

SENATE REVENUE COMMITTEE
FEBRUARY 15, 2005 8:30 AM STATE CAPITOL BUILDING

Members Present: Senator Ryan Deckert, Chair
Senator Rick Metsger
Senator Floyd Prozanski
Senator Charles Starr

Members Excused: Senator Gary George

Witness Present: Debra Buchanan, Oregon Dept. of Revenue
Jody Wiser, Tax Fairness Oregon
Arthur Towers, Service Employees Union Local 503

Staff Present: Paul Warner, Legislative Revenue Officer
Barbara Guardino, Committee Assistant

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005 Chair Deckert Calls meeting to order at 8:33 a.m. Committee will discuss what to include in the tax amnesty bill. Directs members' attention to SB 480 Tax Compliance (**EXHIBIT 1**).

PUBLIC HEARING, SB 480

026 Paul Warner Discusses exhibit 1, key elements of redraft of SB 480, which will be developed as an amendment. Two distinct parts: abusive tax shelters and general amnesty. Unlike California's amnesty program, suggests they be run concurrently.

046 Warner **Abusive Tax Shelters:**

- Personal & corporate taxpayers
- Listed and tax shelter transactions as defined in IRS code
- DOR sets rules for transactions with "no economic substance"

072 Chair Deckert Asks, what does "no economic substance" mean?

075 Warner It means the transaction was carried out strictly to avoid taxes. Answers follow-up questions.

080 Sen. Prozanski State needs to give non-filers as much latitude at first as possible.

089 Chair Deckert Is comfortable with giving extra latitude at first.

094 Warner

- Promoter (of questionable transactions) must register in Oregon if they have registered in other states

115 Sen. Prozanski Asks questions concerning registering these promoters here.

118 Warner Responds, DOR wouldn't have to carry out a separate compliance and monitoring system. They will get information from other states. Responds to follow-up discussion.

145	Chair Deckert	Promoters in California are probably registered here already.
150	Sen. Prozanski	Raises more points about registering promoters.
158	Debra Buchanan	If Oregon is able to piggyback on what another state is doing, it relieves Oregon of the obligation to tell promoters what they must do. It requires less work load. Also DOR can bring back as part of its report that they captured the majority of promoters.
178	Warner	<ul style="list-style-type: none"> • Penalties set at 20% per transaction – cumulative for three types • Voluntary Compliance Initiative (will return with estimates) Different from California is that there would be no appeal rights.
245	Chair Deckert	Agrees that those already identified by the system should be given amnesty as another carrot.
260	Sen. Prozanski	Comments, trade-off is they couldn't appeal after entering program.
276	Warner	Notes, July 1, 2006 start date would give Dept. of Revenue time to gear up for it, including publicity (EXHIBIT 2).
289	Chair Deckert	Questions whether program should begin closer to enactment of law.
297	Buchanan	Responds, proposed start time shouldn't coincide with tax season.
270	Chair Deckert	Asks how early could DOR begin?
290	Sen. Prozanski	Why not enact an emergency clause?
315	Warner	Does not believe an emergency clause is possible.
326	Chair Deckert	Would like to consider enactment within 90 days of sine die – September or October.
349	Warner	General Amnesty: <ul style="list-style-type: none"> • Same period as Voluntary Compliance Initiative • Personal income taxpayers only • Non-filers eligible • Amended returns to correct deduction overstatement or income understatement
369	Warner	<ul style="list-style-type: none"> • DOR has the right to place applicants under abusive tax shelter program • Those contacted by DOR can apply • Interest & penalty waived for those with no contact with DOR • Those that have contacted DOR can have penalties waived but not interest (two-tiered)
399	Warner	<ul style="list-style-type: none"> • Eligible tax years for amended returns: 02-03-04 • Post amnesty penalty at 25% of ordinary penalties – sunset in 2010 for non-filers • Public listing after amnesty period: Top 100

- Waive criminal & civil penalties
- 431 Warner
- Establish installment payment program – DOR sets terms
 - Direct DOR to review whistleblower program
 - Require amnesty participants to pledge future compliance
- 471 Chair Deckert
- Comments on issues of perpetuity, waiving interest and penalty for tax protesters. Requiring them to pledge could be a deal-breaker. Favors waiving this requirement.

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- 036 Sen. Metsger
- Comments on pledge signing. DOR would know to look for someone once they have been brought into the system.
- 042 Warner
- Cites an article concerning a Michigan amnesty case, where 68% remained in the system without signing a pledge.
- 066 Sen. Prozanski
- Signing your name doesn't serve a purpose. Once they are in the system they are in.
- 066 Chair Deckert
- Agrees.
- 072 Vice Chair C. Starr
- Believes signing a pledge could deter some people from stepping forward.
- 091 Chair Deckert
- Committee members favor removing this provision 3-to-1. Also would prefer to waive interest and penalties.
- 096 Vice Chair C. Starr
- Agrees.
- 099 Chair Deckert
- Removing interest is a bigger carrot, followed by a bigger stick.
- 115 Jody Wiser
- Presents written testimony paraphrased (**EXHIBIT 3**). Includes Questions and Suggestions. Tax Fairness Oregon did not suggest a general tax amnesty in its legislative agenda. There is no evidence in most states that it brings in new tax dollars.
- Questions:**
- Departments have to divert their normal work load to amnesty. Asks committee to consider increasing DOR budget 15% in order to collect these delinquent taxes.
- 158 Wiser
- Continues testimony with questions: Speeding revenue that would otherwise be collected anyway? When does a "notice of deficiency" get issued in the audit/collection process? These people should not be eligible for amnesty.
- 185 Wiser
- What are the current penalties which taxpayers are being relieved from? Questions implementation time frame.
- 200 Wiser
- Suggestions:**
- Comments on advertising before amnesty period.
- 220 Chair Deckert
- Comments concerning advertising.
- 233 Wiser
- Asks committee to leave in the segment about people who re-fall out

of the system – make them pay penalties. Make them pay penalties or they'll think they won.

- 266 Wisner Urges committee to increase DOR's budget and consider leaving in a penalty and instigate a way to track people.
- 299 Chair Deckert The penalty is the big question.
- 322 Sen. Prozanski Suggests looking at a nominal penalty.
- 339 Buchanan Currently, the first level of penalty is 5%. After 3 months there's an additional 20%. If it goes on longer, it goes up to 50%. Three consecutive years of noncompliance, there's a 100% per year penalty.
- 358 Warner Adds, if DOR finds taxpayer hasn't complied, there's a 125% penalty.
- 365 Sen. Prozanski Suggests leaving penalty at 5%. Majority of those captured will be individuals. Corporations would also pay 5%.
- 379 Chair Deckert Responds, this is a one-time deal and in some ways it is the wrong message to the 95% of taxpayers who are playing by the rules. Would be open to a nominal fee, perhaps \$10 or \$50.
- 413 Sen. Prozanski Is at the will of the committee on this issue.
- 423 Chair Deckert Asks how much would the average non-filer owe?
- 432 Buchanan Some will be hard-core non-filers who believe tax paying is illegal. There are also those who forgot to file and are afraid. It's hard to carve out something that's fair for everyone. Keeping a small penalty structure for everyone could make sense.
- 456 Sen. Prozanski Might DOR want discretion on this?
- 470 Buchanan Would prefer legislature set the policy.

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- 030 Sen. Prozanski Would be comfortable with a maximum 5% penalty. Would also support no penalty.
- 035 Wisner Asks for clarification whether DOR collected \$20 million in penalties. Follow-up questions.
- 040 Buchanan Those were penalties that were set up on the system, not those collected. This doesn't reflect waivers or those who file and don't owe tax.
- 050 Chair Deckert Data suggests state won't get that \$20 million.
- 065 Arthur Towers Union Local 503 represents front-line workers who collect the taxes. The workers generally favor the tax amnesty program idea. They have insight into mechanics of how the program would work. They are concerned about staffing and the period after amnesty to make sure the stick is big enough. Workers would like to testify before the

committee next week.

083	Chair Deckert	Would like to hear from them as soon as possible.
096	Chair Deckert	Adjourns meeting at 9:35 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. SB 480, Tax Compliance, Warner, 1 pp.
2. SB 480, It Was Probably Just an Oversight, Warner, 1 pp.
3. SB 480, Questions: Do you wish this to be a general and abusive tax shelter amnesty program ...
Wiser, 3 pp.