from taxation.

29 **SECTION 6.** ORS 307.518 is amended to read:

30 307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS
 31 307.515 to 307.523 if:

32 (a) The property, if unoccupied, is:

33 (A) Offered for rental solely as a residence for low income persons; or

34 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
 35 reasonable maximum period, if any, adopted by the governing body;

36 (b) The property, if occupied, is occupied solely as a residence for low income persons;

37 (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant
 38 to an application filed before [*January*] **July 1, 2020;**

39 (d) The property is owned or being purchased by a nonprofit corporation organized in a manner
 40 that meets the criteria for a public benefit corporation or a religious corporation, both terms as
 41 defined in ORS 65.001;

42 (e) The property is owned or being purchased by a nonprofit corporation that expends no more
 43 than 10 percent of the nonprofit corporation's annual income from residential rentals for purposes
 44 other than the acquisition, maintenance or repair of residential rental property for low income per-
 45 sons or for the provision of on-site child care services for the residents of the rental property; and

1 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
2 criteria adopted by the governing body.

3 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
4 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
5 this section.

6 (3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest
7 in property is considered to be a purchaser of that property if:

8 (a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem
9 taxes on the real and personal property used in the rental activity on that property; or

10 (b) The rent payable has been established to reflect the savings resulting from the exemption
11 from taxation.

12 (4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

13 (a) A nonprofit corporation is a general partner of the partnership; and

14 (b) The nonprofit corporation is responsible for the day-to-day operation of the property that is
15 the subject of the exemption under ORS 307.515 to 307.523.

16 **SECTION 7.** ORS 307.523 is amended to read:

17 307.523. (1) Application shall be made on or before December 1 of the calendar year immediately
18 preceding the first assessment year for which exemption is requested, and shall be accompanied by
19 the application fee required under ORS 307.527. However, if the property is acquired after November
20 1, the application shall be made within 30 days after the date of acquisition.

21 (2) Within 60 days of the filing of an application under ORS 307.521, the governing body shall
22 take final action upon the application as provided under ORS 307.527, and certify the results of the
23 action to the county assessor, as set forth in ORS 307.512.

24 (3) Upon receipt of certification under subsection (2) of this section, the county assessor shall
25 exempt the property from taxation to the extent certified by the governing body.

26 (4) **Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted ex-**
27 **emption pursuant to an application filed under ORS 307.517 or 307.518 before July 1, 2020,**
28 **shall continue to receive the exemption on the same terms, including duration, on which the**
29 **exemption was granted.**

30 **SECTION 8.** ORS 307.529 is amended to read:

31 307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS
32 307.517 has been approved under ORS 307.527, the governing body finds that construction or devel-
33 opment of the exempt property differs from the construction or development described in the appli-
34 cation for exemption, or is not completed on or before [*January*] **July 1, 2020**, or that any provision
35 of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing
36 body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give
37 notice of the proposed termination of the exemption to the owner, by mailing the notice to the
38 last-known address of the owner, and to every known lender, by mailing the notice to the last-known
39 address of every known lender. The notice shall state the reasons for the proposed termination and
40 shall require the owner to appear at a specified time, not less than 20 days after mailing the notice,
41 to show cause, if any, why the exemption should not be terminated.

42 (2) If the owner fails to appear and show cause why the exemption should not be terminated, the
43 governing body shall notify every known lender, and shall allow any lender not less than 30 days
44 after the date the notice of the failure to appear and show cause is mailed to cure any noncompli-
45 ance or to provide assurance adequate to the governing body that all noncompliance shall be rem-

1 edied.

2 (3) If the owner fails to appear and show cause why the exemption should not be terminated,
 3 and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the gov-
 4 erning body shall adopt an ordinance or resolution stating its findings terminating the exemption.
 5 A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be
 6 sent to the owner at the owner's last-known address and to the lender at the last-known address of
 7 the lender within 10 days after its adoption.

8 **SECTION 9.** ORS 307.535 is amended to read:

9 307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

10 (1) If the governing body finds that construction of the housing unit otherwise entitled to ex-
 11 emption under ORS 307.517 was not completed by [*January*] **July** 1, 2020, due to circumstances be-
 12 yond the control of the owner, and that the owner had been acting and could reasonably be expected
 13 to act in good faith and with due diligence, the governing body may extend the deadline for com-
 14 pletion of construction for a period not to exceed 12 consecutive months.

15 (2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of
 16 God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control
 17 of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property
 18 under ORS 307.531 or 307.533.

19 **SECTION 10.** **This 2018 Act takes effect on the 91st day after the date on which the 2018**
 20 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**