

SENATE REVENUE COMMITTEE
MARCH 2, 2005 8:30 AM STATE CAPITOL BUILDING

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

Witnesses Present: Debra Buchanan, Oregon Dept. of Revenue
Dexter Johnson, Legislative Counsel
Jim Craven, American Electronics Association
Jody Wiser, Tax Fairness Oregon
Paul Richey, Tax Fairness Oregon

Staff Present: Paul Warner, Legislative Revenue Officer
Lizbeth Martin-Mahar
Barbara Guardino, Committee Assistant

TAPE 51, SIDE A

005 Chair Deckert Calls meeting to order at 8:35 a.m. Committee will discuss Voluntary Compliance Initiative (VCI) tax amnesty program. SB 480-1 amendments just arrived, so committee will not pass bill out today.

WORK SESSION, SB 480

030 Paul Warner Explains SB 480-1 proposed amendments (**EXHIBIT 1**). First 17 pages are VCI, and borrow extensively from language of HB 2486. Remainder of bill deals with general amnesty. Dates are blank. Need direction from Dept. of Revenue in terms of resource management.

057 Warner Directs members' attention to spread sheet, SB 480 Preliminary Revenue Impact Numbers (**EXHIBIT 2**). Either segment could be a stand-alone bill. Figures are in millions. Figures and information are based on California's VCI program.

081 Warner Explains process and assumptions in creating the spread sheet. Tax shelter back taxes totals \$16.9 million. Net revenue from VCI is \$1.2 million.

117 Warner General amnesty is more complicated but has more states to draw information from. Most relevant is recent amnesty in Michigan.

144 Warner Most important revenue is from non-filers, although it's very difficult to assess. Ratio of non-filers to those already assessed is 3/1. About 75% of the returns would be from those already assessed. General consensus is that amnesty speeds up collection for those who are already in the system.

179 Warner Overall impact estimate for SB 480 is \$12.2 million plus \$9 million in the 2005-07 biennium; biggest impact is in 05-07.

- 190 Chair Deckert Asks what dates Mr. Warner based the 05-07 data on.
- 194 Warner Responds, based it on the assumption that amnesty would be in place 9-12 months after the session.
- 210 Debra Buchanan Discusses time frames for implementation. DOR could begin VCI section next fall, perhaps November to January of 05-06. This would not require significant change. General Tax Amnesty Program would require a new name and address program, and DOR wouldn't have resources to do that until perhaps July to October 2006. California said running simultaneous amnesty programs would be problematic.
- 240 Buchanan See amendments, "General Tax Amnesty Program" page 18. It appears to apply only to tax years starting January 1, 2002. Believes that should apply for amended returns only. Non-filers should include any years that taxpayers did not file.
- 255 Warner Revenue impact is based on amended returns only for three years. Non-filers would be extended beyond that.
- 275 Buchanan Assumption is that penalty enhancement should apply only to non-filers who fail to come in during amnesty period. Expresses concern about people who make honest mistakes and don't know to apply for amnesty.
- 302 Buchanan Discusses page 22, lines 1-3.
- 324 Dexter Johnson Reminds committee, it is not legal to have an emergency clause on this bill. It must take effect 90 days after the end of session. October might be cutting it close.
- 337 Vice Chair Starr Suggests setting date at November 1, 2005 through January 31, 2006.
- 349 Warner Notes, VCI will net a smaller dollar amount than general amnesty.
- 365 Jim Craven Draws members' attention to some unintended consequences in California's amnesty program. Issues center on filers who could have claimed amnesty but didn't, and still had to pay penalties. California is reworking some language to address these issues. He still favors the bill.
- 422 Warner Committee might want to consider giving DOR discretion in cases where the dispute is legitimate.
- 422 Sen. Prozanski Thought this issue was already resolved.
- 443 Chair Deckert Would be willing to place language in House bill to address this if necessary.

TAPE 52, SIDE A

026 Sen. George

Page 8 of -1 amendments, questions concerning Section 12, line 14; and lines 25 and 26. Wonders if it's possible anyone could be operating a tax shelter and not understand they were violating Internal

Revenue Code? 100% seems like a severe penalty for someone who might just make a mistake.

- 034 Warner Responds, the intent is that any dollars made from a tax shelter transaction were illegal, so the taxpayer is sacrificing the dollars earned from it. The level of understanding among promoters should be higher now after California's program.
- 049 Chair Deckert Asks Ms. Buchanan if she knows of any case where the promoter did not know the tax shelters were illegal.
- 055 Buchanan Would be surprised if that were the case.
- 065 Jody Wiser What is happening with these transactions is abusive tax shelter sellers are receiving money and they're saying if state comes after them, the seller will return their money. That means the taxpayer, not the state of Oregon, gets the money. Recommends changing wording to return money to state.
- 098 Wiser Asks Mr. Warner for clarification on whether there are no penalties during amnesty. Not everyone should get away without paying a penalty.
- 125 Warner Refers to page 10, lines 4-8. All penalties that would otherwise be imposed would be waived during VCI period, then following is a 20% abusive tax shelter penalty per transaction.
- 138 Chair Deckert Sees both the value of waiving a penalty, and imposing a nominal penalty. Asks if anyone would object to a small penalty.
- 151 Sen. George Agrees on a penalty for those who know it's wrong, but some people attend seminars and believe what they did was legal.
- 165 Sen. Prozanski Disagrees. Don't set up an exception for those ignorant of the law.
- 194 Warner Anticipates 500 returns, not a huge amount, but perhaps DOR director can have discretion on a penalty amount.
- 210 Wiser Non-filers who are already identified by the state and know they owe taxes should not be given relief from penalties.

WORK SESSION, SB 32

- 230 Lizbeth Martin-Mahar Provides DOR authority to establish rules to waive or reduce penalties on taxpayers for good or sufficient cause. First offense. Minimal revenue impact. This bill addresses Sen. George's issue from last time bill was heard.
- 272 Sen. Metsger SB 32 answers questions committee discussed in SB 480, especially line 29. Would provide flexibility.
- 285 Buchanan Agrees, it would provide DOR opportunity to look at the facts of a single case. Gives a hypothetical case.
- 310 Sen. George Comments, this provides the balance he was looking for.
- 325 Sen. Prozanski This bill may address issues brought up by Jim Craven.

331	Buchanan	The only concern is if lawmakers want penalties to be applied after an amnesty period, doesn't know where DOR would have discretion in those cases.
339	Chair Deckert	Perhaps committee needs to amend SB 32 to ensure it's connected to amnesty and VCI.
363	Sen. Prozanski	Wants to make certain DOR feels comfortable where committee is going as far as discretion.
389	Chair Deckert	Adjourns meeting at 9:30 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. SB 480-1, March 2, 2005, Warner, 23 pp.
2. SB 480-1, SB 480 Preliminary Revenue Impact Numbers, March 2, 2005 Warner, 1 pp.
3. SB 480-1, Citizen Testimony on Senate Bill 480, March 2, 2005, Richey, 2 pp.