

House Bill 2511

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on 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 provision relating to issuance of surplus kicker refunds to taxpayers who filed returns for tax year on which credit is computed but who are not required to file returns for year in which credit could be claimed.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to surplus refund methods; creating new provisions; amending ORS 291.349; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 291.349, as amended by section 22, chapter 107, Oregon Laws 2012, is
6 amended to read:

7 291.349. (1) As soon as practicable after adjournment sine die of the odd-numbered year regular
8 session of the Legislative Assembly, the Oregon Department of Administrative Services shall report
9 to the Legislative Revenue Officer and the Legislative Fiscal Officer the estimate as of July 1 of the
10 first year of the biennium of General Fund and State Lottery Fund revenues that will be received
11 by the state during that biennium. The Oregon Department of Administrative Services shall base its
12 estimate on the last forecast given to the Legislative Assembly before adjournment sine die of the
13 odd-numbered year regular session on which the printed, adopted budget prepared in the Oregon
14 Department of Administrative Services is based, adjusted only insofar as necessary to reflect
15 changes in laws adopted at that session. The report shall contain the estimated revenues from cor-
16 porate income and excise taxes separately from the estimated revenues from other General Fund
17 sources. The Oregon Department of Administrative Services may revise the estimate if necessary
18 following adjournment sine die of a special session or an even-numbered year regular session of the
19 Legislative Assembly, but any revision does not affect the basis of the computation described in
20 subsection (3) or (4) of this section.

21 (2) As soon as practicable after the end of the biennium, the Oregon Department of Adminis-
22 trative Services shall report to the Legislative Revenue Officer and the Legislative Fiscal Officer,
23 or the Legislative Assembly if it is in session, the amount of General Fund revenues collected as
24 of the last June 30 of the preceding biennium. The report shall contain the collections from corpo-
25 rate income and excise taxes separately from collections from other sources.

26 (3) If the revenues received from the corporate income and excise taxes during the biennium
27 exceed the amounts estimated to be received from such taxes for the biennium, as estimated after
28 adjournment sine die of the odd-numbered year regular session, by two percent or more, the total
29 amount of that excess shall be credited to corporate income and excise taxpayers in a percentage
30 amount of prior year corporate excise and income tax liability as determined under subsection (5)

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 of this section. However, no credit shall be allowed against tax liability imposed by ORS 317.090.

2 (4) If the revenues received from General Fund revenue sources, exclusive of those described in
3 subsection (3) of this section, during the biennium exceed the amounts estimated to be received from
4 such sources for the biennium, as estimated after adjournment sine die of the odd-numbered year
5 regular session, by two percent or more, there shall be credited to personal income taxpayers an
6 amount equal to the total amount of that excess, reduced by the cost certified by the Department
7 of Revenue under ORS 291.351 as being allocable to credits described under this subsection. The
8 excess amount to be credited shall be credited to personal income taxpayers in a percentage amount
9 of prior year personal income tax liability as determined under subsection (5) of this section.

10 (5)(a) If there is an excess to be credited under subsection (3) or (4) of this section, or both, on
11 or before October 1, following the end of each biennium, the Oregon Department of Administrative
12 Services shall determine and certify to the Department of Revenue the percentage amounts of credit
13 for purposes of subsection (3) or (4) of this section. The percentage amounts determined shall be
14 percentage amounts to the nearest one-tenth of a percent that will distribute the excess to be
15 credited either to corporate excise and income taxpayers or to personal income taxpayers.

16 (b) The percentage amount applicable to subsection (3) of this section shall equal the amount
17 distributed under subsection (3) of this section divided by the estimated total corporate income and
18 excise tax liability for all corporate income and excise taxpayers for tax years beginning in the
19 calendar year immediately preceding the calendar year in which the excess is determined.

20 (c) The amount of the surplus credit under subsection (3) of this section is determined by
21 multiplying the percentage amount determined under paragraph (b) of this subsection by the total
22 amount of a corporate income or excise taxpayer's tax liability for the tax year beginning in the
23 calendar year immediately preceding the calendar year in which the excess is determined in order
24 to calculate the amount to be credited to the taxpayer.

25 (d) The percentage amount applicable to subsection (4) of this section shall equal the amount
26 distributed under subsection (4) of this section divided by the estimated total personal income tax
27 liability for all personal income taxpayers for tax years beginning in the calendar year immediately
28 preceding the calendar year in which the excess is determined.

29 (e) The amount of the surplus credit under subsection (4) of this section is determined by
30 multiplying the percentage amount determined under paragraph (d) of this subsection by the total
31 amount of a personal income taxpayer's tax liability for the tax year beginning in the calendar year
32 immediately preceding the calendar year in which the excess is determined in order to calculate the
33 amount to be credited to the taxpayer.

34 (f) The credit shall be determined based on the tax liability as shown on the return of the tax-
35 payer or as corrected by the Department of Revenue.

36 (g) The credit shall be computed after the allowance of a credit provided under ORS 316.082,
37 316.131 or 316.292, but before the allowance of any other credit or offset against tax liability allowed
38 or allowable under any provision of law of this state, and before the application of estimated tax
39 payments, withholding or other advance tax payments.

40 (h) For corporate income and excise taxpayers, if a credit applied against tax liability as de-
41 scribed in paragraph (g) of this subsection reduces tax liability to zero and an amount of the credit
42 remains unused, the remaining unused amount shall be carried forward and applied against tax li-
43 ability as prescribed in paragraph (g) of this subsection in the succeeding tax year. Following ap-
44 plication of the credit against tax liability in a succeeding tax year, any amount continuing to
45 remain unused shall be carried forward and applied against tax liability in a succeeding tax year

1 until all remaining amounts of unused credit are offset against tax liability.

2 (i) For personal income taxpayers, if a credit applied against tax liability as described in para-
 3 graph (g) of this subsection reduces tax liability to zero and an amount of the credit remains unused,
 4 the remaining unused amount shall be refunded to the taxpayer. For purposes of ORS chapters 305,
 5 314, 315 and 316, refunds issued under this paragraph are refunds of an overpayment of tax imposed
 6 under ORS chapter 316.

7 (j) Notwithstanding paragraph (g) of this subsection, if an excess is credited under subsection
 8 (3) of this section for a tax year and an unused credit amount from a prior tax year is carried for-
 9 ward to the tax year as prescribed under paragraph (h) of this subsection, the amount of the
 10 carryforward credit shall be applied against tax liability prior to applying the new credit.

11 (k) The Department of Revenue may prescribe by rule the manner of calculating and claiming
 12 a credit if the filing status of a taxpayer changes between the tax year for which a credit may be
 13 claimed and the succeeding tax year.

14 (6) A refund may not be made under this section to a taxpayer if the amount of the refund is
 15 less than \$1.

16 (7) Not later than October 15 following the end of the biennium, the Department of Revenue
 17 shall provide information and guidance to taxpayers relating to the calculation of the credit. The
 18 department may make the information and guidance available electronically or otherwise.

19 (8) The Department of Revenue may adopt rules specifying the manner for issuing refunds under
 20 this section to taxpayers who filed returns [*in*] **for** the tax year on which the credit is computed but
 21 who are not required to file returns [*in*] **for** the year in which the credit could be claimed.

22 **SECTION 2. The amendments to ORS 291.349 by section 1 of this 2013 Act apply to tax**
 23 **years beginning on or after January 1, 2012.**

24 **SECTION 3. This 2013 Act takes effect on the 91st day after] the date on which the 2013**
 25 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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