PRELIMINARY

HB 3364 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Kyle Easton, Economist
Meeting Dates: 4/12, 4/19

WHAT THE MEASURE DOES:

Creates credit against income taxes available to a taxpayer that is a seller of publicly supported housing in Oregon and makes a qualifying sale. Amount of credit is equal to __ percent of the gain realized on the taxpayer's federal income tax return for the qualifying sale. Allows unused credit amount to be carried forward up to three succeeding tax years. Defines terms. Requires certification of tax credit by Housing and Community Services Department. Limits amount of credits certified to no more than three million per calendar year. Applies to tax years beginning on or after January 1, 2022 and before January 1, 2028.

ISSUES DISCUSSED:

- Importance of preserving existing stock of affordable housing
- Types of properties that are publicly supported low income housing
- Examples of affordable housing, description of types of properties that are affordable housing projects
- Potential tax implications for out-of-state owners of such properties
- Housing costs in general and affordability of such housing
- Importance of establishing relationships with potential sellers of existing stock of affordable housing
- Potential capital gain tax consequences of affordable housing owners.

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Publicly supporting housing is defined as a multifamily rental housing development with five or more units receiving or benefiting from government assistance. Government assistance for publicly supported housing is specified to be from a contract for rent assistance from the U.S. Department of Housing and Urban Development, the U.S. Department of Agriculture (USDA) or from the Oregon Housing and Community Services Department (OHCS) that contains an affordability restriction.

An owner of a participating publicly supported property with an expiring or terminating contract is required to provide notice to a local government and OHCS before the contract expires or terminates or the property is withdrawn from publicly supported housing. Qualified purchasers have opportunity to submit offers to the owner; however, the owner is not obligated to accept any of those offers. In the event of a subsequent offer to purchase from a third party, qualified purchasers, with right of first refusal, may submit a matching offer under the same terms and conditions. The owner must accept the first matching offer received under the right of first refusal opportunity. If no matching offers are submitted, the owner may pursue the sale to the third party.

Sale of rental property can cause an income gain or loss potentially subject to taxation. A capital gain occurs when an asset is sold or exchanged at a price higher than the taxpayer's basis in the property. Taxpayer basis is generally the asset's purchase price, plus commissions and the cost of improvements that add value to the property, less depreciation. A capital loss occurs when an asset is sold for less than its basis. For federal tax purposes, treatment of income at time of sale can be either ordinary income or capital gain income depending on depreciation recapture rules. Oregon does not provide separate tax treatment for ordinary or capital gain income.