

House Bill 2512

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**.

Provides that corporate excise taxpayer may not deduct portion of expenses or payments that equals amount of credit claimed for qualified research expenses. Modifies terminology relating to exemption from taxable income of compensation paid to nonresidents for duties performed on vessels.

Applies to tax years beginning on or after January 1, 2013.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; creating new provisions; amending ORS 316.127 and 317.154; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 317.154 is amended to read:

6 317.154. (1) A credit against taxes otherwise due under this chapter shall be allowed for quali-
7 fied research expenses that exceed 10 percent of Oregon sales.

8 (2) For purposes of this section:

9 (a) "Oregon sales" shall be computed using the laws and administrative rules for calculating the
10 numerator of the Oregon sales factor under ORS 314.665.

11 (b) "Qualified research" has the meaning given the term under section 41(d) of the Internal Re-
12 venue Code and shall consist only of research conducted in Oregon.

13 (3) The credit under this section is equal to five percent of the amount by which the qualified
14 research expenses exceed 10 percent of Oregon sales.

15 (4) The credit under this section shall not exceed \$10,000 times the number of percentage points
16 by which the qualifying research expenses exceed 10 percent of Oregon sales.

17 (5) The maximum credit under this section may not exceed \$1 million.

18 **(6) A deduction may not be taken for the portion of expenses or payments, otherwise**
19 **allowable as a deduction, that is equal to the amount of the credit claimed under this section.**

20 [(6)] (7) Any tax credit that is otherwise allowable under this section and that is not used by
21 the taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for
22 the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may
23 be carried forward and used in the second succeeding tax year, and likewise any credit not used in
24 that second succeeding tax year may be carried forward and used in the third succeeding tax year,
25 and any credit not used in that third succeeding tax year may be carried forward and used in the
26 fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be car-
27 ried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax
28 year thereafter.

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 **SECTION 2.** ORS 316.127 is amended to read:

2 316.127. (1) The adjusted gross income of a nonresident derived from sources within this state
3 is the sum of the following:

4 (a) The net amount of items of income, gain, loss and deduction entering into the nonresident's
5 federal adjusted gross income that are derived from or connected with sources in this state including
6 (A) any distributive share of partnership income and deductions and (B) any share of estate or trust
7 income and deductions; and

8 (b) The portion of the modifications, additions or subtractions to federal taxable income provided
9 in this chapter and other laws of this state that relate to adjusted gross income derived from sources
10 in this state for personal income tax purposes, including any modifications attributable to the non-
11 resident as a partner.

12 (2) Items of income, gain, loss and deduction derived from or connected with sources within this
13 state are those items attributable to:

14 (a) The ownership or disposition of any interest in real or tangible personal property in this
15 state;

16 (b) A business, trade, profession or occupation carried on in this state; and

17 (c) A taxable lottery prize awarded by the Oregon State Lottery, including a taxable lottery
18 prize awarded by a multistate lottery association of which the Oregon State Lottery is a member if
19 the ticket upon which the prize is awarded was sold in this state.

20 (3) Income from intangible personal property, including annuities, dividends, interest and gains
21 from the disposition of intangible personal property, constitutes income derived from sources within
22 this state only to the extent that such income is from property employed in a business, trade, pro-
23 fession or occupation carried on in this state.

24 (4) Deductions with respect to capital losses, net long-term capital gains, and net operating
25 losses shall be based solely on income, gains, losses and deductions derived from or connected with
26 sources in this state, under regulations to be prescribed by the Department of Revenue, but other-
27 wise shall be determined in the same manner as the corresponding federal deductions.

28 (5) Notwithstanding subsection (3) of this section:

29 (a) The income of an S corporation for federal income tax purposes derived from or connected
30 with sources in this state constitutes income derived from sources within this state for a nonresident
31 individual who is a shareholder of the S corporation; and

32 (b) A net operating loss of an S corporation derived from or connected with sources in this state
33 constitutes a loss or deduction connected with sources in this state for a nonresident individual who
34 is a shareholder of the S corporation.

35 (6) If a business, trade, profession or occupation is carried on partly within and partly without
36 this state, the determination of net income derived from or connected with sources within this state
37 shall be made by apportionment and allocation under ORS 314.605 to 314.675.

38 (7) Compensation paid by the United States for service in the Armed Forces of the United States
39 performed by a nonresident does not constitute income derived from sources within this state.

40 (8) Compensation paid to a nonresident for services performed by the nonresident at a hydro-
41 electric facility does not constitute income derived from sources within this state if the hydroelec-
42 tric facility:

43 (a) Is owned by the United States;

44 (b) Is located on the Columbia River; and

45 (c) Contains portions located within both this state and another state.

1 (9)(a) Retirement income received by a nonresident does not constitute income derived from
2 sources within this state unless the individual is domiciled in this state.

3 (b) As used in this section, "retirement income" means retirement income as that term is defined
4 in 4 U.S.C. 114, as amended and in effect for the tax period.

5 (10) Compensation for the performance of duties described in this subsection that is paid to a
6 nonresident does not constitute income derived from sources within this state if the individual:

7 (a) Is engaged on a vessel to perform assigned duties in more than one state as a pilot licensed
8 under 46 U.S.C. 7101 or licensed or authorized under the laws of a state; or

9 (b) Performs regularly assigned duties while engaged as a master, officer or member of a crew
10 on a vessel operating [*on*] in the navigable waters of more than one state.

11 **SECTION 3. The amendments to ORS 317.154 and 316.127 by sections 1 and 2 of this 2013**
12 **Act apply to tax years beginning on or after January 1, 2013.**

13 **SECTION 4. This 2013 Act takes effect on the 91st day after the date on which the 2013**
14 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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