

SENATE REVENUE COMMITTEE

FEBRUARY 11, 1999 ñ 3:00 P.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Senator Randy Miller, Chair

Senator Thomas Wilde, Vice Chair

Senator Lee Beyer

Senator Tom Hartung

Senator Charles Starr

Staff: Paul Warner, Legislative Revenue Officer

Ed Waters, Economist, Legislative Revenue Office

Barbara Guardino, Committee Assistant

Witnesses: Susan Browning, Oregon Dept. of Revenue

Leonard Hamilton, Oregon Dept. of Revenue

TAPE 033, SIDE A

015 Chair Miller Called meeting to order at 3:05 p.m. Opened public hearing in SB 410.

PUBLIC HEARING ñ SB 410

019 Ed Waters Reviewed points of SB 410:

1. Specifies that prizes awarded by Oregon State Lottery or multi-state lottery

associations in which the Oregon State Lottery participates are allocable to Oregon for taxation purposes.

2. Revises definition of taxable lottery prizes to be consistent with definition in federal tax law
3. Includes net gain from sale of intangible assets if net gain is included in taxpayer's taxable business income.
4. Removes requirements that a taxpayer's constitutional rights must be violated before taxpayer can request use of alternative apportionment factor
5. Allows Dept. of Revenue to adopt rules consistent with other states in administering taxes under UDIFTA (Uniform Division of Income For Tax Purposes Act)
6. Allows alternative insurance sales factor to be used if the current formula unfairly represents the extent of a taxpayer's reinsurance activity

040	Waters	Directed members' attention to 11 amendments (EXHIBIT 1). Inserts language to affirm that taxpayers must gain approval from Dept. of Revenue before using an alternative insurance sales factor.
057	Susan Browning	There are several different provisions within this bill. All have a theme of allocation and apportionment of income (EXHIBIT 2). Lottery section specifies lottery prizes are source of income if ticket is purchased in Oregon; Powerball winnings are taxable if purchased in Oregon.
087	Chair Miller	What would be the rate of tax?
089	Browning	Regular nonresident income. Explained how Powerball winnings are distributed. This bill clarifies that prizes would be taxable to Oregon if the winning ticket was purchased in Oregon.
110	Chair Miller	How would a resident of Massachusetts who won lottery in Oregon be taxed?
113	Browning	That individual would be taxed in Oregon as a nonresident. Doesn't know how Massachusetts would handle the taxing.
132	Leonard Hamilton	Depends on the particular state. Most states allow credit for mutually taxed income.
151	Browning	Continued discussion on Exhibit 2: Discussed sections 1-4, taxation of multi-state lottery. Section 5: Revises definition of taxable lottery prizes. Delete word "net".
170	Browning	Revenue attorney found the following technical correction: Page 1, section 2, specifies that if ticket upon which the prize is awarded was sold in the state. This language should be carried forward into page 2, lines 5-7, and page 3, lines 9 & 10. Suggested

amendment to correct this (**EXHIBIT 3**).

- 197 Browning Page 4 of bill: Corporate income tax program. Reviewed how allocation and apportionment program works. Issues in SB 410 deal with policy. See SB 410: Allocation and Apportionment of Income (**EXHIBIT 4**).
- Allocation and Apportionment: General Formula. Explained tree factors ñ sales, payroll, property.
- 245 Browning Discussed Multi-State Tax Commission. States agree in concept that uniformity is fair. Goal is to do uniform and consistent approach among states.
- 267 Browning Reviewed Section 8, page 4, lines 2-8. "Excludes gross receipts Ò" Including gross receipts in sales factors distorts the representation of the company in Oregon.
- 323 Vice Chair Wilde Asked, sales would not be decreased based on a loss on investments?
- 328 Hamilton Only impacts if net gain, not a loss. The intent is to measure the activity of a corporation in the various states in order to apportion income. Will supply more information.
- Questions and discussion continued.
- 397 Chair Miller Expressed concern that there are no representatives other than DOR to testify on this bill. Who is interested?
- 424 Browning DORís interest is uniformity with other states. Asked for direction from committee on how to handle this. She doesnít know of anyone who is affected adversely by this.
- 429 Browning Directed membersí attention to exhibit 4, bottom of page 1: Including Net Gain From Sale of Intangibles in Sales Factor.

TAPE 034, SIDE A

- 043 Chair Miller Would be interested to find out if taxpayers in this situation would think this is a good proposal. Heís not prepared to judge this. Nobody is here to comment on it.
- 065 Browning Has had discussions with some interested parties, expected to see them here.
- Questions and discussion concerning reinvestment as part of business activity.
- 098 Sen. Beyer Clarified, the adjustment is in the sales factor only? Yes.

106	Browning	Discussed Section 9 lines 26-27 (also deletion of lines 16-17) Page 4. Taxpayers must use the three standard factors unless this would violate their constitutional rights. Oregon is the only state with a constitutional tie. This is a really high standard. Should the Department of Revenue have more flexibility to address issues that come up? Formula was designed years ago for manufacturing and doesn't always quite fit. Example: Companies that do more overseas production due to cost of labor.
168	Browning	Discussed petitioning process. Proposing on Section 9 to allow Dept. of Revenue more flexibility to adopt rules to address these areas, to work with other states. Could work either in Department's favor or in taxpayer's favor.
196	Vice Chair Wilde	If Department and taxpayer could not to come to an agreement, what would occur?
199	Browning	It would go to tax court.
229	Browning	Discussed Section 11, page 4: Apportionment factor for insurance companies. See example on exhibit 4. Proposed change is based on a current incident with a taxpayer, dealing with reinsurance. An insurance company can buy insurance for a certain policy. Proposing that reinsurance be included as part of sales factor.
288	Waters	-1 amendments deal with this. These are the only official amendments today. The ñ2 amendments are not official.
315	Chair Miller	Committee will return to this bill to allow others to testify.
344	Waters	Does not believe there is a revenue impact, Dept. of Revenue may have identified a potential loss of \$100,000.
354	Chair Miller	Closed public hearing on SB 210. Adjourned meeting at 3:55 p.m.

Submitted by, Reviewed by,

Barbara J. Guardino Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

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1. SB 410, Waters, SB 410-1, Proposed Amendments to Senate Bill 410, 1 p.
2. SB 410, Browning, Oregon Department of Revenue 1999 Legislative Session Bill Summary SB 410, 3 pp.
3. SB 410, Browning, Proposed Amendments to Senate Bill 410 (unofficial ñ2 amendments), 1 p.
4. SB 410, Browning, SB 410 Allocation and Apportionment of Income, 2 pp.