

HB 2073 -1, -2 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 5/9, 5/31

WHAT THE MEASURE DOES:

Requires Legislative Revenue Officer to study the Corporate Activity Tax and report findings to interim revenue committee by September 15, 2024. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Conforming CAT return due dates for calendar year filers to IRS due dates for income tax returns
- Flexibility in allowing extension of time to file CAT returns when taxpayer requests income tax filing extension
- Portion of crops sold to processors for freezing, shelling, or other primary processing
- Incentive for farmers to sell to out-of-state processors
- Variety of Oregon farm products
- Use of precious metals for personal savings/investment
- Comparability of transactions to trading stock
- Impact of low margins on precious metal dealers

EFFECT OF AMENDMENT:

-1 Replaces bill and adds three components.

Specifies that when dealers sell specified items of precious metal, the cost paid by the dealer for the items is excluded from commercial activity subject to the Corporate Activity Tax. Creates exclusion from Corporate Activity Tax for agricultural commodities sold to a processor for out-of-state sale. Allows taxpayers to determine excluded commercial activity for agricultural products sold to processors based on a certificate received from the processor stating the percentage sold out-of-state, or by using an industry average percentage for the commodity from the previous year. Specifies that these two provisions take effect for tax years beginning on or after January 1, 2024.

Allows extension of CAT filing deadline for taxpayers that have an extension of time to file income tax for the same tax year. Aligns CAT filing deadline to federal income tax filing deadline, when the due date falls on a holiday observed by the federal Internal Revenue Service. Applies to tax years starting on or after January 1, 2023.

-2 Replaces bill and adds three components. Makes the same changes as -1 with two modifications.

Ensures that agricultural processor exemption is not subject to automatic sunset under ORS 315.037.

Ensures exempt cost paid by dealers for items of precious metal is not also included in the 35 percent subtraction for cost inputs.

BACKGROUND:

The Corporate Activity Tax currently includes total receipts from sales of precious metals in commercial activity subject to the Corporate Activity Tax.

The Corporate Activity Tax was enacted with an exclusion for sales made to wholesalers if when an item is sold to the wholesaler, the wholesaler provides the taxpayer a certificate showing the item will be resold outside Oregon. Agricultural commodities are often comingled by a wholesaler before being resold, so an exclusion for

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item-by-item sales outside Oregon is not practical. A wholesale exclusion was created by HB 4202 (2020 1st Special Session) for comingled agricultural products (excluding timber) sold to wholesalers or brokers. The exclusion is based on a certification of a percentage of the product sold out-of-state by the wholesaler or broker. For these sales, a taxpayer may alternatively estimate the percentage based on the industry average percentage for the commodity from the previous year.

The Corporate Activity Tax was enacted by the 2019 Legislature, and taxes commercial activity in Oregon at a rate of 0.57%. When first enacted, the tax year was defined as a calendar year, but the 2021 Legislature allowed businesses to file the Corporate Activity Tax using the same tax year as the one used for their income tax filings. The due date for the Corporate Activity Tax is the 15th day of the fourth month following the end of a taxpayer's tax year (April 15th for calendar year filers), without consideration of weekends or holidays. Current law allows the Department of Revenue to extend the due date for "good cause."