

Public Hearing: HB 2g23
Work Session: HB 2443
Tapes 29-31 A/B
32 A

HOUSE COMMITTEE ON
REVENUE AND SCHOOL FINANCE
SMALL BUSINESS SUBCOMMITTEE

APRIL 6, 1993 8:00 AM HEARING ROOM A STATE CAPITOL BUILDING

Members Present: Representative Greg Walden, Chair
Representative Ron Adams
Representative Margaret Carter
Representative Delna Jones
Witnesses Present: Betsy Bailey, Associated Oregon Industries
Jim Manary, Department of Revenue
Rich Peppers, Oregon Public Employees Union
Joe Gilliam, National Federal of Independent
Businesses

Staff: James Scherzinger, Legislative Revenue Officer
Steve Meyer, Legislative Revenue Office
Dick Yates, Legislative Revenue Office
Paula McBride, Committee Assistant

TAPE 29 SIDE A

007 CHAIR WALDEN called the meeting to order at 8:28.

008 CHAIR WALDEN opened the Public Hearing on HB 2923.

015 DICK YATES said Section 3 of HB 2923 is the operational section relating to state personal income taxes. HB 2923 allows deferral of gain on sale of business or business asset if gain is invested in certain proprietorship, S. corporation or partnership. He referred to material that explained the sections of the IRS codes that are mentioned in HB 2923 governing capital gains and losses. Exhibits 1-4

Questions and discussion

067 CHAIR WALDEN conducted administrative business.

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076 DICK YATES continued his description of HB 2923 as related to relevant IRS codes. He explained the concept of "capital asset" that is contained in HB 2923 and involves personal income taxes, specifically discussing stocks and bonds.

Questions and discussion

125 DICK YATES talked about intangible assets in Section 3 of HB 2923.

Questions and discussion

153 DICK YATES talked about the capital assets that businesses could or could not hold to qualify under HB 2923 (page 2 of bill).

Questions and discussion

190 DICK YATES said there was some concern about language in HB 2923, particularly about the tense of verbs. He gave examples.

Questions and discussion

207 DICK YATES discussed Subsection 10 A, Section 2 of HB 2923 relating to qualification for the deferral of capital gains under the bill. He referred to a handout entitled "1990 Oregon Covered Employment and Payroll" to clarify the qualification issue. Exhibit 5

Questions and discussion

278 DICK YATES continued his explanation of qualifying for the deferral in HB 2923, using his handout. Exhibit 5

298 DICK YATES explained the concept "expansion share" in Section 2 (line 14) of HB 2923. He compared this term with another in this section, "founder's share," and related these two terms to language in the rest of Section 2.

Questions and discussion

384 BETSY BAILEY testified in support of HB 2923. She stated that HB 2923 was part of a package of bills before the Legislature this Session which would encourage economic development in Oregon. Her testimony was verbatim. Exhibit 6

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TAPE 30 SIDE A

002 BETSY BAILEY continued her testimony in support of HB 2923.

Questions and discussion

038 DICK YATES further explained the concept of "founder's share" in Section 2 of HB 2923.

Discussion of the concept of "founder's share" with BETSY BAILEY.

75 DICK YATES related that there was not a monetary limitation on the amount of capital gain contained in HB 2923.

Discussion

087 DICK YATES said the Department of Revenue (DOR) would determine by rule what "principal portion" would be related to HB 2923.

095 CHAIR WALDEN stated he would prefer to determine what "principal portion" meant statutorily rather than allowing the DOR to make that determination.

Discussion

111 REP. CARTER asked for a definition of "related party" (page 2, line 40 of HB 2923), and discussion of this term followed with BETSY BAILEY.

187 CHAIR WALDEN raised the issue of "death or disability" contained in HB 2923, especially concerning the concept of giving the deferral as a "gift" to others.

Discussion

212 JIM MANARY related that the DOR had minor concerns about HB 2923, which he will resolve with BETSY BAILEY. He mentioned a couple of these concerns.

Questions and discussion

350 DICK YATES further explained "depreciation or gain or loss" related to the deferral of capital gain in HB 2923 (Section 6 of HB

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292 3).

Questions and discussion

401 JIM MANARY gave another example of depreciation, gain, or loss, of the deferred capital gain, as related to Section 7 in HB 2923.

Discussion

TAPE 29 SIDE B

002 Discussion continued concerning Section 6 of HB 2923.

038 JIM MANARY wrote an example of depreciated gain in relation to the proposed deferred capital gain in Section 6 of HB 2923. Exhibit 6

Discussion

097 DICK YATES used JIM MANARY's example of deferred capital gain, but asked the members to think about the numbers in an alternative way.

Questions and discussion

131 JIM MANARY further explained Section 6 of HB 2923, using his numbers from Exhibit 7.

Questions and discussion

203 REP. CARTER asked that a sunset provision be written into HB 2923.

Discussion

223 Discussion of the differences and/or similarities of HB 2446 (deferral of capital gain on founder's stock) and HB 2923.

257 BETSY BAILEY further explained the clause of HB 2923 about "related party" (Subsection 10, Section 2). She pointed out that HB 2923 does not relate to the inheritance tax.

281 JIM MANARY clarified the issue of "related party" in HB 2923.

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Questions and
discussion

316 RICH PEPPERS expressed a couple of areas of concern with HB 2923. The first related to the revenue impact of the bill. The second issue related to a non-reinvestment amount of the deferred tax, but he believed there was language to cover this in HB 2923.

Discussion

356 RICH PEPPERS also wanted to know how, if HB 2923 passed, the reinvestment in jobs in Oregon can be reassured. Additionally, this concern was related to a national problem related to tax favors for business: There had been a tendency for companies to merge rather than create of jobs. He wanted HB 2923 to guarantee that this kind of misuse would be avoided.

Discussion

416 JOE GILLIAM testified in support of HB 2923 which he believed would encourage economic development in Oregon.

TAPE 30 SIDE B

007 JOE GILLIAM continued his testimony for HB 2923. He stated this type of legislation will enable businesses to keep capital in Oregon.

014 Discussion of possible amendments to HB 2923, as follows: (1) find out from counsel the phrasing of the definition of "founder's share" (page 1, lines 21-22), and (2) explore the language "principal portion" (page 2, line 31).

027 CHAIR WALDEN related that for another bill, HB 2446, the definition of founder's stock was related to companies that employed at least 80% of their employees in Oregon.

034 DICK YATES related that a third issue was to get for the members a definition of "material participation" and if there is a link to Federal codes.

036 CHAIR WALDEN asked the members to further discuss their sense of Section 6 of HB 2923.

Questions and
discussion

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096 DICK YATES used JIM MANARY's his example, changing some of the numbers, to explain Section 6 of HB 2923. Exhibit 7

Questions and
discussion

143 DICK YATES further explained issues in Section 6 of HB 2923, concerning the calculation of depreciation or gain or loss of deferred gain.

Questions and
discussion

192 JIM MANARY stated that he agreed with DICK YATES's description of Section 6 of HB 2923.

Questions and
discussion

212 Discussion of the term "economic development," especially as related to the development of jobs in Oregon which is the intent of HB 2923.

225 JOE GILLIAM said there was no absolute way to ensure the creation of jobs from HB 2923, and he discussed possible situations where businesses could fail to create jobs.

257 BETSY BAILEY said HB 2923 was designed to make Oregon a good climate for small business, in addition to providing potential job creation.

271 JOE GILLIAM described a particular situation where small investors pooled investment to begin a winery in Oregon. He spoke about this example in relation to providing economic incentives for small businesses in Oregon.

290 Discussion continued about the intent of HB 2923, and what members wanted to see accomplished by its passage.

395 BETSY BAILEY addressed another concern of the members, regarding large

corporations coming into the state to take advantage of the deferral of capital gain if HB 2923 passed.

Questions and discussion

TAPE 31 SIDE A

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008 CHAIR WALDEN closed the Public Hearing on HB 2923.

009 CHAIR WALDEN recessed the meeting at 10:19 and reconvened at 10:34.

012 CHAIR WALDEN opened the Work Session on HB 2443.

024 JOE GILLIAM talked about discussions with county and assessor representatives concerning HB 2443. There was agreement on one issue; namely, that HB 2443 the way it is written does not reduce paperwork as filing is still required. The groups disagreed about other issues, which he revealed. He wanted to exempt businesses with less than \$5000 in personal property tax from filing, not including residential property or leasing companies which would still be determined by the local assessors. He referred to a chart which had data on the effect of HB 2443 in various counties. Exhibit 8

Questions and discussion with JOE GILLIAM AND JERRY HANSON

064 JOE GILLIAM continued his explanation of the data on personal property taxes on the chart given to the members. Exhibit 8

Questions and discussion with J~xRY

HANSON

100 JOE GILLIAM further discussed the data on personal property taxes, using the Hood County as an example. He pointed out his calculations on average taxes paid for personal property on his chart. He also talked about personal property taxes in Washington County. Exhibit 8

Questions and discussion

157 JERRY HANSON discussed the process of handling personal property tax accounts on the county level.

184 JOE GILLIAM talked about a disagreement with the counties concerning people who avoid paying personal property taxes. He believed there were few people who did this; however, his organization plans to disseminate information on personal property taxes to its members, including a checklist of procedures they must follow.

232 JERRY HANSON recapped the issues the county has concerning taxation off personal property, as follows: (1) whether or not the

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personal property should be canceled with no additional filing (the process issue), (2) the level of the exemption (counties are neutral since a level already exists), and (3) whether this law should be mandated (assessors are neutral because they disagree among themselves).

Questions and discussion

272 JOE GILLIAM believed that the Association of Oregon Counties was neutral about HB 2443 as it is currently written.

Questions and discussion

303 CHAIR WALDEN recapped the members concerns with HB 2443, as follows: the revenue flow to the counties, the mandating of counties rather than giving them a choice to ensure uniformity (changing the word "may" to "shall."

Questions and discussion

383 REP. ADAMS said his preference was to have an initial statement on personal property to which the taxpayer could add to or delete items, which he believed would save both the taxpayer and the county time.

Discussion

TAPE 32 SIDE A

005 JERRY HANSON believed that many taxpayers do not know how to distinguish between their personal property for the property tax (which is real market value) and the value that is on their books (for income tax purposes). He related that the value taxpayers have to report is the value of the property as it would sell for, not the value on their books, and it would be a major revenue problem if the book value was used for the property tax roll.

Discussion

024 JOE GILLIAM believed that the real issue was how much paperwork should be required of a business compared to the amount off tax that is being collected.

Questions and discussion

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045 Discussion of alternative methods of dealing with the personal property.

081 JERRY HANSON discussed another concern, which is a "collections issue" with the counties. Because personal property is removable, there is no way to assure collection without an accurate list from the taxpayer. Therefore, he was opposed to allowing taxpayers to send in cards stating their personal property tax was under a certain level. He reiterated that the other concern related to the valuation of personal property, which he stressed was difficult for taxpayers to determine.

Questions and discussion

105 JERRY HANSON related that the method used for calculating value is based on sales of various kinds of property, and is a depreciation schedule taken out of the market.

Questions and discussion

125 JERRY HANSON explained what information he believed the counties needed to have about personal property for taxation purposes.

151 JOE GILLIAM gave a perspective on the amount of tax collected on personal property worth less than \$5,000.

172 Discussion of alternative ways of dealing with the filing of personal property tax if the value is below a certain level.

Discussio

n

285 JERRY HANSON said the assessors were split on the issue of whether or not to make HB 2443, in its final form, mandatory for the counties, and the Association of Oregon Counties would want to keep the option (keep the word "may" in HB 2443).

296 MOTION REP. CARTER moved language changes in HB 2443, as

follows:

On line 9, the word "may"

be

changed to "shall."

298 ORDER There being no objection,

CHAIR

WALDEN so ordered.

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286 MOTION REP. CARTER moved to amend

HB

2443, as follows: On Line

9,

the amount be changed to

\$2000

to \$3000.

304 REP. ADAMS objected and requested that the amount on Line 9 be changed to at least \$4000.

Discussion (Rep. Adams withdrew his request.)

315 ORDER There being no objections, CHAIR WALDEN so ordered.

316 CHAIR WALDEN read Line 9 of HB 2443: "...less than \$3000 in any tax year, the county assessor shall cancel the ad valorem tax assessment for that year."

323 CHAIR WALDEN said work had to be done to crate the language necessary to implement a form that allows for a taxpayer to stipulate that he/she has personal value property valued less than \$3000 in his/her business.

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334 Discussion of additional issues in HB 2443, specifically of whether or not there should be an initial filing of personal property from taxpayers.

346 CHAIR WALDEN summarized the discussion: The taxpayer will make an initial filing only if his/her personal property is valued above the minimum level of \$3,000. The form will contain a language to the effect that the personal property value is less than \$3000, and the taxpayer will sign the form. No property will be inventoried on the form in this case.

Discussion

TAPE 31 SIDE B

009 JERRY HANSON stressed the importance of taxpayers making the initial filing of personal property, specifically because most taxpayers do not know the value of this personal property. He wanted taxpayers to make an initial filing -- they would make a list of their property, for which the counties will then calculate a value. Then the counties can notify the taxpayer that the

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personal property taxation is canceled if the value is below the \$3000 level.

021 CHAIR WALDEN closed the Work Session on HB 2443.

028 CHAIR WALDEN adjourned the meeting at 11:31.

Paula K. McBride, Committee Assistant
Kimberly Taylor, Office Manager

EXHIBIT SUMMARY

1. 1986 Code -- Subtitle A, Ch. 1P, Part III, Dick Yates, Legislative Revenue Office.
2. Income Tax -- Capital Gains, Losses, Dick Yates, Legislative Revenue Office.
3. IRS Section 1245, Dick Yates, Legislative Revenue Office.
4. IRS Section 1250, Dick Yates, Legislative Revenue Office.
5. 1990 Oregon Covered Employment and Payroll, Dick Yates, Legislative Revenue Office.
6. Testimony of Betsy Bailey, Associated Oregon Industries.
7. Figures on depreciation as relate to Section 6, HB 2923, Jim Manary, Department of Revenue.
8. Chart listing counties and the amount of personal property tax collected, 1992-93 Fiscal Year (from Gene Morrison, Washington County Assessor's Office), Joe Gilliam, National Federal of Independent Businesses.

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