

A-Engrossed House Bill 2649

Ordered by the House June 4
Including House Amendments dated June 4

Sponsored by COMMITTEE ON REVENUE

Corrected 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.

[Establishes 7.5 percent Oregon alternative minimum tax for taxpayers with federal adjusted gross income exceeding \$125,000.]

[Applies to tax years beginning on or after January 1, 2010.]

Increases tax rates for individuals with taxable income above \$125,000 for tax years beginning on or after January 1, 2009.

Establishes increased tax rate for individuals with taxable income above \$250,000 for tax years beginning on or after January 1, 2009, and before January 1, 2012. Decreases tax rate for individuals with taxable income above \$125,000 for tax years beginning on or after January 1, 2012.

Phases out subtraction for federal income taxes paid for taxpayer with federal adjusted gross income of \$125,000 or more for individual return and \$250,000 or more for joint return. Eliminates subtraction for taxpayer with adjusted gross income of \$145,000 or more for individual return and \$290,000 or more for joint return. Applies to tax years beginning on or after January 1, 2009.

Exempts first \$2,400 in unemployment compensation from Oregon personal income tax for tax years beginning on or after January 1, 2009, and before January 1, 2010.

Directs Department of Revenue to waive penalty or interest for taxpayer who underpays or underreports as result of changes to tax law in Act. Applies to tax years beginning on or after January 1, 2009, and before January 1, 2010.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to taxation; creating new provisions; amending ORS 316.037 and 316.695; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. 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:

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

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	Over \$2,000 but not	
2	over \$5,000	\$100 plus 7%
3		of the excess
4		over \$2,000
5		
6	Over \$5,000 but not	
7	over \$125,000	\$310 plus 9%
8		of the excess
9		over \$5,000
10	Over \$125,000 but not	
11	over \$250,000	\$11,110 plus 10.8%
12		of the excess
13		over \$125,000
14		
15	Over \$250,000	\$24,610 plus 11%
16		of the excess
17		over \$250,000

19

20 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a

21 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

22 (A) **Except as provided in subparagraph (D) of this paragraph**, the minimum and maximum

23 dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living

24 adjustment for the calendar year.

25 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-

26 graph shall not be changed.

27 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the

28 rate brackets, shall be adjusted.

29 **(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be ad-**

30 **justed.**

31 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-

32 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer

33 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the

34 monthly averaged index for the second quarter of the calendar year 1992.

35 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City

36 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of

37 Labor Statistics of the United States Department of Labor.

38 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,

39 the increase shall be rounded to the next lower multiple of \$50.

40 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year

41 resident of this state. The amount of the tax shall be computed under subsection (1) of this section

42 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided

43 under ORS 316.117 to determine the tax on income derived from sources within this state.

44 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident

45 that is derived from sources within this state. The amount of the tax shall be determined in ac-

1 cordance with the table set forth in subsection (1) of this section.

2 **SECTION 2.** ORS 316.037, as amended by section 1 of this 2009 Act, is amended to read:

3 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every
 4 resident of this state. The amount of the tax shall be determined in accordance with the following
 5 table:

6	7	8	9
10	11	12	13
14	15	16	17
18	19	20	21
22	23	24	25
26	27	28	29
30	31	32	33
34	35	36	37
38	39	40	41
42	43	44	45

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

(A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjustment for the calendar year.

(B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this paragraph shall not be changed.

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

(D) The rate brackets applicable to taxable income in excess of \$125,000 may not be adjusted.

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

1 monthly averaged index for the second quarter of the calendar year 1992.

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

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

7 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year
8 resident of this state. The amount of the tax shall be computed under subsection (1) of this section
9 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided
10 under ORS 316.117 to determine the tax on income derived from sources within this state.

11 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident
12 that is derived from sources within this state. The amount of the tax shall be determined in ac-
13 cordance with the table set forth in subsection (1) of this section.

14 **SECTION 3.** ORS 316.695 is amended to read:

15 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,
16 there shall be added to or subtracted from federal taxable income:

17 (a) If, in computing federal income tax for a taxable year, the taxpayer deducted itemized de-
18 ductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount
19 of itemized deductions deducted (the itemized deductions less an amount, if any, by which the item-
20 ized deductions are reduced under section 68 of the Internal Revenue Code).

21 (b) If, in computing federal income tax for a taxable year, the taxpayer deducted the standard
22 deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the
23 amount of the standard deduction deducted.

24 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's
25 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,
26 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-
27 duction and the additional standard deduction.

28 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

29 (i) \$3,280, in the case of joint return filers or a surviving spouse;

30 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving
31 spouse;

32 (iii) \$1,640, in the case of a married individual who files a separate return; or

33 (iv) \$2,640, in the case of a head of household.

34 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after
35 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction
36 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard
37 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price
38 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average
39 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-
40 tient by the amount listed under subparagraph (B) of this paragraph for each category of return
41 filer.

42 (ii) If any change in the maximum household income determined under this subparagraph is not
43 a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

44 (iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S.
45 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau

1 of Labor Statistics of the United States Department of Labor.

2 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the
3 sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

4 (E) As used in subparagraph (B) of this paragraph, “surviving spouse” and “head of household”
5 have the meaning given those terms in section 2 of the Internal Revenue Code.

6 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this
7 paragraph shall be zero:

8 (i) A husband or wife filing a separate return where the other spouse has claimed itemized de-
9 ductions under subparagraph (A) of this paragraph;

10 (ii) A nonresident alien individual;

11 (iii) An individual making a return for a period of less than 12 months on account of a change
12 in [*his or her*] **the individual’s** annual accounting period;

13 (iv) An estate or trust;

14 (v) A common trust fund; or

15 (vi) A partnership.

16 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s itemized deductions
17 are the sum of:

18 (A) The taxpayer’s itemized deductions as defined in section 63(d) of the Internal Revenue Code
19 (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the de-
20 duction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal
21 itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of
22 federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code); and

23 (B) The amount that may be taken into account under section 213(a) of the Internal Revenue
24 Code, not to exceed seven and one-half percent of the federal adjusted gross income of the taxpayer,
25 if the taxpayer has attained the following age before the close of the taxable year, or, in the case
26 of a joint return, if either taxpayer has attained the following age before the close of the taxable
27 year:

28 (i) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, a tax-
29 payer must attain 58 years of age before the close of the taxable year.

30 (ii) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, a tax-
31 payer must attain 59 years of age before the close of the taxable year.

32 (iii) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a
33 taxpayer must attain 60 years of age before the close of the taxable year.

34 (iv) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, a tax-
35 payer must attain 61 years of age before the close of the taxable year.

36 (v) For taxable years beginning on or after January 1, 1999, a taxpayer must attain 62 years of
37 age before the close of the taxable year.

38 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of
39 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-
40 butions which were taxed by the State of Oregon but not taxed by the federal government under
41 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which
42 the amount that was contributed to the plan under the Internal Revenue Code was greater than the
43 amount allowed under this chapter.

44 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock
45 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection

1 shall not be added to federal taxable income in the year earned by the plan and shall not be sub-
2 tracted from federal taxable income in the year received by the taxpayer.

3 (3)(a) Except as provided in [*paragraph (b) of this subsection and*] subsection (4) of this section,
4 there shall be added to federal taxable income the amount of any federal income taxes in excess of
5 **[\$5,500] the amount provided in paragraphs (b) to (d) of this subsection**, accrued by the tax-
6 payer during the taxable year as described in ORS 316.685, less the amount of any refund of federal
7 taxes previously accrued for which a tax benefit was received.

8 **(b) The limits applicable to this subsection are:**

9 **(A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less**
10 **than \$125,000, or, if reported on a joint return, less than \$250,000.**

11 **(B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000**
12 **or more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less**
13 **than \$260,000.**

14 **(C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000**
15 **or more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less**
16 **than \$270,000.**

17 **(D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000**
18 **or more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less**
19 **than \$280,000.**

20 **(E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000**
21 **or more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less**
22 **than \$290,000.**

23 **(c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax**
24 **year, or, if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer**
25 **is not allowed a subtraction for federal income taxes under ORS 316.680 (1) for the tax year.**

26 [*(b)*] **(d)** In the case of a husband and wife filing separate tax returns, the amount added shall
27 be in the amount of any federal income taxes in excess of [*\$2,750*] **the amount provided for indi-**
28 **vidual taxpayers under paragraphs (a) to (c) of this subsection**, less the amount of any refund
29 of federal taxes previously accrued for which a tax benefit was received.

30 **(e) For purposes of this subsection, the limits applicable to a joint return shall apply to**
31 **a head of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal**
32 **Revenue Code.**

33 [*(c)(A)*] **(f)(A)** For a calendar year beginning on or after January 1, 2008, the Department of
34 Revenue shall make a cost-of-living adjustment to the federal income tax threshold [*amount*]
35 **amounts** described in paragraphs [*(a) and*] **(b) and (d)** of this subsection.

36 **(B)** The cost-of-living adjustment for a calendar year is the percentage by which the monthly
37 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
38 of the prior calendar year exceeds the monthly averaged index for the period beginning September
39 1, 2005, and ending August 31, 2006.

40 **(C)** As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City
41 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
42 Labor Statistics of the United States Department of Labor.

43 **(D)** If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
44 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

45 **(E)** The adjustment shall apply to all tax years beginning in the calendar year for which the

1 adjustment is made.

2 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual
3 shall add to taxable income a proportion of any accrued federal income taxes as computed under
4 ORS 316.685 in excess of [\$5,500] **the amount provided in subsection (3) of this section** in the
5 proportion provided in ORS 316.117.

6 (b) In the case of a husband and wife filing separate tax returns, the amount added under this
7 subsection shall be computed in a manner consistent with the computation of the amount to be
8 added in the case of a husband and wife filing separate returns under subsection (3) of this section.
9 The method of computation shall be determined by the Department of Revenue by rule.

10 (5) Subsections [(3)(b)] **(3)(d)** and (4)(b) of this section shall not apply to married individuals
11 living apart as defined in section 7703(b) of the Internal Revenue Code.

12 (6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income
13 or loss taken into account in determining federal taxable income by a shareholder of an S corpo-
14 ration pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes
15 of determining Oregon taxable income, to the extent that as income or loss of the S corporation,
16 they were required to be adjusted under the provisions of ORS chapter 317.

17 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken
18 into account in determining federal taxable income by a shareholder of an S corporation pursuant
19 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining
20 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder
21 the items are required to be adjusted under the provisions of this chapter.

22 (c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S
23 corporation.

24 (d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small
25 business corporation.

26 (7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection
27 (1)(c)(A) and (D) of this section, of \$1,000:

28 (A) For [*himself or herself*] **the taxpayer** if [*he or she*] **the taxpayer** has attained age 65 before
29 the close of [*his or her*] **the taxpayer's** taxable year; and

30 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the
31 taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal
32 income tax purposes under section 151(b) of the Internal Revenue Code.

33 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)
34 and (D) of this section, of \$1,000:

35 (A) For [*himself or herself*] **the taxpayer** if [*he or she*] **the taxpayer** is blind at the close of the
36 taxable year; and

37 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and
38 an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes
39 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse
40 dies during the taxable year, the determination of whether such spouse is blind shall be made im-
41 mediately prior to death.

42 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)
43 and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

44 (d) For purposes of this subsection, an individual is blind only if [*his or her*] **the individual's**
45 central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if [*his or*

1 *her]* **the individual's** visual acuity is greater than 20/200 but is accompanied by a limitation in the
2 fields of vision such that the widest diameter of the visual field subtends an angle no greater than
3 20 degrees.

4 (8) In the case of an individual with respect to whom a deduction under section 151 of the
5 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax-
6 able year beginning in the calendar year in which the individual's taxable year begins, the basic
7 standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual
8 for such individual's taxable year shall equal the lesser of:

9 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for
10 federal income tax purposes for the tax year for which the deduction is being claimed; or

11 (b) The amount determined under subsection (1)(c)(B) of this section.

12 **SECTION 4. Section 5 of this 2009 Act is added to and made a part of ORS chapter 316.**

13 **SECTION 5. There shall be subtracted from federal taxable income for Oregon tax pur-**
14 **poses the difference between the amount allowable as a deduction under section 85 of the**
15 **Internal Revenue Code as applicable to the tax year of the taxpayer and the amount allow-**
16 **able as a deduction under section 85 of the Internal Revenue Code as amended and in effect**
17 **on December 31, 2008, and as applicable to tax years beginning on or after January 1, 2008,**
18 **and before January 1, 2009.**

19 **SECTION 6. The amendments to ORS 316.695 by section 3 of this 2009 Act apply to tax**
20 **years beginning on or after January 1, 2009.**

21 **SECTION 7. (1) The amendments to ORS 316.037 by section 1 of this 2009 Act apply to tax**
22 **years beginning on or after January 1, 2009, and before January 1, 2012.**

23 **(2) The amendments to ORS 316.037 by section 2 of this 2009 Act apply to tax years be-**
24 **ginning on or after January 1, 2012.**

25 **SECTION 8. The Department of Revenue shall waive any penalty or interest that would**
26 **otherwise apply to taxes due if the penalty or interest is based on underpayment or**
27 **underreporting that results solely from the amendments to ORS 316.037 and 316.695 by**
28 **sections 1 and 3 of this 2009 Act.**

29 **SECTION 9. Sections 5 and 8 of this 2009 Act apply to tax years beginning on or after**
30 **January 1, 2009, and before January 1, 2010.**

31 **SECTION 10. This 2009 Act takes effect on the 91st day after the date on which the**
32 **regular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

33