

SB 1520 B STAFF MEASURE SUMMARY

Carrier: Rep. Gomberg

House Committee On Revenue**Action Date:** 03/04/24**Action:** Do pass with amendments. (Printed B-Eng.)**Vote:** 7-0-0-0**Yeas:** 7 - Levy B, Marsh, Nathanson, Nguyen D, Reschke, Smith G, Walters**Fiscal:** Has minimal fiscal impact**Revenue:** Revenue impact issued**Prepared By:** Kyle Easton, Senior Economist**Meeting Dates:** 3/4**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 claimed as a credit or deduction on a taxpayer's federal income tax return, or amount is compensated by insurance or otherwise. Creates Oregon personal income tax subtraction for legal fees incurred by a plaintiff seeking compensation for losses, expenses, or damages through wildfire-related litigation. Defines terms. Applies to losses incurred, amounts received, and legal fees subtracted in tax years beginning on or after January 1, 2018, from qualified wildfires that were declared in years 2018 through 2025. Allows tax returns from years 2018 through 2020 to be amended and filed prior to May 15, 2025, for purposes of claiming the wildfire judgment/settlement or legal fees subtractions. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Description of measure and proposed amendments
- Contents of measure as amended are identical to contents of HB 4007 as amended
- Potential tax implications for taxpayers affected by wildfire absent proposed legislation.

EFFECT OF AMENDMENT:

Structured as a full replacement of measure for drafting simplicity. Aligned content of measure with HB 4007 A. Creates Oregon personal income tax subtraction specific to legal fees incurred by a plaintiff seeking compensation for losses, expenses, or damages found to be caused by a qualified wildfire. Modified applicability of subtractions to include years 2018 and 2019 from qualified wildfires designated in years 2018 through 2025. Added language limiting potential duplicative benefit from subtraction.

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. Federal legislation in 2017 temporarily eliminated the miscellaneous itemized deduction (tax years 2018 through 2025) thereby limiting the

SB 1520 B STAFF MEASURE SUMMARY

potential tax deductibility of legal fees.