

House Bill 2577

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim 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**.

Modifies income tax treatment of elderly medical expense. Converts itemized deduction to subtraction from federal taxable income. Increases qualifying age for subtraction beginning in 2011. Phases out subtraction beginning in 2011 based on amount of adjusted gross income.

Applies to tax years beginning on or after January 1, 2011.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to elderly medical expense subtraction; creating new provisions; amending ORS 316.695;
3 prescribing an effective date; and providing for revenue raising that requires approval by a
4 three-fifths majority.

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

6 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 316.**

7 **SECTION 2. (1) In addition to the other modifications to federal taxable income contained**
8 **in this chapter, there shall be subtracted from federal taxable income the amount that may**
9 **be taken into account under section 213(a) of the Internal Revenue Code, not to exceed the**
10 **lesser of seven and one-half percent of the federal adjusted gross income of the taxpayer or**
11 **\$2,500, or, if the taxpayer files a return jointly, as a head of household or as a surviving**
12 **spouse, \$5,000.**

13 **(2) The subtraction under this section is available only if the taxpayer has attained the**
14 **following age before the close of the taxable year, or, in the case of a joint return, if either**
15 **taxpayer has attained the following age before the close of the taxable year:**

16 **(a) For taxable years beginning on or after January 1, 2011, and before January 1, 2012,**
17 **a taxpayer must attain 63 years of age before the close of the taxable year.**

18 **(b) For taxable years beginning on or after January 1, 2012, and before January 1, 2013,**
19 **a taxpayer must attain 64 years of age before the close of the taxable year.**

20 **(c) For taxable years beginning on or after January 1, 2013, and before January 1, 2014,**
21 **a taxpayer must attain 65 years of age before the close of the taxable year.**

22 **(d) For taxable years beginning on or after January 1, 2014, a taxpayer must attain 66**
23 **years of age before the close of the taxable year.**

24 **(3) Notwithstanding the amount calculated under subsection (1) of this section, the**
25 **maximum amount allowed for a subtraction under this section may not exceed the amount**
26 **calculated under subsection (1) of this section reduced by:**

27 **(a) 20 percent, if the federal adjusted gross income of the taxpayer for the tax year is**
28 **\$125,000 or more and less than \$135,000.**

29 **(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is**

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 **\$135,000 or more and less than \$145,000.**

2 (c) **60 percent, if the federal adjusted gross income of the taxpayer for the tax year is**
 3 **\$145,000 or more and less than \$155,000.**

4 (d) **80 percent, if the federal adjusted gross income of the taxpayer for the tax year is**
 5 **\$155,000 or more and less than \$165,000.**

6 (4) **Notwithstanding the amount calculated under subsection (1) of this section, if the**
 7 **federal adjusted gross income of the taxpayer is \$165,000 or more for the tax year, a sub-**
 8 **traction may not be claimed under this section.**

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

12 **SECTION 3.** ORS 316.695, as amended by section 3, chapter 746, Oregon Laws 2009, is amended
 13 to read:

14 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,
 15 there shall be added to or subtracted from federal taxable income:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (ii) A nonresident alien individual;

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

12 (iv) An estate or trust;

13 (v) A common trust fund; or

14 (vi) A partnership.

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

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

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

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

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

31 [(iii) *For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a tax-*
32 *payer must attain 60 years of age before the close of the taxable year.]*

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

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

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

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

1 tracted from federal taxable income in the year received by the taxpayer.

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

7 (b) The limits applicable to this subsection are:

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

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

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

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

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

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

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

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

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

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

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

41 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
42 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

45 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual

1 shall add to taxable income a proportion of any accrued federal income taxes as computed under
2 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion
3 provided in ORS 316.117.

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

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

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

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

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

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

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

26 (A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax-
27 able year; and

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

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

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

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

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

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

45 (8) In the case of an individual with respect to whom a deduction under section 151 of the

1 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax-
2 able year beginning in the calendar year in which the individual's taxable year begins, the basic
3 standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual
4 for such individual's taxable year shall equal the lesser of:

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

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

8 **SECTION 4. Section 2 of this 2011 Act and the amendments to ORS 316.695 by section 3**
9 **of this 2011 Act apply to tax years beginning on or after January 1, 2011.**

10 **SECTION 5. This 2011 Act takes effect on the 91st day after the date on which the 2011**
11 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

12