

House Bill 2139

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim 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**.

Directs Department of Revenue to calculate net federal itemized deduction ratio averaged over five consecutive biennia ending June 30, 2011. Directs department, for each biennium, to state percentage that, when multiplied by aggregate net federal itemized deductions that all personal income taxpayers would otherwise be entitled to claim, department projects to result in unchanged net federal itemized deduction ratio for biennium. Provides that itemized deductions otherwise allowed to personal income taxpayer shall be reduced by calculated multiplier.

Applies to biennia beginning on or after July 1, 2015, and to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use of federal itemized deductions; creating new provisions; amending ORS 316.695; and
3 prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of ORS**
6 **chapter 305.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Net federal itemized deduction ratio" means the ratio of net federal itemized de-
9 ductions to adjusted gross income, for all personal income taxpayers in this state, for a given
10 time period.

11 (b) "Net federal itemized deductions" means itemized deductions as claimed by all tax-
12 payers in this state under ORS 316.695(1)(c)(A) and (d).

13 (2) The Department of Revenue shall calculate the net federal itemized deduction ratio
14 averaged over the five consecutive biennia ending June 30, 2011.

15 (3) For each biennium beginning on or after July 1, 2015, the department shall, before the
16 end of the preceding biennium:

17 (a) Estimate the projected net federal itemized deduction ratio, absent the limitation re-
18 quired by ORS 316.695(1)(e), for the biennium; and

19 (b) If the projected ratio estimated in paragraph (a) of this subsection is greater than the
20 ratio calculated in subsection (2) of this section, state the percentage that, when multiplied
21 by the aggregate net federal itemized deductions that all taxpayers would otherwise be enti-
22 tled to claim, the department projects would result in a net federal itemized deduction ratio
23 for the biennium that is unchanged from that calculated in subsection (2) of this section.

24 (4) The department shall establish by rule procedures that a taxpayer shall follow to re-
25 duce the taxpayer's claimed itemized deductions by multiplying a taxpayer's itemized de-
26 ductions that would otherwise be allowed by the percentage established in subsection (3) of
27 this section, in accordance with ORS 316.695(1)(e).

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 **SECTION 3. Notwithstanding section 2 (3) of this 2015 Act, not later than January 1, 2016,**
 2 **the Department of Revenue shall:**

3 **(1) Calculate the net federal itemized deduction ratio as provided in section 2 (2) of this**
 4 **2015 Act; and**

5 **(2) For the biennium beginning July 1, 2015, estimate the projected net federal itemized**
 6 **deduction ratio, as provided in section 2 (3)(a) of this 2015 Act and, if indicated, state the**
 7 **percentage as provided in section 2 (3)(b) of this 2015 Act that is applicable for the biennium.**

8 **SECTION 4.** ORS 316.695 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this

1 paragraph shall be zero:

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

4 (ii) A nonresident alien individual;

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

7 (iv) An estate or trust;

8 (v) A common trust fund; or

9 (vi) A partnership.

10 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions
 11 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-
 12 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
 13 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-
 14 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears
 15 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal
 16 Revenue Code).

17 **(e) Notwithstanding paragraph (d) of this subsection, the itemized deductions allowed a**
 18 **taxpayer shall be reduced by multiplying the amount otherwise allowable by any percentage**
 19 **calculated in section 2 (3) of this 2015 Act. There shall be subtracted the larger of this re-**
 20 **duced amount or a standard deduction.**

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

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

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

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

37 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
 38 \$125,000, or, if reported on a joint return, less than \$250,000.

39 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
 40 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
 41 \$260,000.

42 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
 43 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
 44 \$270,000.

45 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or

1 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
2 \$280,000.

3 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
4 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
5 \$290,000.

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

9 (d) In the case of a husband and wife filing separate tax returns, the amount added shall be in
10 the amount of any federal income taxes in excess of 50 percent of the amount provided for individual
11 taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of federal
12 taxes previously accrued for which a tax benefit was received.

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

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

18 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
19 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
20 of the prior calendar year exceeds the monthly averaged index for the period beginning September
21 1, 2005, and ending August 31, 2006.

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

25 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
26 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

44 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken
45 into account in determining federal taxable income by a shareholder of an S corporation pursuant

1 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining
 2 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder
 3 the items are required to be adjusted under the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **SECTION 5. (1) Sections 2 and 3 of this 2015 Act apply to biennia beginning on or after**
 38 **July 1, 2015, and to tax years beginning on or after January 1, 2016.**

39 **(2) The amendments ORS 316.695 by section 4 of this 2015 Act apply to tax years begin-**
 40 **ning on or after January 1, 2016.**

41 **SECTION 6. This 2015 Act takes effect on the 91st day after the date on which the 2015**
 42 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**