

House Bill 2838

Sponsored by Representatives PHAM, FAHEY, Senator GOLDEN; Senator DEMBROW (at the request of former Representative Alissa Keny-Guyer) (Presession filed.)

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. Applies to tax years beginning on or after January 1, 2021.

Establishes credit against personal income taxes for mortgage interest. Applies to tax years beginning on or after January 1, 2021, and before January 1, 2028.

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 316.502 and
3 316.695; 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 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
29 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average

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 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-
2 tient by the amount listed under subparagraph (B) of this paragraph for each category of return
3 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 meanings 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) One of the spouses in a marriage filing a separate return where the other spouse has claimed
16 itemized deductions under subparagraph (A) of this paragraph;

17 (ii) A nonresident alien individual;

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

20 (iv) An estate or trust;

21 (v) A common trust fund; or

22 (vi) A partnership.

23 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions
24 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-
25 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
26 minus:

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

31 **(B) The deduction for qualified residence interest.**

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

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

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

1 ceived.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this
45 subsection shall be computed in a manner consistent with the computation of the amount to be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for

1 federal income tax purposes for the tax year for which the deduction is being claimed; or

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

3 **SECTION 2. Section 3 of this 2021 Act is added to and made a part of ORS chapter 315.**

4 **SECTION 3. (1) There is allowed a credit against the taxes that are otherwise due under**
 5 **ORS chapter 316, in an amount equal to the qualified residence interest paid or incurred**
 6 **during the tax year by the taxpayer, if the taxpayer has federal adjusted gross income less**
 7 **than \$100,000 or, if reported on a joint return, less than \$200,000.**

8 (2) If the amount allowable as a credit under this section, when added to the sum of the
 9 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment
 10 amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters
 11 314 and 316 for the tax year after application of any nonrefundable credits allowable for
 12 purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to
 13 the taxpayer as provided in ORS 316.502.

14 (3) In the case of a credit allowed under this section:

15 (a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

16 (b) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 17 ident to resident occurs, the credit shall be determined in a manner consistent with ORS
 18 316.117.

19 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 20 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
 21 credit shall be prorated or computed in a manner consistent with ORS 314.085.

22 **SECTION 4.** ORS 316.502 is amended to read:

23 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
 24 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held
 25 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation
 26 of the State of Oregon lawfully incurred.

27 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
 28 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
 29 exceed the sum of \$1 million.

30 (3) Moneys are continuously appropriated to the Department of Revenue to make:

31 (a) The refunds authorized under subsection (2) of this section; and

32 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264
 33 and 315.266 and section 17, chapter 906, Oregon Laws 2007 **and section 3 of this 2021 Act.**

34 **SECTION 5. (1) The amendments to ORS 316.695 by section 1 of this 2021 Act apply to tax**
 35 **years beginning on or after January 1, 2021.**

36 (2) **Section 3 of this 2021 Act applies to tax years beginning on or after January 1, 2021,**
 37 **and before January 1, 2028.**

38 **SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021**
 39 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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