

**WORK SESSION: HB 2137**

**PUBLIC HEARING & WORK SESSION: HB 2134**

**PUBLIC HEARING: HB 2135**

**TAPES 065 A/B, 066 A**

## **HOUSE REVENUE COMMITTEE**

**FEBRUARY 25, 1999 ñ 8:30 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Rep. Ken Strobeck, Chair

Rep. Anitra Rasmussen, Vice Chair

Rep. Deborah Kafoury

Rep. Jeff Merkley

Rep. Lane Shetterly

Rep. Jim Welsh

Rep. Max Williams

Rep. Bill Witt

Members Excused: Rep. Diane Rosenbaum

Staff: Ed Waters, Economist, Legislative Revenue Office

Barbara Guardino, Committee Assistant

Witnesses: Karey Schoenfeld, Oregon Society of CPAs

Susan Browning, Oregon Dept. of Revenue

### **TAPE 065, SIDE A**

007 Chair Strobeck

Called meeting to order at 8:35 a.m. Recessed to wait for members to arrive. Reconvened meeting at 8:40 a.m. Opened work session for HB 2137.

**WORK SESSION ñ HB 2137**

018	Ed Waters	See Proposed Amendments to HB 2137 (Income Tax Reconnect) ( <b>EXHIBIT 1</b> ).
027	Waters	<p>Reviewed amendments ñ5 through ñ9 (<b>EXHIBITS 2, 3, 4, 5, 6</b>). These are in addition to amendments ñ1 through ñ4 from earlier discussions.</p> <p>See exhibit 1 for descriptions of -5 through ñ9 amendments.</p>
063	Karey Schoenfeld	Reviewed HB 2137-5 amendments. On a pass-through entity, the statute of limitations runs from date of individual filing.
079	Schoenfeld	Reviewed HB 2137-6 amendments. Due date of first quarter estimated taxes of a private foundation. Discussion and questions interspersed.
136	Susan Browning	<p>Answered questions concerning ñ6 amendments. When Dept. of Revenue put fiscal impact together, it added check-off box on corporate returns forms to identify private foundations. About 25 foundations qualify.</p> <p>Concern that CPAs will understand that because of Y2K problem and other priorities, Revenue can't create the check-off boxes immediately.</p>
185	Rep. Witt	Commended Dept. of Revenue for trying to simplify tax laws for taxpayers.
193	Schoenfeld	<p>Reviewed HB 2137-7 amendments. Refund claims for disability received by firefighters. Extends statute of limitations for late filers.</p> <p>Discussion and questions interspersed.</p>
215	Chair Strobeck	Is against adopting ñ7 amendments.
228	Schoenfeld	Reviewed HB 2137-8 amendments. Regarding net operating loss rules for corporations. Modifies carry-back law to allow two-year carryback for corporations.
238	Browning	Directed members' attention to Oregon Corporate income Tax Data Related to Net Operating Loss ( <b>EXHIBIT 7</b> ). Data is subject to revision.
251	Browning	Bottom of exhibit 7 addresses Rep. Witt's previous questions about corporations that go

out of business and are unable to carry the loss forward.

- 273 Schoenfeld Discussed HB 2137-9 amendments. Net operating loss of individual farmers operating in a corporate form. Establishes 5-year carryback.
- 320 Rep. Witt Questions concerning ñ8 amendments. Is it safe to assume that corporations that recorded a loss and then dissolved without filing additional tax returns those losses never got netted against taxable income in previous years?
- 332 Browning That is correct.
- 355 Chair Strobeck **MOVED ñ1, -2, -3, -4, -5, and ñ6 AMENDMENTS TO HB 2137 BE ADOPTED. ASKED MEMBERS FOR ANY OBJECTIONS. HEARING NO OBJECTION, CHAIR SO ORDERED.**
- 368 Chair Strobeck Committee will not vote on ñ7 amendments. Committee will discuss ñ8 and ñ9 amendments.
- 361 Rep. Witt Commented on ñ8 and ñ9 amendments. Expressed concern that corporations that have a loss will never be able to offset that loss against income on which they paid taxes. Would prefer to adopt to federal code and have two-year carryback. This might not be realistic. Would support carryback for corporations that dissolve.
- 420 Rep. Shetterly Summarized, this would remain in a corporation but would then become cash. Refund would become part of assets available upon distribution to shareholders or to creditors.

**TAPE 066, SIDE A**

- 030 Browning The simplest way to do it is to keep it at the corporate level.
- 042 Wit More discussion about distribution of refunds.
- 057 Rep. Williams Asked revenue impact of ñ8 amendments and Rep. Witt's concept. Without these numbers, he is will vote no.
- 063 Browning Referred to exhibit 7 as an example. Revenue hasn't figured out ñ8, but it would be much less.

096	Chair Strobeck	Concerning ñ8 and ñ9 amendments, question before committee is whether to change Oregon law to connect to federal.
106	Rep. Shetterly	Will vote no on these amendments. Supports them in concept but prefers to move bill out without it and put this on the menu of other available options in tax reductions and look at it in context with other pieces.
119	Rep. Witt	Concurred.
135	Chair Strobeck	<b>MOTION: MOVED HB 2137, AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.</b>
144	<b>VOTE</b>	<b>ROLL CALL VOTE: MOTION PASSES 8-0-1</b>  <b>REPRESENTATIVES VOTING AYE: KAFOURY, MERKLEY, SHETTERLY, WELSH, WILLIAMS, WITT, VICE CHAIR RASMUSSEN , CHAIR STROBECK</b>  <b>REPRESENTATIVES EXCUSED: ROSENBAUM</b>   <b>CHAIR STROBECK WILL CARRY THE BILL.</b>
149	Chair Strobeck	Closed work session on HB 2137. Opened public hearing on HB 2134.

**PUBLIC HEARING ñ HB 2134**

163	Ed Waters	HB 2134 has to do with penalty for Dept. of Revenue personnel for unlawful disclosure of information. Concern was that the bill would narrow the conditions that could cause a conviction. Discussed HB 2134-1 amendments ( <b>EXHIBIT 8</b> ). Amendments insert "intentionally" and "recklessly" into bill; remove phrase "upon conviction".
197	Rep. Witt (acting chair)	Asked for anyone to testify. Seeing none, closed public hearing on HB 2134. Opened work session on HB 2134.

**WORK SESSION ñ HB 2134**

220	Rep. Shetterly	Clarified the bill deletes the culpable mental state of criminal negligence for "failing to be aware". Read portion of ORS 161.085 ñ criminal negligence.
281	Chair Strobeck	Clarified, this refers to Dept. of Revenue employees only.

296	Rep. Witt	Offender "shall" be dismissed from office makes it clear. Committee should make sure this provision doesn't undercut provisions where offender "might" be dismissed.
323	Rep. Welsh	Asked if Rep. Shetterly believes this has bill been diluted, or if agency would consider it to be diluted.
335	Rep. Shetterly	Yes, but many crimes require culpable mental state. This is not unusual.
331	Rep. Witt	This change significant from current law, could impact taxpayer confidentiality.
399	Chair Strobeck	Believes 11 amendments strike a middle ground, bringing a level of reassurance to employees while holding them accountable.
430	Vice Chair Rasmussen	<b>MOVED 11 AMENDMENTS TO HB 2134 BE ADOPTED. CHAIR ASKED FOR ANY OBJECTIONS. HEARING NO OBJECTIONS CHAIR SO ORDERED.</b>
439	Vice Chair Rasmussen	<b>MOTION: MOVED HB 2134 AS AMENDED, TO THE SENATE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.</b>
445	All	Discussion.
484	<b>VOTE</b>	<b>ROLL CALL VOTE: MOTION PASSES 7-1-1</b>  <b>REPRESENTATIVES VOTING AYE: KAFOURY, MERKLEY, SHETTERLY, WELSH, WILLIAMS, VICE CHAIR RASMUSSEN, CHAIR STROBECK</b>  <b>REPRESENTATIVES VOTING NAY: WITT</b>  <b>REPRESENTATIVES EXCUSED: ROSENBAUM</b>  <b>VICE CHAIR RASMUSSEN WILL CARRY THE BILL.</b>
509	Rep. Witt (acting chair)	Closed work session on HB 2134. Opened public hearing on HB 2135.

**TAPE 065, SIDE B**

060	Ed Waters	Discussed 12 amendments to HB 2135 ( <b>EXHIBIT 9</b> ). Deals with use of pseudonyms for some Dept. of Revenue employees. Also allows disclosure to law enforcers and U.S. Postal
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Inspection Service under certain circumstances.

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| 086 | Susan Browning           | Asked for more time to work on some amendments that committee has concerns about. Dept. of Revenue proposes to scale back disclosure to mail theft and forgery. Revenue tries to keep mailings secret. Revenue's hands are tied now in regard to investigating these thefts. Also, Revenue needs U.S. Postal Service to have the right to use checks as evidence. |
| 146 | Rep. Shetterly           | Questioned clarity of language in lines 38-39.  |
| 154 | Browning                 | Department will work on this language.  |
| 173 | Rep. Witt (acting chair) | Closed public hearing on HB 2135. Adjourned meeting at 9:40 a.m.  |

Submitted by, Reviewed by,

Barbara J. Guardino Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

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1. HB 2137, Waters, Proposed Amendments to HB 2137 (Income Tax Reconnect), 1 p.
2. HB 2137, Waters, Proposed Amendments to House Bill 2137 (HB 2137-5), 3 pp.
3. HB 2137, Waters, Proposed Amendments to House Bill 2137 (HB 2137-6), 1 p.
4. HB 2137, Waters, Proposed Amendments to House Bill 2137 (HB 2137-7), 1 p.
5. HB 2137, Waters, Proposed Amendments to House Bill 2137 (HB 2137-8), 5 pp.
6. HB 2137, Waters, Proposed Amendments to House Bill 2137 (HB 2137-9), 5 pp.
7. HB 2137, Browning, Oregon Corporate Income Tax Data Related to Net Operating Loss, 1 p.
8. HB 2134, Waters, Proposed Amendments to House Bill 2134 (HB 2134-1), 1 p.
9. HB 2135, Waters, Proposed Amendments to House Bill 2135 (HB 2134-2), 1 p.