

SB 587 A STAFF MEASURE SUMMARY

Joint Committee On Tax Expenditures

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Meeting Dates: 6/10

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, 2028, for purposes of claiming the wildfire judgment/settlement or legal fees subtractions. Takes effect on 91st day following adjournment sine die.

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.

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.

Businesses may deduct legal fees that are ordinary and necessary in carrying out their business, including pursuing compensation for wildfire related losses.

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. It does not allow a subtraction for amounts already deducted or for amounts otherwise compensated by insurance or otherwise. 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 reduction in taxable income due to a corporate tax subtraction is proportional to a corporation's apportionment factor which is generally Oregon sales divided by national sales.