

# House Bill 2582

Sponsored by Representative BEYER (Presession filed.)

## 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, 2011. Further increases age requirement for tax years beginning on or after January 1, 2019. Phases out available subtraction as taxpayer's adjusted gross income increases. Transfers revenue raised by limitations on elderly medical expense subtraction to Elderly and Disabled Special Transportation Fund.

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 income tax subtraction; creating new provisions; amending ORS 316.362,  
3 316.687, 316.690 and 316.695; prescribing an effective date; and providing for revenue raising that  
4 requires approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 316.695, as amended by section 3, chapter 746, Oregon Laws 2009, is amended  
7 to read:

8 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,  
9 there shall be added to or subtracted from federal taxable income:

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

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

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

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

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

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

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

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

27 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after  
28 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction

**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 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard  
2 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price  
3 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average  
4 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-  
5 tient by the amount listed under subparagraph (B) of this paragraph for each category of return  
6 filer.

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

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

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

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

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

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

21 (ii) A nonresident alien individual;

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

24 (iv) An estate or trust;

25 (v) A common trust fund; or

26 (vi) A partnership.

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

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

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

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

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

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

45 (iv) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, a tax-

1 payer must attain 61 years of age before the close of the taxable year.

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

4 **(v) For taxable years beginning on or after January 1, 1999, and before January 1, 2011,**  
5 **a taxpayer must attain 62 years of age before the close of the taxable year.**

6 **(vi) For taxable years beginning on or after January 1, 2011, and before January 1, 2019,**  
7 **a taxpayer must attain 65 years of age before the close of the taxable year.**

8 **(vii) For taxable years beginning on or after January 1, 2019, a taxpayer must attain 67**  
9 **years of age before the close of the taxable year.**

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

15 **(a) 20 percent, if the federal adjusted gross income of the taxpayer for the tax year is**  
16 **\$125,000 or more and less than \$130,000.**

17 **(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is**  
18 **\$130,000 or more and less than \$135,000.**

19 **(c) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is**  
20 **\$135,000 or more and less than \$140,000.**

21 **(d) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is**  
22 **\$140,000 or more and less than \$145,000.**

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

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

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

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

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

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

45 **(A)** \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than

1 \$125,000, or, if reported on a joint return, less than \$250,000.

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

5 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
 6 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
 7 \$270,000.

8 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
 9 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
 10 \$280,000.

11 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
 12 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
 13 \$290,000.

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

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

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

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

26 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
 27 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
 28 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
 29 1, 2005, and ending August 31, 2006.

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

33 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
 34 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

45 [(5)] **(8)** Subsections [(3)(d) and (4)(b)] **(6)(d) and (7)(b)** of this section [shall] **do** not apply to

1 married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

37 [(8)] (11) In the case of an individual with respect to whom a deduction under section 151 of the  
38 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax-  
39 able year beginning in the calendar year in which the individual's taxable year begins, the basic  
40 standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual  
41 for such individual's taxable year shall equal the lesser of:

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

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

45 **SECTION 2. (1) For tax years beginning on or after January 1, 2011, the Department of**

1 Revenue shall estimate the increase in revenue, if any, attributable to the reduction in the  
2 allowable medical subtraction resulting from the amendments to ORS 316.695 by section 1  
3 of this 2011 Act, compared to revenue received for tax years beginning on or after January  
4 1, 2010, and before January 1, 2011. Before June 30 of each year, an amount equal to the es-  
5 timated increase in revenue, if any, shall be deposited into the General Fund and distributed  
6 to the Elderly and Disabled Special Transportation Fund established under ORS 391.800.

7 (2) Moneys deposited under this section may not be used to supplant other moneys in the  
8 Elderly and Disabled Special Transportation Fund established under ORS 391.800.

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

10 **SECTION 3.** ORS 316.362 is amended to read:

11 316.362. (1) An income tax return with respect to the tax imposed by this chapter shall be made  
12 by the following:

13 (a) Every resident individual:

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

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

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

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

18 (iii) An amount equal to the income equivalent of one personal exemption credit under ORS  
19 316.085 (3)(b) if unmarried, or equal to the income equivalent of two personal exemption credits un-  
20 der ORS 316.085 (3)(b) if married.

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

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

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

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

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

31 (3) For purposes of this section, the income equivalent of a personal exemption credit under ORS  
32 316.085 (3)(b) shall be determined as follows:

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

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

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

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

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

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

45 (D) Add the quotient determined in subparagraph (C) of this paragraph to the maximum amount

1 of income subject to the rate used in paragraph (a) of this subsection. The sum is the income  
 2 equivalent.

3 **SECTION 4.** ORS 316.687 is amended to read:

4 316.687. There shall be added to federal taxable income of a parent who makes an election under  
 5 section 1(g)(7)(B) of the Internal Revenue Code any amount in excess of the standard deduction al-  
 6 lowed for a child under ORS 316.695 [(8)] (11) but not in excess of the amount described in section  
 7 1(g)(7)(B)(i) of the Internal Revenue Code (twice the amount in effect for the taxable year under  
 8 section 63(c)(5)(A) of the Internal Revenue Code). The addition under this section shall be made for  
 9 each child whose income is included in the taxable income of the parent under section 1(g)(7)(B) of  
 10 the Internal Revenue Code.

11 **SECTION 5.** ORS 316.690 is amended to read:

12 316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided  
 13 in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year  
 14 by a foreign country as a credit on the federal income tax return or does not itemize personal de-  
 15 ductions on the federal income tax return, there shall be subtracted from federal taxable income in  
 16 the computation of state taxable income the amount of foreign income taxes imposed for the taxable  
 17 year by a foreign country.

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

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

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

25 **SECTION 6.** The amendments to ORS 316.362, 316.687, 316.690 and 316.695 by sections 1  
 26 and 3 to 5 of this 2011 Act apply to tax years beginning on or after January 1, 2011.

27 **SECTION 7.** This 2011 Act takes effect on the 91st day after the date on which the 2011  
 28 session of the Seventy-sixth Legislative Assembly adjourns sine die.

29