

# House Bill 2131

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**.

Prescribes amount of expenses for which tax credit for employment-related dependent care expenses may be claimed by removing limitations based on earned income of individual spouse, in case of joint tax filers.

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

Aligns sunset for additional personal exemption tax credit allowed for spouse of person with severe disability with sunset for additional credit for person with severe disability.

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 315.264 and section 43, chapter 913,  
3 Oregon Laws 2009; and prescribing an effective date.

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

5 **SECTION 1.** Section 43, chapter 913, Oregon Laws 2009, is amended to read:

6 **Sec. 43.** A credit may not be claimed under ORS 316.765 for tax years beginning on or after  
7 January 1, 2016, **and before January 1, 2019, or on or after January 1, 2022.**

8 **SECTION 2.** ORS 315.264, as amended by section 7, chapter 111, Oregon Laws 2018, is amended  
9 to read:

10 315.264. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed  
11 a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable  
12 as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation im-  
13 posed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (c) of this  
14 subsection.

15 (b) The credit allowed under this section may be claimed for expenses for care of a qualifying  
16 individual that allow a nonmarried taxpayer to seek employment or to attend school on a full-time  
17 or part-time basis.

18 (c) The employment-related expenses for which a credit is claimed under this section may not  
19 exceed the [*least*] **lesser** of:

20 (A) Earned income taxable by Oregon and reportable on the taxpayer's return; **or**

21 [*(B) The lesser amount of earned income taxable by Oregon earned by either spouse, if reportable*  
22 *on a joint return; or*]

23 [*(C) (B) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a*  
24 *taxpayer for which there are two or more qualifying individuals.*

25 (d) The limitations in paragraph [*(c)(C)*] **(c)(B)** of this subsection shall be reduced by the ag-  
26 gregate amount excludable under section 129 of the Internal Revenue Code for the tax year.

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

**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.

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Greater of Federal  
or Oregon Adjusted  
Gross Income, as  
Percentage of Federal  
Poverty Level

Applicable percentage based on age of youngest  
qualifying individual on January 1 of tax year

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				At least 3 years but less than 6	At least 6 years but less than 13, or at least 13 but less than 18 if disabled	18 years or older if disabled
Greater than	Less than or equal to	Under 3 years				
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%
110%	120%	71%		69%	66%	50%
120%	130%	66%		64%	61%	45%
130%	140%	61%		59%	56%	39%
140%	150%	55%		53%	50%	33%
150%	160%	50%		48%	45%	28%
160%	200%	47%		45%	42%	25%
200%	210%	45%		43%	40%	22%
210%	220%	40%		38%	35%	20%
220%	230%	35%		33%	30%	15%
230%	240%	30%		28%	25%	10%
240%	250%	20%		18%	15%	5%
250%	260%	10%		8%	5%	5%
260%	280%	6%		6%	4%	4%
280%	300%	4%		4%	4%	4%
300%	-	0%		0%	0%	0%

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

(4) The credit under this section is not allowed to a taxpayer with federal adjusted gross income

1 or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of the federal pov-  
2 erty level.

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

7 (6) The Department of Revenue may assess a penalty in an amount not to exceed 25 percent of  
8 the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims or at-  
9 tempts to claim any amount of credit under this section for which the taxpayer is ineligible, or  
10 against any individual who knowingly assists another individual in claiming any amount of credit  
11 for which the individual is ineligible.

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

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

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

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

23 (11) If the amount allowable as a credit under this section, when added to the sum of the  
24 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts  
25 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for  
26 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter  
27 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS  
28 316.502.

29 (12) Any amount that is refunded to the taxpayer under this section and that is in excess of the  
30 tax liability of the taxpayer does not bear interest.

31 **SECTION 3. The amendments to ORS 315.264 by section 2 of this 2019 Act apply to tax**  
32 **years beginning on or after January 1, 2018.**

33 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
34 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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