HB 4007 A STAFF MEASURE SUMMARY

Carrier: Rep. Cate

House Committee On Revenue

Action Date:	03/04/24
Action:	Do pass with amendments. (Printed A-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:	2/22, 2/27, 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:

- Impacts associated with 2020 Oregon wildfires
- Potential impact taxation of settlement/judgment awards could have on ability of wildfire victims to rebuild
- Treatment of punitive damage awards
- Tax treatment includes amounts dedicated to attorney fees
- Differences in deductibility of attorney fees between individuals and businesses
- Example of tax treatment of judgment/settlement
- Similar federal legislation being considered
- Distinction between a judgment and a settlement
- Personal experiences of individuals impacted by wildfire
- Comparison with SB 1520 A and similar proposed federal legislation
- Many people impacted by recent wildfires will not receive a settlement or judgment as no party was found to be at fault.

EFFECT OF AMENDMENT:

Structured as a full replacement of measure for drafting simplicity. Aligned content of measure with SB 1520 B. Expanded subtraction for amounts received from civil action arising from wildfire to include judgments. Modified applicability of subtractions to include years 2018 and 2019 from qualified wildfires designated in years 2018 through 2025. Eliminated requirement that taxpayer claim federal itemized deductions in order to claim new subtraction of legal fees from wildfire related litigation. 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. Amounts received for non-economic damages and punitive damages are generally taxable. Federal legislation in 2017 temporarily eliminated the miscellaneous itemized deduction (tax years 2018 through 2025) thereby limiting the potential tax deductibility of legal fees.