

Senate Bill 852

Sponsored by Senator JAMA, Representatives PHAM, FAHEY

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**.

Disallows, for purposes of personal income taxation, mortgage interest deduction for residence other than taxpayer's principal residence, unless taxpayer sells residence or actively markets residence for sale. Phases out allowable deduction for interest for principal residence based upon income. Disallows deduction for principal residence above threshold income amount.

Establishes Oregon Housing Opportunity Account. Transfers amount equal to estimated increase in revenue attributable to restrictions on deduction of mortgage interest to account.

Applies to tax years beginning on or after January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of mortgage interest; 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 the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-
26 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
27 minus:

28 (A) The deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-
29 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears
30 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal
31 Revenue Code)[.];

32 (B) **Any portion of the deduction for qualified residence interest paid or accrued on**
33 **indebtedness with respect to a qualified residence other than the taxpayer's principal resi-**
34 **dence; and**

35 (C)(i) **A portion of the deduction for qualified residence interest paid or accrued on**
36 **indebtedness with respect to the taxpayer's principal residence, as computed in paragraph**
37 **(e) of this subsection, if a taxpayer has federal adjusted gross income in excess of \$200,000,**
38 **but not in excess of \$250,000; or**

39 (ii) **If a taxpayer has federal adjusted gross income in excess of \$250,000, any portion of**
40 **the deduction for qualified residence interest paid or accrued on indebtedness with respect**
41 **to a qualified residence that is the taxpayer's principal residence.**

42 (e) **The amount by which the deduction for qualified residence interest paid or accrued**
43 **on indebtedness with respect to the taxpayer's principal residence shall be reduced is com-**
44 **puted by multiplying the deduction by a percentage. The percentage is computed by dividing**
45 **the amount by which the taxpayer's adjusted gross income exceeds \$200,000 by \$50,000.**

1 **(f) Notwithstanding paragraph (d)(B) of this subsection, a deduction for qualified resi-**
2 **dence interest paid or accrued on indebtedness with respect to a qualified residence other**
3 **than the taxpayer's principal residence is included in the taxpayer's itemized deduction if:**

4 **(A) The qualified residence that is not the taxpayer's current principal residence was the**
5 **taxpayer's principal residence during the tax year or during the period three months prior**
6 **to the start of the tax year; and**

7 **(B) The taxpayer sold a qualified residence during the tax year or was actively marketing**
8 **a qualified residence at the close of the tax year.**

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

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

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

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

25 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
26 \$125,000, or, if reported on a joint return, less than \$250,000.

27 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
28 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
29 \$260,000.

30 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
31 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
32 \$270,000.

33 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
34 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
35 \$280,000.

36 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
37 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
38 \$290,000.

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

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

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

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

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

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

13 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
14 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

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

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

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

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

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

45 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax

1 year and an additional exemption is allowable to the taxpayer for such spouse for federal income
2 tax purposes under section 151(b) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

25 **SECTION 2. On or before December 31 of each year, beginning with December 31, 2023,**
26 **the Department of Revenue shall:**

27 (1) **For tax years beginning on or after January 1 of the preceding year and ending before**
28 **January 1 of the current year, estimate the increase, if any, in the amount of personal in-**
29 **come tax revenue received by the department that is attributable to the amendments to ORS**
30 **316.695 by section 1 of this 2021 Act; and**

31 (2) **Transfer an amount equal to the estimate required under subsection (1) of this sec-**
32 **tion to the Oregon Housing Fund created under ORS 458.620, to be credited to the Oregon**
33 **Housing Opportunity Account established in section 4 of this 2021 Act.**

34 **SECTION 3. Sections 4 and 5 of this 2021 Act are added to and made a part of ORS**
35 **chapter 458.**

36 **SECTION 4. The Oregon Housing Opportunity Account is established in the State**
37 **Treasury, separate and distinct from the General Fund. Moneys in the Oregon Housing Op-**
38 **portunity Account are continuously appropriated to the Housing and Community Services**
39 **Department to carry out the purposes of section 5 of this 2021 Act.**

40 **SECTION 5. (1) The Oregon Housing Opportunity Account shall be administered by the**
41 **Housing and Community Services Department to fund programs that promote affordable**
42 **home ownership and prevent homelessness.**

43 (2) **The Oregon Housing Stability Council shall develop policies to distribute moneys from**
44 **the Oregon Housing Opportunity Account to programs that promote affordable home own-**
45 **ership. The programs shall particularly promote affordable home ownership among racial**

1 groups with demonstrated lower rates of home ownership and among populations typically
2 lacking access to housing that conforms to provisions of the Americans with Disabilities Act
3 of 1990 (42 U.S.C. 12101 et seq.). The programs may include:

4 (a) Loans that create new affordable options for aspiring homeowners;

5 (b) Contributions to individual development accounts;

6 (c) Down payment assistance;

7 (d) Land acquisition to help nonprofit corporations and housing authorities acquire land
8 for future development of affordable homes;

9 (e) Critical health and safety home repairs, weatherization, and seismic upgrades for
10 homeowners with low and moderate incomes, particularly veterans, people with disabilities
11 and seniors aging in place, living in site-built manufactured homes;

12 (f) Grants or loans to replace aging and unhealthy manufactured homes and manufac-
13 tured home park infrastructure;

14 (g) Loans to low and moderate income homeowners to build accessory dwelling units for
15 affordable long term rentals in communities with rental vacancies under 3 percent;

16 (h) Foreclosure counseling; and

17 (i) Capacity building, technical assistance and training, particularly to address the needs
18 of rural communities and address racial disparities in home ownership.

19 (3) The Oregon Housing Stability Council shall develop policies to distribute moneys from
20 the Oregon Housing Opportunity Account to programs that prevent homelessness including:

21 (a) Rental assistance vouchers and case management for the recipients of rental assist-
22 ance vouchers;

23 (b) Long term services and other forms of support for permanent supportive housing for
24 families;

25 (c) Mobile housing team pilot programs;

26 (d) Single room occupancy style housing for youth aging out of the foster care system
27 and other services for youth aging out of the foster care system;

28 (e) Rental assistance, flexible use funds and case management for families seeking safety
29 from violence; and

30 (f) Support for families seeking family reunification, including short term rental assist-
31 ance and case management, after an action taken by the Department of Human Services
32 relating to child welfare.

33 (4) Programs supported under subsection (3) of this section shall prioritize providing
34 services to racial groups disproportionately represented in the homeless population, domestic
35 violence survivors, families seeking reunification after involvement with child welfare ser-
36 vices, former foster children, unaccompanied homeless youth, elderly persons and people
37 with disabilities.

38 SECTION 6. The amendments to ORS 316.695 by section 1 of this 2021 Act apply to tax
39 years beginning on or after January 1, 2022.

40 SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021
41 regular session of the Eighty-first Legislative Assembly adjourns sine die.
42