

# House Bill 2120

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**.

Limits, for purposes of personal income taxation, availability of itemized deductions.

Applies to tax years beginning on or after January 1, 2020.

Increases percentage of federal earned income credit allowable as credit against Oregon personal income tax.

Applies to tax years beginning on or after January 1, 2020, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to personal income taxation; creating new provisions; amending ORS 315.266 and 316.695  
3 and section 6, chapter 880, Oregon Laws 2007; and 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, **reduced as provided in paragraph (d) of this subsection**, or (ii) a standard  
17 deduction. Except as provided in subsection (8) of this section, for purposes of this subparagraph,  
18 "standard deduction" means the sum of the basic standard deduction and the additional standard  
19 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

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

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

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

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

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

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

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

19 (ii) A nonresident alien individual;

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

22 (iv) An estate or trust;

23 (v) A common trust fund; or

24 (vi) A partnership.

25 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions  
26 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-  
27 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)  
28 minus 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), **but may not exceed 95 percent of the amount allowed on the taxpayer's fed-  
32 eral income tax return.**

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

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

43 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable  
44 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)  
45 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,

1 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-  
2 ceived.

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

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

6 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or  
7 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
8 \$260,000.

9 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
10 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
11 \$270,000.

12 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
13 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
14 \$280,000.

15 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
16 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
17 \$290,000.

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

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

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

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

30 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
31 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
32 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
33 1, 2005, and ending August 31, 2006.

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

37 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
38 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

45 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this

1 subsection shall be computed in a manner consistent with the computation of the amount to be  
2 added in the case of spouses in a marriage filing separate returns under subsection (3) of this sec-  
3 tion. The method of computation shall be determined by the Department of Revenue by rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **SECTION 2.** ORS 315.266 is amended to read:

5 315.266. (1)[(a)] In addition to any other credit available for purposes of ORS chapter 316, an  
 6 eligible resident individual shall be allowed a credit against the tax otherwise due under ORS  
 7 chapter 316 for the tax year in an amount equal to *[eight]* **16** percent of the earned income credit  
 8 allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

9 *[(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the  
 10 age of three at the close of the tax year, the credit allowed under this section shall be in an amount  
 11 equal to 11 percent of the earned income credit allowable to the individual for the same tax year under  
 12 section 32 of the Internal Revenue Code.]*

13 (2) An eligible nonresident individual shall be allowed the credit computed in the same manner  
 14 and subject to the same limitations as the credit allowed a resident by subsection (1) of this section.  
 15 However, the credit shall be prorated using the proportion provided in ORS 316.117.

16 (3) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 17 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 18 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

19 (4) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 20 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 21 ORS 316.117.

22 (5) If the amount allowable as a credit under this section, when added to the sum of the amounts  
 23 allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts and other  
 24 refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year  
 25 after application of any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax  
 26 year, the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

27 (6) The Department of Revenue may adopt rules for purposes of this section, including but not  
 28 limited to rules relating to proof of eligibility and the furnishing of information regarding the federal  
 29 earned income credit claimed by the taxpayer for the tax year.

30 (7) Refunds attributable to the earned income credit allowed under this section do not bear in-  
 31 terest.

32 **SECTION 3.** Section 6, chapter 880, Oregon Laws 2007, as amended by section 1, chapter 750,  
 33 Oregon Laws 2013, is amended to read:

34 **Sec. 6.** ORS 315.266 applies to tax years beginning before January 1, *[2020]* **2026**.

35 **SECTION 4.** (1) **The amendments to ORS 316.695 by section 1 of this 2019 Act apply to tax**  
 36 **years beginning on or after January 1, 2020.**

37 (2) **The amendments to ORS 315.266 by section 1 of this 2019 Act apply to tax years be-**  
 38 **ginning on or after January 1, 2020, and before January 1, 2026.**

39 **SECTION 5.** **This 2019 Act takes effect on the 91st day after the date on which the 2019**  
 40 **regular session of the Eightieth Legislative Assembly adjourns sine die.**