

House Bill 3561

Sponsored by Representatives MCLANE, WHITSETT, KOTEK, Senator WHITSETT; Representatives CLEM, WITT

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 definition of resident for purposes of personal income taxation to exclude certain members of Armed Forces if home of record is located outside state. Requires taxpayers to file amended returns to claim refunds of exempted amounts for prior tax years.

Applies to tax years beginning on or after January 1, 2010.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of income of military personnel; creating new provisions; amending ORS
3 316.027; and prescribing an effective date.

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

5 **SECTION 1.** ORS 316.027 is amended to read:

6 316.027. (1) For purposes of this chapter, unless the context requires otherwise:

7 (a) "Resident" or "resident of this state" means:

8 (A) An individual who is domiciled in this state unless the individual:

9 (i) Maintains no permanent place of abode in this state;

10 (ii) Does maintain a permanent place of abode elsewhere; and

11 (iii) Spends in the aggregate not more than 30 days in the taxable year in this state; or

12 (B) An individual who is not domiciled in this state but maintains a permanent place of abode
13 in this state and spends in the aggregate more than 200 days of the taxable year in this state unless
14 the individual proves that the individual is in the state only for a temporary or transitory purpose.

15 (b) "Resident" or "resident of this state" does not include:

16 (A) An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue
17 Code for the tax year;

18 (B) A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if
19 the spouse has a principal place of abode for the tax year that is not located in this state; *[or]*

20 (C) A resident alien under section 7701(b) of the Internal Revenue Code who would be consid-
21 ered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the resident alien
22 were a citizen of the United States[.]; **or**

23 **(D) A member of the Armed Forces who performs active service as defined in 10 U.S.C.**
24 **101(d)(3), other than annual training duty or inactive-duty training, if the member's home**
25 **of record is outside this state.**

26 (2) For purposes of subsection (1)(a)(B) of this section, a fraction of a calendar day shall be
27 counted as a whole day.

28 **SECTION 2.** Section 3 of this 2015 Act is added to and made a part of ORS chapter 316.

29 **SECTION 3.** (1) Any taxpayer who seeks refunds, for tax years beginning before January
30 1, 2015, due to exemption of amounts from taxation as provided in ORS 316.027 (1)(b)(D) shall

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 **file amended returns for the applicable tax years.**

2 **(2) Notwithstanding ORS 314.415 (2), a taxpayer may file a claim for refund at any time**
3 **prior to January 1, 2018.**

4 **SECTION 4. Section 3 of this 2015 Act and the amendments to ORS 316.027 by section 1**
5 **of this 2015 Act apply to tax years beginning on or after January 1, 2010.**

6 **SECTION 5. Section 3 of this 2015 Act is repealed January 1, 2018.**

7 **SECTION 6. This 2015 Act takes effect on the 91st day after the date on which the 2015**
8 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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