76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

House Bill 3373

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.**

Decreases income tax rate for individuals with taxable income above $125,000 for tax years beginning on or after January 1, 2012. Establishes alternative minimum tax for personal income taxpayers.

Allows subtraction from federal taxable income for 50 percent of capital gains invested in trade or business if investment is maintained for at least 10 years.

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 taxation; creating new provisions; amending ORS 316.037; 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 [*but not*] [*over $125,000*]	$310 plus 9% of the excess over $5,000
[*Over $125,000*	*$11,110 plus 9.9%*]

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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[*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. Sections 3 and 4 of this 2011 Act are added to and made a part of ORS chapter 316.

SECTION 3. (1) Notwithstanding ORS 316.037, a taxpayer subject to the tax imposed under this chapter shall pay the greater of the tax computed under ORS 316.037 or a minimum tax as provided in this section. The minimum tax shall be computed by multiplying the taxpayer's modified adjusted gross income, with the adjustments provided in subsections (2) and (3) of this section, by ________ percent.

(2) The taxpayer may make any subtractions required under federal law or under the Oregon Constitution or the United States Constitution, including the subtractions allowed under ORS 316.054 and 316.680 (1)(a).

(3) The taxpayer may make the subtraction allowed under ORS 316.695 (1)(c)(A). If the federal adjusted gross income of the taxpayer for the tax year is $125,000 or more, the maximum amount allowed for a subtraction under ORS 316.695 (1)(c)(A) may not exceed the amount allowable under ORS 316.695 (1)(c)(A), 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 $137,500.

(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is $137,500 or more and less than $150,000.

(c) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is $150,000 or more and less than $167,500.

(d) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is $167,500 or more and less than $175,000.

(4) Notwithstanding the amount allowable under ORS 316.695 (1)(c)(A), if the federal adjusted gross income of the taxpayer is $175,000 or more for the tax year, an itemized deduction may not be claimed in the computation of the minimum tax under this section.

(5) For purposes of subsections (3) and (4) 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.

(6) For purposes of computing the minimum tax under this section, a taxpayer may not claim a credit against income tax otherwise allowable under this chapter or ORS chapter 315.

SECTION 4. (1) As used in this section, "invest" means to purchase, during a tax year, an ownership interest in a capital asset used in the taxpayer's trade or business.

(2) An amount equal to 50 percent of the amount invested in this state by the taxpayer shall be subtracted from federal income for Oregon tax purposes if the taxpayer has net long-term capital gain recognized by the taxpayer for federal tax purposes in an amount that equals or exceeds the investment. The subtraction under this section shall be allowed only if the taxpayer maintains an ownership share in the capital asset and in the trade or business that is equal to or greater than the share owned by the taxpayer in the tax year in which the subtraction is claimed, for at least 10 calendar years. If the taxpayer's ownership share is decreased or eliminated before the end of the 10-year period, the taxes otherwise due but for the subtraction under this section shall be immediately due and payable by the taxpayer.

(3) The Department of Revenue shall by rule establish criteria and procedures for verifying taxpayers' eligibility for the subtraction allowed under this section and for substantiating taxpayers' continued eligibility under subsection (2) of this section.

SECTION 5. Section 6 of this 2011 Act is added to and made a part of ORS chapter 317.

SECTION 6. (1) As used in this section, "invest" means to purchase, during a tax year, an ownership interest in a capital asset used in the taxpayer's trade or business.

(2) An amount equal to 50 percent of the amount invested in this state by the taxpayer shall be subtracted from federal income for Oregon tax purposes if the taxpayer has net long-term capital gain recognized by the taxpayer for federal tax purposes in an amount that equals or exceeds the investment. The subtraction under this section shall be allowed only if the taxpayer maintains an ownership share in the capital asset and in the trade or business that is equal to or greater than the share owned by the taxpayer in the tax year in which the subtraction is claimed, for at least 10 calendar years. If the taxpayer's ownership share is decreased or eliminated before the end of the 10-year period, the taxes otherwise due but for the subtraction under this section shall be immediately due and payable by the taxpayer.

(3) The Department of Revenue shall by rule establish criteria and procedures for verifying taxpayers' eligibility for the subtraction allowed under this section and for substanti-

ating taxpayers' continued eligibility under subsection (2) of this section.

SECTION 7. Sections 3, 4 and 6 of this 2011 Act and the amendments to ORS 316.037 by section 1 of this 2011 Act apply to tax years beginning on or after January 1, 2012.

SECTION 8. This 2011 Act takes effect on the 91st day after the date on which the 2011 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.