SB 149: Corporate tax offset of insurer assessment

Testimony for Senate Finance and Revenue Committee – Bennett Minton – 2.9.2021

Madam Chair and members of the committee:

Tax Fairness Oregon is a network of volunteers who support a rational and equitable tax code.

We listened to the House Revenue Committee's February 1 hearing on the companion bill, HB 2453, and failed to discern a policy justification for taxpayers to subsidize a fund benefiting the life insurance industry and its policy holders.

Under questioning, LRO, the Department of Business and Consumer Regulation and the American Council of Life Insurers did not identify another example of an industry subsidized by a tax credit that absorbs costs related to a company's failure. Nor did anyone identify the legislature's original policy rationale.

We did hear that the tax credit for life insurance companies is analogous to the FDIC. That sounds off: The FDIC is funded by fees charged to covered banks, which may then pass the cost to their customers. We don't provide banks with a tax credit for losses absorbed by deposit insurance.

The argument for extending the subsidy appears to be that many other states also subsidize the costs borne by industry when one of its member companies fails. But LRO's Tax Credit Review reports that the assessments the industry imposes on its members are mandatory.

LRO also reports, "Historic use of the credit suggests about 65 percent of the credit claimed is used to reduce tax liability," apparently because "the credit is nonrefundable and cannot be carried forward, [thus] ability to use the credit depends on the particular circumstances of the insurer in each tax year." In other words, we infer, tax liabilities of the industry are so low that it can't take full advantage of the credit.

The industry wrote policies worth $12.9 billion in 2018. As LRO reports, the last substantial use of the credits was in 2000, when companies were able to claim only $3.5 million of the $4.5 million in non-refundable credits.

The life insurance industry has an effective lobby in Washington D.C. and, apparently, throughout the states. Life insurance has long defended its special place in the tax code: the "inside build-up," or return on investment in a customer's permanent policy, is tax-free – the only financial instrument with that benefit under federal law. The corporate tax offset appears to be a goody it has won in Salem.

We fail to understand why Oregon taxpayers should subsidize the industry. The legislature should let the credit sunset.