REVENUE IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly
2021 Regular Session
Legislative Revenue Office

Bill Number: SB 139 - 13
Revenue Area: Personal Income Tax
Economist: Kyle Easton
Date: 6/9/2021

Only Impacts on Original or Engrossed Versions are Considered Official

Measure Description:

Modifies tax rates and income eligible for elective reduced personal income tax rates allowed for qualified pass-through income. Measure reduces two marginal pass-through entity (PTE) income tax rates, implements more stringent employee requirements of participating pass-through entities, and excludes owners of partnerships and S corporations with ordinary business income (OBI) exceeding $5 million from benefitting from PTE reduced rates.

Reduces marginal tax rates at which non-passive pass-through income is subject. Reduces tax rate from 7.2 percent to 7.0 percent for pass-through income exceeding $250,000 but not exceeding $500,000. Reduces tax rate from 7.6 percent to 7.5 percent for pass-through income exceeding $500,000 but not exceeding $1 million.

Limits reduced rate pass-through income qualification to S corporations and partnerships with ordinary business income not in excess of $5 million. For sole proprietorships, and pass through entities with OBI that does not exceed $250,000, changes to reduced rate qualification requirements made by measure are not applicable.

In addition to existing law PTE qualification requirements, measure requires S corporations and partnerships to meet either an Oregon employee to employer ratio, or a three-year average limitation on distributions of income as a percentage of OBI. Determines employee to employer ratio requirement based on amount of OBI of the S corporation or partnership. For S corporation or partnership with OBI that exceeds $250,000 but does not exceed $500,000, requires pass through entity to employ one employee in Oregon per owner. For entities with OBI of $500,000 to $1 million, entity is required to employ two Oregon employees for every owner. For entities with OBI of $1 million to $2.5 million, entity is required to employ four Oregon employees for every owner. For entities with OBI of $2.5 million to $5 million, entity is required to employ 10 Oregon employees for every owner.

If entity does not meet employee ratio requirements (but does meet existing law requirements), measure allows entity to qualify for PTE reduced rates if the distributions of income of a partnership or S corporation, as a percentage of OBI, does not exceed 25 percent. Percentage is computed based on total distributions and total OBI for current and most recent two tax years.

Changes apply to tax years beginning on or after January 1, 2021.

Revenue Impact (in $Millions):

	Fiscal Year			Biennium		
	2021-22	2022-23		2021-23	2023-25	2025-27
General Fund	$13.4	$28.3		$41.7	$59.9	$64.2

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro

Impact Explanation:

Modifications to Oregon’s reduced income tax rates available to qualifying taxpayers receiving non-passive pass through income are expected to have a net positive revenue impact on General Fund revenue. Reductions to the PTE marginal rates increases the benefit from the PTE program for taxpayers with qualifying PTE income exceeding $250,000. The marginal rate changes cause a reduction in General Fund revenue. However, the new more extensive qualification requirements for S corporations and partnerships with OBI exceeding $250,000 are expected to reduce the number of pass through entities whose pass-through income qualifies for the PTE reduced rates. The majority of the positive revenue impact results from the exclusion of S corporations and partnership entities with OBI greater than $5 million. In total, fewer than 1,000 S corporations and partnerships are expected to no longer qualify as sources of pass through income subject to Oregon’s PTE reduced rates due to modifications to PTE qualifications.

Estimates were made through an analysis of tax return data associated with existing taxpayers and pass through entities utilizing the PTE reduced rates. Initial fiscal year estimate reflects timing of tax return filing and the higher propensity of taxpayers utilizing the PTE reduced rates to file a tax return extension.

Creates, Extends, or Expands Tax Expenditure: Yes ☒ No ☐

State Capitol Building
900 Court St NE
Salem, Oregon 97301-1347

Phone (503) 986-1266
Fax (503) 986-1770
https://www.oregonlegislature.gov/lro