SB 211 -1 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 2/19

WHAT THE MEASURE DOES:
For purposes of income eligible for elective reduced personal income tax rates available to certain income of pass-through entities and sole proprietorships, lowers applicability of 9.9 percent tax rate bracket to income exceeding $415,000. Specifies qualifying income does not include income in excess of $415,000 for joint filers, head household or surviving spouse filers, or $207,500 for all other taxpayers. Limits elective reduced rate applicability to a taxpayer that is eligible to claim a deduction on the taxpayer's federal income tax return under section 199A(a) of the Internal Revenue Code for qualifying income. Applies changes to tax years beginning on or after January 1, 2019.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:
-1 Specifies that qualifying income does not include income that is attributable to: a specified service trade or business as defined in section 199A(d)(2) of the Internal Revenue Code, or the trade or business of performing services as an employee, for the purposes of section 199A(d)(2) of the Internal Revenue Code. Removes introduced language requiring taxpayer to be eligible to claim a deduction on taxpayer's federal income tax return under section 199A(a). Removes introduced language specifying qualifying income requirements based on income and taxpayer's filing status.

BACKGROUND:
During the 2013 special session, the Legislature made non-passive income received by personal income taxpayers from either a partnership or S-corporation (or an LLC filing as either) taxable at preferential rates. Taxpayers had the choice of opting into the program where non-passive income could be taxed at a rate as low as seven percent. The amount of eligible income was the net non-passive income from all qualifying entities. A qualifying entity is one that employed at least one person who is not an owner, member, or partner; had at least an annual 1,200 of hours work performed in Oregon by qualifying employees; and only hours worked in a week in which an employee worked at least 30 hours count toward the total. In the Special Session of 2018, Oregon expanded its reduced rate tax option, with applicable existing requirements, to taxpayers with income from a sole proprietorship.

Enacted in December of 2017, the federal Tax Cuts and Jobs Act (TCJA) made a number of substantial parameter and policy changes to various tax programs including income taxes. Included in the new federal TCJA changes was the creation of a deduction of qualified business income. The deduction generally allows a deduction up to 20% of net qualified business income plus 20% of qualified real estate investment trust (REIT) dividends and publicly traded partnership (PTP) income. To qualify for the federal deduction, certain specified parameters are required to be met including requirements relating to the source of the income. Except for taxpayers with income below specified income thresholds, income derived from a specified service trade or business does not qualify for the 20% deduction. Specified service trade or business is defined by section 199A(d)(2) of the Internal Revenue Code (IRC).

Measure as amended would limit qualifying income applicable to Oregon's reduced tax rates for pass-through and sole proprietors to income attributable to such entities that are not specified service trade or business entities as defined in IRC 199A(d)(2). Measure lowers applicability of 9.9 percent tax rate bracket, on income elected to be taxed at preferential rates, from income exceeding $5 million to income exceeding $415,000.