

**Enrolled**  
**House Bill 2164**

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

CHAPTER .....

AN ACT

Relating to tax subtraction for compensation received by member of Armed Forces of the United States; creating new provisions; and amending ORS 316.680.

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

**SECTION 1.** ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this paragraph, compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed \$6,000 per annum. **As used in this subparagraph, "active service" includes weekend drills, annual training, summer camp, special school attendance and battle assemblies.**

(B) For the tax year of initial draft or enlistment into the Armed Forces of the United States or for the tax year of discharge from or termination of full-time active duty for the Armed Forces of the United States, compensation (other than pension or retirement pay or pay for service when on military reserve duty) paid by the Armed Forces of the United States for services performed outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the Armed Forces of the United States.

(d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(f)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before

October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(g) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(j) Any amount paid by the TRICARE military health care system to a health care provider during the first two years that the health care provider participates in the TRICARE system.

(k) Any amounts included in the federal taxable income that are attributable to income earned by an employee of the Oregon Military Department for performing duties for the Oregon National Guard Youth Challenge Program in an amount not to exceed \$6,000 per annum.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

**SECTION 2.** ORS 316.680, as amended by section 2a, chapter 843, Oregon Laws 2007, is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this paragraph, compensation (other than pension or retirement pay) received for active service performed by a member of the Armed Forces of the United States in an amount not to exceed \$6,000 per annum. **As used in this subparagraph, "active service" includes weekend drills, annual training, summer camp, special school attendance and battle assemblies.**

(B) For the tax year of initial draft or enlistment into the Armed Forces of the United States or for the tax year of discharge from or termination of full-time active duty for the Armed Forces of the United States, compensation (other than pension or retirement pay or pay for service when on military reserve duty) paid by the Armed Forces of the United States for services performed outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the Armed Forces of the United States.

(d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(f)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(g) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,

Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

**SECTION 3. The amendments to ORS 316.680 by sections 1 and 2 of this 2009 Act apply to tax years beginning on or after January 1, 2009.**

**Passed by House April 22, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 19, 2009**

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President of Senate

**Received by Governor:**

.....M.,....., 2009

**Approved:**

.....M.,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2009

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Secretary of State