

# House Bill 3365

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**.

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 ORS 316.695; prescrib-  
3 ing an effective date; and providing for revenue raising that requires approval by a three-fifths  
4 majority.

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

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

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

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

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

16 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's  
17 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,  
18 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-  
19 duction and the additional standard deduction.

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

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

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

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

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

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

**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 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-  
2 tient by the amount listed under subparagraph (B) of this paragraph for each category of return  
3 filer.

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

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

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

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

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

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

17 (ii) A nonresident alien individual;

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

20 (iv) An estate or trust;

21 (v) A common trust fund; or

22 (vi) A partnership.

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

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

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

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

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

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

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

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

45 **(e) If for the tax year a taxpayer has household income, as defined in ORS 310.630, in**

1 **excess of \$250,000, the taxpayer's itemized deductions as computed under paragraph (d) of**  
 2 **this subsection may not exceed the following:**

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

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

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

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)  
 18 to (d) of this subsection, accrued by the taxpayer during the taxable year as described in ORS  
 19 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit  
 20 was 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  
 25 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
 26 \$260,000.

27 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
 28 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
 29 \$270,000.

30 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
 31 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
 32 \$280,000.

33 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
 34 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
 35 \$290,000.

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

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

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

45 (f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue

1 shall make a cost-of-living adjustment to the federal income tax threshold amounts described in  
2 paragraphs (b) and (d) of this subsection.

3 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
4 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
5 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
6 1, 2005, and ending August 31, 2006.

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

10 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
11 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

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

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

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

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

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

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

45 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)

1 and (D) of this section, of \$1,000:

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

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

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

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

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

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

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

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

24 **SECTION 3. This 2013 Act takes effect on the 91st day after the date on which the 2013**  
25 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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