

SB 139 A STAFF MEASURE SUMMARY

Carrier: Rep. Valderrama

House Committee On Revenue

Action Date: 06/21/21
Action: Do Pass the A-Eng bill.
Vote: 4-3-0-0
Yeas: 4 - Marsh, Nathanson, Pham, Valderrama
Nays: 3 - Levy, Reschke, Smith G
Fiscal: Fiscal impact issued
Revenue: Revenue impact issued
Prepared By: Kyle Easton, Economist
Meeting Dates: 6/21

WHAT THE MEASURE DOES:

Reduces marginal tax rates at which non-passive pass-through income is subject. Reduces tax rate from 7.2 percent to 7.0 percent for pass-through income exceeding \$250,000 but not exceeding \$500,000. Reduces tax rate from 7.6 percent to 7.5 percent for pass-through income exceeding \$500,000 but not exceeding \$1 million. Limits reduced rate pass-through income qualification to S corporations and partnerships with ordinary business income not in excess of \$5 million. To qualify for pass-through income reduced rates, requires S corporations and partnerships to meet either an employee to employer ratio, or a three year average limitation on distributions of income as a percentage of ordinary business income. Sets employee to employer ratio based on amount of ordinary business income of the S corporation or partnership. Applies new pass-through entity qualification requirements only to S corporations and partnerships with ordinary business income exceeding \$250,000 in a tax year. Applies to tax years beginning on or after January 1, 2021.

ISSUES DISCUSSED:

- Proposed changes to pass through entity reduced rate program
- Example of potential impact from changes in measure to a hypothetical business, current law contrasted with proposed changes
- Distribution of businesses based on business profit
- How a single member LLC may file their taxes
- Policy design and/or objective of changes contained in measure to reduced rate program
- Meaning of "material participation" for reduced rates qualification
- Definition of "small business", amount of business profit for average or median small business
- Proposed employment requirements are based on profit of the business which accounts for low margin businesses
- Intent of original 2013 legislation enacting reduced rates.

EFFECT OF AMENDMENT:

No amendment.

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 minimum 1,200 annual hours of 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

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reduced rate tax option, with applicable existing requirements, to taxpayers with income from a sole proprietorship.

The design of the new PTE reduced rate requirements are intended to focus the tax benefit on relatively smaller business entities that are employing a greater number of individuals working in Oregon. New alternative reinvestment requirement is intended to allow profitable business entities that may not meet employee to owner ratio to continue to benefit from reduced rates reflective of the entity's reinvestment of profits.