

Public Hearing: HB 2830
Tapes 25-26 A

HOUSE COMMITTEE ON
REVENUE AND SCHOOL FINANCE
SNALL BUSINESS SUBCOMMITTEE

MARCH 31, 1993 9:00 AM HEARING ROOM A STATE CAPITOL BUILDING

Members Present: Representative Greg Walden, Chair
Representative Ron Adams
Representative Margaret Carter
Representative Delna Jones
Witnesses Present: Gary Carlson, Associated Oregon Industries
Jerry Fisher, Manager of Oregon Public Affairs,
Hewlett-Packard, Chair, Oregon Council,
American Electronics Association
Government Affairs Committee
Gary Conkling, Tektronix, Inc.
Brian Pedersen, Arthur Anderson & Company,
Chairman, Pacific Northwest International
Trade Association's Tax Subcommittee
Mike Bean, Corporate Tax Administrator,
Precision Cast Parts, Member, Taxation
Committee for the Oregon Metals Industry
Council
Craig Handleman, Willamette Industries

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

TAPE 25 SIDE A

005 CHAIR WALDEN called the meeting to order at 9:09 and conducted administrative business.

011 CHAIR WALDEN recessed the meeting at 9:10 and reconvened at 9:34.

015 CHAIR WALDEN opened the Public Hearing on HB 2830.

024 DICK YATES explained that the issues in HB 2830 have to do

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House Committee on
Revenue and School Finance
Small Business Subcommittee
March 31, 1993 Page 2

with the way income of a multi-state or multi-country company is taxed. Oregon currently has a tax system called "factor apportionment", a formula which deals with a (1) percentage of a company's sales that are in the state, (2) a percentage of its payroll in the state, and (3) a percentage of its property in the state. These are the three factors in the

apportionment formula. Then all the percentages are averaged to get an overall percentage of each company, which is then used to tax income in Oregon. He referred to a handout given to members entitled "Taxes on Corporate Income" from a 1990 Legislative Revenue Office report, which contained an explanation of the term "nexus" used in the apportionment formula. Another exhibit showed the apportionment formula established by "Uniform Division of Income For Tax Purposes Act" (UDITPA) compared to the apportionment formula used in Oregon. He explained that the issue to be explored with HB 2830 is what goes into the numerator of the sales part of the formula. He explained why there is not an issue with the other two percentages (payroll and property). He explained the term "nexus," and how it is determined if a company has sales in the state. Exhibits 1 and 2

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~ Questions and discussion

079 DICK YATES relayed that a "sale" is defined as a sale in the state of destination (where the goods are received). He spoke about exceptions to this, beginning with the U.S. Government. Exhibits 1 and 2

098 DICK YATES explained a second issue about what happens if a state doesn't have the "nexus" (legal authority) to tax the income of the company. He explained the concept of apportionment, which starts with the total income of a company. This income is assigned out to the states, jurisdictions, or countries that have "nexus." Avoiding double taxation is one goal, and another is taxing at less than 100% of income. He defined the term "throwback" as applies to the apportionment formula.

Questions and discussion

144 DICK YATES reiterated that an important issue for HB 2830 related to government sales and the problem with double taxation. Exhibit 1 and 2

Questions and discussion

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House Committee

on

Revenue and School Finance Small Business Subcommittee March 31, 1993 Page 3

171 GARY CARLSON enumerated other witnesses who would support the HB 2830 during the hearing. He related that his organization asked for HB 2830, and he gave a brief overview of the background leading to its drafting. Exhibit 3

Questions and discussion

233 GARY CARLSON re-explained the term 'throwback' in relation to the apportionment formula. Problems have arisen because states have changed their apportionment formula, and often companies end up having more than 100 % of its total income taxed by the various states. Exhibit 3

260 JERRY FISCHER related that the apportion formula is an extremely important issue to his company, and he explained why he supported HB 2830, which would eliminate the "throwback" rule. His testimony was verbatim. Exhibit 4 and 5

355 GARY CONKLING testified in support of HB 2830, and he gave examples of how the "throwback" rule creates double taxation for multi-state businesses. His testimony was verbatim. Exhibit 6

TAPE 26 SIDE A

002 GARY CONKLING continued his testimony in support of HB 2830. Exhibit 6

019 BRIAN PEDERSEN explained his experience with Oregon state and local taxes. He discussed a survey, done three years ago, of 33 large companies which determined the potential revenue impact to Oregon of repeal of the "throwback" rule, which was about \$2.3 million for an entire biennium.

Questions and discussion

053 JERRY FISHER talked about companies he believed would relocate to Oregon if the "throwback" rule was eliminated.

069 MIKE BEAN testified in support of HB 2830. He described his business, stating that most of the sales occur outside of Oregon though production occurs in-state. The sales are double weighted, and he stressed that elimination of this "throwback" would allow his business to be more competitive. He also stressed that repeal

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House Committee

on

Revenue and School Finance Small Business Subcommittee March 31, 1993 Page 4

of the "throwback" rule would encourage more manufacturing in Oregon and would "cast Oregon in a more positive light for businesses thinking about relocating."

Questions and discussion

102 CRAIG HANDLEMAN testified in support of HB 2830. He spoke about his business, which has a relatively high employment base in Oregon. His interest was primarily the domestic component of the bill and not the export parts. He believed that elimination of the "throwback" rule would encourage manufacturing in Oregon and is, thus, a prodevelopment enhancement.

Questions and discussion interspersed

141 DICK YATES clarified that it doesn't matter if a state is actually taxing, but if it has legal authority to tax (i.e., whether or not the state has "nexus" to tax the income of a business). A company has to have a physical presence in a state beyond the solicitation of sales to enable taxation by the state.

Discussion with BRIAN PEDERSEN concerning how the income tax apportionment formula works.

211 BRIAN PEDERSEN re-explained the survey his group did three years ago concerning repeal of the "throwback" rule.

230 CHAIR WALDEN conducted administrative business.

241 CHAIR WALDEN closed the Hearing on HB 2830.

248 CHAIR WALDEN adjourned the meeting at 10:21.

Paula K. McBride, Committee

Assistant

Kimberly Taylor, Office Manager

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House Committee on
Revenue and School Finance
Small Business
Subcommittee
March 31, 1993 Page 5

EXHIBIT SUMMARY

1. Taxes on Corporate Income, Dick Yates, Legislative Revenue Office.
2. Apportionment Factors, Dick Yates, Legislative Revenue Office.
3. Testimony on HB 2830 Before Small Business Subcommittee, House Committee on Revenue & School Finance, by Gary Carlson, Associated Oregon Industries, 3/31/93.
4. Testimony by Jerry Fisher, Oregon Public Affairs Manager, Hewlett-Packard Company, on HB 2830, 3/31/93.
5. American Electronics Association, Oregon Council Position Paper (March 1993), "Why Oregon Should Repeal the Throwback Rule," Jerry Fisher.
6. Testimony by Gary L. Conkling, Representative Tektronix, Inc., on HB 2830, 3/31/93.

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