

REVENUE IMPACT OF PROPOSED LEGISLATION

Legislative Revenue Office

Bill Number:	SB 1504 A5
Revenue Area:	Energy/Property
Economist:	02/27/2020
Date:	

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Measure Description:

Clarifies that receipt, at no cost, of fungible authorization to emit CO2 equivalent, may not be included in income, for tax purposes. Subsequently, establishes that first sale or transfer, of aforementioned fungible authorization is not subject to taxation under ORS chapters 316, 317 and 318. States that first sale of self-generated fungible authorization is also not subject to taxation under ORS chapters 316, 317 and 318. Establishes that state issued emission allowances are exempt from ad valorem property taxation.

Revenue Impact:

From a current law perspective, there is no revenue impact. The revenue impact explanation below is written as compared to how current law would treat CO2 equivalent emission allowances should they exist, which only makes sense in the context of cap and trade legislation. Therefore, the analysis and explanation is approached from the perspective that cap and trade legislation exists, and how SB 1504 A affects those revenue considerations. From that perspective, the revenue impact is indeterminate.

Impact Explanation:

Section 1 (2) regards the no-cost receipt of an emissions allowance from the state. Under a cap and trade program, an entity may receive an allowance to emit from the state at no cost. This component of the bill does not necessarily have a revenue impact. While allowances may be used for the purpose of retiring emissions under the cap and trade program, under existing law, it is not clear whether their initial receipt would be taxable, in the absence of this bill. Hence, this bill clarifies expected treatment under cap and trade legislation

Section 1 (3)(a) regards the subsequent sale or transfer of these same emissions allowances. Instead of utilizing these no cost emission allowances for purposes of retirement, an entity may decide to sell or transfer. Under current law, when a taxpayer sells an asset, the capital gain from the sale of that asset is included in taxable income. The bill directs that for these assets that the first sale or transfer of a no cost allowance, by a covered entity, of this type is not subject to Oregon income tax, and therefore would be a revenue loss, but indeterminate due to the lack of certainty around the secondary market.

Section 1 (3)(b) regards the generation of offset credits. These are fungible allowances that are generated by offset projects of a covered entity, up to 8% of the entity's total compliance obligation. If those offset credits are not utilized by the entity, they may instead and sold or transferred. These offset projects presumably require real investment on the part of the company, and upon sale, would generate income. While the magnitude of individual entity offsets is capped at 8% of compliance, taxable income, in the absence of this bill from offset credit generation, and would vary by offset project investment. With the passage of this bill, that initial sale of the offset credit would not be subject to Oregon income tax.

Section 1 (4) states that none the fungible allowances in the cap and trade program are subject to ad valorem property taxation. Under current law, companies that are centrally assessed, may be subject to taxation on intangible property. There would likely be a reduction in property taxes but the magnitude is unknown. Many of the entities that would be covered entities under the cap and trade program are centrally assessed, and would therefore in the absence of this bill, be potentially subject to property taxation for their emissions allowances. However, as the cumulative value of the allowances in each year of the program is unknown, total value is unknown. Moreover, some companies may buy or receive these allowances in the same year that they retire them, which would mean that those allowances would not be assessed. In addition, in some cases, the cap on centrally assessed companies, currently in statute, may already limit the taxable value of emission allowances.

Creates, Extends, or Expands Tax Expenditure: Yes No

This legislation exempts certain assets and transactions from taxation.