

D R A F T

SUMMARY

Limits, for purposes of personal income taxation, availability of itemized deductions for taxpayer with household income in excess of \$250,000.

Applies to tax years beginning on or after January 1, 2013.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to limits on itemized deductions; creating new provisions; amending
3 ORS 316.695; prescribing an effective date; and providing for revenue
4 raising that requires approval by a three-fifths majority.

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

5 **SECTION 1.** ORS 316.695 is amended to read:

6
7 316.695. (1) In addition to the modifications to federal taxable income
8 contained in this chapter, there shall be added to or subtracted from federal
9 taxable income:

10 (a) If, in computing federal income tax for a taxable year, the taxpayer
11 deducted itemized deductions, as defined in section 63(d) of the Internal
12 Revenue Code, the taxpayer shall add the amount of itemized deductions
13 deducted (the itemized deductions less an amount, if any, by which the
14 itemized deductions are reduced under section 68 of the Internal Revenue
15 Code).

16 (b) If, in computing federal income tax for a taxable year, the taxpayer
17 deducted the standard deduction, as defined in section 63(c) of the Internal
18 Revenue Code, the taxpayer shall add the amount of the standard deduction
19 deducted.

20 (c)(A) From federal taxable income there shall be subtracted the larger

1 of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except
2 as provided in subsection (8) of this section, for purposes of this subpara-
3 graph, "standard deduction" means the sum of the basic standard deduction
4 and the additional standard deduction.

5 (B) For purposes of subparagraph (A) of this paragraph, the basic stand-
6 ard deduction is:

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

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

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

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

13 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years
14 beginning on or after January 1, 2003, the Department of Revenue shall an-
15 nually recompute the basic standard deduction for each category of return
16 filer listed under subparagraph (B) of this paragraph. The basic standard
17 deduction shall be computed by dividing the monthly averaged U.S. City
18 Average Consumer Price Index for the 12 consecutive months ending August
19 31 of the prior calendar year by the average U.S. City Average Consumer
20 Price Index for the second quarter of 2002, then multiplying that quotient
21 by the amount listed under subparagraph (B) of this paragraph for each
22 category of return filer.

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

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

30 (D) For purposes of subparagraph (A) of this paragraph, the additional
31 standard deduction is the sum of each additional amount to which the tax-

1 payer is entitled under subsection (7) of this section.

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

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

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

9 (ii) A nonresident alien individual;

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

12 (iv) An estate or trust;

13 (v) A common trust fund; or

14 (vi) A partnership.

15 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s
16 itemized deductions *[are]* **shall be limited as provided in paragraph (e)**
17 **of this subsection and shall be** the sum of:

18 (A) The taxpayer’s itemized deductions as defined in section 63(d) of the
19 Internal Revenue Code (reduced, if applicable, as described under section 68
20 of the Internal Revenue Code) minus the deduction for Oregon income tax
21 (reduced, if applicable, by the proportion that the reduction in federal item-
22 ized deductions resulting from section 68 of the Internal Revenue Code bears
23 to the amount of federal itemized deductions as defined for purposes of sec-
24 tion 68 of the Internal Revenue Code); and

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

31 (i) For taxable years beginning on or after January 1, 1991, and before

1 January 1, 1993, a taxpayer must attain 58 years of age before the close of
2 the taxable year.

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

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

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

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

14 **(e) If for the tax year a taxpayer has household income, as defined**
15 **in ORS 310.630, in excess of \$250,000, the taxpayer's itemized deductions**
16 **as computed under paragraph (d) of this subsection may not exceed**
17 **the following:**

18 **(A) \$25,000, in the case of joint return filers or a surviving spouse;**

19 **(B) \$20,000, in the case of a head of household; or**

20 **(C) \$12,500, in the case of a taxpayer filing an individual return.**

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

28 (b) Interest or other earnings on any excess contributions of a pension,
29 profit-sharing, stock bonus or other retirement plan not permitted to be de-
30 ducted under paragraph (a) of this subsection shall not be added to federal
31 taxable income in the year earned by the plan and shall not be subtracted

1 from federal taxable income in the year received by the taxpayer.

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

8 (b) The limits applicable to this subsection are:

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

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

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

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

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

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

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

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

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

8 (B) The cost-of-living adjustment for a calendar year is the percentage by
9 which the monthly averaged U.S. City Average Consumer Price Index for the
10 12 consecutive months ending August 31 of the prior calendar year exceeds
11 the monthly averaged index for the period beginning September 1, 2005, and
12 ending August 31, 2006.

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

17 (D) If any adjustment determined under subparagraph (B) of this para-
18 graph is not a multiple of \$50, the adjustment shall be rounded to the next
19 lower multiple of \$50.

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

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

27 (b) In the case of a husband and wife filing separate tax returns, the
28 amount added under this subsection shall be computed in a manner consist-
29 ent with the computation of the amount to be added in the case of a husband
30 and wife filing separate returns under subsection (3) of this section. The
31 method of computation shall be determined by the Department of Revenue

1 by rule.

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

5 (6)(a) For tax years beginning on or after January 1, 1981, and prior to
6 January 1, 1983, income or loss taken into account in determining federal
7 taxable income by a shareholder of an S corporation pursuant to sections
8 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of
9 determining Oregon taxable income, to the extent that as income or loss of
10 the S corporation, they were required to be adjusted under the provisions
11 of ORS chapter 317.

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

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

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

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

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

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

31 (b) The taxpayer shall be entitled to an additional amount, as referred to

1 in subsection (1)(c)(A) and (D) of this section, of \$1,000:

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

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

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

13 (d) For purposes of this subsection, an individual is blind only if the
14 individual's central visual acuity does not exceed 20/200 in the better eye
15 with correcting lenses, or if the individual's visual acuity is greater than
16 20/200 but is accompanied by a limitation in the fields of vision such that
17 the widest diameter of the visual field subtends an angle no greater than 20
18 degrees.

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

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

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

29 **SECTION 2. The amendments to ORS 316.695 by section 1 of this**
30 **2013 Act apply to tax years beginning on or after January 1, 2013.**

31 **SECTION 3. This 2013 Act takes effect on the 91st day after the date**

1 **on which the 2013 regular session of the Seventy-seventh Legislative**
2 **Assembly adjourns sine die.**

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