House Bill 3697

Sponsored by 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.**

Increases age requirement for elderly medical expense subtraction for tax years beginning on or after January 1, 2010. Further increases age requirement for tax years beginning on or after January 1, 2018. Phases out available subtraction as taxpayer's adjusted gross income increases. Transfers revenue raised by limitations on elderly medical expense subtraction to Oregon Project Independence Fund and Elderly and Disabled Special Transportation Fund.

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

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to elderly medical income tax subtraction; creating new provisions; amending ORS 316.362, 316.687, 316.690 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 316.695 is amended to read:

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

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

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

(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection [*(8)*] **(11)** of this section, for purposes of this subparagraph, "standard deduction" means the sum of the basic standard deduction and the additional standard deduction.

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

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

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

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

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

(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard

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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deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

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

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

(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection [*(7)*] **(10)** of this section.

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

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

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

(ii) A nonresident alien individual;

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

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

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

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

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

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

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

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

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

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

(v) For taxable years beginning on or after January 1, 1999, and before January 1, 2010, a taxpayer must attain 62 years of age before the close of the taxable year.

(vi) For taxable years beginning on or after January 1, 2010, and before January 1, 2018, a taxpayer must attain 65 years of age before the close of the taxable year.

(vii) For taxable years beginning on or after January 1, 2018, a taxpayer must attain 67 years of age before the close of the taxable year.

(2) Notwithstanding the amount calculated under subsection (1)(d)(B) of this section, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more, the maximum amount allowed for an itemized deduction under subsection (1)(d)(B) of this section may not exceed the amount calculated under subsection (1)(d)(B) of this section reduced by:

(a) 20 percent, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more and less than $130,000.

(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is $130,000 or more and less than $135,000.

(c) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is $135,000 or more and less than $140,000.

(d) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is $140,000 or more and less than $145,000.

(3) Notwithstanding the amount calculated under subsection (1)(d)(B) of this section, if the federal adjusted gross income of the taxpayer is $145,000 or more for the tax year, an itemized deduction may not be claimed under subsection (1)(d)(B) of this section.

(4) For purposes of subsections (2) and (3) of this section, the amounts of the federal adjusted gross income brackets are doubled for a taxpayer who files a joint return, a return as a head of household or a return as a surviving spouse.

[*(2)(a)*] **(5)(a)** There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection shall not be added to federal taxable income in the year earned by the plan and shall not be subtracted from federal taxable income in the year received by the taxpayer.

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

(b) In the case of a husband and wife filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of $2,750, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

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

(B) The cost-of-living adjustment for a calendar year is the percentage 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 monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

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

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

(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

[*(4)(a)*] **(7)(a)** In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of $5,500 in the proportion provided in ORS 316.117.

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

[*(5)*] **(8)** Subsections [*(3)(b)*] **(6)(b)** and [*(4)(b)*] **(7)(b)** of this section [*shall*] **do** not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

[*(6)(a)*] **(9)(a)** For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

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

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

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

[*(7)(a)*] **(10)(a)** The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

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

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

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

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

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

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

(d) For purposes of this subsection, an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

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

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

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

SECTION 1a. If chapter 746, Oregon Laws 2009, is approved by voters at a special election held throughout this state on January 26, 2010, ORS 316.695, as amended by section 3, chapter 746, Oregon Laws 2009, is amended to read:

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

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

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

(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection [*(8)*] **(11)** of this section, for purposes of this subparagraph, "standard deduction" means the sum of the basic standard deduction and the additional standard deduction.

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

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

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

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

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

(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after

January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

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

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

(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection [*(7)*] **(10)** of this section.

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

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

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

(ii) A nonresident alien individual;

(iii) An individual making a return for a period of less than 12 months on account of a change in the individual's annual accounting period;

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

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

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

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

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

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

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

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

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

(v) For taxable years beginning on or after January 1, 1999, and before January 1, 2010, a taxpayer must attain 62 years of age before the close of the taxable year.

(vi) For taxable years beginning on or after January 1, 2010, and before January 1, 2018, a taxpayer must attain 65 years of age before the close of the taxable year.

(vii) For taxable years beginning on or after January 1, 2018, a taxpayer must attain 67 years of age before the close of the taxable year.

(2) Notwithstanding the amount calculated under subsection (1)(d)(B) of this section, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more, the maximum amount allowed for an itemized deduction under subsection (1)(d)(B) of this section may not exceed the amount calculated under subsection (1)(d)(B) of this section reduced by:

(a) 20 percent, if the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more and less than $130,000.

(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is $130,000 or more and less than $135,000.

(c) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is $135,000 or more and less than $140,000.

(d) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is $140,000 or more and less than $145,000.

(3) Notwithstanding the amount calculated under subsection (1)(d)(B) of this section, if the federal adjusted gross income of the taxpayer is $145,000 or more for the tax year, an itemized deduction may not be claimed under subsection (1)(d)(B) of this section.

(4) For purposes of subsections (2) and (3) of this section, the amounts of the federal adjusted gross income brackets are doubled for a taxpayer who files a joint return, a return as a head of household or a return as a surviving spouse.

[*(2)(a)*] **(5)(a)** There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection shall not be added to federal taxable income in the year earned by the plan and shall not be subtracted from federal taxable income in the year received by the taxpayer.

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

(b) The limits applicable to this subsection are:

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

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

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

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

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

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

(d) In the case of a husband and wife filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of the amount provided for individual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

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

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

(B) The cost-of-living adjustment for a calendar year is the percentage 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 monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

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

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

(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

[*(4)(a)*] **(7)(a)** In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of the amount provided in subsection [*(3)*] **(6)** of this section in the proportion provided in ORS 316.117.

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

[*(5)*] **(8)** Subsections [*(3)(d)*] **(6)(d)** and [*(4)(b)*] **(7)(b)** of this section [*shall*] **do** not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

[*(6)(a)*] **(9)(a)** For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

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

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

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

[*(7)(a)*] **(10)(a)** The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of $1,000:

(A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's taxable year; and

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

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

(A) For the taxpayer if the taxpayer is blind at the close of the taxable year; and

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

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

(d) For purposes of this subsection, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

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

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

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

SECTION 2. (1) For tax years beginning on or after January 1, 2010, the Department of Revenue shall estimate the increase in revenue, if any, attributable to the reduction in the allowable medical subtraction resulting from the amendments to ORS 316.695 by sections 1 and 1a of this 2010 Act, compared to revenue received for tax years beginning on or after January 1, 2009, and before January 1, 2010. Before June 30 of each year, an amount equal to the estimated increase in revenue, if any, shall be deposited into the General Fund and distributed as follows:

(a) 50 percent to the Oregon Project Independence Fund established by ORS 410.422.

(b) 50 percent to the Elderly and Disabled Special Transportation Fund established by ORS 391.800.

(2) Moneys deposited under this section may not be used to supplant other moneys in the funds listed in this section, as provided under ORS 391.800 and 410.422.

(3) The department may adopt rules necessary to administer this section.

SECTION 3. ORS 316.362 is amended to read:

316.362. (1) An income tax return with respect to the tax imposed by this chapter shall be made by the following:

(a) Every resident individual:

(A) Who is required to file a federal income tax return for the taxable year; or

(B) Who has gross income greater than the sum of:

(i) The basic standard deduction allowed under ORS 316.695 (1)(c)(B);

(ii) Any additional standard deduction allowed to the taxpayer under ORS 316.695 [*(7)*] **(10)**; and

(iii) An amount equal to the income equivalent of one personal exemption credit under ORS 316.085 (3)(b) if unmarried, or equal to the income equivalent of two personal exemption credits under ORS 316.085 (3)(b) if married.

(b) Every nonresident individual who has federal gross income from sources in this state of more than the basic standard deduction allowed under ORS 316.695 (1)(c)(B).

(c) Every resident estate or trust that is required to file a federal income tax return.

(d) Every nonresident estate that has federal gross income of $600 or more for the taxable year from sources within this state.

(e) Every nonresident trust that for the taxable year has from sources within this state any taxable income, or gross income of $600 or more regardless of the amount of taxable income.

(2) Nothing contained in this section shall preclude the Department of Revenue from requiring any individual, estate or trust to file a return when, in the judgment of the department, a return should be filed.

(3) For purposes of this section, the income equivalent of a personal exemption credit under ORS 316.085 (3)(b) shall be determined as follows:

(a) Divide the personal exemption credit amount by the rate applicable to the lowest income bracket under ORS 316.037.

(b) If the resulting quotient is less than the maximum amount of income subject to the rate used in paragraph (a) of this subsection, the quotient is the income equivalent.

(c) If the resulting quotient is more than the maximum amount of income subject to the rate used in paragraph (a) of this subsection:

(A) Multiply the maximum amount of income subject to the rate used in paragraph (a) of this subsection by the rate used in paragraph (a) of this subsection.

(B) Determine the difference between the product calculated under subparagraph (A) of this paragraph and the personal exemption credit amount.

(C) Divide the difference determined in subparagraph (B) of this paragraph by the rate applicable to the income bracket that is the next succeeding the lowest income bracket under ORS 316.037.

(D) Add the quotient determined in subparagraph (C) of this paragraph to the maximum amount of income subject to the rate used in paragraph (a) of this subsection. The sum is the income equivalent.

SECTION 4. ORS 316.687 is amended to read:

316.687. There shall be added to federal taxable income of a parent who makes an election under section 1(g)(7)(B) of the Internal Revenue Code any amount in excess of the standard deduction allowed for a child under ORS 316.695 [*(8)*] **(11)** but not in excess of the amount described in section 1(g)(7)(B)(i) of the Internal Revenue Code (twice the amount in effect for the taxable year under section 63(c)(5)(A) of the Internal Revenue Code). The addition under this section shall be made for each child whose income is included in the taxable income of the parent under section 1(g)(7)(B) of the Internal Revenue Code.

SECTION 5. ORS 316.690 is amended to read:

316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year by a foreign country as a credit on the federal income tax return or does not itemize personal deductions on the federal income tax return, there shall be subtracted from federal taxable income in the computation of state taxable income the amount of foreign income taxes imposed for the taxable year by a foreign country.

(2) The deduction for foreign country income taxes provided by this section shall be limited as follows:

(a) Except as provided in paragraph (b) of this subsection, the sum of foreign country income taxes deducted in computing state taxable income and the modification for federal income taxes authorized by ORS 316.680 (1)(b) as limited by ORS 316.695 [*(3)*] **(6)** [*shall*] **may** not exceed $3,000.

(b) In the case of a husband and wife filing separate tax returns, the sum described in paragraph (a) of this subsection shall be limited to $1,500.

SECTION 6. The amendments to ORS 316.362, 316.687, 316.690 and 316.695 by sections 1, 1a, 3, 4 and 5 of this 2010 Act apply to tax years beginning on or after January 1, 2010.

SECTION 7. This 2010 Act takes effect on the 91st day after the date on which the special session of the Seventy-fifth Legislative Assembly adjourns sine die.