

House Bill 2819

Sponsored by Representative THATCHER (Pre-session 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**.

Decreases tax rates for individuals with taxable income above \$125,000 for tax years beginning on or after January 1, 2012.

Decreases tax liability for certain taxpayers by removing phaseout of 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. Restores 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, 2012.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to personal income taxation; creating new provisions; amending ORS 316.037 and 316.695; and prescribing an effective date.

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

SECTION 1. ORS 316.037, as amended by sections 1 and 2, chapter 746, Oregon Laws 2009, 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
Over \$2,000 but not over \$5,000	\$100 plus 7% of the excess over \$2,000
Over \$5,000 [<i>but not</i> <i>[over \$125,000]</i>]	\$310 plus 9% of the excess over \$5,000
[<i>Over \$125,000</i>]	<i>\$11,110 plus 9.9%</i>

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.

[of the excess]

[over \$125,000]

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

(d) As used in this subsection, "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.

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

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

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

SECTION 2. 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) of this section, for purposes of this subparagraph, "standard deduction" means the sum of the basic standard deduction and the additional standard deduction.

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

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

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

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

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

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

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

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

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

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

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

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

28 (ii) A nonresident alien individual;

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

31 (iv) An estate or trust;

32 (v) A common trust fund; or

33 (vi) A partnership.

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

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

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

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

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

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

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

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

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

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

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

26 [(b) *The limits applicable to this subsection are:*]

27 [(A) *\$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than*
28 *\$125,000, or, if reported on a joint return, less than \$250,000.*]

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

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

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

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

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

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

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

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

4 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
5 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
6 of the prior calendar year exceeds the monthly averaged index for the period beginning September
7 1, 2005, and ending August 31, 2006.

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

11 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
12 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **SECTION 3. The amendments to ORS 316.037 and 316.695 by sections 1 and 2 of this 2011**
24 **Act apply to tax years beginning on or after January 1, 2012.**

25 **SECTION 4. This 2011 Act takes effect on the 91st day after the date on which the 2011**
26 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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