

# D R A F T

## SUMMARY

Establishes income tax credit for forgiveness by landlord of tenant's nonpayment of rent or other charges. Subtracts from federal taxable income tenant's discharge of indebtedness income attributable to landlord's forgiveness of nonpayment.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to a tax credit for the forgiveness of tenant debt; creating new provisions; amending ORS 314.772, 316.680 and 318.031; and prescribing an effective date.

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

**SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 315.**

**SECTION 2. (1) As used in this section:**

**(a) "Emergency period" means the period beginning on April 1, 2020, and ending on December 31, 2020.**

**(b) "Landlord" has the meaning given that term in ORS 90.100.**

**(c) "Nonpayment" means the nonpayment of a payment that becomes due during the emergency period to a landlord, including a payment of rent, late charges, utility or service charges or any other charge or fee as described in the rental agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.**

**(d) "Nonpayment balance" includes all or a part of the net total amount of all items of nonpayment by a tenant.**

**(e) "Tenant" has the meaning given that term in ORS 90.100.**

1       **(2) A credit against taxes imposed by ORS chapter 316 or, if the**  
2 **taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to**  
3 **a taxpayer, equal to the total amount forgiven by the taxpayer under**  
4 **subsection (3) of this section.**

5       **(3) Before claiming the credit allowed under this section, the tax-**  
6 **payer must, on or after April 1, 2021, and on or before October 1, 2021,**  
7 **notify each tenant with a nonpayment balance for which the taxpayer**  
8 **intends to claim a credit that the taxpayer has forgiven the tenant's**  
9 **nonpayment balance. The amount of nonpayment balance forgiven**  
10 **must be included in the notice.**

11       **(4) A taxpayer may claim the credit allowed under this section if,**  
12 **for each tenant with a nonpayment balance for whom the taxpayer is**  
13 **claiming a credit, the taxpayer:**

14       **(a) Forgave the nonpayment balance and provided notice to the**  
15 **tenant as described in subsection (3) of this section; and**

16       **(b) During or after the emergency period, did not and did not**  
17 **threaten to:**

18       **(A) Deliver a notice of termination of a rental agreement based on**  
19 **a tenant's nonpayment balance;**

20       **(B) Initiate or continue an action under ORS 105.110 to take pos-**  
21 **session of a dwelling unit based on a notice of termination for non-**  
22 **payment;**

23       **(C) Take any action that would interfere with a tenant's possession**  
24 **or use of a dwelling unit based on a tenant's nonpayment balance;**

25       **(D) Assess a late fee or any other penalty on a tenant's nonpay-**  
26 **ment; or**

27       **(E) Report a tenant's nonpayment balance as delinquent to any**  
28 **consumer credit reporting agency.**

29       **(5) The credit allowed under this section shall be claimed on a form**  
30 **prescribed by the Department of Revenue that contains the informa-**  
31 **tion required by the department.**

(6) The credit allowed under this section in each of five succeeding tax years shall be 20 percent of the total amount forgiven by the taxpayer under subsection (3) of this section but may not exceed the tax liability of the taxpayer.

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year but may not be carried forward for any tax year thereafter.

(8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credit allowed under this section.

(9) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

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

(c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates a taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(10) A person that has earned a tax credit under this section may

**transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with ORS 315.056.**

**SECTION 3.** ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a savings network account for higher education established under ORS 178.300 to 178.360.

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under ORS 475B.010 to 475B.545 or 475B.785 to 475B.949 but for section 280E of the Internal Revenue Code.

(j) If included in taxable income for federal tax purposes, any distributions from an ABLE account that do not exceed the qualified disability expenses of the designated beneficiary as provided in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings Board.

**(k) If included in taxable income for federal tax purposes, any amount of a tenant's discharge of indebtedness income attributable to the forgiveness of a nonpayment balance under section 2 of this 2021 Act.**

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 178.300, from a savings network account for higher education established under ORS 178.300 to 178.360, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(k) If a taxpayer makes a withdrawal from a savings network account for higher education established under ORS 178.300 to 178.360 to pay expenses in connection with enrollment or attendance at an elementary or secondary school, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699 and the amount of the withdrawal that is attributable to previously untaxed earnings and gains.

(L) If the taxpayer makes a distribution from an ABLE account that is

1 not a qualified disability expense of the designated beneficiary as provided  
2 in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings  
3 Board, the amount of the distribution that is attributable to contributions  
4 that were subtracted from federal taxable income under ORS 316.699.

5 (3) Discount and gain or loss on retirement or disposition of obligations  
6 described under subsection (2)(a) of this section issued on or after January  
7 1, 1985, shall be treated for purposes of this chapter in the same manner as  
8 under sections 1271 to 1283 and other pertinent sections of the Internal  
9 Revenue Code as if the obligations, although issued by a foreign state or a  
10 political subdivision of a foreign state, were not tax exempt under the  
11 Internal Revenue Code.

12 **SECTION 4.** ORS 314.772 is amended to read:

13 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-  
14 lowed or allowable to a C corporation for purposes of ORS chapter 317 or  
15 318 shall not be allowed to an S corporation. The business tax credits al-  
16 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
17 allowable to the shareholders of the S corporation.

18 (2) In determining the tax imposed under ORS chapter 316, as provided  
19 under ORS 314.763, on income of the shareholder of an S corporation, there  
20 shall be taken into account the shareholder's pro rata share of business tax  
21 credit (or item thereof) that would be allowed to the corporation (but for  
22 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
23 item thereof), recapture or recovery shall be passed through to shareholders  
24 in pro rata shares as determined in the manner prescribed under section  
25 1377(a) of the Internal Revenue Code.

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

30 (4) If the shareholder is a nonresident and there is a requirement appli-  
31 cable for the business tax credit that in the case of a nonresident the credit



1 be allowed in the proportion provided in ORS 316.117, then that provision  
2 shall apply to the nonresident shareholder.

3 (5) As used in this section, “business tax credit” means the following  
4 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish  
5 screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
6 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
7 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent  
8 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-  
9 tributions for child care), ORS 315.237 (employee and dependent scholar-  
10 ships), ORS 315.271 (individual development accounts), ORS 315.304  
11 (pollution control facility), ORS 315.326 (renewable energy development con-  
12 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-  
13 portation projects), ORS 315.341 (renewable energy resource equipment  
14 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-  
15 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-  
16 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514  
17 (film production development contributions), ORS 315.523 (employee training  
18 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593  
19 (short line railroads), ORS 315.640 (university venture development funds),  
20 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for  
21 Cultural Development Account contributions), ORS 317.097 (loans for af-  
22 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS  
23 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-  
24 search expenses) and ORS 317.154 (alternative qualified research expenses)  
25 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-  
26 tributions), **and section 2 of this 2021 Act (nonpayment balance**  
27 **forgiveness).**

28 **SECTION 5.** ORS 318.031 is amended to read:

29 318.031. It being the intention of the Legislative Assembly that this  
30 chapter and ORS chapter 317 shall be administered as uniformly as possible  
31 (allowance being made for the difference in imposition of the taxes), ORS

1 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
2 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,  
3 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,  
4 315.507, 315.523, 315.533, 315.593 and 315.643 **and section 2 of this 2021 Act**  
5 (all only to the extent applicable to a corporation) and ORS chapter 317.

6 **SECTION 6. (1) A taxpayer must first claim the credit allowed un-**  
7 **der section 2 of this 2021 Act in a tax year beginning on or after Jan-**  
8 **uary 1, 2020, and before January 1, 2022.**

9 **(2) The amendments to ORS 316.680 by section 3 of this 2021 Act**  
10 **apply to the tax year beginning January 1, 2021.**

11 **SECTION 7. This 2021 Act takes effect on the 91st day after the date**  
12 **on which the 2021 regular session of the Eighty-first Legislative As-**  
13 **sembly adjourns sine die.**