

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)

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**.

Expands subtraction from taxable income for compensation to member of Armed Forces of United States.

Applies to tax years beginning on or after January 1, 2009.

A BILL FOR AN ACT

1
2 Relating to tax subtraction for compensation received by member of Armed Forces of the United
3 States; creating new provisions; and amending ORS 316.680.

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

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

6 316.680. (1) There shall be subtracted from federal taxable income:

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

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

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

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

29 (d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the
30 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce

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 federal taxable income by those amounts.

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

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

8 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
 9 ceived at a time when:

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

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

13 (C) As used in this paragraph:

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

16 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
 17 ment, its agencies or its instrumentalities to retirees of the federal government or their benefi-
 18 ciaries.

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

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

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

26 (h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
 27 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
 28 termining the taxpayer's federal taxable income for the tax year.

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

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

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

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

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

43 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-
 44 torial possession of the United States that by the laws of the United States are exempt from federal
 45 income tax but not from state income taxes. However, the amount added under this paragraph shall

1 be reduced by any interest on indebtedness incurred to carry the obligations or securities described
 2 in this paragraph and by any expenses incurred in the production of interest or dividend income
 3 described in this paragraph.

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

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

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

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

13 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
 14 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
 15 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal
 16 Revenue Code.

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

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

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

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

25 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college
 26 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
 27 that is attributable to contributions that were subtracted from federal taxable income under ORS
 28 316.699.

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

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

36 316.680. (1) There shall be subtracted from federal taxable income:

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

45 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as

1 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for
2 which a tax benefit was received.

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

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

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

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

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

23 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
24 ceived at a time when:

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

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

28 (C) As used in this paragraph:

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

31 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
32 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-
33 aries.

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

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

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

41 (h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
42 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
43 termining the taxpayer's federal taxable income for the tax year.

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

1 to 348.873.

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

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

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

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

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

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

21 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-
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 25 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal
 26 Revenue Code.

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 28 during the tax year if:

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 30 tax year; and

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

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 37 that is attributable to contributions that were subtracted from federal taxable income under ORS
 38 316.699.

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

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

