

**A-Engrossed**  
**Senate Bill 162**

Ordered by the Senate March 24  
Including Senate Amendments dated March 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and 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.

Modifies definition of "business tax credit," as allowed to shareholders of S corporation, to remove Department of Revenue rulemaking authority. **Updates list of eligible tax credits.** 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. **Allows nonmarried taxpayer to claim credit. Prohibits payment of interest for refundable portion 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*

**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 for charitable, educational, scientific, literary or public purposes that is listed under this subsection as  
 2 a business tax credit or is designated as a business tax credit by law or by the Department of Revenue  
 3 by rule and includes but is not limited to] the following credits: ORS 285C.309 (tribal taxes on res-  
 4 ervation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and  
 5 reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass pro-  
 6 duction for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce  
 7 housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS  
 8 315.213 (contributions for child care), **ORS 315.237 (employee and dependent scholarships), ORS**  
 9 **315.271 (individual development accounts)**, ORS 315.304 (pollution control facility), ORS 315.326  
 10 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS  
 11 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing  
 12 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-  
 13 merce) [and ORS 315.533 (low income community jobs initiative).], **ORS 315.514 (film production**  
 14 **development contributions), ORS 315.521 (university venture development funds), ORS 315.533**  
 15 **(low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-**  
 16 **count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term en-**  
 17 **terprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152**  
 18 **(qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and**  
 19 **section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions).**

20 **SECTION 2.** ORS 315.264 is amended to read:

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

26 [(b) The employment-related expenses for which a credit is claimed under this section may not ex-  
 27 ceed \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a taxpayer for  
 28 which there are two or more qualifying individuals.]

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

32 **(c) The employment-related expenses for which a credit is claimed under this section**  
 33 **may not exceed the lesser of:**

34 **(A) Income earned in Oregon and reported on the taxpayer's return; or**

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

37 **(d) The limitations in paragraph (c) this subsection shall be reduced by the aggregate**  
 38 **amount excludable under section 129 of the Internal Revenue Code for the tax year.**

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

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42 43 Greater of Federal 44 or Oregon Adjusted 45 Gross Income, as	Applicable percentage based on age of youngest [child]
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Percentage of Federal Poverty Level		[at close] <b>qualifying individual on January 1</b> of tax year				
		At least 6 years but less than 13, or at least 13 but less than 18 if disabled, or at least 18 years or older if disabled				
Greater than	Less than or equal to	Under 3 years	At least 3 years but less than 6	At least 13 but less than 18 if disabled	At least 13 but less than 18 if disabled	18 years or older if 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%	
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%	

(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:

(a) To a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of the federal poverty level; **or**

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

(5) In order to ensure compliance with the eligibility requirements of the credit allowed under

1 this section, the Department of Revenue shall be afforded access to utilization data maintained by  
2 the Department of Human Services in its administration of the Employment Related Day Care pro-  
3 gram.

4 (6) The [*Director of the*] Department of Revenue may assess a penalty in an amount not to exceed  
5 25 percent of the amount of credit claimed by the taxpayer against any taxpayer who knowingly  
6 claims or attempts to claim any amount of credit under this section for which the taxpayer is inel-  
7 igible, or against any individual who knowingly assists another individual in claiming any amount  
8 of credit for which the individual is ineligible.

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

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

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

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

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

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

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

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

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