

House Bill 2054

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 definition of "business tax credit," as allowed to shareholders of S corporation, to remove Department of Revenue rulemaking authority. Modifies tax credit allowed for employment-related dependent care expenses to conform to operation of related federal tax credit. Prescribes eligibility requirements for earned income and loss for allowance of credit.

Applies to tax years beginning on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits; creating new provisions; amending ORS 314.752 and 315.264; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 314.752 is amended to read:

6 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
7 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
8 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
9 allowable to the shareholders of the S corporation.

10 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
11 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
12 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
13 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
14 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
15 manner prescribed under section 1377(a) of the Internal Revenue Code.

16 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
17 of this section shall be determined as if such item were realized directly from the source from which
18 realized by the corporation, or incurred in the same manner as incurred by the corporation.

19 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
20 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
21 316.117, then that provision shall apply to the nonresident shareholder.

22 (5) As used in this section, "business tax credit" means [*a tax credit granted to personal income*
23 *taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or*
24 *for charitable, educational, scientific, literary or public purposes that is listed under this subsection as*
25 *a business tax credit or is designated as a business tax credit by law or by the Department of Revenue*
26 *by rule and includes but is not limited to]* the following credits: ORS 285C.309 (tribal taxes on res-
27 ervation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and
28 reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass pro-

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.

duction for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic commerce) and ORS 315.533 (low income community jobs initiative).

SECTION 2. ORS 315.264 is amended to read:

315.264. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation imposed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (b) of this subsection.

(b) The employment-related expenses for which a credit is claimed under this section may not exceed \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a taxpayer for which there are two or more qualifying individuals. **The limitations in this section shall be reduced by the aggregate amount excludable under section 129 of the Internal Revenue Code for the tax year.**

(2) The applicable percentage described in subsection (1) of this section shall be determined in accordance with the following table:

| | | |
|--|--|--|
| Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level | Applicable percentage based on age of youngest [<i>child</i>] [<i>at close</i>] qualifying individual on January 1 of tax year | |
|--|--|--|

| | | | | | | |
|---------|-------------|---------|----------|------------------|-------------|--|
| | | | | | | |
| | | | | At least 6 years | | |
| | | | | but less than | | |
| | | | At least | 13, or at least | | |
| | | | 3 years | 13 but less | 18 years or | |
| Greater | Less than | Under 3 | but less | than 18 if | older if | |
| than | or equal to | years | than 6 | disabled | disabled | |
| 0% | 10% | 10% | 8% | 5% | 5% | |
| 10% | 20% | 20% | 18% | 15% | 5% | |
| 20% | 30% | 30% | 28% | 25% | 10% | |
| 30% | 40% | 40% | 38% | 35% | 20% | |
| 40% | 50% | 50% | 48% | 45% | 30% | |
| 50% | 60% | 55% | 53% | 50% | 35% | |
| 60% | 70% | 60% | 58% | 55% | 40% | |
| 70% | 80% | 65% | 63% | 60% | 45% | |
| 80% | 90% | 70% | 68% | 65% | 50% | |
| 90% | 110% | 75% | 73% | 70% | 55% | |

| | | | | | | |
|----|------|------|-----|-----|-----|-----|
| 1 | 110% | 120% | 71% | 69% | 66% | 50% |
| 2 | 120% | 130% | 66% | 64% | 61% | 45% |
| 3 | 130% | 140% | 61% | 59% | 56% | 39% |
| 4 | 140% | 150% | 55% | 53% | 50% | 33% |
| 5 | 150% | 160% | 50% | 48% | 45% | 28% |
| 6 | 160% | 200% | 47% | 45% | 42% | 25% |
| 7 | 200% | 210% | 45% | 43% | 40% | 22% |
| 8 | 210% | 220% | 40% | 38% | 35% | 20% |
| 9 | 220% | 230% | 35% | 33% | 30% | 15% |
| 10 | 230% | 240% | 30% | 28% | 25% | 10% |
| 11 | 240% | 250% | 20% | 18% | 15% | 5% |
| 12 | 250% | 260% | 10% | 8% | 5% | 5% |
| 13 | 260% | 280% | 6% | 6% | 4% | 4% |
| 14 | 280% | 300% | 4% | 4% | 4% | 4% |
| 15 | 300% | - | 0% | 0% | 0% | 0% |

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18 (3) The applicable percentage for a household in excess of eight members shall be calculated as
 19 if for a household size of eight members.

20 (4) The credit under this section is not allowed:

21 (a) To a taxpayer with federal adjusted gross income or Oregon adjusted gross income, which-
 22 ever is greater, in excess of 300 percent of the federal poverty level;

23 (b) To a taxpayer who claims a capital loss or a net operating loss in the tax year; or

24 (c) To any taxpayer who does not report earned income that is taxable by Oregon on the
 25 taxpayer's return.

26 (5) In order to ensure compliance with the eligibility requirements of the credit allowed under
 27 this section, the Department of Revenue shall be afforded access to utilization data maintained by
 28 the Department of Human Services in its administration of the Employment Related Day Care pro-
 29 gram.

30 (6) The [Director of the] Department of Revenue may assess a penalty in an amount not to exceed
 31 25 percent of the amount of credit claimed by the taxpayer against any taxpayer who knowingly
 32 claims or attempts to claim any amount of credit under this section for which the taxpayer is inel-
 33 igible, or against any individual who knowingly assists another individual in claiming any amount
 34 of credit for which the individual is ineligible.

35 (7) The Department of Revenue may adopt rules for carrying out the provisions of this section
 36 and prescribe the form used to claim a credit and the information required on the form.

37 (8) A nonresident individual shall be allowed the credit computed in the same manner and sub-
 38 ject to the same limitations as the credit allowed a resident by subsection (1) of this section.
 39 However, the credit shall be prorated using the proportion provided in ORS 316.117.

40 (9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 41 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 42 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

43 (10) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 44 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 45 ORS 316.117.

1 (11) If the amount allowable as a credit under this section, when added to the sum of the
2 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts
3 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for
4 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter
5 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS
6 316.502.

7 **SECTION 3. The amendments to ORS 314.752 and 315.264 by sections 1 and 2 of this 2017**
8 **Act apply to tax years beginning on or after January 1, 2018.**

9 **SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017**
10 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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