

House Bill 3357

Sponsored by Representatives KENY-GUYER, HELT; Representatives ALONSO LEON, NOBLE, Senators BOQUIST, FAGAN, GELSER, MONNES ANDERSON

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**.

Allows dependent care income tax credit to be claimed for expenses to allow taxpayer or spouse to attend school as enrolled degree-seeking student. Limits expenses to combination of earned income taxable by Oregon and imputed income, using lesser amount attributable to either spouse on joint return. Provides for calculation based upon imputed income to allow degree-seeking enrolled student to claim credit.

Applies to tax years beginning on or after January 1, 2019, and before January 1, 2022.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use by enrolled degree-seeking student of tax credit for dependent care expenses; cre-
3 ating new provisions; amending ORS 315.264; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.264, as amended by section 7, chapter 111, Oregon Laws 2018, is amended
6 to read:

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

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

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

17 (A) **The combination of** earned income taxable by Oregon and reportable on the taxpayer's
18 return **and imputed income;**

19 (B) The lesser amount [*of earned income taxable by Oregon earned by either spouse,*] **attributable**
20 **to either spouse of the combination of the spouse's imputed income and the spouse's earned**
21 **income subject to taxation by Oregon,** if reportable on a joint return; or

22 (C) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a taxpayer
23 for which there are two or more qualifying individuals.

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

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

	Applicable percentage based on age of youngest qualifying individual on January 1 of tax year					
Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level			Under 3 years	At least 3 years but less than 6	At least 6 years but less than 13, or at least 13 but less than 18 if disabled	18 years or older if disabled
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(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 to a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of the federal pov-

erty level.

(5) For the purposes of calculating the allowed amount of credit applicable to a student:

(a) Imputed income shall equal \$1,000 per qualified month per student for a student for whom there is one qualifying individual, or \$2,000 per qualified month per student for a student for which there are two or more qualifying individuals.

(b) A qualified month is any month in which the student is a full-time or part-time student and attending school, or a summer month in a calendar year in which the student was enrolled in a degree-seeking program in both the spring and fall academic terms.

(c) The school ratio shall equal 100 percent for a month for which a student is qualified for student financial aid as a full-time student, and 70 percent for a month for which a student is qualified for student financial aid as a part-time student.

(d) If a student is a part-time student for a portion of the year and a full-time student for the balance of the year, the credit shall be prorated. The school ratio applicable to the summer months, if any, shall be the school ratio applicable to the immediately preceding spring month.

(6) Notwithstanding subsections (2) and (3) of this section, for a student with adjusted gross income as a percentage of the federal poverty level that is less than or equal to 110 percent, the amount of credit shall be the greater of:

(a) The credit calculated using subsection (2) of this section; or

(b) The product of the applicable percentage, as shown in subsection (2) of this section, corresponding to an adjusted gross income percentage of 110 percent, multiplied by:

(A) The lesser of expenses for care of a qualifying individual or imputed income; and

(B) The school ratio.

[(5)] (7) In order to ensure compliance with the eligibility requirements of the credit allowed under this section, the Department of Revenue shall be afforded access to utilization data maintained by the Department of Human Services in its administration of the Employment Related Day Care program.

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

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

[(8)] (10) A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by subsection (1) of this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

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

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

[(11)] (13) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts

1 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for
2 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter
3 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS
4 316.502.

5 ~~[(12)]~~ (14) Any amount that is refunded to the taxpayer under this section and that is in excess
6 of the tax liability of the taxpayer does not bear interest.

7 **SECTION 2. The amendments to ORS 315.264 by section 1 of this 2019 Act apply to tax**
8 **years beginning on or after January 1, 2019, and before January 1, 2022.**

9 **SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019**
10 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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