

Public Hearing: HB 2830  
Work Session: HB 2443  
HB 2182  
Tapes 27-28 A/B

HOUSE COMMITTEE ON  
REVENUE AND SCHOOL FINANCE  
SMALL BUSINESS SUBCOMMITTEE

APRIL 1, 1993 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

Members Present: Representative Greg Walden, Chair  
Representative Ron Adams  
Representative Margaret Carter  
Representative Delna Jones

Witnesses Present: Jim Manary, Department of Revenue Gary Conkling,  
Tektronics  
Jerry Hanson, Oregon State Association of County Assessors  
Gene Morrison, Washington County Assessor's Office  
Joe Gilliam, National Federation of Independent Businesses  
Bill Nelson, Oregon Wine Grower's Association

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

TAPE 27 SIDE A

007 CHAIR WALDEN called the meeting to order at 8:39.

009 CHAIR WALDEN opened the Public Hearing on HB 2830.

015 JIM MANARY gave the members a background on sales factor and "throwback" as related to the apportionment formula on income from multi-state companies, and on the "Uniform Act" which has been adopted by 24 states. The Act itself contains the "throwback" feature, which HB 2830 would eliminate in Oregon. He explained the purpose of the formula. He asked members not to confuse "sales

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factor" with "sales tax," and he explained the differences between the two. Questions and discussion

076 JIM MANARY continued his explanation of "sales factor," using his handout. He specifically talked about the example of a company having no presence in a particular state, though it has sales in that state, mentioning court cases that have arisen because of this issue. A number of

solutions to the problems that arise from the apportionment formula have been proposed, including the "Uniform Act," the "Throwout Process," and, presently, HB 2830, all of which he explained. Exhibit 1

157 JIM MANARY related that the "Uniform Act" determined where the "sale" of a company occurs: At the destination state. He explained how this conclusion was derived.

186 JIM MANARY discussed two exceptions to "throwback" in the "Uniform Act." The first is within a state where there is not enough economic activity for a company to evoke a tax, and the second was U.S. government sales.

199 JIM MANARY discussed what happens when states do not follow the "Uniform Act" (only 24 states adopted it), and he described various practices in other states. He specifically discussed the State of Virginia. He pointed out to the members that HB 2830 might resolve some issues for multi-state companies, but other ones might be created instead -- especially because Oregon will be the only western state that would not follow the "Uniform act."

255 JIM MANARY talked about export sales as related to the apportionment formula (taxation). He explained the policy of the Department of Revenue (DOR), as defined by the Oregon Revised Statutes (ORS) on the taxation of export sales (whether domestic or foreign). He used a particular example of a foreign sales situation to explore the issue of "throwback."

Questions and discussion

TAPE 28 SIDE A

002 Questions and discussion continued with JIM MANARY concerning the apportionment formula used to tax multistate companies.

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024 GARY CONKLING explained his company's operation in Japan (they operate as a subsidiary there), and he talked about how corporations operate in international environments. He supported HB 2830 because it would eliminate the "throwback" on foreign sales, which he believed was extremely important for companies attempting to compete in with other multi-country companies.

Questions and discussion

085 CHAIR WALDEN conducted administrative business.

093 Questions and discussion continued with JIM MANARY and GARY CONKLING concerning the apportionment formula and the "threat of taxation" in other states or countries.

207 JIM MANARY related that the DOR would be concerned about two issues for companies that have business in other countries (using Tektronics, Inc. as an example): (1) What is the activity of Tektronics, Inc., in Japan, and (2) does Japan tax the income of Tektronics, Inc.

Questions and discussion interspersed

288 GARY CONKLING stressed that various federal and state regulations affect his company in foreign jurisdictions, specifically tax regulations. Additionally, Japan imposes regulations and taxes with which they have to

comply. He talked about the activities of the subsidiary of Tektronics, Inc. that does business in Japan.

Questions and discussion

364 JIM MANARY explained "free on board," which is in the ORS and in the "Uniform Act." This is an arrangement between the buyer and seller about responsibility for a product. The "Uniform Act" stipulated that the point of destination would be the place of responsibility.

393 CHAIR WALDEN closed the Public Hearing on HB 2930 and conducted administrative business.

TAPE 27 SIDE B

011 CHAIR WALDEN opened the Work Session on HB 2443.

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012 JERRY HANSON testified about the issue of taxpayers selfreporting personal property and about selfcancellation. Although initial witnesses had some enthusiasMfor the idea, he believed that most assessors would have problems with the proposal. The first issue was that most taxpayers would find it burdensome to selfcalculate personal property properly. The second issue was that the collections effort would be hampered seriously if the property were not adequately described for the record. He described the mechanisMof tracking personal property, which is moveable. He referred to a handout given to the members. Exhibit 2

082 GENE MORRISON testified about the collections issue as related to personal property. He mentioned a couple of areas that could cause difficulty in the taxation of personal property (see page one of Exhibit 2) if the personal property has not been identified properly. He gave an example of one case in Oregon.

Questions and discussion

137 STEVE MEYER related that the policy issue with HB 2443 was for taxpayers to do self-reporting personal property if that property was valued under a certain level (currently \$2000, but HB 2443 proposed \$10,000), which is used by county assessors. Taxpayers would use the DOR's valuation schedules for personal property to come up with a total value for all of their personal property, without identifying each individual piece of property in that process.

160 JERRY HANSON reiterated that his concern was there wouldn't be a listing of property, with an identification of each item, if taxpayers did self-reporting. He discussed the complex system of property taxation.

Questions and discussion

196 GENE MORRISON believed that without a detailed personal property list most collection procedures would come to a stop at the county level. He discussed some of these collection procedures.

218 JOE GILLIAM opposed having to itemize personal property, and the goal of HB 2443 was to accomplish the reduction of time and the amount of paperwork a business person had to spend on this activity if his/her personal property was valued below a certain level. He

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referred to the proposed simplified form (see Exhibit 12, 3/18/93) as something which would resolve his concerns. He encouraged the members to approve the use of the simplified form.

277 Questions and discussion with JOE GILLIAM and GENE MORRISON concerning the simplified personal property form.

317 GENE MORRISON believed the simplified form (for subsequent years) would be acceptable as long as the initial detailed form were completed by the taxpayer.

371 JERRY HANSON said the original idea for the low value return was to distinguish between properties where the assessment have been canceled, and this would be beneficial from an administrative perspective because these accounts could then be audited very rapidly. He wanted members to set the same value or limit on the cancelation as on the simplified return, if it is adopted.

403 CHAIR WALDEN expressed the urge to abolish the taxation of personal property and wanted to find another source of revenue.

TAPE 28 SIDE B

008 JERRY HANSON agreed with CHAIR WALDEN, stating he thought a better process could be found to raise revenue. He gave a brief history of the taxation of personal property in Oregon.

Discussion

034 JOE GILLIAM concurred with CHAIR WALDEN about the irrationality of taxing personal property.

Questions and

discussion

064 JERRY HANSON believed about \$20 million/biennium was raised in Washington County from the taxation of personal property. This included the personal property of large companies.

069 STEVE MEYER related that state-wide the value of personal property was about \$4-5 billion.

Discussion

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080 CHAIR WALDEN stressed that the witnesses should provide information to the members about when it would be possible to use a simplified form, and whether or not the value of the personal property should matter.

Discussion of the proposed simplified

form

099 JERRY HANSON emphasized that he could not agree to the proposed form until he talked with his organization.

Discussion

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115 CHAIR WALDEN wanted to organize a Working Group to work on this issue, and he mentioned possible participants. He asked that they report back "within a week or two."

Questions and discussion

136 CHAIR WALDEN closed the Work Session on HB 2443 and opened the Work Session on HB 2182. He conducted administrative business.

151 BILL NELSON relayed that the U.S. Senate Finance Committee has jurisdiction over GATT matters. From this Committee, he has discovered that there is an equivalent small producer exemption in federal statute for small breweries and also a small winery credit. He discussed the Canadian complaint leading to the GATT decision which questions the exemption of taxation on a certain level of wine production in Oregon. He had learned that the U.S. Senate Finance Committee and the U.S. Trade Representative (USTR) had been working on how to address the GATT complaints, and they are of the opinion that the states should not pass any legislation until some of the issues are worked out through negotiations. He believed many small family wineries in Oregon would have difficulty with a limitation of 15 years on the exemption, and he talked about the reasons for the hardship on these wineries.

Questions and discussion

214 REP. CARTER suggested an amendment to HB 2182, that beer production be added to the exemption (wineries are allowed an exemption on 40,000 gallons).

225 STEVE BENDER talked about the revenue impact from the current exemption on the first 40,000 gallons of wine, which he believed would be a tax reduction of about \$26,000. He estimated what a

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revenue impact might be if breweries were included. He mentioned differences between the "barreling" of beer and wine.

Questions and discussion

264 BILL NELSON discussed the cash-flow problems small wineries have in Oregon.

276 STEVE BENDER talked about his contact with a U.S. Trade Representative, specifically about the amendments HB 21825, which would replace the small winery exemption with a 15year winery exemption, regardless of where the winery is located (even outside this country). He wanted to know if these amendments would be consistent with the GATT ruling. The answer was that the amendments HB 2182-5 were not consistent with the GATT decision; however, apparently the amendments HB 2182-5 would make Oregon practices more consistent with the GATT ruling. He reiterated that HB 2182 definitely was not consistent with that ruling, but his understanding (from a person in the U.S. Senate Finance Committee office) was that Oregon was not under

any obligation at this point to comply with the GATT ruling and that, in fact, it would be best to wait until the Federal Government had taken some action on this matter.

352 CHAIR WALDEN expressed the opinion that compliance is not yet necessary, and that he preferred to wait until the Federal Government acted.

Discussion

384 CHAIR WALDEN pointed out that it was the consensus of the Subcommittee to not take action on HB 2182, but he asked staff to draft the amendments requested by REP. CARTER.

Discussion

402 CHAIR WALDEN closed the Work Session on HB 2182.

405 CHAIR WALDEN adjourned the meeting at 10:28.

Paula K.McBride, Committee

Assistant

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Kimberly Taylo Office Manager

EXHIBIT SUMMARY

1. Sales Factor, Jim Manary, Department of Revenue.
2. State, Federal, Local Laws and Rules Regarding the Collection of Personal Property Taxes, Jerry Hanson, Washington County Assessor.
3. HB 2182-5, Steve Bender, Legislative Revenue Office.

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