

# House Bill 2158

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of 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**.

Modifies method by which taxpayers may donate surplus revenue refunds to funding of education. Permits personal income taxpayers to specify maximum amount of donation.

Applies to income tax returns for tax years beginning on or after January 1, 2010.

## A BILL FOR AN ACT

1  
2 Relating to donation of surplus revenue refunds; creating new provisions; and amending ORS  
3 305.792.

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

5 **SECTION 1.** ORS 305.792 is amended to read:

6 305.792. (1) The Department of Revenue shall cause a checkoff box to be printed on the [*personal*  
7 *income and*] corporate income or excise tax returns for the appropriate tax year, by which a tax-  
8 payer may indicate that a surplus refund [*payment or*] credit [*that*] **to which** the taxpayer may oth-  
9 erwise be entitled [*to*] under ORS 291.349 shall instead be used for funding education.

10 [(2)(a) *A personal income taxpayer may elect to donate a surplus refund payment to be made under*  
11 *ORS 291.349 to public elementary and secondary school education. The taxpayer may make the election*  
12 *by checking the appropriate checkoff box on the taxpayer's return indicating the taxpayer's intention*  
13 *to donate the surplus refund payment to public elementary and secondary education.*]

14 [(b) *Once made, the election is irrevocable for any surplus refund payments received until a sub-*  
15 *sequent return is filed for a later tax year, and on which the checkoff box is not checked.*]

16 [(3)(a)] **(2)(a)** A corporate excise or income taxpayer may elect **not** to [*not*] claim a surplus re-  
17 fund credit that the taxpayer would otherwise be entitled to pursuant to ORS 291.349, in order to  
18 achieve a corresponding transfer of such moneys from the General Fund to the State School Fund  
19 for the support of public elementary and secondary school education. The taxpayer may make the  
20 election by checking the appropriate checkoff box on the taxpayer's return and by not using the  
21 **applicable** surplus refund credit percentage to reduce the taxpayer's tax liability.

22 (b) A taxpayer that checks the appropriate checkoff box indicating that the credit will not be  
23 claimed but that nevertheless claims the credit in determining the taxpayer's tax liability shall be  
24 considered **not** to have [*not*] made the election under this subsection.

25 (c) The election **not** to [*not*] claim a credit under this subsection may not be revoked by filing  
26 an amended return.

27 **(3) The Department of Revenue shall cause to be printed on the personal income tax re-**  
28 **turns for the appropriate tax year a means by which a taxpayer may indicate that all or part**  
29 **of a surplus refund payment to which the taxpayer may otherwise be entitled under ORS**  
30 **291.349 shall instead be used for funding education.**

**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)(a) A personal income taxpayer may elect to donate all or part of the taxpayer’s sur-**  
 2 **plus refund payment to be made under ORS 291.349 to public elementary and secondary**  
 3 **school education. The taxpayer may make the election by indicating that all of the payment**  
 4 **should be donated to education, or by entering, in a space provided on the tax return, the**  
 5 **maximum amount of the taxpayer’s surplus refund payment that the taxpayer wishes to be**  
 6 **donated to education.**

7       **(b) Once made, the election is irrevocable for any surplus refund payments received until**  
 8 **a subsequent return is filed for a later tax year.**

9       [(4)] (5) After the determination that surplus refund payments are to be made under ORS 291.349  
 10 (4) and (6), the department shall determine the total amount of such payments for which an election  
 11 to donate to public elementary and secondary education has been made and shall certify this amount  
 12 to the State Treasurer. Following the department’s certification to the State Treasurer, an election  
 13 to donate that biennium’s surplus refund payments under subsection [(2)] (4) of this section is  
 14 irrevocable.

15       [(5)] (6) Following the determination to credit corporate income and excise taxes pursuant to  
 16 ORS 291.349 (3) and (5), the department shall annually certify the total amount of allowable credits  
 17 that have not been claimed pursuant to an election made under subsection [(3)] (2) of this section.  
 18 The certification shall be made on or before December 31 of each year, until the tax year for which  
 19 the credit would otherwise be claimed becomes a closed tax year.

20       **SECTION 2. The amendments to ORS 305.792 by section 1 of this 2009 Act apply to income**  
 21 **tax returns for tax years beginning on or after January 1, 2010.**

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