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32 (A/B), 33 (A)  
Work Session: HB  
216 4

HOUSE COMMITTEE ON REVENUE AND SCHOOL FINANCE  
SUBCOMMITTEE ON INCOME TAXATION

April 19, 1991 8:00 am Hearing Room 357 State Capitol Building  
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Members Present: Representative John Schoon, Chair  
Representative Mike Burton  
Representative Bev Clarno  
Representative Mike Nelson  
Members Excused: Representative Delna  
Jones

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 31. SIDE A

005 CHAIR SCHOON called the meeting to order at 8:20 and conducted  
administrative business.

WORK SESSION HB 2164 - INVITED

TESTIMONY

010 DICK YATES referred to HB 2164 Issues and began discussing Oregon  
revised statutes. Exhibit 1, page 1

013 Questions and discussion among committee members.

032 DICK YATES discussed treatment of Foreign Personal Holding Companies  
(FPHC), noting (at federal level) there are two separate taxes on FPHC and  
explained sections 551 and 541. Exhibit 1, page 1

050 DICK YATES referred to 1989 Omnibus Budget Reconciliation Act (OBRA)  
statistics and OSCPAs analysis to discuss FPHC taxation. Exhibit 2, page 1  
and Exhibit 3, page 41

070 Questions and discussion interspersed regarding FPHC taxation.

081 JIM BROWN explained how FPHC income is taxed and clarified that DOR is  
taxing the income of the individuals as the profit flows through to the  
shareholders.

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These minutes paraphrase and/or summarize statements made during this  
meeting. Text enclosed in quotation marks reports the speakers exact words.  
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House Committee on Revenue ~ School Finance Subcommittee on Income Taxation  
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100 Discussion among committee members regarding DISC's ("paper entities").  
Exhibit 2, page 2 and Exhibit 3, pages 48 and 49

100 JIM BROWN described DISCs and Foreign Sales Corporations (FSC) as  
corporations without property or employees that pass through sales.  
Explained differences between federal and Oregon law relating to DISC's and  
FSC's.

125 DICK YATES noted the proposed amendments to HB 2164 address the issue  
of double taxation. Exhibit 4

35 DICK YATES described the treatment of life insurance as endowment  
contracts, making reference to Exhibits 1, page 1 and Exhibit 3, page 53

130 JIM BROWN explained the treatment of endowment contracts.

145 DICK YATES referred to taxpayer identification numbers (TIN). Exhibit  
1, page 1

160 JIM BROWN clarified there is no need for social security numbers (TIN) to be included with the Oregon "short form" tax returns.

180 DICK YATES made cross-reference to Exhibit 4, page 1 and Exhibit 3, page 59 regarding TIN's.

185 Questions and discussion followed regarding SSN requirements.

209 DICK YATES referred to disclosure of information by tax preparers for peer review. Exhibit 1, page 1

213 JIM BROWN noted Oregon income tax statutes do not address disclosure for peer review, and felt the boards of accountancy and tax service examiners should be contacted.

220 DICK YATES felt the concern regarding disclosure for peer review was to allow Oregon to share information from the Oregon return.

226 JIM BROWN clarified that Oregon statutes do not address disclosure limitations for a professional preparer. Oregon disclosure statutes limit what DOR and anybody with legal access can disclose. Federal law has limitations on the IRS and professional preparers and this provision provides an exclusion for that federal statute. Exhibit 1, page 1

230 Questions and discussion regarding disclosure.

252 DICK YATES summarized previous discussion regarding a prospective tie to federal law (ORS 316.197) which deals with payment of payroll tax. Exhibit 1, page 1

266 JIM BROWN explained ORS 316.197 regarding Withholding deposit requirements for federal and state.

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294 Questions and discussion followed regarding prospective ties.

319 DICK YATES reported federal government has authorized collection of child support. Exhibit 1, page 1

327 JIM BROWN commented that Support Enforcement Division has been using federal refunds as a collection method for several years.

337 Questions and discussion followed regarding state and federal regulations relating to child support. Exhibit 4, page 2 and Exhibit ,3, page 104

390 DICK YATES recapped previous discussion regarding the extension of social security to state workers. Exhibit 1, page 1

408 DICK YATES discussed the inclusion of Earned Income Credit (EIC) in household income (HHI). Exhibit 1, page 1

412 JIM BROWN explained that EIC is not currently included in HHI for DOR.

420 Questions and discussion followed regarding HHI.

TAPE 32. SIDE

A

001 Questions and discussion followed regarding HHI.

005 DICK YATES discussed the extension of tax to finance the Leaking Underground Storage Tanks (LUST) fund in relation to Oregon. Exhibit 1, page 1

011 Questions and discussion regarding the LUST fund.

017 DICK YATES cross-referenced Exhibit 4, page 2 and Exhibit 3, page 103; discussed excise tax on reversions from a pension fund, noting his feeling that there would not be any money generated by Oregon imposing such a tax. Exhibit 1, page 1

042 DICK YATES overviewed nonrecognition of federal deferral of gain when property is outside Oregon and cited ORS 314.290, noting the need to make this statute consistent with the law. Exhibit 1, page 1

064 JIM BROWN explained that the federal deferral of gain only applies if

the converted property is in Oregon and the newly acquired property is outside of Oregon.

108 LEONARD POWERS expressed the concerns of OSCPA regarding jurisdiction to tax, noting ORS 314.290 could be misread.

120 Questions and discussion.

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130 CONSENSUS Chair Schoon noted no objection for the gain being taxable, but allowing the taxpayer to apply for a deferral.

140 DICK YATES referred to Exhibit 1, page 1, regarding alternative minimum tax.

147 Questions and discussion regarding alternative minimum tax.

165 JIM BROWN explained the past Oregon individual minimum tax was an "add on" tax and compared to the federal alternative minimum tax which allowed depletion in excess bases, therefore reducing the amount of revenue that could be raised from an Oregon alternative minimum tax.

173 Questions and discussion regarding the calculation of alternative minimum tax.

210 JIM BROWN noted Oregon statute only allows a depletion claim up to the cost and federal allows a percentage, noting revenue would be lost if Oregon statute is changed.

239 JIM BROWN mentioned most revenue generated from an alternative minimum tax on the federal basis is from oil companies. If Oregon allowed depletion similar to federal, additional revenue would be generated because most of those oil companies file an Oregon return and apportion their income, but since Oregon does not allow that depletion allowance the potential is not there.

240 Discussion among committee members regarding minimum tax.

247 CHAIR SCHOON noted the need for more discussion and revenue estimates regarding minimum tax.

254 DICK YATES discussed estate tax in relation to expenses deducted against the Generation Skipping Transfers Tax (GSTT) and the affects of federal level options to the Oregon return. Exhibit 1, page 2, Exhibit 2, page 1 and Exhibit 3, page 31

299 Questions and discussion regarding estate and inheritance tax.

323 LEONARD POWERS described GSTT as a substitute for the estate tax, noting Oregon has an inheritance tax with a zero rate. Explained the affects on Oregon taxpayers regarding federal form elections relating to estate tax.

339 CHAIR SCHOON questioned the difference between estate tax and inheritance tax.

341 LEONARD POWERS explained estate tax is based on everything the person owned and inheritance tax is based on what is received by the beneficiary, as opposed to being taxed on the entire estate and noted Oregon has indirectly conformed by picking up the federal tax credit.

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359 Questions and discussion regarding estate and inheritance tax.

407 DICK YATES discussed history of the inheritance tax.

425 Questions and discussion regarding inheritance tax continued.

TAPE 31. SIDE B

001 Questions and discussion continued regarding inheritance tax.  
015 DICK YATES mentioned Oregon is tied to provisions currently scheduled to expire under federal law, noting option to tie prospectively to federal law, or tie to current law irrespective of the federal sunset. Exhibit 1, page 2  
025 CHAIR SCHOON clarified if federal law is extended and Oregon does not, then the state computation has to be revised, allowing the taxpayer to file an amended return.  
035 REP. NELSON questioned how Oregon handles health insurance for selfemployed.  
037 DICK YATES replied that federal law allows a 25 percent deduction of health insurance for self-employed, which is extended through December 31, 1991, noting Oregon is tied to this provision and therefore allows the same exclusion.  
049 Questions and discussion regarding Oregon tying prospectively to the federal law in relation to the health insurance deduction.  
089 DICK YATES explained the revenue impact in relation to a prospective tie, estimating a revenue loss for the next biennium.  
110 Questions and discussion regarding the revenue impact.  
130 REP. BURTON noted his concern for the continuation of the health insurance deduction.  
132 REP. NELSON emphasized his concern that the health insurance option does not disappear for Oregon if federal law sunsets.  
147 DICK YATES described the continuation of the health insurance deduction as disconnecting from the federal in the eventuality of a sunset.  
151 Questions and discussion followed.  
186 REP. BURTON suggested the 25 percent deduction be continued and modify later if necessary.  
201 CHAIR SCHOON clarified the suggestion is to tie prospectively through the next biennium.

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203 Questions and discussion followed regarding language to continue the health insurance deduction.  
280 Questions and discussion regarding fiscal impact.  
324 Discussion among committee members regarding prospectively tying to federal in relation to the health insurance deduction.  
388 JIM BROWN pointed out that prospectively tying would not eliminate the potential need for retroactively reconnecting next session.  
410 Questions and discussion followed.  
433 DICK YATES referred to the research tax credit and discussed revenue impact. Exhibit 2, page 1

TAPE 32. SIDE

B

001 DICK YATES continued his discussion regarding the revenue impact relating to the research tax credit. Exhibit 2, page 1 and Exhibit 4, pages 1 and 2  
025 Questions and discussion regarding the revenue impact analysis. Exhibits 2 and 4  
035 CONSENSUS Chair Schoon noted no objection for connecting prospectively to the health insurance deduction provision. Exhibit 1, page 2  
036 Discussion followed.  
054 DICK YATES mentioned the following proposed amendments to HB 2164: LC 260 -10 Draft - Exhibit 6 LC 260-11 Draft Exhibit 7 LC 260-12 Draft - Exhibit 8  
057 LEONARD POWERS discussed OSCPAs involvement with reconnect.

075 LEONARD POWERS explained LC 260-10 and LC 260-12 Drafts with questions and discussion interspersed. Exhibits 6 and 8  
148 LEONARD POWERS summarized LC 260-11 Draft as it relates to C and S corporations. Exhibit 7  
200 LEONARD POWERS compared the taxation of C and S corporation shareholders with an illustration. Exhibit 9  
285 LEONARD POWERS illustrated a tax credit to offset corporate taxation. Exhibit 10  
319 Questions and discussion followed.

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369 JIM BROWN explained income apportionment as the entire profit of a corporation being apportioned between the states based on sales, property and payroll.

384 DICK YATES discussed revenue impact in relation to income apportionment.

400 Questions and discussion followed regarding revenue impact.

TAPE 33. SIDE A

001 Questions and discussion continued regarding revenue impact.

044 CHAIR SCHOON conducted administrative business and adjourned the meeting at 10:15.

Marlene Stickley, Committee Assistant

Kimberly Taylor, Office Manager

EXHIBIT SUMMARY

1. HB 2164 Issues, LRO, 4/19/91 - HB 2164
2. OSCPA 1989 OBRA statistics, LRO, 4/16/91 (See Exhibit 4 from 4/16/91 Income Meeting) - HB 2164
3. An Analysis of Changes, Oregon Society of Certified Public Accountants (OSCPA) 4/16/91 (See Exhibit 2 from 4/16/91 Income Meeting) - HB 2164
  4. Proposed Amendments to HB 2164, DOR, 4/16/91 (See Exhibit 1 from 4/16/91 Income Meeting) - HB 2164
  5. OSCPA 1990 OBRA statistics, LRO, 4/16/91 (See Exhibit 5 from 4/16/91 Income Meeting) - HB 2164
  6. LC260-10 Draft, LRO, 4/19/91 - HB 2164
  7. LC260-11 Draft, LRO, 4/19/91 - HB 2164
  8. LC260-12 Draft, LRO, 4/19/91 - HB 2164
  9. Illustration, Leonard Powers, 4/19/91 - HB 2164
10. Illustration, Leonard Powers, 4/19/91 - HB 2164

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