

SENATE REVENUE COMMITTEE

February 8, 1999 - 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

Richard Yates, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Witnesses: Susan Browning, Department of Revenue

David Hooper, Oregon Lottery

TAPE 027, SIDE A

005 Chair Miller Meeting called to order at 3:03 p.m.

011 Chair Miller MOTION: INTRODUCTION, AS COMMITTEE BILLS, OF LC 1259 (EXHIBIT 1) RELATING TO TAXATION, LC 1260 (EXHIBIT 2) RELATING TO TAXATION AND LC 1261 (EXHIBIT 3) RELATING TO TAXATION.

HEARING NO OBJECTION, THE CHAIR SO ORDERED. (SENATORS BEYER, VICE CHAIR WILDE EXCUSED).

- 023 Chair Miller The vote for LC 1259, LC 1260 and LC 1261 is for the purpose of introduction only. The merits of the proposals will be discussed if the bills come before the Committee.
- 024 Chair Miller Announced that on Thursday, February 18, there is a tour of the Portland public schools beginning at 1:00 p.m. Requested that members indicate whether there is an interest, as a Committee, to take the tour. Requested members notify the Chair if they would like to participate in that tour. If there is enough interest by Committee members the Committee will not meet that afternoon.
- 036 Sen. Hartung Responded that he will be participating in that tour.

PUBLIC HEARING ON SB 253

- 047 Ed Waters SB 253 was brought forward by the Department of Revenue and would clarify that classification of limited liability companies is for all purposes under ORS 305 to 324. It is not limited to only matters of taxation.
- 055 Susan Browning Presented testimony in support of measure. (Exhibit 4)
- 067 Sen. Hartung Other than taxation what other liabilities might there be for a limited liability company?
- 071 Browning There was a miscommunication of what is meant by taxation; our attorney advised us it would be cleaner to take "taxation under" out of the language and it would clarify treatment for the full purposes of Chapters 305 to 324.

OPENED WORK SESSION ON SB 253

- 087 Vice Chair Wilde MOTION: MOVED SB 253 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.
- 091 VOTE ROLL CALL VOTE: MOTION PASSES: 4-0-1
- SENATORS VOTING AYE: Hartung, Starr, Wilde, Chair Miller

SENATORS EXCUSED: Beyer

Vice Chair Wilde will carry the bill.

OPENED PUBLIC HEARING ON SB 255

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| 098 | Richard Yates | SB 255 was passed out of Trade and Economic Development with no dissenting votes and had a prior referral to Revenue. There is no revenue or fiscal impact for the bill. Reviews what the bill would do section by section. |
| 133 | Susan Browning | Presented testimony in support of measure. (Exhibit 5) |
| 160 | Chair Miller | Have any partnerships been winners and how have they been treated, if so? |
| 164 | Browning | There have been a couple of non-individuals that won the lottery prior to the taxation became effective last session. We have not currently run into this, but the questions of where is the money from the Lottery put and how is the withholding accounted for. |
| 177 | Vice Chair Wilde | How would this be treated, as income for the partnership? |
| 181 | Browning | It would be treated like any other income by the entity winning. They would need to pay estimated tax instead of taking advantage of the withholding system. |

OPENED WORK SESSION ON SB 255

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| 189 | Sen. Hartung | Where does video poker fall under this bill? |
| 199 | David Hooper | The top prize for any video lottery game is \$600. The tax is on the prize and for the prize is for the game played. |
| 209 | Yates | The video lottery winner does not go to the Lottery for payment; they receive payment from the establishment where the game is played. The withholding would have to be every licensed premise with video machines and that is not required. |
| 218 | Sen. Hartung | MOTION: MOVED SB 255 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION. |

221 VOTE ROLL CALL VOTE: MOTION PASSES 4-0-1

SENATORS VOTING AYE: Hartung, Starr, Wilde, Chair Miller

SENATORS EXCUSED: Beyer

Sen. Hartung will carry the bill.

OPENED PUBLIC HEARING ON SB 258

225 Ed Waters SB 253 clarifies that retirement income received by a non-resident does not constitute income derived from sources within Oregon unless the individual is domiciled in Oregon. Provided background to the bill.

251 Susan Browning Presented testimony in support of measure. (Exhibit 6)

280 Chair Miller Could you clarify the difference between resident vs. domiciliary?

292 Browning A person could own many residences, but a person has only one domicile. Gave an example of the difference. The Department estimates that very few people will meet the criteria in the example.

313 Chair Miller How does this bill interact/reconcile with the bill that deals with those who derive income overseas?

342 Browning Discussed a Department report and provided examples. For Oregon tax purposes the two major factors are 1) a resident is someone who considers Oregon their home or 2) is in a state of majority at the time and derives benefit from the State. The other three barometers that are also used are 1) a resident is a person who maintains a permanent place of abode, 2) does not maintain a permanent place of abode elsewhere, and 3) lives in Oregon more than 30 days in a year.

371 Browning Provided specific examples to address the above criteria.

The other bill would deal with the ex-patriot taxation issue that addresses employees working overseas.

TAPE 028, SIDE A

013		Discussion and questions interspersed, as they relate to residency vs. domiciliary.
060	Vice Chair Wilde	Presented an example of how one could be treated in a different manner, for purposes of taxation; intent is not something that should be the basis for taxation.
084		Discussion and questions interspersed, as they relate to Vice Chair Wilde example.
135	Chair Miller	Posed a hypothetical example, as it relates to the stock market and requested clarification as to the source of the income?
148	Browning	The income is from an intangible asset. Would need to determine if the person is a resident or non-resident for taxation purposes.
		If all ties to Oregon are cut the above examples can be legal and appropriate financial planning tool, but if ties to Oregon are not cut (i.e. wife, children, etc. still living in Oregon) they can be viewed as tax evasion.
177	Sen. Beyer	Questioned the selling of tangible and intangible assets and how that is treated under Oregon tax law.
186	Browning	The whole picture must be looked at to determine what the intent is for the sale; the question becomes is it sound financial planning or tax evasion.
201		Discussion and questions interspersed, relating to tangible and intangible assets.

OPENED WORK SESSION ON SB 258

219	Vice Chair Wilde	MOTION: MOVED SB 258 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.
225	VOTE	ROLL CALL VOTE: MOTION PASSES 5-0-0
		SENATORS VOTING AYE: Beyer, Hartung, Starr, Wilde, Chair Miller
		Chair Miller will carry the bill.

228	Chair Miller	Reiterated earlier announcement of the Portland Public Schools tour on February 18 and requested members communicate with the Chair their interest in participating in the tour.
234	Chair Miller	Meeting adjourned at 3:48 p.m.

Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. LC 1259, Chair Miller, 2 pages
2. LC 1260, Chair Miller, 2 pages
3. LC 1261, Chair Miller, 4 pages
4. SB 253, Browning, Written testimony, 1 page
5. SB 255, Browning, Written testimony, 1 page
6. SB 258, Browning, Written testimony, 1 page