

HB 2101 A STAFF MEASURE SUMMARY**Carrier:** Sen. Taylor**Senate Committee On Finance and Revenue**

Action Date: 05/08/19
Action: Do pass the A-Eng bill.
Vote: 3-0-0-2
Yeas: 3 - Hass, Riley, Taylor
Abs: 2 - Bentz, Boquist
Fiscal: Has minimal fiscal impact
Revenue: Revenue impact issued
Prepared By: Kyle Easton, Economist
Meeting Dates: 4/17, 5/8

WHAT THE MEASURE DOES:

Establishes partnership and partner audit procedures for Department of Revenue (DOR) in conformity with federal centralized partnership audit regime. Allows Department to issue assessment and collect taxes at partnership level based on adjustments arising from federal partnership-level audit or administrative adjustment request. Requires a partnership's federal partnership representative to act as the partnership's Oregon partnership representative unless partnership designates another Oregon partnership representative. Specifies that the Oregon partnership representative has the sole authority to act on behalf of the partnership and binds direct and indirect partners of the partnership to such partnership representative's actions. Allows audited partnership to pay additional tax at the partnership level using highest applicable marginal tax rates of respective partner entity type. Allows audited partnership, subject to approval by DOR, to elect the use of an alternative reporting and payment method. Specifies filing and payment time requirements of audited partnerships and DOR. Modifies content requirements of composite return of pass-through entity and makes election to file composite return irrevocable. Applies changes to composite return to tax years beginning on or after January 1, 2019. Applies changes to partnership audit procedures to tax years beginning on or after January 1, 2018.

ISSUES DISCUSSED:

- Background on federal changes to partnership audits
- Model legislation comes from Multistate Tax Commission (MTC)
- Federal partnership changes led to development of MTC model legislation
- Other states expected to adopt similar model legislation
- Ability of small partnerships to opt-out of federal changes
- Role of partnership representative in audit proceedings
- Federal partnership representative and Oregon partnership representative can be different
- How Oregon Department of Revenue receives notice of federal audits
- Description of need for Oregon to adopt measure to align with federal changes
- Requirements of partnership and individual partners under current law and under recent law changes enacted at federal level
- Requirements of partnerships ending business activities.

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Enacted in the fall of 2015, Congress passed the Bipartisan Budget Act (BBA). Among other things, the BBA replaced the existing laws governing audits of large partnerships and the collection of the audit determined amounts owed. Small partnerships (100 or fewer partners) that do not have a partnership as a partner can elect

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out of the new BBA rules. The fundamental change of the BBA is in how a partnership audit adjustment will take place and who is liable for the post audit tax liability. Generally, any audit adjustment will take place at the partnership entity level and the resulting tax liability will be the responsibility of the partnership, not the individual partners. The federal changes are applicable to tax years 2018 and later.