SB 587 -1 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By: Jonathan Hart, Economist
Meeting Dates: 4/7, 5/28

WHAT THE MEASURE DOES:

Creates Oregon Corporate Excise/Income Tax subtraction for any amount received in judgment or 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 claimed as a credit or deduction on a taxpayer's federal income tax return, or amount is compensated by insurance or otherwise. Creates Oregon corporate income tax subtraction for legal fees incurred by a plaintiff seeking compensation for losses, expenses, or damages through wildfire-related litigation. Defines terms. Applies to losses incurred, amounts received, and legal fees subtracted in tax years beginning on or after January 1, 2018, from qualified wildfires declared in 2018 through 2025. Allows tax returns from 2018 through 2023 to be amended and filed prior to May 15, 2026, for purposes of claiming the wildfire judgment/settlement or legal fees subtractions. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Financial burdens faced by businesses affected by wildfire
- Application to Oregon declaration of state of emergency or federally declared disaster
- Wildfires and smoke taint effect on wine grapes

EFFECT OF AMENDMENT:

-1 Extends deadline to file amended tax return to claim wildfire judgment/settlement or legal fees subtraction to May 15, 2028.

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.

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. Settlements for lost income are generally taxable.

SB 587 allows a subtraction from federal taxable income for specified settlement/judgment amounts and legal fees to the extent they are included in a taxpayer's federal taxable income. The subtraction applies to income taxed under the Corporate Excise/Income tax and reduces income before income is apportioned to Oregon for tax purposes. The tax reduction from a corporate tax subtraction is proportional to a corporation's apportionment factor which is generally Oregon sales divided by national sales.