

Tapes 25-26 (A/B), 27 (A)  
Work Session: HB 2164  
HOUSE COMMITTEE ON REVENUE AND SCHOOL FINANCE  
SUBCOMMITTEE ON INCOME TAXATION

April 17, 1991 8:00 am Hearing Room 357 State Capitol Building

Members Present: Representative John Schoon, Chair  
Representative Mike Burton  
Representative Bev Clarno  
Members Excused: Representative Delna Jones  
Representative Mike Nelson

Witnesses: Leonard Powers, Oregon Society of Certified Public  
Accountants (OSCPA)  
Jim Brown, Department of Revenue (DOR)  
Staff: Dick Yates, Legislative Revenue Office  
Marlene Stickley, Committee Assistant

TAPE 25, SIDE A

005 CHAIR SCHOON called the meeting to order at 8:17 as a subcommittee until a quorum was reached at 8:20 and conducted administrative business.  
WORK SESSION HB 2164 - INVITED TESTIMONY

020 LEONARD POWERS continued his presentation of An Analysis of Changes Resulting From The: Revenue Reconciliation Act of 1989. Medicare Catastrophic Coverage Repeal Act of 1989. Revenue Reconciliation Act of 1990; explained exchange tax provisions with questions and discussion interspersed. Exhibit 1, pages 23-26

106 JIM BROWN explained Oregon's basis for taxation in relation to jurisdiction. Provided an example of federal gain and the deferral of that gain, noting that under Oregon law new property must be in Oregon to receive the deferral. Exhibit 2

140 Questions and discussion follow regarding the proposed amendments to HB 2164 in relation to deferral. Exhibit 3, page 9

160 JIM BROWN clarified that the amendments change Section 16a (ORS 314.290) regarding the deferral of tax recognition of gain. Exhibit 3, pages 9 and 10

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180 Questions and discussion regarding property tax deferral. Exhibit 3, pages 9 and 10

190 JIM BROWN offered an alternative to allow the deferral even though the new property is outside of Oregon, but if Oregon residency is abandoned the property becomes taxable.

190 Questions and discussion continued regarding property deferral.

200 LEONARD POWERS compared old and new federal provisions regarding a partial interest exclusion for employee stock ownership plan (ESOP) loans. Exhibit 1, page 27

213 CHAIR SCHOON referred back to nonrecognition of foreign exchanges with questions and discussion following. Exhibit 1, pages 24 and 25

258 LEONARD POWERS noted that once ORS 314.290 is in conformity with the Attorney General's opinion, Oregon can pick up the federal change.

260 Questions and discussion regarding statute language.

270 LEONARD POWERS continued his discussion of ESOP provisions. Exhibit 1, page 27

287 DICK YATES discussed the revenue impact relating to the ESOP provisions. Exhibit 1, page 27

300 LEONARD POWERS explained differences between old and new federal rules

regarding ESOP's, noting the new federal rule provides that the dividends are deductible only if they pertain to the stock acquired by the law.

Exhibit 1, page 28

328 LEONARD POWERS presented the special ESOP contribution limitation and net operating loss (NOL) rule. Exhibit 1, pages 29 and 30

379 JIM BROWN clarified that the ESOP limitation eliminated the special ESOP contribution, restricting the deduction. Exhibit 1, pages 29 and 30

400 REP. BURTON questioned "pre-net" in the ESOP (NOL) rule. Exhibit 1, page 29

415 LEONARD POWERS defined "pre-net" as "pre-change" in ownership and explained how federal congress eliminated tax advantages by limiting the utilization of NOL's, noting ESOP was exempted. Discussion followed.

Exhibit 1, page 29

TAPE 26 SIDE A

001 Discussion continued regarding NOL's. Exhibit 1, page 29

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008 LEONARD POWERS explained that Oregon does not have a provision relating to estate tax liability assumption regarding ESOP's. Exhibit 1, page 30

021 LEONARD POWERS began his presentation on estate tax provisions and explained Generation Skipping Transfer Tax (GSTT). Exhibit 1, page 31

048 DICK YATES clarified that neither HB 2164 or the proposed amendments address GSTT. Explained there is an option at federal level to take expenses as a deduction against an estate, noting Oregon taxpayers ,do not get that deduction because Oregon does not have an estate tax.

058 Questions and discussion follow regarding estate tax provisions and inheritance tax.

084 JIM BROWN explained how the distribution of assets following a death continue to earn taxable income; expenses allowed as deductions to offset taxable income and options regarding expense deductions.

100 Questions and discussion followed regarding taxable income in relation to GSTT and inheritance tax.

171 BARBARA SEYMOUR clarified that legislation can connect to federal law as it is changed and discussed connecting retroactively.

196 Questions and discussion followed regarding prospective changes.

218 BARBARA SEYMOUR clarified Oregon could permit the health exclusion, if federal extended the date, and Oregon remained within the definition of taxable income.

221 JIM BROWN interjected that last session the legislature enacted a section to Internal Revenue Code (IRC) that said whatever federal does to that section after the normal connect date, Oregon will follow.

230 DICK YATES questioned the concern of proliferation regarding these types of provisions and the "cluttering" of ORS.

234 BARBARA SEYMOUR explained that enacting specific provisions can cause ORS chapters to be moved or revised, noting selectively adopting provisions is not a problem.

270 BARBARA SEYMOUR described footnotes as temporary laws or ways of meeting social needs. When the need goes away, legislature sunsets and deletes the notes v. having to repeal the statute.

330 LEONARD POWERS explained other estate tax provisions. Exhibit 1, page 31

327 LEONARD POWERS began his presentation of employee benefits and

retirement plan provisions, comparing old and new federal rules regarding retiree health benefits. Exhibit 1, page 32

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342 Questions and discussion regarding the 25 percent ceiling. Exhibit 1, page 32

363 LEONARD POWERS discussed employer provided educational assistance. Exhibit 1, page 32

403 DICK YATES commented on the probability of federal government continuing to extend the sunset. Exhibit 1, page 32

419 DICK YATES discussed revenue impact statistics. Exhibits 4 and 5

430 Questions and discussion follow regarding Exhibits 4 and 5.

TAPE 25. SIDE

B

001 Questions and discussion continued regarding revenue impact statistics. Exhibits 4 and 5

038 LEONARD POWERS explained health care continuation rules. Exhibit 1, page 33

045 JIM BROWN clarified that the federal imposes a penalty if health care provisions are not observed.

051 LEONARD POWERS discussed amendments to the pension provision relating to the Tax Reform Act of 1986. Exhibit 1, page 33

058 JIM BROWN clarified that the proposed amendments to HB 2164 would adopt the pension provision. Exhibit 3

062 Questions and discussion regarding the relation of Social Security to the definition of compensation for an IRA deduction. Exhibit 1, page 33

105 LEONARD POWERS discussed reversions of plan assets, noting Oregon does not incorporate this. Exhibit 1, page 33

110 Questions and discussion regarding reversions of plan assets. Exhibit 1, page 33

165 LEONARD POWERS noted Oregon does not require installment contributions and miscellaneous pension provisions will not affect Oregon taxable income. Exhibit 1, page 34

171 LEONARD POWERS discussed tax-exempt bonds and tightened requirements on arbitrage "hedge" bonds. Exhibit 1, page 35

200 LEONARD POWERS explained the "temporary investment rule" in relation to arbitrage bonds. Exhibit 1, pages 36 and 37

224 Questions and discussion followed.

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236 LEONARD POWERS compared old and new rules relating to mortgage revenue bonds (MRB) and mortgage revenue certificates (MRC). Exhibit 1, pages 37 and 38

256 Questions and discussion regarding the new federal rule which extends the election to exchange MRB's for MRC's. Exhibit 1, page 38

296 LEONARD POWERS discussed qualified small issue bonds with questions and discussion interspersed. Exhibit 1, page 38

,320 CHAIR SCHOON recessed the meeting at 9:36 and reconvened

at 9:56.

322 LEONARD POWERS presented the section relating to foreign income and foreign taxpayers; compared old and new rules regarding apportionment of research expenditures. Exhibit 1, pages 39 and 40

374 LEONARD POWERS explained the taxable year of foreign corporations. Exhibit 1, page 40

386 LEONARD POWERS overviewed post-tax-year dividends of foreign personal holding companies, noting that Oregon does not impose an additional tax on personable income. Exhibit 1, pages 41 and 42

TAPE 26. SIDE

B

001 LEONARD POWERS continued with his explanation of post-taxyear dividends of foreign personal holding companies, noting that Oregon does not impose additional tax on personable income. Exhibit 1, pages 41 and 42

005 Questions and discussion regarding taxation of foreign personal holding companies. Exhibit 1, pages 41 and 42

009 LEONARD POWERS noted that resourcing foreign source income for purposes of the application of the foreign tax credit limitations is not applicable to Oregon. Exhibit 1, pages 42 and 43

015 LEONARD POWERS commented that Oregon does not have a provision for Withholding tax on interest or a foreign tax credit in relation to foreign source lump-sum distributions. Exhibit 1, pages 43-45

025 LEONARD POWERS explained subpart F income pertains to a certain, otherwise exempt, income which is deemed to be U.S.; therefore is Oregon taxable income. Discussed old and new rules. Exhibit 1, pages 45 and 46

035 Questions and discussion regarding subpart F income. Exhibit 1, pages 45 and 46

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046 LEONARD POWERS discussed dual consolidated losses of foreign insurance companies, noting the old rule was for dealing with "doubledipping" (a corporation being able to use the same loss to offset both the U.S. and foreign taxable income). Exhibit 1, pages 46 and 47

073 DICK YATES explained that there would be fiscal impact for those companies that have activities in Oregon and are apportioning income to Oregon. Discussed consolidated returns.

083 LEONARD POWERS mentioned the reciprocal exemption for gross ,transportation income is not part of the federal income tax structure that Oregon has conformed to. Exhibit 1, pages 47 and 48

089 LEONARD POWERS discussed past litigation regarding statutes being unclear as to the nature of foreign income or loss that lead to the foreign currency transaction income and loss characterization rule. Exhibit 1, page 48

105 Questions and discussion followed.

110 LEONARD POWERS discussed old and new rules regarding unrelated business income from DISCs. Exhibit 1, pages 48 and 49

135 LEONARD POWERS described a DISC as a "paper entity". Oregon is currently taxing DISC income, and if it also taxes the distribution to IRAs, the result could be unintended taxation. Exhibit 1, pages 48 and 49

152 Questions and discussion followed regarding DISCs.

165 DICK YATES pointed out that the proposed amendments to HB 2164, Section 14a, noting Subsection 2 takes out the double taxation. Exhibit 3, page 9

173 LEONARD POWERS mentioned that Oregon does not have a FICA withholding

provision, noting ORS 316.162. Exhibit 1, page 50  
182 LEONARD POWERS read the depositing withheld taxes provision. Exhibit 1,  
page 50  
203 CHAIR SCHOON questioned eighth-monthly.  
204 JIM BROWN explained past federal law divided the month into eight  
periods for withholding purposes, requiring liability deposits within 3  
banking days. Federal currently requires payment the next day, which Oregon  
follows. Exhibit 1, page 50  
220 LEONARD POWERS noted the penalty provisison regarding uniform  
requirement for returns on magnetic media should be changed from "C" to  
"I". Exhibit 1, page 51

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237 JIM BROWN included a correction changing "none" to "ORS 314.362" which  
requires an Oregon return be filed electronically if required federally,  
noting the only change in statute is moving the reconnect date to December  
31, 1990. Exhibit 1, page 51

250 CHAIR SCHOON noted consensus of the committee to move the date forward  
to 1990.

256 LEONARD POWERS explained the authorization to disclose tax information  
for peer review. Exhibit 1, page 52

266 JIM BROWN felt Oregon law does not prohibit or impose a penalty for  
this type of disclosure, noting this provision only deals with what  
information a preparer can divulge from tax returns. Exhibit 1, page 52

298 LEONARD POWERS noted that Oregon does not have an alternative minimum  
tax. Exhibit 1, page 53

320 Questions and discussion regarding alternative minimum tax. Exhibit 1,  
page 53

335 JIM BROWN explained the current calculation of federal alternative  
minimum tax, noting Oregon discontinued the alternative minimum tax due to  
the Reform Act of 1986.

364 CHAIR SCHOON conducted administrative business.

372 LEONARD POWERS explained the purpose for providing an exclusion for  
damages received for personal injury. Exhibit 1, page 53

397 LEONARD POWERS noted the two-percent floor: pass-through entities  
provision corrects a drafting error. Exhibit 1, page 53

420 JIM BROWN defined TAMRA: Technical and Miscellaneous  
Revenue Act.

425 LEONARD POWERS began his explanation of other excise tax provisions.  
Exhibit 1, page 53

TAPE 27. SIDE

A

001 LEONARD POWERS continued with his explanation of other excise tax  
provisions, noting Oregon does not have such taxes. Exhibit 1, page 53

006 LEONARD POWERS began his presentation regarding the Medicare Act of  
198 9; explained the repeal of Section 89. Exhibit 1, pages 54 and 55

012 Questions and discussion regarding the repeal of Section 89 (Exhibit 1)  
and discussion regarding Exhibit 4.

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066 LEONARD POWERS read the old and new rules relating to the additional

rules on dependent care assistance programs. Exhibit 1, pages 55 and 56  
080 Questions and discussion regarding the correlation between Exhibits 1  
and 4.

100 CHAIR SCHOON questioned existing language regarding technical  
corrections.

104 JIM BROWN replied there is a provision stating Oregon automatically  
adopt federal technical correction acts which are reviewed by the Policy  
and Analysis section at DOR.

119 DICK YATES explained special treatment for last survivor insurance  
contracts modifies those contracts to be treated as endowment contracts  
(they become taxable rather than exempt) and felt OSCPA would classify this  
as an "A" in a sense that updating to the current federal law would  
incorporate these provisions automatically. Exhibit 4

160 CHAIR SCHOON conducted administrative business and adjourned the  
meeting at 10:43.

Marlene Stickley, Committee  
Assistant  
Kimberly Taylor, Office Manager

#### EXHIBIT SUMMARY

1. An Analysis of Changes, OSCPA, 4/16/91 (See Exhibit 2 from  
4/16/91 (Income Meeting) - HB 2164
2. Administrative Rules, DOR, 4/17/91 - HB 2164
3. Proposed Amendments to HB 2164, DOR, 3/21/91 (See Exhibit  
1 from 4/16/91 Income Meeting) - HB 2164
4. OSCPA 1989 OBRA statistics, LRO, 4/16/91 (See Exhibit 4  
from 4/16/91 Income Meeting) - HB 2164
5. Fiscal Analysis, LFO, 4/16/91 - HB  
216 4

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