

# House Bill 2332

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Representative Wayne Scott for Oregon Restaurant Association)

## 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**.

Reduces rate of tax on capital gains of personal income and corporate income and excise taxpayers. Phases in reduction.

Applies to tax years beginning on or after January 1, 2006, for personal income taxpayers and January 1, 2008, for corporate income and excise taxpayers.

## A BILL FOR AN ACT

Relating to reductions in capital gains taxes; creating new provisions; amending ORS 316.037, 316.122, 317.061 and 318.020; and repealing ORS 316.045 and 317.063.

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

**SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 316.**

**SECTION 2. (1) For the tax year of the taxpayer beginning on or after January 1, 2006, and before January 1, 2007, notwithstanding ORS 316.037 (1), any gain that is treated as net capital gain for federal tax purposes and that is included in taxable income in this state shall be taxed at the lesser of the rate applicable under ORS 316.037 (1) or 8.5 percent.**

**(2) For the tax year of the taxpayer beginning on or after January 1, 2007, and before January 1, 2008, notwithstanding ORS 316.037 (1), any gain that is treated as net capital gain for federal tax purposes and that is included in taxable income in this state shall be taxed at the lesser of the rate applicable under ORS 316.037 (1) or 7.5 percent.**

**(3) For the tax year of the taxpayer beginning on or after January 1, 2008, and before January 1, 2009, notwithstanding ORS 316.037 (1), any gain that is treated as net capital gain for federal tax purposes and that is included in taxable income in this state shall be taxed at the lesser of the tax applicable under ORS 316.037 (1) or 6.5 percent.**

**(4) For the tax year of the taxpayer beginning on or after January 1, 2009, and before January 1, 2010, notwithstanding ORS 316.037 (1), any gain that is treated as net capital gain for federal tax purposes and that is included in taxable income in this state shall be taxed at the lesser of the rate applicable under ORS 316.037 (1) or 5.5 percent.**

**SECTION 3. ORS 316.037 is amended to read:**

316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every resident of this state. The amount of the tax shall be determined in accordance with the following table:

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If taxable income is:	The tax is:
Not over \$2,000	5% of

**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		taxable
2		income
3	Over \$2,000 but not	
4	over \$5,000	\$100 plus 7%
5		of the excess
6		over \$2,000
7		
8	Over \$5,000	\$310 plus 9%
9		of the excess
10		over \$5,000

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13 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a  
 14 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

15 (A) The minimum and maximum dollar amounts for each rate bracket for which a tax is imposed  
 16 shall be increased by the cost-of-living adjustment for the calendar year.

17 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-  
 18 graph shall not be changed.

19 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the  
 20 rate brackets, shall be adjusted.

21 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-  
 22 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer  
 23 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the  
 24 monthly averaged index for the second quarter of the calendar year 1992.

25 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City  
 26 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
 27 Labor Statistics of the United States Department of Labor.

28 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,  
 29 the increase shall be rounded to the next lower multiple of \$50.

30 **(2) Notwithstanding subsection (1) of this section, any gain that is treated as net capital**  
 31 **gain for federal tax purposes and that is included in taxable income in this state shall be**  
 32 **taxed at the rate of five percent.**

33 [(2)] (3) A tax is imposed for each taxable year upon the entire taxable income of every part-year  
 34 resident of this state. The amount of the tax shall be computed under [subsection (1)] **subsections**  
 35 **(1) and (2)** of this section as if the part-year resident were a full-year resident and shall be multi-  
 36 plied by the ratio provided under ORS 316.117 to determine the tax on income derived from sources  
 37 within this state.

38 [(3)] (4) A tax is imposed for each taxable year on the taxable income of every full-year non-  
 39 resident that is derived from sources within this state. The amount of the tax shall be determined  
 40 in accordance with the table set forth in [subsection (1)] **subsections (1) and (2)** of this section.

41 **SECTION 4.** ORS 316.122 is amended to read:

42 316.122. (1) If the federal taxable income of husband and wife (one being a part-year resident and  
 43 the other a nonresident) is determined on a joint federal return, their taxable income in this state  
 44 shall be separately determined, unless they elect to file a joint return, in which case their tax on  
 45 their joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

1 (2) If the federal taxable income of husband and wife (one being a full-year resident and the  
 2 other a part-year resident) is determined on a joint federal return, their taxable income in this state  
 3 shall be separately determined, unless they elect to file a joint return, in which case their tax on  
 4 their joint income shall be determined in this state pursuant to ORS 316.037 [(2)] (3).

5 (3) If the federal taxable income of husband and wife (one being a full-year resident and the  
 6 other a nonresident) is determined on a joint federal return, their taxable income in the state shall  
 7 be separately determined, unless they elect to file a joint return, in which case their tax on their  
 8 joint income shall be determined in this state pursuant to ORS 316.037 [(3)] (4).

9 (4) For purposes of computing the tax of a husband and wife under this section, if one of the  
 10 spouses is a full-year resident individual, then as used in ORS 316.037 [(2) or] (3) **or (4)**, that spouse's  
 11 taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined  
 12 in the laws of the United States, with the modifications, additions and subtractions provided in this  
 13 chapter and other laws of this state applicable to personal income taxation.

14 (5) The provisions of ORS 316.367 with respect to joint returns apply if both husband and wife  
 15 are part-year residents or full-year nonresidents.

16 **SECTION 5. The amendments to ORS 316.037 and 316.122 by sections 3 and 4 of this 2005**  
 17 **Act apply to tax years beginning on or after January 1, 2010.**

18 **SECTION 6. Section 7 of this 2005 Act is added to and made a part of ORS chapter 317.**

19 **SECTION 7. (1) For the tax year of the taxpayer beginning on or after January 1, 2008,**  
 20 **and before January 1, 2009, notwithstanding ORS 317.061, any gain that is treated as net**  
 21 **capital gain subject to tax under ORS 317.061 shall be taxed at the rate of 6.5 percent.**

22 **(2) For the tax year of the taxpayer beginning on or after January 1, 2009, and before**  
 23 **January 1, 2010, notwithstanding ORS 317.061, any gain that is treated as net capital gain**  
 24 **subject to tax under ORS 317.061 shall be taxed at the rate of 5.5 percent.**

25 **SECTION 8.** ORS 317.061 is amended to read:

26 317.061. (1) The rate of the tax imposed by and computed under this chapter is six and six-tenths  
 27 percent.

28 **(2) Notwithstanding subsection (1) of this section, any gain that is treated as net capital**  
 29 **gain for federal tax purposes and that is included in taxable income in this state shall be**  
 30 **taxed at the rate of five percent.**

31 **SECTION 9.** ORS 318.020 is amended to read:

32 318.020. (1) There hereby is imposed upon every corporation for each taxable year a tax at the  
 33 rate provided in ORS 317.061 upon its Oregon taxable income derived from sources within this state,  
 34 other than income for which the corporation is subject to the tax imposed by the Corporation Excise  
 35 Tax Law of 1929 (ORS chapter 317) according to or measured by its Oregon taxable income.

36 (2) Income from sources within this state includes income from tangible or intangible property  
 37 located or having a situs in this state and income from any activities carried on in this state, re-  
 38 gardless of whether carried on in intrastate, interstate or foreign commerce.

39 [(3) *Income that constitutes net long-term capital gain described in ORS 317.063 shall be taxed at*  
 40 *the rate imposed under ORS 317.063.*]

41 **SECTION 10. The amendments to ORS 317.061 and 318.020 by sections 8 and 9 of this 2005**  
 42 **Act apply to tax years beginning on or after January 1, 2010.**

43 **SECTION 11. ORS 316.045 and 317.063 do not apply to tax years beginning on or after**  
 44 **January 1, 2010.**

45 **SECTION 12. ORS 316.045 and 317.063 are repealed on January 2, 2012.**

1        **SECTION 13.** Nothing in the repeal of ORS 316.045 and 317.063 by section 12 of this 2005  
2 Act affects the treatment of long-term capital gain that meets the requirements of ORS  
3 316.045 or 317.063 in a tax year beginning before January 1, 2010.

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