OREGON DEPARTMENT OF REVENUE

Legislative Testimony

House Committee on Revenue **June 11, 2015**

HB 2089 Suspended collections

Summary

HB 2089 allows the department to suspend collections on a tax owed by an individual who has income that is below 200 percent of federal poverty guidelines, has less than $5,000 in assets, and has their only source of income from sources that are protected from garnishment. The bill allows the suspended status to last up to three years and then directs the department to consider the liability for the tax period to be considered for write-off under ORS 293.240, and later cancellation under ORS 305.155(1) or (3). The bill does not allow a taxpayer to continue to accrue unpaid tax while in suspended collections.

The Department of Revenue is charged with administering the personal income tax program, corporate income and excise tax program, withholding tax program, tobacco tax program, as well as many other smaller tax programs. It is also charged with collecting debts owed to other state agencies through our "Other Agency Accounts" section. The department has many tools to collect delinquent debt however this bill focuses on our garnishment authority, write-off, and cancellation practices.

Garnishments

We issue nearly 100,000 garnishments a year agency wide. Over the five year period of 2010 through 2014, we issued 451,291 garnishments to collect on over one billion of delinquent debt owed the state ($750 million in delinquent tax debt and over $250 million of debt owed to other agencies). Over that same time frame, we've received 2,525 challenges to the garnishment for various reasons (shown below). We have approved and returned money on 595 of them during that period, agency wide. Garnishment challenges that were approved amounted to just over one-tenth of one percent (0.13%) of the total garnishments we issue.

Debtors may claim exemption from garnishment for the following:

Wage exemptions:

- 75 percent of wages [allowed up front—no need to challenge]
- Minimum wages (non-tax debt)

Bank Account exemptions (examples):

- Unemployment benefits
- Spousal/child support
- Public assistance, including the Earned Income Tax credit
- Veterans' benefits
- Social Security benefits/Supplemental Security Income (SSI)

- Pensions
- Disability income
- $400 personal (cannot increase any other exemption claimed)
- [For a full list see ORS 18.845]

Additionally, the department has 14 days after receiving the challenge to either concede the challenge or return funds to the debtor. Some challenges are approved simply because we didn't complete the processing of it within the 14-day window.

Table 1: Garnishment statistics, 2010 through 2014, all programs—tax and non-tax

Garnishment type	**2010**	**2011**	**2012**	**2013**	**2014**
Tax Garn— Employer/wages (25% of wages, continuous until released)	42,845	41,100	50,915	45,907	56,367
Non-tax garn— Employer/wages (25% of wages, continuous until released, minimum wage exemption)	18,818	18,903	17,689	17,957	16,503
Regular garnishment (financial institutions, contracts, etc.)	17,357	25,195	30,478	25,666	23,152
OAA regular garnishment (financial institutions, contracts, etc.)	576	385	650	504	291
Special Garnishments— (100% of wages)	8	6	6	3	10
TOTAL	79,604	85,589	99,738	90,037	96,323

OREGON DEPARTMENT OF REVENUE

Legislative Testimony

Write Off

ORS 293.240 allows agencies to remove certain debts from their active accounts receivable if certain criteria, approved by the Attorney General, is met. The criteria for debt to be considered for write off is:

No assets located in three years

No payments in three years

The debtor is not deceased

The liability is not older than seven years.

In 2014, we moved $12.9 million of debt into write-off for our personal income tax, corporate, and withholding tax programs. This debt can be restored to our active accounts receivables if we identify an asset or collection source while it is in write-off status.

Cancellation

ORS 305.155 authorizes the department to cancel debt in certain circumstances outlined in the statute.

Tax has been delinquent for seven or more years

All reasonable efforts have been made to collect the debt

Taxpayer cannot be located or is deceased

The tax is wholly uncollectible

In 2014, we cancelled $75.1 million of debt for our personal income tax, corporate tax, and withholding tax programs. Debt that is cancelled is forever extinguished and may not be collected upon—ever—even if we later identify assets that could have been used to pay the debt.

For more information about this testimony, contact Deanna Mack 503-947-2082.