

House Bill 2767

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, phases out availability of itemized deductions, other than charitable contribution deductions, for taxpayer with federal adjusted gross income of \$125,000 or more for single return, or \$250,000 or more for joint return. Transfers amount equal to estimated increase in revenue attributable to restrictions on allowance of itemized deductions to Home Ownership Assistance Account in Oregon Housing Fund.

Applies to tax years beginning on or after January 1, 2017.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to restrictions on 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.** ORS 316.695 is amended to read:

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

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

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

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

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

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

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

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

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

25 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after
26 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction
27 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard
28 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price

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 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average
 2 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-
 3 tient by the amount listed under subparagraph (B) of this paragraph for each category of return
 4 filer.

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

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

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

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

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

16 (i) One of the spouses in a marriage filing a separate return where the other spouse has claimed
 17 itemized deductions under subparagraph (A) of this paragraph;

18 (ii) A nonresident alien individual;

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

21 (iv) An estate or trust;

22 (v) A common trust fund; or

23 (vi) A partnership.

24 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions
 25 *[are the amount of]* **shall be reduced as provided in paragraph (e) of this subsection and shall**
 26 **be calculated from a starting point of** the taxpayer's itemized deductions as defined in section
 27 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the
 28 Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the
 29 proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal
 30 Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section
 31 68 of the Internal Revenue Code).

32 **(e)(A) If, for the tax year, a taxpayer has federal adjusted gross income in excess of the**
 33 **applicable limits provided in subparagraph (B) of this paragraph, the amount of itemized de-**
 34 **ductions otherwise allowable under paragraph (c)(A) of this subsection shall be reduced by**
 35 **18 percent of the excess of adjusted gross income over the applicable limit. The reduction in**
 36 **this paragraph does not apply to any deduction for charitable contributions under section 170**
 37 **of the Internal Revenue Code.**

38 **(B) The applicable limits are \$250,000, for joint return filers, a surviving spouse or a head**
 39 **of household, or \$125,000, for an individual who is not a married individual and is not a sur-**
 40 **living spouse, or is a married individual who files a separate return.**

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

1 amount allowed under this chapter.

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

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

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

12 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
13 \$125,000, or, if reported on a joint return, less than \$250,000.

14 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
15 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
16 \$260,000.

17 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
18 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
19 \$270,000.

20 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
21 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
22 \$280,000.

23 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
24 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
25 \$290,000.

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

29 (d) In the case of spouses in a marriage filing separate tax returns, the amount added shall be
30 in the amount of any federal income taxes in excess of 50 percent of the amount provided for indi-
31 vidual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of
32 federal taxes previously accrued for which a tax benefit was received.

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

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

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

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

45 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of

1 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

8 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this
9 subsection shall be computed in a manner consistent with the computation of the amount to be
10 added in the case of spouses in a marriage filing separate returns under subsection (3) of this sec-
11 tion. The method of computation shall be determined by the Department of Revenue by rule.

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

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

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

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

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

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

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

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

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

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

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

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

45 (d) For purposes of this subsection, an individual is blind only if the individual's central visual

1 acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual
2 acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the
3 widest diameter of the visual field subtends an angle no greater than 20 degrees.

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

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

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

12 **SECTION 2. On or before July 1 of each year, beginning with July 1, 2018, the Department**
13 **of Revenue shall:**

14 (1) **For tax years beginning on or after January 1 of the preceding year and ending before**
15 **January 1 of the current year, estimate the amount of increase of personal income tax re-**
16 **venue received by the department that is attributable to the amendments to ORS 316.695 by**
17 **section 1 of this 2017 Act; and**

18 (2) **Transfer an amount equal to the estimate required under subsection (1) of this sec-**
19 **tion to the Home Ownership Assistance Account in the Oregon Housing Fund created under**
20 **ORS 458.620.**

21 **SECTION 3. Section 2 of this 2017 Act and the amendments to ORS 316.695 by section 1**
22 **of this 2017 Act apply to tax years beginning on or after January 1, 2017.**

23 **SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017**
24 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**