

SB 212 A STAFF MEASURE SUMMARY**Senate Committee On Finance and Revenue**

Action Date: 02/28/19
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-2-0-0
Yeas: 3 - Hass, Riley, Taylor
Nays: 2 - Bentz, Boquist
Fiscal: Has minimal fiscal impact
Revenue: Revenue impact issued
Prepared By: Kyle Easton, Economist
Meeting Dates: 2/28

WHAT THE MEASURE DOES:

Specifies deduction for losses from wagering transactions, as described in section 165(d) of the Internal Revenue Code, is not allowed for Oregon personal income or corporate excise tax purposes. Requires addition to federal taxable income in instances where wagering losses are deducted on taxpayer's federal return. Applies to tax years beginning on or after January 1, 2019.

Allows subtraction from federal taxable income, an amount equal to the deduction as computed in tax year 2017 under section 222 of the Internal Revenue Code for qualified tuition and related expenses, multiplied by 0.23. Requires subtraction to be reduced by any amount deducted by taxpayer for same expense for the tax year. Applies to expenses paid in tax years beginning on or after January 1, 2019 and before January 1, 2025.

ISSUES DISCUSSED:

- -2 amendment replaces content of introduced measure with two component policies
- First component policy is the inclusion of language from SB 194 -1 regarding the elimination of the deduction for gambling losses that are offsetting gambling winnings
- Second component policy is the allowance of an Oregon subtraction related to the expired federal tuition and fees deduction
- If federal tuition and fees deduction is extended at federal level, then deduction becomes automatically applicable in Oregon through Oregon's connection to the definition of federal taxable income
- Creation date of the federal tuition and fees deduction, history of federal deduction extension process
- Tuition and fees subtraction, as enacted by -2 amendment, references the expired federal deduction parameters that were in place for tax year 2017
- Number of expected beneficiaries of the tuition and fees subtraction, potential average reduction in tax
- Contrasting the annual cost of tuition and fees and the potential benefit of the proposed subtraction
- Potential administration process of Department of Revenue
- Gambling loss deduction is a federal deduction that exists in Oregon through connection to definition of taxable income
- Nearly all gambling loss deduction revenue impact originates from non-professional gamblers
- Other states and their treatment of gambling loss deduction
- How and what information is required to be reported on a return compared to information that is not reported on a return but required to be maintained by taxpayer
- Potential gambling loss deduction elimination impact on Oregon State Lottery and Tribal Governments operating casinos
- Chamber origination requirements, what constitutes a bill to raise revenue, ongoing litigation on the subject.

EFFECT OF AMENDMENT:

Replaced content of measure.

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BACKGROUND:

Losses sustained during the taxable year on wagering transactions are allowed as an income tax deduction only to the extent of the gains during the taxable year from such wagering transactions. Colloquially this deduction is known as the deduction for gambling losses. Gambling losses can only be deducted to the extent the losses offset gambling winnings. For non-professional gamblers, gambling losses can only be deducted by taxpayers itemizing their deductions. To deduct losses, statute requires the taxpayer to keep an accurate diary or similar record of gambling winnings and losses. Professional gamblers may deduct gambling losses, up to gambling winnings, without itemizing by deducting losses through their gambling trade or business.

The gambling loss deduction is a federal deduction that Oregon is connected to through Oregon's connection to federal taxable income. For this reason, to disconnect from the federal deduction, an addition to Oregon taxable income is required.

A federal deduction to income is allowed for qualified higher education expenses paid by the taxpayer (commonly referred to as the tuition and fees deduction). Qualified expenses include tuition and fees paid as a condition of enrollment or attendance at a post secondary education institution. The federal adjustment is applicable to Oregon through Oregon's connection to federal taxable income. The federal deduction was last available in tax year 2017. Historically, this federal deduction has been extended annually, in some cases following close of the tax year. If the federal tuition and fees deduction is extended federally, the deduction will be available for Oregon taxpayers and the Oregon specific subtraction being created by this measure is required to be reduced reflective to the benefit of the deduction.

The Oregon tuition and fees subtraction created by measure is determined following identical parameters to how the federal deduction was determined for tax year 2017. The potential maximum subtraction is \$4,000 for a taxpayer with income not more than \$65,000 (\$130,000 on a joint return) or \$2,000 if the taxpayer's income was above \$65,000 (\$130,000 on a joint return) but not more than \$80,000 (\$160,000 joint). If adjusted gross income exceeds the limits, then no subtraction is allowed. Following determination of tuition and fees amount in-line with the federal parameters that were in effect for tax year 2017, Oregon subtraction is determined by multiplying computed amount by 0.23.