

# Senate Bill 759

Sponsored by Senator BROWN; Senators BATES, COURTNEY, DECKERT, DEVLIN, JOHNSON, MONNES  
ANDERSON, MORRISETTE, PROZANSKI, VERGER

## 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**.

Adopts automatic connection to changes in federal definition of taxable income that relate to qualified military benefits.

Applies to tax years beginning on or after January 1, 2001, and to death gratuity benefits paid for deaths occurring after September 10, 2001.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to taxation of military benefits; creating new provisions; amending ORS 314.011 and 316.012; and prescribing an effective date.

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

**SECTION 1.** ORS 314.011 is amended to read:

314.011. *[(1) As used in this chapter, unless the context requires otherwise, "department" means the Department of Revenue.]*

*[(2)(a)]* **(1)(a)** As used in this chapter, any term has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or the term is specifically defined in this chapter.

(b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:

(A) On December 31, 2002; or

(B) If related to the definition of taxable income and attributable to a change in the laws of the United States or in the Internal Revenue Code that is enacted after December 31, 2005, as applicable to the tax year of the taxpayer.

(c) A reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect and applicable for the tax year of the taxpayer, if the reference relates to:

(A) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock ownership plans, individual retirement accounts (including Roth individual retirement accounts), medical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or tax-exempt savings programs benefiting individuals; *[or]*

(B) The allowance and amount of a deduction under section 167 or 168 or another provision of the Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable assets under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depreciated or expensed for federal tax purposes; **or**

**(C) The exclusion from gross income of any qualified military benefit under section 134**

**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 **of the Internal Revenue Code.**

2 (d) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures),  
 3 314.260 (1)(b), 314.265 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410,  
 4 314.412, 314.525, 314.742 (7), 314.750 and 314.752 and other provisions of this chapter, except those  
 5 described in paragraphs (b) and (c) of this subsection, any reference in this chapter to the laws of  
 6 the United States or to the Internal Revenue Code means the laws of the United States relating to  
 7 income taxes or the Internal Revenue Code as they are amended on or before December 31, 2002,  
 8 even when the amendments take effect or become operative after that date, except where the Leg-  
 9 islative Assembly has specifically provided otherwise.

10 [(3)] (2) Insofar as is practicable in the administration of this chapter, the Department of **Re-**  
 11 **venue** shall apply and follow the administrative and judicial interpretations of the federal income  
 12 tax law. When a provision of the federal income tax law is the subject of conflicting opinions by two  
 13 or more federal courts, the department shall follow the rule observed by the United States Com-  
 14 missioner of Internal Revenue until the conflict is resolved. Nothing contained in this section limits  
 15 the right or duty of the department to audit the return of any taxpayer or to determine any fact  
 16 relating to the tax liability of any taxpayer.

17 [(4)] (3) When portions of the Internal Revenue Code incorporated by reference as provided in  
 18 subsection [(2)] (1) of this section refer to rules or regulations prescribed by the Secretary of the  
 19 Treasury, then such rules or regulations shall be regarded as rules adopted by the department under  
 20 and in accordance with the provisions of this chapter, whenever they are prescribed or amended.

21 [(5)(a)] (4)(a) When portions of the Internal Revenue Code incorporated by reference as provided  
 22 in subsection [(2)] (1) of this section are later corrected by an Act or a Title within an Act of the  
 23 United States Congress designated as an Act or Title making technical corrections, then  
 24 notwithstanding the date that the Act or Title becomes law, those portions of the Internal Revenue  
 25 Code, as so corrected, shall be the portions of the Internal Revenue Code incorporated by reference  
 26 as provided in subsection [(2)] (1) of this section and shall take effect, unless otherwise indicated  
 27 by the Act or Title (in which case the provisions shall take effect as indicated in the Act or Title),  
 28 as if originally included in the provisions of the Act being technically corrected. If, on account of  
 29 this subsection, any adjustment is required to an Oregon return that would otherwise be prevented  
 30 by operation of law or rule, the adjustment shall be made, notwithstanding any law or rule to the  
 31 contrary, in the manner provided under ORS 314.135.

32 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an  
 33 Act or Title.

34 **SECTION 2.** ORS 316.012 is amended to read:

35 316.012. Any term used in this chapter has the same meaning as when used in a comparable  
 36 context in the laws of the United States relating to federal income taxes, unless a different meaning  
 37 is clearly required or the term is specifically defined in this chapter. Except where the Legislative  
 38 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or  
 39 to the Internal Revenue Code:

40 (1) Refers to the laws of the United States or to the Internal Revenue Code as they are amended  
 41 and in effect:

42 (a) On December 31, 2002; or

43 (b) If related to the definition of taxable income and attributable to a change in the laws of the  
 44 United States or in the Internal Revenue Code that is enacted after December 31, 2005, as applicable  
 45 to the tax year of the taxpayer.

(2) Refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect and applicable for the tax year of the taxpayer, if the reference relates to:

(a) Pension, profit-sharing or stock bonus plans, deferred compensation plans, employee stock ownership plans, individual retirement accounts (including Roth individual retirement accounts), medical savings accounts, education IRAs, qualified tuition savings programs or other tax-deferred or tax-exempt savings programs benefiting individuals; *[or]*

(b) The allowance and amount of a deduction under section 167 or 168 or another provision of the Internal Revenue Code, to the allowance and amount of a deduction for expensing depreciable assets under section 179 of the Internal Revenue Code or to the adjusted basis of an asset that is depreciated or expensed for federal tax purposes; **or**

**(c) The exclusion from gross income of any qualified military benefit under section 134 of the Internal Revenue Code.**

**SECTION 3. The amendments to ORS 314.011 and 316.012 by sections 1 and 2 of this 2005 Act apply to:**

**(1) Tax years beginning on or after January 1, 2001; or**

**(2) Any tax year in which a death gratuity benefit is paid for a death occurring after September 10, 2001.**

**SECTION 4. (1) Notwithstanding ORS 305.270 or 314.415 or other law limiting the period of time for which a refund of personal income tax may be made, a taxpayer may file a claim for refund of tax paid for a tax year beginning on or after January 1, 2001, and before January 1, 2002, if the claim for refund is based on the inclusion within gross income of amounts that constitute qualified military benefits under section 134 of the Internal Revenue Code.**

**(2) The Department of Revenue shall refund amounts due for a claim described in subsection (1) of this section if the claim is allowable and the claim has been filed with the department before July 1, 2006.**

**SECTION 5. Section 4 of this 2005 Act is repealed January 2, 2007.**

**SECTION 6. This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die.**