

SB 1520 A STAFF MEASURE SUMMARY

Carrier: Sen. Golden

Senate Committee On Finance and Revenue**Action Date:** 02/22/24**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Boquist, Golden, Jama, Meek**Exc:** 1 - Findley**Fiscal:** Has minimal fiscal impact**Revenue:** Revenue impact issued**Prepared By:** Kyle Easton, Senior Economist**Meeting Dates:** 2/8, 2/21, 2/22**WHAT THE MEASURE DOES:**

Creates Oregon personal income tax subtraction for any amount received in judgment or 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 amount is compensated by insurance or otherwise. Provides additional year to amend tax return for purposes of claiming subtraction for tax year 2020. Applies to amounts received on or after January 1, 2020, from wildfires that occurred in years 2020 through 2025.

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"
- Overview of existing law regarding taxation of amounts received from settlement / judgment
- Impact attorney fees and taxation can have in reducing amount received from settlement / judgment
- Treatment of punitive damages
- Overview of amendment changes
- Applicability changes focused on timing of fire occurrence with subtraction available for amounts received from settlement or judgment at any time in 2020 or later
- Wildfires that occurred in California prior to 2020.

EFFECT OF AMENDMENT:

Adds "judgment" resulting from a civil action relating to wildfire to amounts that can be subtracted from taxable income. Clarifies that subtraction cannot be taken for amounts received that are compensated by insurance or otherwise. Provides additional year to amend tax return for purposes of claiming subtraction for tax year 2020. Modifies applicability to wildfires meeting declaration or executive order requirements in years 2020 through 2025, and amounts received in tax years beginning on or after January 1, 2020.

BACKGROUND:

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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.