HB 2070: Setting Harvest Tax Rates

Testimony for the House Revenue Committee – Brenda Gilmer 6.3.2021

My name is Brenda Gilmer, a resident of Florence, Oregon, and I am submitting written testimony to augment and expand the oral testimony I gave during the 6.2.2021 public hearing on HB 2070.

As noted in my oral testimony, I am a retired tax lawyer who most recently worked for the Montana Department of Revenue, which administered all Montana taxes, including

- property taxes that include:
    - those assessed, usually annually, on real property and improvements
        - Oregon property tax does not include the value of standing timber
    - those assessed, usually annually, on personal property and fixtures
    - severance taxes, assessed only once when an estate in real property (for example minerals or timber) is severed from the land and commercially exploited thereby fixing the received value of the previously untaxed property
        - Oregon tax on timber at severance is currently taxed based on volume not value
- income taxes that include:
    - individual income taxes that include income "passed through" from partnerships, LLCs, S Corporations and timber and nontimber Real Estate Investment Trusts (REITS) and Regulated Investment Companies (RICS)
    - corporation franchise or license taxes imposed on C corporations (and which are NOT imposed on or paid by timber and nontimber REITS or by partnerships, LLCs or S corporations).

The complexity of Oregon's systems for taxing, regulating, and protecting timber property invites and fosters confusion and misinformation.

- Every silo is an opportunity for obfuscation
    - Yes, corporation franchise taxes are paid by some corporations that do business in Oregon, but how many timberland corporate owners pay that tax, or maybe more simply, how many corporations with timber holdings are NOT S Corporations or REITS or other newly emerging entity type formulated to avoid state taxes?
    - In the absence of any standard of honesty or good faith and fair dealing, purchased industry "reports," like the Ernst & Young document referenced by two timber industry representatives at the hearing on 6.2.2021 appear literally designed to be used to mislead and confuse
        - The E & Y document derived from a writing prepared for lobbying in Minnesota, and industry Oregon testimony, uses **total taxes paid by the entire woods product industry** in asserting "tax burden." The woods product industry NAICS

classification includes loggers, seedling nurseries, mills, plywood and wood floor production and manufactured homes. As Tax Fairness Oregon correctly noted:

- **Any comparison needs to be of the taxes on growing trees and severed timber, NAICS code 1131**, not everything from NAICS codes 113 and 321.

  Other errors in the Ernst and Young (E&Y) and Oregon Forest & Industries Council (OFIC) presentations:

- Inflated property tax: E&Y and OFIC claim unimproved timber land property taxes of $36.7 million even though the Legislative Revenue Office provided a figure of $25.3 million.

- Harvest tax**:** E&Y and OFIC claim $16.4 million were paid in Harvest Tax, but 22% of timber harvest comes from public lands which reduces the figure to $12.8 million.

- Protection of forest land: OFIC claims our tax and land use laws are retaining Oregon's forestland better than in neighboring states. But the statistics they use bear no relationship to when our laws changed, and OFIC gives no consideration to the varying rates of population growth.

- Fire costs: by using a suppressed-zero graph, not adjusting for inflation, and mixing contributions from publicly owned and privately owned lands, OFIC makes it appear private landowner contributions to fire costs are up dramatically.

The Oregon timber industry is lightly taxed when real numbers are used. Its property is uniquely protected by local, state and federal firefighting protections and contribution, although the industry representatives spoke only of its contributions to firefighting costs and efforts.

Both the -1 and -2 amendment would simplify, the -2 amendment more so. I urge each committee member to ask a trusted accountant or financial adviser about the mismatched categories and figures used in the E & Y documents. Is it accurate and honest enough to support a loan application? If they were submitted to the SEC as a report about a regulated business, do they make any untrue statement of material fact or omit to state a material fact necessary to make a statement made not misleading?

Good policy requires true facts.