

HB 4007 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 2/22

WHAT THE MEASURE DOES:

Creates Oregon personal income tax subtraction for any amount received in settlement of a civil action arising from wildfire. Requires wildfire to be subject of a state of emergency declared by the Governor, occur in an area subject to executive order of the Governor invoking the Emergency Conflagration Act, or be a federally declared disaster located within Oregon or elsewhere. Disallows subtraction if amount is otherwise deducted on taxpayer's federal income tax return or allowed as a subtraction on a tax return filed in another state. Reinstates miscellaneous itemized deduction specific to legal fees incurred by a plaintiff seeking compensation through wildfire-related litigation if taxpayer claimed federal itemized deductions. Applies to amounts received and legal fees deducted in tax years beginning on or after January 1, 2020.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The general rule regarding taxability of amounts received from settlement of lawsuits and other legal remedies is Internal Revenue Code (IRC) Section 61. IRC 61 states all income is taxable from whatever source derived, unless exempted by another section of the code. IRC 139 excludes from income tax, qualified disaster relief payments. IRC 104 generally excludes compensatory damages received in a lawsuit or settlement if such damages are for personal physical injuries or physical sickness. Property settlements for loss in value of property that are less than the adjusted basis of the property are not taxable and are generally not required to be reported on a taxpayer's tax return. However, taxpayers must reduce their basis in the property by the amount of the settlement. If the property settlement exceeds a taxpayer's adjusted basis in the property, the excess is generally income though exceptions exist for involuntary conversions when property is subsequently replaced. Amounts received for non-economic damages and punitive damages are generally taxable. Federal legislation in 2017 temporarily eliminated the miscellaneous itemized deduction (tax years 2018 through 2025) thereby limiting the potential tax deductibility of legal fees.