

Enrolled House Bill 2752

Sponsored by Representatives CLEM, HOLVEY; Representatives BARKER, BUCKLEY, C
EDWARDS, GALIZIO, KOTEK, KRUMMEL, SHIELDS, WITT

CHAPTER

AN ACT

Relating to the working family child care tax credit; creating new provisions; amending ORS 315.262 and 316.502; repealing ORS 315.262; and prescribing an effective date.

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

SECTION 1. ORS 315.262 is amended to read:

315.262. (1) As used in this section:

(a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-time or part-time basis, except that the term does not include care provided by:

(A) The child's parent or guardian, unless the care is provided in a certified or registered child care facility; or

(B) A person who has a relationship to the taxpayer that is described in section 152(a) of the Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

(b) "Child care expenses" means the costs associated with providing child care to a qualifying child of a qualified taxpayer.

(c) **"Disability" means a physical or cognitive condition that results in a person requiring assistance with activities of daily living.**

[(c)] (d) "Earned income" has the meaning given that term in section 32 of the Internal Revenue Code.

[(d)] (e) "Qualified taxpayer" means a taxpayer:

(A) Who is an Oregon resident with at least \$6,000 of earned income for the tax year or who is a nonresident of Oregon with at least \$6,000 of earned income from Oregon sources for the tax year;

(B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the federal poverty level;

(C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the federal poverty level; and

(D) Who does not have more than the maximum amount of disqualified income under section 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax credit for federal tax purposes.

[(e)] (f) "Qualifying child" has the meaning given that term in section 152 of the Internal Revenue Code except that it is limited to an individual who is under 13 years of age, or who is a disabled child, as that term is defined in ORS 316.099.

(2) A taxpayer is not disqualified from claiming the credit under this section solely because the taxpayer's spouse has a disability, if the disability is such that it prevents the taxpayer's spouse from providing child care, being gainfully employed, seeking employment and attending school. The Department of Revenue may require that a physician verify the existence of the disability and its severity.

[2] (3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 equal to the applicable percentage of the qualified taxpayer's child care expenses (rounded to the nearest \$50).

[3] (4) The applicable percentage to be used in calculating the amount of the credit provided in this section shall be determined in accordance with the following table:

| Applicable Percentage | Greater of Oregon Adjusted Gross Income or Federal Adjusted Gross Income, as Percent of Federal Poverty Level |
|-----------------------|---------------------------------------------------------------------------------------------------------------|
| 40 | 200 or less |
| 36 | Greater than 200 and less than or equal to 210 |
| 32 | Greater than 210 and less than or equal to 220 |
| 24 | Greater than 220 and less than or equal to 230 |
| 16 | Greater than 230 and less than or equal to 240 |
| 8 | Greater than 240 and less than or equal to 250 |
| 0 | Greater than 250 percent of federal poverty level |

[4] (5) The department *[of Revenue]* may:

(a) Adopt rules for carrying out the provisions of this section; and

(b) Prescribe the form used to claim a credit and the information required on the form. The form may provide for verification of an individual's disability by a physician, if applicable, as described in subsection (2) of this section.

[5] (6) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) 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.

(c) 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 under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this section only if:

(A) The taxpayer files a joint return;

(B) The taxpayer files a separate return and is legally separated or subject to a separate maintenance agreement; or

(C) The taxpayer files a separate return and the taxpayer and the taxpayer's spouse reside in separate households on the last day of the tax year with the intent of remaining in separate households in the future.

[(6)] (7) 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 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

[(7)(a)] (8)(a) The minimum amount of earned income a taxpayer must earn in order to be a qualified taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying \$6,000 by the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year over the monthly averaged index for the second quarter of the calendar year 1998.

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

(c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50, the adjustment shall be rounded to the nearest multiple of \$50.

(d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of earned income a taxpayer must earn may not exceed the amount an individual would earn if the individual worked 1,040 hours at the minimum wage established under ORS 653.025 and in effect on January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next lower multiple of \$50.

SECTION 2. The amendments to ORS 315.262 by section 1 of this 2007 Act apply to tax years beginning on or after January 1, 2007.

SECTION 3. ORS 315.262 is repealed on January 2, 2014.

SECTION 4. ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, and section 60, chapter 832, Oregon Laws 2005, is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

(3) Moneys are continuously appropriated to the Department of Revenue to make[.]

[(a)] the refunds authorized under subsection (2) of this section.[; and]

[(b) *The refund payments in excess of tax liability authorized under ORS 315.262.*]

SECTION 5. The amendments to ORS 316.502 by section 4 of this 2007 Act apply to tax years beginning on or after January 1, 2014.

SECTION 6. If House Bill 3201 becomes law, sections 4 (amending ORS 316.502) and 5 of this 2007 Act are repealed and ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and section 86, chapter ___, Oregon Laws 2007 (Enrolled House Bill 3201), is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

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

(b) The refund payments in excess of tax liability authorized under [ORS 315.262 and] section 82, chapter ___, Oregon Laws 2007 (Enrolled House Bill 3201) [of this 2007 Act].

SECTION 6a. If House Bill 3201 becomes law, ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and sections 86 and 87, chapter ___, Oregon Laws 2007 (Enrolled House Bill 3201), is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

[a] the refunds authorized under subsection (2) of this section.[: and]

[b] *The refund payments in excess of tax liability authorized under ORS 315.262.*]

SECTION 6b. If House Bill 3201 becomes law:

(1) The amendments to ORS 316.502 by section 6 of this 2007 Act become operative on January 2, 2014.

(2) The amendments to ORS 316.502 by section 6a of this 2007 Act become operative on January 2, 2018.

SECTION 6c. If House Bill 3201 becomes law, the amendments to ORS 316.502 by section 6 of this 2007 Act apply to tax years beginning on or after January 1, 2014.

SECTION 7. If both House Bill 2735 and House Bill 3201 become law, ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and section 20, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735), is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

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

(b) The refund payments in excess of tax liability authorized under [ORS 315.262 and] section 17, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735) [of this 2007 Act].

SECTION 7a. If both House Bill 2735 and House Bill 3201 become law, ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, section 60, chapter 832, Oregon Laws 2005, and sections 20 and 20a, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2735), is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

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

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

[a] the refunds authorized under subsection (2) of this section.[: and]

[b] *The refund payments in excess of tax liability authorized under ORS 315.262.*]

SECTION 7b. If both House Bill 2735 and House Bill 3201 become law:

(1) The amendments to ORS 316.502 by section 7 of this 2007 Act become operative on January 2, 2014.

(2) The amendments to ORS 316.502 by section 7a of this 2007 Act become operative on January 2, 2018.

SECTION 7c. If both House Bill 2735 and House Bill 3201 become law, the amendments to ORS 316.502 by section 7 of this 2007 Act apply to tax years beginning on or after January 1, 2014.

SECTION 8. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by House June 13, 2007

Received by Governor:

Repassed by House June 26, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

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Governor

Passed by Senate June 24, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

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President of Senate

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Secretary of State