

House Bill 2845

Sponsored by Representative HUNT (at the request of Thomas D. Moore) (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**.

Allows personal income taxpayer to deduct transportation costs related to medical care at mileage rate available for trade or business deduction. Removes limitation on amount of available subtraction for federal income tax paid. Removes age restrictions and limitation on amount of expenses eligible for medical expenses deduction.

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

1
2 Relating to modifications to taxable income for personal income taxation purposes; creating new
3 provisions; amending ORS 316.362, 316.687, 316.690 and 316.695; and prescribing an effective
4 date.

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)] (5) 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
29 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.

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

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

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

11 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the
 12 sum of each additional amount to which the taxpayer is entitled under subsection [(7)] (4) of this
 13 section.

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

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

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

20 (ii) A nonresident alien individual;

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

23 (iv) An estate or trust;

24 (v) A common trust fund; or

25 (vi) A partnership.

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

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

33 (B) The amount that may be taken into account under section 213(a) of the Internal Revenue
 34 Code, **except that amounts paid for transportation that qualify under section 213(d)(1)(B) of**
 35 **the Internal Revenue Code may be deducted using the mileage rate applicable to trade or**
 36 **business expenses under section 162 of the Internal Revenue Code, instead of the rate appli-**
 37 **cable to medical transportation expenses.** [*not to exceed seven and one-half percent of the federal*
 38 *adjusted gross income of the taxpayer, if the taxpayer has attained the following age before the close*
 39 *of the taxable year, or, in the case of a joint return, if either taxpayer has attained the following age*
 40 *before the close of the taxable year:*]

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

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

45 [(iii) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a tax-

1 *payer must attain 60 years of age before the close of the taxable year.]*

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

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

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

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

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

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

22 *[(A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than*
23 *\$125,000, or, if reported on a joint return, less than \$250,000.]*

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

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

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

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

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

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

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

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

44 *[(B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly av-*
45 *eraged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the*

1 prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005,
2 and ending August 31, 2006.]

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

6 [(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
7 \$50, the adjustment shall be rounded to the next lower multiple of \$50.]

8 [(E) The adjustment shall apply to all tax years beginning in the calendar year for which the ad-
9 justment is made.]

10 [(4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual
11 shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS
12 316.685 in excess of the amount provided in subsection (3) of this section in the proportion provided in
13 ORS 316.117.]

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

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

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

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

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

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

34 [(7)(a)] **(4)(a)** The taxpayer shall be entitled to an additional amount, as referred to in subsection
35 (1)(c)(A) and (D) of this section, of \$1,000:

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

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

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

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

44 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and
45 an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes

1 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse
 2 dies during the taxable year, the determination of whether such spouse is blind shall be made im-
 3 mediately prior to death.

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

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

10 [(8)] (5) In the case of an individual with respect to whom a deduction under section 151 of the
 11 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax-
 12 able year beginning in the calendar year in which the individual’s taxable year begins, the basic
 13 standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual
 14 for such individual’s taxable year shall equal the lesser of:

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

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

18 **SECTION 2.** ORS 316.362 is amended to read:

19 316.362. (1) An income tax return with respect to the tax imposed by this chapter shall be made
 20 by the following:

21 (a) Every resident individual:

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

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

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

25 (ii) Any additional standard deduction allowed to the taxpayer under ORS 316.695 [(7)] (4); and

26 (iii) An amount equal to the income equivalent of one personal exemption credit under ORS
 27 316.085 (3)(b) if unmarried, or equal to the income equivalent of two personal exemption credits un-
 28 der ORS 316.085 (3)(b) if married.

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

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

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

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

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

39 (3) For purposes of this section, the income equivalent of a personal exemption credit under ORS
 40 316.085 (3)(b) shall be determined as follows:

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

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

45 (c) If the resulting quotient is more than the maximum amount of income subject to the rate

1 used in paragraph (a) of this subsection:

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

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

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

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

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

12 316.687. There shall be added to federal taxable income of a parent who makes an election under
 13 section 1(g)(7)(B) of the Internal Revenue Code any amount in excess of the standard deduction al-
 14 lowed for a child under ORS 316.695 [(8)] (5) but not in excess of the amount described in section
 15 1(g)(7)(B)(i) of the Internal Revenue Code (twice the amount in effect for the taxable year under
 16 section 63(c)(5)(A) of the Internal Revenue Code). The addition under this section shall be made for
 17 each child whose income is included in the taxable income of the parent under section 1(g)(7)(B) of
 18 the Internal Revenue Code.

19 **SECTION 4.** ORS 316.690 is amended to read:

20 316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided
 21 in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year
 22 by a foreign country as a credit on the federal income tax return or does not itemize personal de-
 23 ductions on the federal income tax return, there shall be subtracted from federal taxable income in
 24 the computation of state taxable income the amount of foreign income taxes imposed for the taxable
 25 year by a foreign country.

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

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

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

33 **SECTION 5.** The amendments to ORS 316.362, 316.687, 316.690 and 316.695 by sections 1
 34 to 4 of this 2011 Act apply to tax years beginning on or after January 1, 2012.

35 **SECTION 6.** This 2011 Act takes effect on the 91st day after the date on which the 2011
 36 session of the Seventy-sixth Legislative Assembly adjourns sine die.