HB 3523 STAFF MEASURE SUMMARY

Joint Committee On Tax Expenditures

Prepared By: Kyle Easton, Economist
Meeting Dates: 3/31, 4/7

WHAT THE MEASURE DOES:

Creates Oregon tax subtraction for any amount received in settlement of a civil action arising from wildfire. Requires wildfire to be subject of a state of emergency declared by the Governor or occur in an area subject to executive order of the Governor invoking the Emergency Conflagration Act. Disallows subtraction if amount is otherwise deducted on taxpayer's federal income tax return. Applies to amounts received in tax years beginning on or after January 1, 2020, and before January 1, 2026.

ISSUES DISCUSSED:

- Civil actions
- Settlements and insurance
- Recent federal tax law changes relating to miscellaneous deductions and deduction of attorney fees
- General amount or percentage of settlement that attorneys charge for their services
- Recent fires in Oregon and related litigation/settlements.

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The general rule regarding taxability of amounts received from settlement of lawsuits and other legal remedies is Internal Revenue Code (IRC) Section 61. The IRC section states all income is taxable from whatever source derived, unless exempted by another section of the code. Property settlements for loss in value of property that are less than the adjusted basis of the property are not taxable and are generally not required to be reported on a taxpayer's tax return. However, taxpayers must reduce their basis in the property by the amount of the settlement. If the property settlement exceeds a taxpayer's adjusted basis in the property, the excess is generally income though exceptions exist for involuntary conversions when property is subsequently replaced.