

House Bill 4076

Sponsored by Representative WAND; Representatives BAILEY, BREWER, ESQUIVEL, HICKS, LINDSAY, PARRISH, SHEEHAN, THATCHER, WHISNANT, WINGARD (Presession filed.)

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**.

Reduces rate of personal income and corporate excise tax on capital gains, if gains are attributable to sale or exchange of investment made on or after January 1, 2012, and before January 1, 2014, and are held for at least three years.

Applies to investments made after January 1, 2012, and to tax years beginning on or after January 1, 2015.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax on capital gains; creating new provisions; amending ORS 316.037, 316.122 and
3 317.061; and prescribing an effective date.

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

5 **SECTION 1.** ORS 316.037 is amended to read:

6 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every
7 resident of this state. The amount of the tax shall be determined in accordance with the following
8 table:

11 If taxable income is:	The tax is:
13 Not over \$2,000	14 5% of 15 taxable 16 income
17 Over \$2,000 but not 18 over \$5,000	19 \$100 plus 7% 20 of the excess 21 over \$2,000
22 Over \$5,000 but not 23 over \$125,000	24 \$310 plus 9% 25 of the excess 26 over \$5,000
27 Over \$125,000	28 \$11,110 plus 9.9% of the excess

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.

over \$125,000

(b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

(C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the rate brackets, shall be adjusted.

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

(c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the second quarter of the calendar year 1992.

(d) 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.

(e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50, the increase shall be rounded to the next lower multiple of \$50.

(2) Notwithstanding subsection (1) of this section, any gain from the sale or exchange of a qualified investment that is treated as net capital gain for federal tax purposes and that is included in taxable income in this state shall be taxed at the rate of 2.5 percent.

[2] (3) A tax is imposed for each taxable year upon the entire taxable income of every part-year resident of this state. The amount of the tax shall be computed under [subsection (1)] **subsections (1) and (2)** of this section as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources within this state.

[3] (4) A tax is imposed for each taxable year on the taxable income of every full-year non-resident that is derived from sources within this state. The amount of the tax shall be determined in accordance with [the table set forth in subsection (1)] **subsections (1) and (2)** of this section.

(5) As used in this section:

(a) "Oregon business" has the meaning given that term in ORS 470.050.

(b) "Qualified investment" means an investment in an Oregon business or in real property located in Oregon that is made on or after January 1, 2012, and before January 1, 2014, and that is held by the taxpayer for at least three years. "Qualified investment" does not include an investment in a publicly traded corporation, as defined in ORS 60.204.

SECTION 2. ORS 317.061, as amended by section 9, chapter 745, Oregon Laws 2009, is amended to read:

317.061. (1) The rate of the tax imposed by and computed under this chapter is:

[1] (a) Six and six-tenths percent of the first \$10 million of taxable income, or fraction thereof; and

[2] (b) Seven and six-tenths percent of any amount of taxable income in excess of \$10 million.

1 **(2) Notwithstanding subsection (1) of this section, any gain from the sale or exchange of**
2 **a qualified investment that is treated as net capital gain for federal tax purposes and that**
3 **is included in taxable income in this state shall be taxed at the rate of 2.5 percent.**

4 **(3) As used in this section:**

5 **(a) “Oregon business” has the meaning given that term in ORS 470.050.**

6 **(b) “Qualified investment” means an investment in an Oregon business or in real prop-**
7 **erty located in Oregon that is made on or after January 1, 2012, and before January 1, 2014,**
8 **and that is held by the taxpayer for at least three years. “Qualified investment” does not**
9 **include an investment in a publicly traded corporation, as defined in ORS 60.204.**

10 **SECTION 3. ORS 316.122 is amended to read:**

11 316.122. (1) If the federal taxable income of husband and wife (one being a part-year resident and
12 the other a nonresident) is determined on a joint federal return, their taxable income in this state
13 shall be separately determined, unless they elect to file a joint return, in which case their tax on
14 their joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

15 (2) If the federal taxable income of husband and wife (one being a full-year resident and the
16 other a part-year resident) is determined on a joint federal return, their taxable income in this state
17 shall be separately determined, unless they elect to file a joint return, in which case their tax on
18 their joint income shall be determined in this state pursuant to ORS 316.037 [(2)] (3).

19 (3) If the federal taxable income of husband and wife (one being a full-year resident and the
20 other a nonresident) is determined on a joint federal return, their taxable income in the state shall
21 be separately determined, unless they elect to file a joint return, in which case their tax on their
22 joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

23 (4) For purposes of computing the tax of a husband and wife under this section, if one of the
24 spouses is a full-year resident individual, then as used in ORS 316.037 [(2) or] (3) **or (4)**, that spouse’s
25 taxable income derived from Oregon sources is that spouse’s entire federal taxable income, defined
26 in the laws of the United States, with the modifications, additions and subtractions provided in this
27 chapter and other laws of this state applicable to personal income taxation.

28 (5) The provisions of ORS 316.367 with respect to joint returns apply if both husband and wife
29 are part-year residents or full-year nonresidents.

30 **SECTION 4. The amendments to ORS 316.037, 316.122 and 317.061 by sections 1 to 3 of this**
31 **2012 Act apply to investments made after January 1, 2012, and to tax years beginning on or**
32 **after January 1, 2015.**

33 **SECTION 5. This 2012 Act takes effect on the 91st day after the date on which the 2012**
34 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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