

# House Bill 2156

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on 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**.

Provides for refundability of personal exemption income tax credit for taxpayers with not more than \$\_\_\_\_\_ of federal taxable income. Offsets revenue loss through phaseout of allowed itemized deductions with federal taxable income in excess of \$\_\_\_\_\_.

Applies to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to personal income taxation; creating new provisions; amending ORS 316.085, 316.099,  
3 316.502, 316.695 and 316.758; and prescribing an effective date.

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

5 **SECTION 1.** ORS 316.085 is amended to read:

6 316.085. (1)(a) There shall be allowed a personal exemption credit against taxes otherwise due  
7 under this chapter. The credit shall equal \$90 multiplied by the number of personal exemptions al-  
8 lowed under section 151 of the Internal Revenue Code.

9 (b) In the case of an individual with respect to whom a credit under paragraph (a) of this sub-  
10 section is allowable to another taxpayer for a taxable year beginning in the calendar year in which  
11 the individual's taxable year begins, the credit amount applicable to such individual for such  
12 individual's taxable year is zero.

13 (2)(a) A nonresident shall be allowed the credit provided under subsection (1) of this section  
14 computed in the same manner and subject to the same limitations as the credit allowed to a resident  
15 of this state. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

22 (3) The Department of Revenue shall recompute the dollar amount of the personal exemption  
23 credit allowed for state personal income tax purposes. The computation shall be as follows:

24 (a) Divide the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive  
25 months ending August 31 of the prior calendar year by the monthly averaged index for the first six  
26 months of 1986.

27 (b) Recompute the dollar amount of the personal exemption credit by multiplying \$90 by the  
28 appropriate indexing factor determined as provided in paragraph (a) of this subsection. Round off the  
29 amount obtained under this paragraph to the nearest \$1.

**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.

1 (4) As used in this section, “U.S. City Average Consumer Price Index” means the U.S. City Av-  
 2 erage Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
 3 Labor Statistics of the United States Department of Labor.

4 **(5) If the federal taxable income of the taxpayer does not exceed \$\_\_\_\_\_, and if the**  
 5 **amount allowable as a credit under this section, when added to the sum of the amounts al-**  
 6 **lowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax),**  
 7 **other tax prepayment amounts and other refundable credit amounts, exceeds the taxes im-**  
 8 **posed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits**  
 9 **allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall**  
 10 **be refunded to the taxpayer as provided in ORS 316.502.**

11 [(5)] (6) Notwithstanding subsections (1) to (3) of this section, a taxpayer may not claim the  
 12 personal exemption credit otherwise allowed under this section if the taxpayer’s federal adjusted  
 13 gross income for the tax year exceeds \$200,000 for joint return filers, a surviving spouse or a head  
 14 of household, or \$100,000 for an individual who is not a married individual and is not a surviving  
 15 spouse, or is a married individual who files a separate return.

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

17 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,  
 18 there shall be added to or subtracted from federal taxable income:

19 (a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions,  
 20 as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of  
 21 itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized  
 22 deductions are reduced under section 68 of the Internal Revenue Code).

23 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-  
 24 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount  
 25 of the standard deduction deducted.

26 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer’s  
 27 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,  
 28 for purposes of this subparagraph, “standard deduction” means the sum of the basic standard de-  
 29 duction and the additional standard deduction.

30 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

31 (i) \$3,280, in the case of joint return filers or a surviving spouse;

32 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving  
 33 spouse;

34 (iii) \$1,640, in the case of a married individual who files a separate return; or

35 (iv) \$2,640, in the case of a head of household.

36 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after  
 37 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction  
 38 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard  
 39 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price  
 40 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average  
 41 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-  
 42 tient by the amount listed under subparagraph (B) of this paragraph for each category of return  
 43 filer.

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

1 (iii) As used in this subparagraph, “U.S. City Average Consumer Price Index” means the U.S.  
 2 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau  
 3 of Labor Statistics of the United States Department of Labor.

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

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

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

10 (i) A husband or wife filing a separate return where the other spouse has claimed itemized de-  
 11 ductions under subparagraph (A) of this paragraph;

12 (ii) A nonresident alien individual;

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

15 (iv) An estate or trust;

16 (v) A common trust fund; or

17 (vi) A partnership.

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

25 **(e) Notwithstanding paragraph (d) of this subsection, if the federal taxable income of the**  
 26 **taxpayer exceeds \$\_\_\_\_\_, the amount allowable as itemized deductions under this section**  
 27 **shall be reduced by \_\_\_\_\_ percent of the excess.**

28 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of  
 29 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-  
 30 butions which were taxed by the State of Oregon but not taxed by the federal government under  
 31 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which  
 32 the amount that was contributed to the plan under the Internal Revenue Code was greater than the  
 33 amount allowed under this chapter.

34 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock  
 35 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection  
 36 may not be added to federal taxable income in the year earned by the plan and may not be sub-  
 37 tracted from federal taxable income in the year received by the taxpayer.

38 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable  
 39 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)  
 40 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,  
 41 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-  
 42 ceived.

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

44 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than  
 45 \$125,000, or, if reported on a joint return, less than \$250,000.

1 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or  
 2 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
 3 \$260,000.

4 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
 5 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
 6 \$270,000.

7 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
 8 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
 9 \$280,000.

10 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
 11 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
 12 \$290,000.

13 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or,  
 14 if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a  
 15 subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

16 (d) In the case of a husband and wife filing separate tax returns, the amount added shall be in  
 17 the amount of any federal income taxes in excess of 50 percent of the amount provided for individual  
 18 taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal  
 19 taxes previously accrued for which a tax benefit was received.

20 (e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head  
 21 of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

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

25 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
 26 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
 27 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
 28 1, 2005, and ending August 31, 2006.

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

32 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
 33 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

36 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual  
 37 shall add to taxable income a proportion of any accrued federal income taxes as computed under  
 38 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion  
 39 provided in ORS 316.117.

40 (b) In the case of a husband and wife filing separate tax returns, the amount added under this  
 41 subsection shall be computed in a manner consistent with the computation of the amount to be  
 42 added in the case of a husband and wife filing separate returns under subsection (3) of this section.  
 43 The method of computation shall be determined by the Department of Revenue by rule.

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

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

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

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

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

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

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

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

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

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

25 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an  
26 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes  
27 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse  
28 dies during the tax year, the determination of whether such spouse is blind shall be made imme-  
29 diately prior to death.

30 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)  
31 and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

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

36 (8) In the case of an individual with respect to whom a deduction under section 151 of the  
37 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax  
38 year beginning in the calendar year in which the individual's tax year begins, the basic standard  
39 deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such  
40 individual's tax year shall equal the lesser of:

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

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

44 **SECTION 3.** ORS 316.502 is amended to read:

45 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and

1 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held  
 2 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation  
 3 of the State of Oregon lawfully incurred.

4 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
 5 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year  
 6 exceed the sum of \$1 million.

7 (3) Moneys are continuously appropriated to the Department of Revenue to make:

8 (a) The refunds authorized under subsection (2) of this section; and

9 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, [and]  
 10 315.266 and 316.085 and section 17, chapter 906, Oregon Laws 2007.

11 **SECTION 4.** ORS 316.099, as amended by section 8, chapter 114, Oregon Laws 2014, is amended  
 12 to read:

13 316.099. (1) As used in this section, unless the context requires otherwise:

14 (a) “Child with a disability” means a qualifying child under section 152 of the Internal Revenue  
 15 Code who has been determined eligible for early intervention services or is diagnosed for the pur-  
 16 poses of special education as being mentally retarded, multidisabled, visually impaired, hard of  
 17 hearing, deaf-blind, orthopedically impaired or other health impaired or as having autism, emotional  
 18 disturbance or traumatic brain injury, in accordance with State Board of Education rules.

19 (b) “Early intervention services” means programs of treatment and habilitation designed to ad-  
 20 dress a child’s developmental deficits in sensory, motor, communication, self-help and socialization  
 21 areas.

22 (c) “Special education” means specially designed instruction to meet the unique needs of a child  
 23 with a disability, including regular classroom instruction, instruction in physical education, home  
 24 instruction and instruction in hospitals, institutions and special schools.

25 (2) The State Board of Education shall adopt rules further defining “child with a disability” for  
 26 purposes of this section. A diagnosis obtained for the purposes of entitlement to special education  
 27 or early intervention services shall serve as the basis for a claim for the additional credit allowed  
 28 under subsection (3) of this section.

29 (3) In addition to the personal exemption credit allowed by this chapter for state personal in-  
 30 come tax purposes for a dependent of the taxpayer, there shall be allowed an additional personal  
 31 exemption credit for a child with a disability if the child is a child with a disability at the close of  
 32 the tax year. The amount of the credit allowed for the dependent for the tax year shall be calcu-  
 33 lated as provided in ORS 316.085, except that the amount may not be reduced on the basis of income  
 34 under ORS 316.085 [(5)] (6).

35 (4) Each taxpayer qualifying for the additional personal exemption credit allowed by this section  
 36 may claim the credit on the personal income tax return. However, the claim shall be substantiated  
 37 by any proof of entitlement to the credit as may be required by the state board by rule.

38 **SECTION 5.** ORS 316.758, as amended by section 9, chapter 114, Oregon Laws 2014, is amended  
 39 to read:

40 316.758. In addition to the personal exemption credit allowed by this chapter for state personal  
 41 income tax purposes, there shall be allowed an additional personal exemption credit for the taxpayer  
 42 if the taxpayer has a severe disability at the close of the taxable year. The amount of the credit  
 43 allowed for the tax year shall be calculated as provided in ORS 316.085, except that the amount may  
 44 not be reduced on the basis of income under ORS 316.085 [(5)] (6).

45 **SECTION 6.** The amendments to ORS 316.085, 316.502 and 316.695 by sections 1 to 3 of this

1 **2015 Act apply to tax years beginning on or after January 1, 2016.**

2 **SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015**  
3 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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