Tax Credits for Review in 2019

This is the primary section of the report, containing detailed information on each tax credit scheduled to be reviewed in 2019. In total, there are nine such tax credits. To provide some context, the table below shows the cost to the biennial budget for the last, current, and following two biennia. These estimates are for current law; the declining cost estimates reflect the current sunset dates. The table reflects how this section is structured.

Tax Credit Costs Under Current Law and Costs to Extend Sunset Dates								
	Biennium ($M)							
	Cost Under Current Law				Cost to Extend Sunset Date			
Tax Credit	2017-19	2019-21	2021-23	2023-25	2017-19	2019-21	2021-23	2023-25
Employer Provided Scholarships	< 50K	< 50K	< 50K	< 50K	0	< 50K	< 50K	< 50K
Earned Income	104.6	53.4	0.0	0.0	0	54.2	113.3	120.0
Volunteer Rural Emergency Medical Services Providers	0.2	0.1	0.0	0.0	0	0.1	0.2	0.2
Agriculture Workforce Housing Construction	4.8	2.7	0.5	0.3	0	2.0	4.1	4.1
Manufactured Dwelling Park Closure	0.1	0.0	0.0	0.0	0	< 50K	0.1	0.1
Crop Donations	0.4	0.3	0.1	0.0	0	0.2	0.4	0.5
Political Contributions	11.6	5.8	0.0	0.0	0	6.7	12.7	13.5
Oregon Cultural Trust	7.9	4.1	0.0	0.0	0	4.2	8.6	9.0
Certain Retirement Income	1.4	0.7	0.0	0.0	0	0.7	1.3	1.2
Total	***131.0***	***67.1***	***0.6***	***0.3***	***0.0***	***68.0***	***140.6***	***148.5***

The remainder of the report consists of separate reviews for each tax credit. Each review consists of eight subsections: description, policy purpose, beneficiaries, similar incentives available in Oregon, credit effectiveness and efficiency, analysis of potential direct appropriation, administrative & compliance costs and similar credits allowed in other states. The description provides detail on how the tax credit works under current law. The policy purpose is generally not in statute but is based on documentation from implementing or modifying legislation. Generally, the purposes are inferred from historical records. On occasion, Oregon statute provides a clear statement of the policy intent. The policy analysis describes academic research on relevant incentives if available, provides some discussion of the history, and an analysis of available data. Often the primary sources of data are certifications and tax returns. The review of items such as a summary of similar incentives in Oregon and other states and administrative costs conclude each tax credit analysis.

Statute requires this report to provide information on the public policy purpose or goal of each tax credit. The most basic of this information is simply the stated public policy purpose. Also required is information on the expected timeline for achieving that purpose, the best means of measuring its achievement, and whether or not the use of a tax credit is an effective and efficient way to achieve that goal. However, Oregon statute does not generally contain policy purposes or goals for tax credits. Consequently, statute does not generally identify timelines or metrics related to such goals. In the few cases where statute does provide a purpose or a goal, it is included in this report. The more common approach has been to rely on bill documentation and written testimony for the implementing legislation. This information is the basis for the purpose statements included in this report.

Statute requires that this report contain, among other things, an analysis of each credit regarding the extent to which each is an effective and efficient way to achieve the desired policy goals. Ideally, the best analytical approach would be to identify metrics for each desired outcome, measure them over time, and then estimate the degree to which each credit contributes to the success of obtaining those

Certain Retirement Income

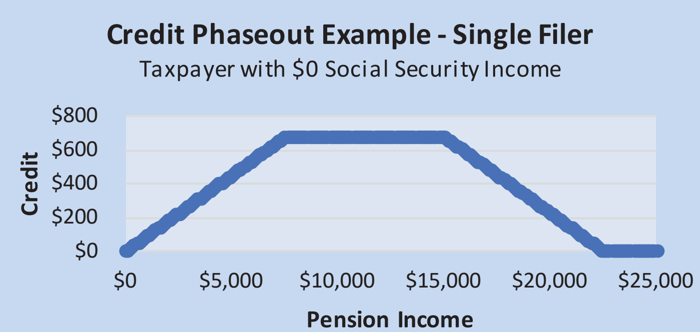
ORS 316.157	Year Enacted:	1991	Transferable:	No
	Length:	1-year	Means Tested:	Yes
	Refundable:	No	Carryforward:	None
TER 1.450	Kind of cap:	None	Inflation Adjusted:	No

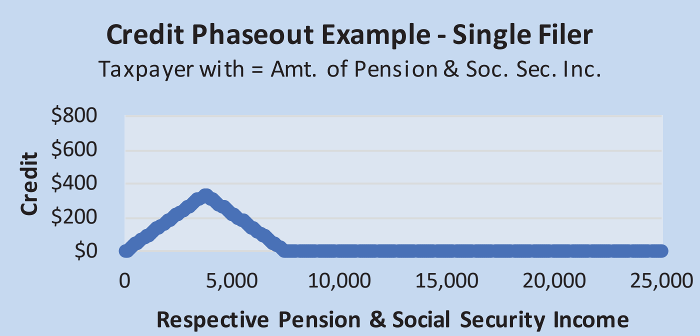
Description

Individuals aged 62 years or older that receive certain taxable retirement income may qualify for a tax credit equal to nine percent of their qualified net pension income. Qualified pension income means income included in Oregon taxable income from:

- An employee pension benefit plan
- Deferred compensation plans including: defined benefit, profit sharing, 401(k)s & 457 plans
- A federal/state/local public retirement system
- Employee annuity accounts
- Individual retirement account (IRA), annuity or trust

Net pension income qualifying for the credit is limited to $7,500 ($15,000 joint return) minus Social Security benefits minus household income over $15,000 ($30,000 joint). These two limitations effectively cause the credit to phaseout potentially with each additional dollar of Social Security income received or with each additional dollar of pension income above $15,000 ($30,000 joint).[25] The following two charts provide examples of the phaseout. The first chart displays tax credit amount by pension income for a single filer receiving no Social Security. The second displays tax credit amount by respective pension and Social Security income (assumes pension income and Social Security Benefits are identical). As displayed, a taxpayer with equal pension and Social Security Benefits has a lower maximum credit and no credit plateau as phaseout begins immediately after taxpayer reaches $3,750 in respective pension and Social Security income.





To qualify for the credit the taxpayer must meet all the following conditions:

- Social Security and/or Tier 1 Railroad Retirement Board benefits less than or equal to $7,500 ($15,000 joint)
- Household income is less than $22,500 ($45,000 joint)

[25] For example, a single filer with $10,000 in pension income would have their credit reduced from $675 ($7,500 * .09) to $585 if that same individual instead had $10,000 in pension income and $1,000 in Social Security income.

- Household income plus Social Security and/or Tier 1 Railroad Retirement Board less than or equal to $22,500 ($45,000 joint).

Policy

A specific policy purpose statement regarding the certain retirement income credit is not contained in statute. Rather, a general policy purpose of the credit can be derived by referencing the relevant legislative committee discussions and deliberations that took place when the credit was enacted and substantively modified. To better understand the policy purpose of the certain retirement income credit, a little context is required.

Until the late 1980s, Oregon Public Employees Retirement System (PERS) pensions were exempt from Oregon income tax while federal pensions were mostly taxable. In Davis v. Michigan, the U.S. Supreme Court ruled that state pensions could not receive better tax treatment than federal pensions (Davis v. Michigan Dept. of Treasury, 1989). Davis v. Michigan effectively made Oregon's statutory treatment of federal retiree pension income unconstitutional. In 1989 the Oregon Legislature responded by passing HB 3508 which was referred and defeated in the November election.

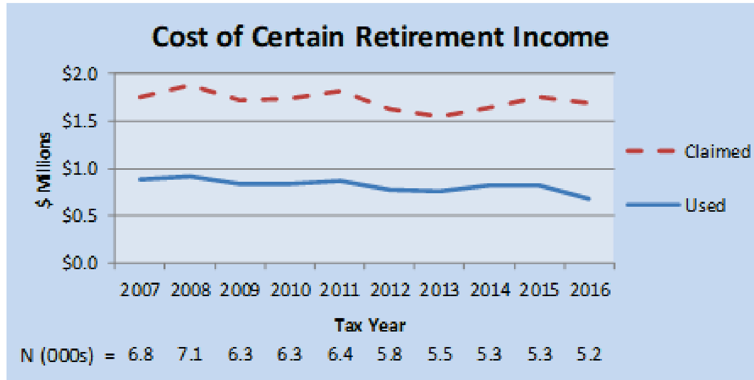
In 1991, the Oregon Legislature enacted HB 2352 which imposed Oregon's income tax on PERS pensions and equalized the tax treatment of all pensions. Additionally, HB 2352 eliminated from current law an income tax subtraction for up to $5,000 for federal retirement income, created the certain retirement income tax credit, allowed eligible medical expenses to be included in itemized deductions for taxpayers age 58 and over and expanded the elderly rental assistance program. The 1991 Legislature also increased PERS benefits, although not to the extent to fully compensate for benefits becoming subject to Oregon income taxation.

Discussion specific to the proposed certain retirement income tax credit by committee members and staff in both the House and Senate Revenue Committees centered upon response to the Davis v. Michigan Supreme Court decision and how to minimize potential tax implications for lower income pension receiving retirees. As HB 2352 eliminated from statute the income tax subtraction for up to $5,000 for federal retirement income,[26] the proposed credit was viewed in part as a replacement for the subtraction. ***The primary policy purpose of the credit is to provide tax relief to low-income individuals with pension income.***

[26] For taxpayers under 62, the subtraction was reduced dollar for dollar for any earned income received. For taxpayers 62 or older, the subtraction was reduced dollar for dollar for household income exceeding $30,000.

Beneficiaries

Year over year, the number of taxpayers claiming the certain retirement income tax credit has trended down relatively steadily for over a decade. In tax year 2016, about 5,200 taxpayers claimed the credit with a total reduction in tax liability of about $700,000 for the tax year. For full year filers, average benefit from the tax credit was about $130. Statutory limits on income qualifying for the credit causes credit beneficiaries to primarily be of comparatively lower income as displayed in the table below.

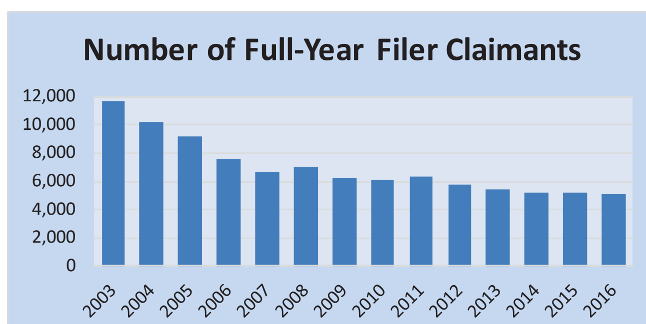


Certain Retirement Income | 2016 Personal Income Tax Filers					
Income Group of Full-Year Filers	Number of Filers Using Credit	Avg. Revenue Impact of Credit	Revenue Impact ($ millions)	Percent of Revenue Impact by Income Group	
< $14,400	2,210	$40	$0.1	14%	
$14,400 - $29,800	1,840	$180	$0.3	49%	
$29,800 - $52,400	1,080	$230	$0.2	37%	
$52,400 - $92,700	0	$0	$0.0	0%	
> $92,700	0	$0	$0.0	0%	
Total Full-Year Filers	**5,130**	**$130**	**$0.7**	**100%**	

(State of Oregon Tax Expenditure Report: 2019-21 Biennium)

Two primary factors have contributed to the decline in taxpayers claiming the certain retirement income tax credit:

1) Changes in the personal income tax base relating to retirement income, and
2) Increases in Social Security benefits.



Since enactment in 1991, the personal income tax base relating to retirement income changed. Multiple court decisions relating to benefits and taxation also took place. Of most significance to the certain retirement income tax credit was the Legislature's enactment of an Oregon subtraction allowing federal pension income attributable to federal employment prior to October 1, 1991 to be subtracted from Oregon income subject to taxation. Enactment of this subtraction greatly reduced the number of taxpayers benefiting from the certain retirement income tax credit by exempting a large amount of otherwise taxable federal pension income.[27]

A second contributing factor to the declining use of the credit has been the increases in Social Security benefits. Taxpayers with Social Security benefits greater than $7,500 ($15,000 joint) are ineligible to receive the credit. Depending upon a taxpayer's pension income, Social Security benefits can contribute to the phasing-out of credit benefit. The various credit income thresholds are not indexed to inflation, as such, as Social Security benefits increase in accordance with statutory inflation adjustments, for many taxpayers the value of the tax credit decreases while for others, eligibility for the credit may become nonexistent.

Similar Incentives Available in Oregon

The certain retirement income tax credit is a narrowly designed credit that affects a relatively small subset of Oregon taxpayers. While the exclusions from income of Social Security benefits and federal pension income attributable to federal employment prior to October 1, 1991 may provide some crossover benefit to elderly individuals, neither exclusion necessarily has the same policy purpose as the certain retirement income credit. No Oregon direct spending program was identified as providing a similar incentive/benefit.

Credit Effectiveness and Efficiency

The certain retirement income tax credit was created in response or at least in conjunction to a federal judicial decision affecting Oregon's tax base relating to federal pension income. The tax credit also replaced in part, an Oregon income tax subtraction for federal pension income available to Oregon taxpayers with household income less than $30,000. The existence of the credit ultimately fulfills the policy purpose of the credit as the credit is a means to an end. To evaluate credit effectiveness and efficiency, this report will examine:

1) Enactment in 1998 of exclusion of federal pension income attributable to federal employment prior to October 1, 1991
2) The credit in terms of effectiveness in harmonizing tax treatment of generally lower income individuals aged 62 or older with multiple combinations of pension and social security income, and
3) The effect lack of indexing has on qualification for the credit.

The 1999 Legislature enacted SB 260 which established an income tax exclusion for pension income attributable to federal government service performed before October 1st, 1991. This tax exclusion greatly reduced the number of taxpayers qualifying for the retirement credit as federal retirement income earned prior to October 1, 1991 became no longer subject to Oregon taxation. The exclusion represents something of a capstone regarding the decade plus long dispute in how Oregon was, for tax purposes, treating state vs. federal pension income. Eliminating pre-1991 federal pension income from taxation also eliminated the pension income from factoring into the equation for determining the retirement credit.

[27] Approximately 53,000 taxpayers claimed the credit in 1991 as compared to about 5,200 in tax year 2016 (Oregon Department of Revenue Research Section, 2016).

Design of the credit provides greater benefit to lower income taxpayers with taxable pension income and minimal Social Security benefits received. The design of the credit results in similar net tax liabilities for lower income individuals with qualified taxable pension income and comparatively low amounts of Social Security benefits. The credit may help in providing tax parity between retired individuals whose primary source of income is Social Security compared to other retired individuals who receive little to no Social Security but are more reliant on pension income as their primary source of income. For individuals that were not subject to Social Security taxes during their employed years because their employer provided a qualified pension program instead (a common practice of federal employees until the mid 80s)[28], Oregon's tax credit can be viewed as providing equitable tax treatment as Social Security benefits are entirely exempt from Oregon income taxation whereas pension income not attributable to federal employment prior to October 1, 1991[29] is subject to taxation.

The example below displays three credit scenarios for a single tax filer with identical total income but different sources of income. **Scenario 1** is a taxpayer with all income derived from taxable pension income. For credit calculation purposes, qualified pension income is limited to $7,500 causing amount of the tax credit to equal $7,500 multiplied by 9%, or $675. **Scenario 2** displays how Social Security income can result in a reduced credit. In scenario 2, net pension income is equal to $7,500 - $5,000 (Social Security amount) which yields a credit equal to $225 ($2,500 * .09). In scenario 3, the tax filer again has total income of $15,000 but in this scenario the source of total income is split evenly at $7,500 for both taxable pension income and Social Security benefits. However, in **Scenario 3** no credit is received as the entire $7,500 in pension income is reduced for tax credit calculation purposes by the $7,500 in Social Security benefits received. In all three scenarios net tax liability is identical. This reflects the exclusion of Social Security benefits from Oregon taxable income. While this is a simplified example that reflects a technically incorrect net tax liability, it does align with the discussion of the credit when it was enacted by the 1991 Oregon Legislature.

Scenario 1 - Single Filer		**Scenario 2 - Single Filer**		**Scenario 3 - Single Filer**	
Pension Income	$15,000	Pension Income	$10,000	Pension Income	$7,500
Social Security	$0	Social Security	$5,000	Social Security	$7,500
Total Income	$15,000	Total Income	$15,000	Total Income	$15,000
Net Pension Income	$7,500	Net Pension Income	$2,500	Net Pension Income	$0
Credit	***$675***	***Credit***	***$225***	***Credit***	***$0***
Net Tax Liability	$675	Net Tax Liability	$675	Net Tax Liability	$675

Note: Net tax liability is computed assuming 9% tax rate on all income. This is incorrect due to Oregon's multiple rates and brackets, but aligns with discussion of credit design during enactment in 1991 as presented during Committee discussions.

Oregon's certain retirement income tax credit was enacted in 1991. The credit's income limits and phaseout thresholds remain identical today to those that were enacted in 1991. Inflation adjustments are not part of the underlying credit and none of the subsequent legislative assemblies have made

[28] Until 1984, employment by the federal government was covered under the Civil Service Retirement System and not by Social Security. Employees that worked for a federal agency during those years did not pay Social Security on their earnings and therefor did not earn Social Security credit (Social Security, 2018).

[29] ORS 316.680(1)(f) exempts from Oregon income taxation pension income attributable to federal employment prior to October 1, 1991. This provision was enacted in 1998.

changes to the thresholds. As a result, qualification for the credit and average credit benefit have decreased over time, trends expected to continue.

To qualify for the credit, a single filer may receive no more than $7,500 in Social Security benefits during the tax year. Adjusting for intervening Social Security cost of living adjustments, the $7,500 of 1991 would equate to $12,675 in 2016 (Joint filers- $15,000 becomes $25,350). Applying the same inflationary adjustment to the credit's household income limits of $22,500 (S) and $45,000 (J), equivalent 2016 figures would be $38,025 (S) and $76,050 (J).

In 2016, the average OASDI[30] monthly benefit received by Oregon retired workers was $1,361 with the median received being $1,355 (annually equates to $16,332 & $16,260 respectively) (Office of Research, Evaluation, and Statistics, 2017). As the retirement income credit is unavailable to single filers with Social Security greater than $7,500, the average retired recipient of Social Security benefits will not qualify for the credit. Using published Social Security distribution tables as the primary source, it can be estimated that approximately 7.3% of Oregon retired workers receiving Social Security benefits receive benefits in amounts less than the $7,500 credit limit. It should be noted that for a single filer each $10 in Social Security benefits received, equates to a roughly $1 reduction in the credit. For comparison purposes, had Oregon's credit parameters been indexed using Social Security's cost of living increases, roughly 31.7% of Oregon retired workers receiving Social Security benefits would receive benefits below the indexed $12,675 individual limit.

Nationally in 2014, 84.2% of units aged 65 or older received Social Security benefits whereas 43.8% received income from private and/or public pensions (Office of Research, Evaluation, and Statistics, 2018).[31] However, pension income represents a smaller portion of total income for lower income retired units. In 2014, for the lowest income quintile of retired units aged 65 or older, pension income accounted for 3.0% of total income as compared to 22.3% of total income for retired units in the highest quintile (Office of Research, Evaluation, and Statistics, 2018). The upshot is that while lower income units are more likely to have income below the credit thresholds and phaseout limits, these same households are less likely to have pension income which is a prerequisite to benefitting from the credit.

Analysis of Potential Direct Appropriation

The purpose of the tax credit is to provide tax relief specifically to certain taxpayers with taxable pension income akin to the pension income not being subject to taxation. As the purpose is directed at effectively eliminating tax liability of specific income for certain taxpayers, comparison to a direct spending program is not considered in this report.

Administrative and Compliance Costs

Administrative and costs for the Department of Revenue are minimal.

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[30] OASDI is the acronym for Old age, survivors, and disability insurance program and is the official name for Social Security.

[31] Pensions include payment from private pensions and annuities; government employee pensions; Railroad Retirement; and individual retirement accounts (IRAs), Keoghs, and 401() plans.

Statute	Tax Expenditure (TE) Name and TE Number (Number aligns with Governor's Tax Expenditure Report)
315.675	1.447 Oregon Cultural Trust

Year	Bill	Chapter	Section(s)	Policy
2001	**HB 2923**	**954**	**18,19**	**Enacting legislation | Tax credit equal to 100% of contributions to Cultural Development Account that are matched by an equal contribution to an Oregon cultural organization | Credit limited to: $500 (S) $1,000 (J) $2,500 corporations | Sunset 1/1/2013**
2009	HB 2067	913	35	Placed sunset of 1/1/2014
2013	HB 3367	750	8	Placed sunset of 1/1/2020
2015	HB 2478	629	39	Terminology modification, replaced "A husband and wife" with "Spouses in a marriage"

Statute	Tax Expenditure (TE) Name and TE Number
316.157-158	1.450 Certain Retirement Income

Year	Bill	Chapter	Section(s)	Policy
1991	**HB 2352**	**823**	**5,9**	**Enacting legislation | Grants income tax credit for all types of pensions | Credit set to 9% of eligible pension income | Limited eligible pension income to $7,500 (S) $15,000 (J) less social security retirement benefits and household income in excess of $15,000 (S) $30,000 (J) | Applicable to taxpayers ≥ 58 | Increased min age by 1 year each biennium stopping at 62 in**
1997	SB 1144	839	13	IRC connection date of 12/31/1996 | Eliminated eligibility of nonresident individual
1999	HB 2137	90	12	IRC connection date of 12/31/1998
2001	HB 2272	660	39	Eliminated IRC connection
2009	HB 2067	913	36	Placed sunset of 1/1/2014
2013	HB 3367	750	9	Placed sunset of 1/1/2020
2015	SB 296	348	19,22	Conforming language necessitated by repeal of ORS 310.630
2015	SB 36	480	9,10	Correction and conforming
2016	HB 4025	33	22	Update IRC "adjusted gross income" connection date to 12/31/2015
2017	SB 148	315	24	LC reviser bill: improved syntax and deleted outdated provisions
2017	SB 701	527	22	Update IRC "adjusted gross income" connection date to 12/31/2016
2018	SB 1529	101	22	Update IRC "adjusted gross income" connection date to 12/31/2017