SB 139 A STAFF MEASURE SUMMARY

Carrier: Sen. Boquist, Sen. Burdick

Senate Committee On Finance and Revenue

Action Date:	06/14/21
Action:	Do pass with amendments. (Printed A-Eng.)
Vote:	4-1-0-0
Yeas:	4 - Boquist, Burdick, Riley, Wagner
Nays:	1 - Findley
Fiscal:	Fiscal impact issued
Revenue:	Revenue impact issued
Prepared By:	Kyle Easton, Economist
Meeting Dates:	2/25, 6/7, 6/9, 6/14

WHAT THE MEASURE DOES:

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. To qualify for pass-through income reduced rates, requires S corporations and partnerships to meet either an employee to employer ratio, or a three year average limitation on distributions of income as a percentage of ordinary business income. Sets employee to employer ratio based on amount of ordinary business income of the S corporation or partnership. Applies new pass-through entity qualification requirements only to S corporations and partnerships with ordinary business income exceeding $250,000 in a tax year. Applies to tax years beginning on or after January 1, 2021.

ISSUES DISCUSSED:

<u>Feb. 25th</u>

- General discussion of three fifths voting requirement
- Reduced rates apply to pass through income only, do not directly affect businesses with a loss for the year
- Cash flow management of business owners
- Reinvestment of owner distributions
- Business income distributions and reinvestment practices
- Policy options modifying reduced rates
- Employment requirements for business entities to potentially qualify
- Federal qualified business income deduction.

<u>June 7th</u>

- Overview of proposed changes to Oregon's reduced income tax rates for qualified non-passive pass through income (PTE)
- History and context for original enactment of PTE reduced rates and recent inclusion of sole proprietors in PTE program
- Federal limitation on deduction for state and local taxes (SALT)
- Potential outcome of PTE program changes
- Potential net benefit to taxpayer of proposed pass through entity tax through offsetting Oregon tax credit and federal deductibility
- Tax costs and benefits of PTE changes and enhanced deductibility of pass through income, potential net tax change for taxpayer.

EFFECT OF AMENDMENT:

-13 Replaced content of measure.

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 minimum 1,200 annual hours of 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.

The design of the new PTE reduced rate requirements are intended to focus the tax benefit on relatively smaller business entities that are employing a greater number of individuals working in Oregon. New alternative reinvestment requirement is intended to allow profitable business entities that may not meet employee to owner ratio to continue to benefit from reduced rates reflective of the entity's reinvestment of profits.