SB 1520 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 2/8, 2/21, 2/22

WHAT THE MEASURE DOES:

Creates Oregon personal income 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, occur in an area subject to executive order of the Governor invoking the Emergency Conflagration Act, or be a federally declared disaster located within Oregon or elsewhere. Disallows subtraction if amount is otherwise deducted on taxpayer's federal income tax return or allowed as a subtraction on a tax return filed in another state. Applies to amounts received in tax years beginning on or after January 1, 2020, and before January 1, 2026.

ISSUES DISCUSSED:

- Measure is largely a reintroduction of HB 3523 (2023)
- California settlement for wildfire
- Attorney fees no longer tax deductible
- Description of individual impact of wildfire
- Fees associated with receiving settlement funds
- Limitation on amending past year tax return
- Federal legislation of similar policy, Oregon's connection to federal law
- Taxability of income from settlement paid to legal representation and facilitators of settlement award payments
- Explanation of income tax "protective claim".

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. IRC 61 states all income is taxable from whatever source derived, unless exempted by another section of the code. IRC 139 excludes from income tax, qualified disaster relief payments. IRC 104 generally excludes compensatory damages received in a lawsuit or settlement if such damages are for personal physical injuries or physical sickness. 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.