Testimony
SB 727 A
Robert A. O'Neill, CPA

Hello, my name is Rob O'Neill, I am a practicing CPA with the largest CPA firm in the state of Oregon. I also lead the state and local tax practice for the region and have a large team focused on state and local tax advisory and controversy services. Several states have recently or are currently adopting SALT Deduction Cap workaround legislation. We are supportive of this trend to help pass-through entity businesses and their owners receive the benefit of the deduction for the payment of state taxes at the entity level for their owners. This is especially the case in Oregon with it being one of the highest income tax states in the country which has been recently amplified for business owners who reside in the Portland Metro region. We have reviewed the text of the bill and believe the all or nothing approach to the election is problematic and unworkable. While this legislation was modeled after New Jersey, other states have provided the election to be made at the partner level versus requiring all members/shareholders to consent. The California legislature is in the process of doing this now. We think the election should be made at the partner level and not require all partners to consent to this treatment. Here are some reasons why we believe this to be the case:

- Certain partnerships specially allocate losses to their partners and in this instance, these partners would have no income to tax and would likely not consent to this election – this is very common in real estate
- Pass-through entity businesses commonly have ownership that are not only individuals (e.g., private equity backed businesses, corporations, estates and trusts)
- Tiered ownership – pass-through entities commonly have multiple layers of pass-through entities in their structure
- Some individual owners may have losses or credits from other trades of business they are owners in and can individually cause an otherwise qualified pass-through entity to not be able to elect this treatment
- Oregon has reciprocal agreements in place with several states including California, Arizona, Indiana and Virginia where nonresidents that file in Oregon take a credit on the Oregon return for tax they pay to their resident state to avoid double tax. It is uncertain whether an Oregon credit for taxes paid by the entity will be allowed for nonresidents in their state of residence for reciprocal states.

As a result of the above, many pass-through entities will not be able to qualify for this election and the benefit of this legislation will not get fully used by the business community. I would advocate for the election to more closely mirror the California model and allow for the election and consent to be made at the individual level for qualifying pass-through entities.

Thank you for your consideration.

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