SMART GROWTH COALITION

February 14, 2023

Chair Nancy Nathanson
Vice-Chair E. Werner Reschke
Vice-Chair Jules Walters
House Revenue Committee
Oregon State Legislature
900 Court Street NE
Salem, OR 97301

Sent electronically

RE: Support for Repealing Oregon's Throwback Rule and Maintaining Immediate Cost Recovery to Encourage Investments

Dear Chair Nathanson, Vice-Chairs Reschke and Walters, and Members of the Committee,

Thank you for the opportunity to submit these comments on behalf of the Smart Growth Coalition in support of HB 2546 and HB 2549. We believe these measures would provide a valuable tool in luring new investments in jobs and capital projects to Oregon. We urge your support of these important bills.

About the Smart Growth Coalition

The Smart Growth Coalition is a consortium of traded sector businesses with significant operations in Oregon. Our coalition was formed in 1999 to add technical expertise to state legislative proceedings regarding proposed reforms to state tax law affecting businesses who have made investments in jobs and capital projects in the state. Our members are unified in their commitment to sound tax policies that encourage investment in Oregon and provide technical simplicity and clarity to the state tax code.

Oregon Should Repeal Its Throwback Apportionment Policy (HB 2546)

Nearly two decades ago, Oregon shifted the corporate income tax from an origin base (taxing the point of production) to a destination base (taxing the point of consumption). The policy reforms aimed to eliminate a tax penalty for businesses investing and hiring within Oregon and capture more imports to Oregon in the tax base. It worked. During the December 2020 revenue forecast, the Office of Economic Analysis attributed the exponential corporate income tax growth over the last 17 years to these reforms.

Whether by accident or intentionally, Oregon maintained an artifact of the old system. That policy, known as "throwback," requires a taxpayer to assign sales to Oregon for tax purposes if the customer's state does not or cannot tax the sale. The throwback rule is inherently distortionary because Oregon imposes its tax on sales activity occurring elsewhere. While proponents of the throwback policy claim it successfully ensures a firm pays 100 percent tax on its income across jurisdictions, the policy often requires a firm to pay more than 100 percent. Thus, Oregon's throwback rule can lead to aggressive and unfair double taxation.

HB 2546 repeals Oregon's distortive throwback policy to make the state more attractive in recruiting business investment, especially advanced manufacturing. According to a 2012 analysis by the Legislative Revenue Office, roughly 10 percent of an average manufacturing firm's sales are sourced to Oregon due to the throwback policy. If the legislature wants Oregon to compete for new investments in jobs and capital projects, eliminating barriers to growth in our tax structure must become a priority.

Maintaining Full Expensing for Capital Assets (HB 2549)

Under state and federal tax law, businesses can deduct ordinary expenses from their revenue, such as wages and supplies, in the same year those costs occur. For capital assets, however, taxpayers must spread those expense deductions over several years depending on the useful life of the asset. Congress has established different forms of accelerated depreciation to encourage companies to invest in new assets, boost productivity, and, ultimately, increase the economic output and taxes paid from that output. Under the Tax Cuts & Jobs Act, the federal government allowed taxpayers to claim a full expense deduction in the year the asset was purchased, allowing the business to reinvest in expanding its operations. This accelerated depreciation policy, known as immediate or full expensing, begins to phase out this year.

With a recession or economic slowdown on the horizon, the phase-out of the federal depreciation policy could not come at a more inopportune time because it increases the tax burden on capital investments. If Oregon wants to stand out among the states with a policy lever that incubates growth, HB 2549 is one of several solutions this session. HB 2549 would maintain the pro-investment policy, encouraging our existing firms to expand and new businesses to locate in Oregon.

Thank you for the opportunity to submit these comments today. We urge your support.

Sincerely,

Jeff Newgard
Smart Growth Coalition