

SENATE REVENUE COMMITTEE
APRIL 25, 2005 9:00 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: Rob Douglas, OSCP
Kim Spaulding, Moss Adams, LLP, Portland
Robert K. Carus, CPA, Clackamas
Bruce Krohn, The Morrissey Group LLC, Oregon City

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

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005 Chair C. Starr Calls meeting to order at 9:09 a.m.

PUBLIC HEARING: HB 2542

011 Rob Douglas Oregon Society of Certified Public Accountants comes before the revenue committees each session to describe what is taking place at the federal level, policy issues, how they affect Oregon income taxes, and stating what changes need to be made for Oregon to conform to the federal definition of income. Panelists will be working from the booklet, An Analysis of Changes (**EXHIBIT 1**).

024 Lizbeth Martin-Mahar Notes, the numbers associated with these changes will be reviewed on Tuesday. Today is just an overview of the changes.

029 Kim Spaulding Begins overview of An Act to Amend Section 527 of the Internal Revenue Code. See page 40, Recommendations C, section 4: Other provisions.

044 Spaulding Medicare Prescription Drug, Improvement and Modernization Act of 2003, Section 1201(h): Health savings accounts

055 Spaulding Clarifies, this is a minor section of health savings accounts; it does not cover all of it. Relates specifically to acquisition expenses.

066 Spaulding Page 41, section 1202: Exclusion from gross income of certain federal subsidies for prescription drug plans

077 Spaulding Military Family Tax Relief Act of 2003
Section 101: Military family tax relief act of 2003
Page 42, section 102: Exclusion from gross income of certain death gratuity payments
Section 103: Exclusion for amounts received under Department of

Defense Homeowners Assistance Program
Section 104: Expansion of combat zone filing rules to contingency operations
Page 43, sections 105 – 108
Section 108: Suspension of tax-exempt status of terrorist organizations

107	Spaulding	Page 44, section 109: Above-the-line deduction for travel expenses of National Guard and Reservists Section 110: Extension of certain tax relief provisions to astronauts
111	Robert Carus	Begins discussion on page 45, which analyses the American Jobs Creation Act of 2004. Section 101: Repeal of exclusion for extraterritorial income
133	Carus	Section 102: Deduction relating to income attributable to domestic production activities
142	Sen. George	Asks questions concerning section 101. Is curious what Congress did by providing a tax incentive for corporations producing goods outside the United States.
146	Carus	Responds, this was for goods produced inside the United States. Apologizes if this is misleading. Answers follow-up questions. Repeal of 101 gets the United States back in line with its foreign trading partners; enactment of 102 continues a benefit for manufacturing activities in the U.S.
171	Sen. Deckert	Asks, what are the mechanics of the ETI (extraterritorial income)? If an Oregon company wanted to claim a deduction, how would that work?
176	Carus	Explains the workings of a product manufactured in the U.S. and being sold overseas. There's a deduction taken against taxable income.
208	Sen. Deckert	The decision before the committee is whether to connect with the deduction that Congress enacted or not. One question is whether huge accounting problems would be created. Is this a deduction that can be easily dealt with on people's tax forms?
215	Carus	The process of identifying foreign trading gross receipts, etc., was extremely elaborate. OSCPA is biased in favor of conformity. It simplifies the tax system and makes the administration simpler.
245	Spaulding	Adds, this new deduction doesn't come into play until 2005, so none of the CPAs have done the calculation. The federal calculation will be completely different from the old method.
256	Bruce Krohn	Testifies, the exclusion isn't completely gone, it's just phased out, so that adds to the complication of the calculation.
265	Martin-Mahar	Clarifies concerning the exclusion for extraterritorial income. Companies that don't connect with this will face WTO sanctions. There is no question that the ETI needed to be excluded. Section 102

is an add-back.

287	Carus	Continues discussion on page 46, section 231, 232: S-Corporation reform and simplification: Members of family treated as one shareholder; number of shareholders increased to 100 Discusses definition of S-Corporation under Oregon law
341	Carus	Page 47, Section 233: Expansion of eligible bank S-Corporation shareholders to include IRAs Sections 234 – 240
380	Carus	Section 243: Improvements (liberalization) related to real estate investment trusts
395	Carus	Page 48, section 247: Modification of unrelated business income limitation on investment in certain small business investment companies Section 251: Exclusion of incentive stock options and employee stock purchase plan stock options from wages
443	Krohn	Page 49, Will cover the agricultural section of reconnect. Section 311: Rules for deferring gain from involuntary conversion of livestock eased Section 312: No reduction of patronage income for co-op dividends distributed on capital stock Section 314: Income averaging extended to fishermen and coordinated with the AMT (alternative minimum tax)
463	Krohn	Gives a definition of income averaging.
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035	Krohn	Page 50, section 315: Capital gain for outright sales of timber by landowners Section 316: Cooperative marketing includes value added processing of animals Section 318: Rural mail carrier's un-reimbursed vehicle expenses are deductible as a miscellaneous itemized deduction
059	Krohn	Section 319: Income from "open access, nuclear decommissioning, asset exchange or conversion" and "load loss" transactions for pre-2007 tax years
070	Krohn	Page 51, section 320: Individuals whose student loans are repaid under National Health Service Corps loan repayment program or similar state programs Section 321: Safe harbor for timber REITs
083	Krohn	Page 52, section 331: Net income from publicly traded partnerships treated as qualified income for regulated investment companies (RICs) Section 335: Whaling captains may claim charitable deduction for up to \$10,000 of expenses incurred each year after 2004
102	Sen. Deckert	Asks Paul Warner if there is a fiscal impact on the whaling provision.

105	Warner	Has not identified one.
109	Krohn	Page 53: section 340: Allowance of additional \$10 million capital expenditures for small issue bonds issued after September 30, 2009
112	Carus	Section 407: United States property not to include certain assets of controlled foreign corporations Section 411: Treatment of certain dividends of regulated investment trusts
130	Carus	Page 54, section 412: Look-thru treatment for sales of partnership interests Section 413: Repeal of foreign personal holding company rules and foreign investment company rules
149	Carus	Page 55, section 414: Determination of foreign personal holding company income with respect to transactions in commodities Sections 415-416
159	Carus	Section 418: Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of US real property interests
175	Carus	Page 56, section 419: Income derived from certain bets on horse and dog racing made outside US is excluded from gross income of nonresident alien individuals Section 422: Incentives to reinvest foreign earnings in the US. Points out incorrect text under "Oregon Law" subsection. Will suggest a change.
225	Sen. Deckert	Asks questions in regard to section 422, repatriation of income. Follow-up questions concerning the current 70-80% or bump that up to the federal 85% figure.
236	Carus	Responds by explaining what companies can and cannot do. This 85% dividend deduction only applies for one tax year for any given taxpayer. The statute requires a significant up-tick in the number of dividends being repatriated in order to qualify for this deduction.
276	Sen. George	Seems this is intended to bring home foreign profits and invest in in-state jobs.
282	Carus	Section 501: Deduction of state and local general sales taxes in lieu of state and local income taxes
319	Carus	Page 57, section 701: Brownfields demonstration program for qualified green building and sustainable design projects Section 702: Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income
355	Carus	Section 703: Civil rights tax relief
376	Carus	Page 58, section 708: Method of accounting for naval shipbuilders Section 801: Tax treatment of expatriated entities and their foreign parents

417	Carus	<p>Page 59, section 803: Reinsurance of United States risks in foreign jurisdictions</p> <p>Section 833: Disallowance of certain partnership loss transfers</p>
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020	Carus	<p>Page 60, section 834: No reduction of basis under Section 734 in stock held by partnership in corporate partner</p> <p>Section 835: Repeal of special rules for FASITs and changes to REMIC rules</p> <p>Section 836: Limitation on transfer or importation of built-in losses</p>
039	Carus	<p>Page 61, section 837: Clarification of banking business for purposes of determining investment of earnings in US property</p> <p>Section 838: Denial of deduction for interest on underpayments attributable to non-disclosed reportable transactions</p>
075	Spaulding	<p>Section 840: Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within five years of sale</p>
085	Spaulding	<p>Page 62, section 841: Prevention of mismatching of interest and original issue discount deductions and income inclusions</p> <p>Section 845: Expanded disallowance of deduction for interest on convertible debt</p> <p>Section 848: Limitation on deductions allocable to property used by governments or other tax-exempt entities</p>
091	Spaulding	<p>Page 63, sections 882, 883</p> <p>Section 884: Donations of motor vehicles, boats and airplanes</p> <p>Page 64, sections 888, 893, 896</p>
115	Spaulding	<p>Page 65, sections 897, 898, 899</p> <p>Page 66, sections 905, 907, 909</p>
125	Krohn	<p>Museum and Library Services Act of 2003</p> <p>Page 67, section 503</p> <p>Pension Funding Act of 2004</p> <p>Section 205: Repeal of reduction of deductions for Mutual Life Insurance Company</p> <p>Page 68, section 206: Clarification of exemption from tax for small property and casualty insurance company</p>
141	Krohn	<p>Working Families Tax Relief Act of 2004</p> <p>Section 104: Earned income includes combat pay</p> <p>Page 69, section 105: Application of EGTRRA sunset to this title</p> <p>Section 201, uniform definition of child, etc.</p>
155	Krohn	<p>Page 70, section 202, modifications of the definition of head of household</p>
170	Krohn	<p>Page 71, section 205: Modifications of Earned Income Credit (EIC)</p> <p>Section 206: Modifications of deduction for personal exemptions for dependents</p> <p>Page 72, section 207: Technical and conforming amendments</p> <p>Section 302: Parity in the application of certain limits to mental health benefits</p>

		Section 306: Deduction for donations of scientific property and computer technology Section 307: Deduction for certain expenses of school teachers
188	Krohn	Page 73, section 308: Expensing of environmental remediation costs Section 314: Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties
210	Krohn	Directs members' attention to handout (EXHIBIT 2) dealing with bills that passed after the American Jobs Creation Act. Recommendation A: Church plan bill for YMCA retirement fund Recommendation B: Excise tax on arrows; Internet tax nondiscrimination act Recommendation C: Tsunami tax relief act
246	Spaulding	Begins discussion of section A of booklet. An Act to Amend Section 527 of the Internal Revenue Code Page 1, section 1: Notice of formation Clergy Housing Allowance Clarification Act of 2002 Page 2, section 2: Clarification of parsonage allowance exclusion Holocaust Restitution Tax Fairness Act of 2002 Page 3, section 2: Repeal of sunset of EGTRRA with respect to exclusion for restitution received by victims of Nazi regime
266	Spaulding	Jobs and Growth Tax Relief Reconciliation Act of 2003 Section 201: Increase and extension of bonus depreciation Section 202: Increased expensing for small business
276	Spaulding	Medicare Prescription Drug, Improvement and Modernization Act of 2003 Page 4, 1201(a-d): Health Savings Accounts
287	Spaulding	Page 5: American Jobs Creation Act of 2004 Section 201: Two-year extension of increased expensing for small business Page 6, section 211: Recovery period for depreciation of certain leasehold improvements and restaurant property Section 222: Expansion of designated renewal community area based on 2000 census data Section 242: Income forecast method of depreciation – application modified
303	Carus	Page 7, section 244: Special rules for certain film and television productions Section 245: Credit for maintenance of railroad track
332	Carus	Page 8, section 322: Up to \$10,000 of reforestation expenditures for each qualified timber property can be expanded: dollar limitations on seven-year amortization eliminated Requests clarification of what is intended by a reconnect.
363	Carus	Section 336: Placed in-service-deadline for “bonus depreciation” is extended for certain aircraft Section 337: Rule for whether syndicated property satisfies the “original use” requirement for “bonus depreciation” is modified for

multiple-property leases.

- 390 Carus Page 9, sections 338, 339: Small refiners are permitted to expense up to 75% of the qualified capital costs of complying with certain EPA diesel fuel sulfur control requirements
Section 704: Modification of class life for certain motor sports race track facilities
- 413 Carus Page 10, section 706: Certain Alaska Natural Gas Pipeline property treated as seven-year property
Section 709: Modification of minimum cost requirements for transfers of excess pension assets
Page 11, section 847: Reform of tax treatment of certain leasing arrangements
Section 885: Treatment of nonqualified deferred compensation plans
Section 886: Extension of amortization of intangibles to sports franchises
Section 901: Class lives for utility grading costs

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- 031 Carus Page 12, section 902: Consistent amortization periods for intangibles
Section 910: Depreciation of certain passenger automobiles – limitation expanded
- 053 Sen. Deckert Asks, what is the policy for sports utility vehicles beginning January 1, 2005?
- 060 Carus Responds, effective October 22, 2004, an SUV under 6,000 pounds is subject to the limitations of any other automobile. If it weighs 6,000 – 14,000 pounds, there would be the \$25,000 cap. The 50% bonus is gone. Those rules were repealed for SUVs but not for pickups.
- 082 Krohn Continues testimony with background of Pension Funding Equity Act of 2004, federal legislation meant to assist industries meet their pension obligations.
Section 101: Temporary replacement of 30-year treasury rate
- 105 Krohn Page 13, section 102: Election of alternative deficit reduction contribution
Section 103: Multiemployer plan funding notices
Section 104: Election for deferral of charge for portion of net experience loss
- 120 Krohn Page 14, section 201: Two-year extension of transition rule to pension funding requirements
Section 202: Disputes involving pension plan withdrawal liability
Section 203: Congress and defined benefit pension system reform
Section 204: Extension of transfers of excess pension assets to retiree health accounts
- 147 Krohn Page 15: Working Families Tax Relief Act of 2004
Section 316: Accelerated depreciation of business property on Indian reservations
Section 319: Accelerated depreciation of business property on Indian

reservations

Section 322: Availability of medical savings accounts

Sections 401 – 408: Tax technical corrections

191	Spaulding	Comments, the panel will not discuss Section B.
197	Sen. Deckert	Asks panel, if they were the lawmakers, what questions should they be asking themselves in terms of connecting and disconnecting.
211	Krohn	Suggests, consider compliance and how taxpayers completing their own returns will track all these differences. State returns shouldn't be as complicated as federal. Taxpayers should be able to figure it out.
228	Carus	Adds, DOR could probably speak more effectively to this. Believes that a system that is relatively easy to administer is more effective and derives predictable revenues. From the perspective of taxpayers and DOR, the simpler the better.
242	Chair C. Starr	Closes public hearing. Adjourns meeting at 10:48 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. HB 2542-A, An Analysis of Changes Resulting from The:, Douglas, 93 pp.
2. HB 2542-A, recommendations supplement to analysis publication, Krohn, 2 pp.