

HB 2101 -1 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 1/31, 3/25

WHAT THE MEASURE DOES:

Establishes partnership and partner audit procedures for Department of Revenue in conformity with federal centralized partnership audit regime. Allows Department to issue assessment and collect taxes at partnership level based on adjustments arising from federal partnership-level audit or administrative adjustment request. Requires a partnership's federal partnership representative to act as the partnership's Oregon partnership representative unless partnership designates another Oregon partnership representative. Specifies that the Oregon partnership representative has the sole authority to act on behalf of the partnership and binds direct and indirect partners of the partnership to such partnership representative's actions. Allows audited partnership to pay additional tax at the partnership level using highest applicable marginal tax rates of respective partner entity type. Allows audited partnership, subject to approval by DOR, to elect the use of an alternative reporting and payment method. Specifies filing and payment time requirements of audited partnerships and DOR. Modifies content requirements of composite return of pass-through entity and makes election to file composite return irrevocable. Applies changes to composite return to tax years beginning on or after January 1, 2019. Applies changes to partnership audit procedures to tax years beginning on or after January 1, 2018.

ISSUES DISCUSSED:

- Technical amendments are expected
- MTC's involvement in designing model legislation for states in how they conform with the federal partnership audit changes
- Involvement of the Council on State Taxation (COST) and other "interested parties" in helping the Multi State Tax Commission (MTC) to craft model legislation for states to adopt
- COST's support of measure with recommendations of technical amendments
- Certified public accountant community involvement in process
- Oregon Society of Certified Public Accountants submitted testimony (supportive with technical amendments).

EFFECT OF AMENDMENT:

-1 Replaces content of measure, however, underlying policies contained in introduced version generally left unchanged. Makes a series of technical and clarifying changes including: modification to partnership representative, extending period following federal notice to 180 days, and allowing department of revenue to adopt rules to prevent double taxation or double deduction.

BACKGROUND:

Enacted in the fall of 2015, Congress passed the Bipartisan Budget Act (BBA). Among other things, the BBA replaced the existing laws governing audits of large partnerships and the collection of the audit determined amounts owed. Small partnerships (100 or fewer partners) that do not have a partnership as a partner can elect out of the new BBA rules. The fundamental change of the BBA is in how a partnership audit adjustment will take place and who is liable for the post audit tax liability. Generally, any audit adjustment will take place at the partnership entity level and the resulting tax liability will be the responsibility of the partnership, not the individual partners. The federal changes are applicable to tax years 2018 and later.