

# House Bill 3663

Sponsored by Representative BUCKLEY

## 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**.

Requires, for Oregon income tax purposes, addition to federal taxable income of home mortgage interest amounts that exceed \$15,000 for tax year. Creates subtraction from taxable income for net capital gain that is invested in certain businesses. 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

Relating to taxation; and prescribing an effective date.

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

**SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS chapter 316.**

**SECTION 2. If mortgage interest is taken as a deduction in computing federal taxable income for federal tax purposes, any amount of mortgage interest that exceeds \$15,000 for the tax year shall be added to federal taxable income in computing Oregon taxable income under this chapter.**

**SECTION 3. (1) As used in this section:**

**(a) "Invest" means to exchange cash for equity, debt, convertible debt or management responsibilities, accompanied by terms that substantiate ownership or control of an interest in a business. "Invest" does not mean to make a loan to a business.**

**(b) "Qualified business" means a sole proprietorship, partnership, company, cooperative, corporation or other form of business entity that is organized or authorized to do business under Oregon law for profit.**

**(c) "Qualified net capital gain" means net capital gain that is treated as net capital gain for federal tax purposes for the tax year, that is includable in taxable income in this state for the tax year and an amount equal to which is invested in a qualified business.**

**(2) There shall be subtracted from federal taxable income any qualified net capital gain, not to exceed \$\_\_\_\_\_, for the tax year if the following conditions are met:**

**(a) The investment occurs on or before the due date for the return for the tax year or the expiration of the extension period for filing that return, if any;**

**(b) The business operations of the qualified business have existed for at least 60 months; and**

**(c) The investment continues for at least 24 months.**

**(3) If at any time the Department of Revenue determines that a taxpayer is not in compliance with any of the provisions of this section, the department shall disallow the subtraction under this section. Upon this disallowance, the department shall determine the amount of tax due absent the subtraction under this section and immediately shall collect**

**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 any taxes due by reason of the disallowance.

2 (4) The Oregon Business Development Department, in consultation with the Department  
3 of Revenue, shall by rule establish criteria and policies for certifying net capital gain as  
4 qualified net capital gain under this section.

5 **SECTION 4.** Section 5 of this 2011 Act is added to and made a part of ORS chapter 317.

6 **SECTION 5.** (1) As used in this section:

7 (a) "Invest" means to exchange cash for equity, debt, convertible debt or management  
8 responsibilities, accompanied by terms that substantiate ownership or control of an interest  
9 in a business. "Invest" does not mean to make a loan to a business.

10 (b) "Qualified business" means a sole proprietorship, partnership, company, cooperative,  
11 corporation or other form of business entity that is organized or authorized to do business  
12 under Oregon law for profit.

13 (c) "Qualified net capital gain" means net capital gain that is treated as net capital gain  
14 for federal tax purposes for the tax year, that is includable in taxable income in this state  
15 for the tax year and an amount equal to which is invested in a qualified business.

16 (2) There shall be subtracted from federal taxable income any qualified net capital gain,  
17 not to exceed \$\_\_\_\_\_, for the tax year if the following conditions are met:

18 (a) The investment occurs on or before the due date for the return for the tax year or  
19 the expiration of the extension period for filing that return, if any;

20 (b) The business operations of the qualified business have existed for at least 60 months;  
21 and

22 (c) The investment continues for at least 24 months.

23 (3) If at any time the Department of Revenue determines that a taxpayer is not in com-  
24 pliance with any of the provisions of this section, the department shall disallow the sub-  
25 traction under this section. Upon this disallowance, the department shall determine the  
26 amount of tax due absent the subtraction under this section and immediately shall collect  
27 any taxes due by reason of the disallowance.

28 (4) The Oregon Business Development Department, in consultation with the Department  
29 of Revenue, shall by rule establish criteria and policies for certifying net capital gain as  
30 qualified net capital gain under this section.

31 **SECTION 6.** Sections 2, 3 and 5 of this 2011 Act apply to tax years beginning on or after  
32 January 1, 2011.

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

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