76th OREGON LEGISLATIVE ASSEMBLY--2012 Regular Session

House Bill 4088

Sponsored by Representative BUCKLEY; Representatives BARNHART, DEMBROW, KENY-GUYER (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.**

Modifies income tax treatment of elderly medical expense. Converts itemized deduction to subtraction from federal taxable income. Phases out amount of subtraction based on income. Increases age restriction over time.

Applies to tax years beginning on or after January 1, 2012.

Maintains increased tax rate for individuals with taxable income above $125,000 for tax years beginning on or after January 1, 2012, and before January 1, 2014.

Reduces salaries of members of Legislative Assembly, Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries and Superintendent of Public Instruction, for current biennium, by amount equal to five percent of amount of annual salary.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to state finance; creating new provisions; amending ORS 316.695 and section 7, chapter 746, Oregon Laws 2009; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS chapter 316.

SECTION 2. (1)(a) In addition to the other modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income the amount paid for medical care of the taxpayer and not compensated for by insurance or otherwise, if the taxpayer meets the age requirement for the tax year under subsection (2) of this section, not to exceed:

(A) $3,600 for a joint return if both spouses meet the age requirement for the tax year under subsection (2) of this section, with no more than $1,800 attributable to the medical care of either spouse;

(B) $1,800 for a joint return if only one spouse meets the age requirement for the tax year under subsection (2) of this section; or

(C) $1,800 for each individual filing a return who meets the age requirement for the tax year under subsection (2) of this section.

(b) The subtraction under this section may not include amounts that have previously been deducted in the calculation of Oregon taxable income.

(2) The subtraction under this section is available only if the taxpayer has attained the following age before the close of the taxable year:

(a) For taxable years beginning on or after January 1, 2012, and before January 1, 2013, a taxpayer must attain 63 years of age before the close of the taxable year.

(b) For taxable years beginning on or after January 1, 2013, and before January 1, 2014,

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.

a taxpayer must attain 64 years of age before the close of the taxable year.

(c) For taxable years beginning on or after January 1, 2014, and before January 1, 2015, a taxpayer must attain 65 years of age before the close of the taxable year.

(d) For taxable years beginning on or after January 1, 2015, a taxpayer must attain 66 years of age before the close of the taxable year.

(3) Notwithstanding the amount calculated under subsection (1) of this section, the maximum amount allowed for a subtraction under this section may not exceed the amount calculated under subsection (1) of this section 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 $135,000.

(b) 40 percent, if the federal adjusted gross income of the taxpayer for the tax year is $135,000 or more and less than $145,000.

(c) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is $145,000 or more and less than $155,000.

(d) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is $155,000 or more and less than $165,000.

(4) Notwithstanding the amount calculated under subsection (1) of this section, if the federal adjusted gross income of the taxpayer is $165,000 or more for the tax year, a subtraction may not be claimed under this section.

(5) For purposes of subsections (3) and (4) of this section, the amounts of the federal adjusted gross income of the taxpayer are doubled for a taxpayer who files a return jointly, as a head of household or as a surviving spouse.

SECTION 3. ORS 316.695 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.

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

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

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

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

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

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

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

(iii) As used in this subparagraph, "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.

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

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

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

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

(ii) A nonresident alien individual;

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

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

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

[*(A)*] **amount of** the taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code)**.**[*; and*]

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

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

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

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

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

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

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

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

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

(b) The limits applicable to this subsection are:

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

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

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

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

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

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

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

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

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

(B) The cost-of-living adjustment for a calendar year is the percentage 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 period beginning September 1, 2005, and ending August 31, 2006.

(C) As used in this paragraph, "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.

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

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

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

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

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

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

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

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

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

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

(A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's taxable year; and

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

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

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

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

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

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

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

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

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

SECTION 4. Section 2 of this 2012 Act and the amendments to ORS 316.695 by section 3 of this 2012 Act apply to tax years beginning on or after January 1, 2012.

SECTION 5. Section 7, chapter 746, Oregon Laws 2009, is amended to read:

Sec. 7. (1) The amendments to ORS 316.037 by section 1**, chapter 746, Oregon Laws 2009,** [*of this 2009 Act*] apply to tax years beginning on or after January 1, 2009, and before January 1, [*2012*] **2014**.

(2) The amendments to ORS 316.037 by section 2**, chapter 746, Oregon Laws 2009,** [*of this 2009 Act*] apply to tax years beginning on or after January 1, [*2012*] **2014**.

SECTION 6. Notwithstanding ORS 171.072 and 292.311, for the period beginning on the effective date of this 2012 Act and ending on June 30, 2013, the salaries of the members of the Legislative Assembly, the Governor, the Secretary of State, the State Treasurer, the Attorney General, the Commissioner of the Bureau of Labor and Industries and the Superintendent of Public Instruction are reduced by an amount equal to five percent of the amount of the annual salary otherwise due as provided by law.

SECTION 7. This 2012 Act takes effect on the 91st day after the date on which the 2012 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.