SB 137 -1 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 2/3, 2/22

WHAT THE MEASURE DOES:

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law from December 31, 2018 to December 31, 2020. Increases Oregon statutory age requirements related to the Public Employees Retirement System from 70-1/2 to 72, in alignment with federal law. Updates, in line with federal law applicability, Public Employees Retirement System connection date from December 31, 2018 to January 1, 2020. Modifies definition of qualified higher education expenses to include expenses associated with registered apprenticeship programs and amounts paid as principal or interest on a qualified education loan. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

Public Hearing February 3rd:
- Revenue implication of measure and whether measure requires a three-fifths majority vote to be enacted
- Retroactivity of measure, discussion of potential legal implications
- Examples of disconnect provisions contained in amendment
- Timing of revenue impact from Oregon disconnect, potential revenue timing of provisions
- Options relating to timing of revenue impact, potential implications of kicker credit, balancing of current and future revenue needs
- Purpose of CARES Act provisions
- Potential for reinvestment of business income back into the business
- Potential impact of disconnect on business cash flow and liquidity
- Other states that have disconnected from CARES Act provisions
- Background on Paycheck Projection Program.

EFFECT OF AMENDMENT:

-1 Applicable to personal income tax years 2018, 2019, and 2020, requires to be added to federal taxable income an amount equal to any excess business loss deducted under section 461(l)(1) of the Internal Revenue Code. Applicable to a net operating loss arising in personal income tax years 2018, 2019, and 2020, requires addition to federal taxable income, an amount equal to the sum of any net operating loss carryback deducted under section 172(b)(1)(D) of the Internal Revenue Code and amount by which any net operating loss deduction exceeds 80 percent of adjusted taxable income. Applicable to personal and corporate income tax years 2019 and 2020, requires addition to federal taxable income the amount by which business interest deducted under section 163(j)(1)(B) of the Internal Revenue Code exceeds 30 percent of current tax year adjusted taxable income. Specifies Department of Revenue may not impose any interest or penalty that would otherwise apply to taxes due resulting from changes made in amendment.

BACKGROUND:

Oregon has had a continuing connection ("rolling reconnect") to the federal definition of taxable income since tax year 2011. Other ties to federal tax law must be updated on a regular basis, with December 31st being the usual connection date. Over the past forty years, the state has rotated between a policy of automatic connection to federal tax base changes and connection to the federal code at a particular point in time.

In December of 2019, the president signed into law H.R. 1865 which included provisions modifying and/or extending numerous tax provisions. Many of the enacted tax provisions automatically became incorporated into Oregon tax law through Oregon's connection to the definition of federal taxable income. Themes of the federal tax law changes include: retirement savings, disaster relief, and the extension of previously expired or expiring provisions. In some instances, for Oregon tax law to incorporate the recent federal tax law changes, specific modification to Oregon statute is required.

In March of 2020, the president signed into law S. 3548, known as the CARES Act. The primary intent of the Act is to inject liquidity into the economy and to provide economic relief during the implementation of public health policies such as the "stay-at-home" orders in effect in many states. In broad terms, the bill provides various funds to states and other local governments, expands unemployment insurance, and appropriates funds to be used for small business loans. The Act contains provisions that will affect Oregon's General Fund revenue through changes to personal and corporate income tax laws. Due to Oregon's "rolling reconnect" to federal tax law, many of these provisions automatically affect Oregon revenue streams.

In December of 2020, the president signed into law H.R. 133, known as the Consolidated Appropriations Act, 2021. The act included provisions modifying and/or extending numerous tax provisions. Many of the enacted tax provisions automatically became incorporated into Oregon tax law through Oregon's connection to the definition of federal taxable income. Themes of the federal tax law changes include: revisions to the Paycheck Protection Program (PPP), temporary changes to earned income tax credit, modification of medical expense deduction, and the extension and/or modification of other tax provisions.