

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**.

For purposes of personal income taxation, disallows use of itemized deductions and increases amount of standard deduction.

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 income tax deductions; creating new provisions; amending ORS 316.117, 316.130 and
3 316.695; prescribing an effective date; and providing for revenue raising that requires approval
4 by a three-fifths 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~~] **\$15,000**, in the case of joint return filers or a surviving spouse;

22 (ii) [~~\$1,640~~] **\$7,500**, in the case of an individual who is not a married individual and is not a
23 surviving spouse;

24 (iii) [~~\$1,640~~] **\$7,500**, in the case of a married individual who files a separate return; or

25 (iv) [~~\$2,640~~] **\$12,000**, 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~~] **2015**, the Department of Revenue shall annually recompute the basic standard de-
28 duction for each category of return filer listed under subparagraph (B) of this paragraph. The basic
29 standard deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer
30 Price Index for the 12 consecutive months ending August 31 of the prior calendar year by the av-

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 erage U.S. City Average Consumer Price Index for the second quarter of [2002] **2014**, then multi-
 2 plying that quotient by the amount listed under subparagraph (B) of this paragraph for each
 3 category of return 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) (i) A nonresident alien individual;

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

20 [(iv) (iii) An estate or trust;

21 [(v) (iv) A common trust fund; or

22 [(vi) (v) A partnership.

23 [(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions are
 24 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 Code,
 31 not to exceed seven and one-half percent of the federal adjusted gross income of the taxpayer, if the
 32 taxpayer has attained the following age before the close of the taxable year, or, in the case of a joint
 33 return, if either taxpayer has attained the following age before the close of the taxable year:]

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

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

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

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

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

44 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of
 45 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-

1 butions which were taxed by the State of Oregon but not taxed by the federal government under
2 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which
3 the amount that was contributed to the plan under the Internal Revenue Code was greater than the
4 amount allowed under this chapter.

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

9 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable
10 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)
11 to (d) of this subsection, accrued by the taxpayer during the taxable year as described in ORS
12 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit
13 was received.

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

15 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
16 \$125,000, or, if reported on a joint return, less than \$250,000.

17 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
18 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
19 \$260,000.

20 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
21 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
22 \$270,000.

23 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
24 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
25 \$280,000.

26 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
27 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
28 \$290,000.

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

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

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

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

41 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
42 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
43 of the prior calendar year exceeds the monthly averaged index for the period beginning September
44 1, 2005, and ending August 31, 2006.

45 (C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City

1 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
2 Labor Statistics of the United States Department of Labor.

3 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
4 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **SECTION 2.** ORS 316.117 is amended to read:

16 316.117. (1) Except as provided under subsection (2) of this section, the proportion for making
17 a proration for nonresident taxpayers of the standard deduction [*or itemized deductions*], the per-
18 sonal exemption credits and any accrued federal or foreign income taxes, or for part-year resident
19 taxpayers of the amount of the tax, between Oregon source income and income from all other
20 sources is the federal adjusted gross income of the taxpayer from Oregon sources divided by the
21 taxpayer’s federal adjusted gross income from all sources. If the numerator of the fraction described
22 in this subsection is greater than the denominator, the proportion of 100 percent shall be used in
23 the proration required by this section. As used in this subsection, “federal adjusted gross income”
24 means the federal adjusted gross income of the taxpayer with the additions, subtractions and other
25 modifications to federal taxable income that relate to adjusted gross income for personal income tax
26 purposes.

27 (2) For part-year resident trusts, the proration made under this section shall be made by refer-
28 ence to the taxable income of the fiduciary.

29 **SECTION 3.** ORS 316.130 is amended to read:

30 316.130. (1) The taxable income for a full-year nonresident individual is adjusted gross income
31 attributable to sources within this state determined under ORS 316.127, with the modifications (ex-
32 cept those provided under subsection (2) of this section) as otherwise provided under this chapter
33 and other laws of this state applicable to personal income taxation, less the deductions allowed un-
34 der subsection (2) of this section.

35 (2)(a) A full-year nonresident individual shall be allowed the deduction for a standard deduction
36 [*or itemized deductions*] allowable to a resident under ORS 316.695 (1) in the proportion provided in
37 ORS 316.117.

38 (b) A full-year nonresident individual shall be allowed to deduct the amount of any accrued
39 federal income taxes and foreign country income taxes as provided in ORS 316.690 in the proportion
40 provided in ORS 316.117.

41 (c)(A) A full-year nonresident individual shall be allowed to deduct the amount of any alimony
42 or separate maintenance payments paid during such individual’s taxable year in the proportion
43 provided in ORS 316.117 except that in determining the proportion the taxpayer’s adjusted gross
44 income shall not include a deduction for alimony. For purposes of this paragraph, “alimony or sep-
45 arate maintenance payment” has the meaning given the phrase in section 215 of the Internal Re-

1 venue Code.

2 (B) No deduction shall be allowed under this paragraph if the alimony or separate maintenance
 3 payment is not includable in the gross income of the nonresident individual for federal income tax
 4 purposes under section 682 of the Internal Revenue Code.

5 (3)(a) A full-year nonresident who is a self-employed individual shall be allowed to deduct that
 6 individual's contributions to a qualified plan, deductible on that individual's federal income tax re-
 7 turn pursuant to section 401 of the Internal Revenue Code, in the proportion that the individual's
 8 earned income from Oregon sources bears to the individual's earned income from all sources.
 9 "Earned income" has the meaning given in section 401(c)(2) of the Internal Revenue Code. If the
 10 numerator of the fraction described in this paragraph is greater than the denominator, the proration
 11 of 100 percent shall be used.

12 (b) A full-year nonresident shall be allowed to deduct that individual's qualified retirement con-
 13 tributions, deductible on that individual's federal income tax return pursuant to section 219 of the
 14 Internal Revenue Code, in the proportion that the individual's compensation from Oregon sources
 15 bears to the individual's compensation from all sources. "Compensation" has the meaning given in
 16 section 219(f)(1) of the Internal Revenue Code.

17 (c) A full-year nonresident individual shall be allowed to deduct the aggregate amounts paid in
 18 cash to a medical savings account, deductible on the individual's federal income tax return pursuant
 19 to section 220 of the Internal Revenue Code, in the proportion that the individual's compensation
 20 from Oregon sources bears to the individual's compensation from all sources. Distributions from a
 21 medical savings account, if excluded from income for federal income tax purposes, shall be excluded
 22 for Oregon income tax purposes. Distributions from a medical savings account, if included in income
 23 for federal tax purposes, shall be included in income for Oregon tax purposes to the extent that an
 24 exclusion has been allowed for contributions to the medical savings account for Oregon tax purposes
 25 in a previous year.

26 **SECTION 4. The amendments to ORS 316.117, 316.130 and 316.695 by sections 1 to 3 of this**
 27 **2013 Act apply to tax years beginning on or after January 1, 2013.**

28 **SECTION 5. This 2013 Act takes effect on the 91st day after the date on which the 2013**
 29 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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