SB 139 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 2/25

WHAT THE MEASURE DOES:

Lowers bracket to 415,000 at which qualified non-passive pass-through income is subject to top marginal tax rate of 9.9 percent. Excludes from reduced income tax rates, income attributable to a specified service trade or business, or trade or business of performing services as an employee, as defined and for the purposes of section 199A(d)(2) of the Internal Revenue Code. Applies to tax years beginning on or after January 1, 2021.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Excludes from reduced income tax rates, income attributable to a trade or business in the professional, scientific and technical services, or health care and social assistance sectors.

-2 Requires partnership or S corporation to employ at least __ persons who are not owners, members or limited partners of the entity. Requires employees to perform at least 1,200 aggregate hours of work in Oregon for every __ number of owners, members or limited partners of the partnership or S corporation.

BACKGROUND:

During the 2013 special session, the Legislature made non-passive income received by personal income taxpayers from either a partnership or S-corporation (or an LLC filing as either) taxable at preferential rates. Taxpayers had the choice of opting into the program where non-passive income could be taxed at a rate as low as seven percent. The amount of eligible income was the net non-passive income from all qualifying entities. A qualifying entity is one that employed at least one person who is not an owner, member, or partner; had at least an annual 1,200 of hours work performed in Oregon by qualifying employees; and only hours worked in a week in which an employee worked at least 30 hours count toward the total. In the Special Session of 2018, Oregon expanded its reduced rate tax option, with applicable existing requirements, to taxpayers with income from a sole proprietorship.

Enacted in December of 2017, the federal Tax Cuts and Jobs Act (TCJA) made a number of substantial parameter and policy changes to various tax programs including income taxes. Included in the new federal TCJA changes was the creation of a deduction of qualified business income. The deduction generally allows a deduction up to 20% of net qualified business income plus 20% of qualified real estate investment trust (REIT) dividends and publicly traded partnership income. To qualify for the federal deduction, certain specified parameters are required to be met including requirements relating to the source of the income. Except for taxpayers with income below specified income thresholds, income derived from a specified service trade or business does not qualify for the 20% deduction. Specified service trade or business is defined by section 199A(d)(2) of the Internal Revenue Code (IRC).