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2023 Oregon Legislative Assembly Senate Committee on Finance and Revenue Written Testimony Regarding SB 158

SUPPORT WITH AMENDMENTS

March 7, 2023

Dear Chair Meek, Vice Chair Boquist, and Members of the Committee:


We write today in **SUPPORT** of SB 158, which would extend the Oregon Pass-Through Entity Elective Tax (PTE-E), also referred to as the business alternative income tax, through 2025.


While we are submitting this testimony on our own behalf, we are two of Oregon's leading experts on the PTE-E program, and have dedicated many hours to understanding, planning for, interpreting, and collaborating with the Department of Revenue on this program. We have also educated hundreds of CPAs, the tax preparer community, individual taxpayers, and others on this program. We are both licensed Certified Public Accountants in active practice and together have over 50 years of combined experience in the accounting profession, with the vast majority of that spent on state and local tax practice and issues.

We believe that this program is an important tax policy that puts Oregon on par with other higher income tax states throughout the country in allowing Oregon businesses to pay the elective tax at the pass-through entity level, which allows favorable Federal tax treatment. Since the Federal state and local tax cap of \$10,000 per year (the "SALT Cap") applies to tax years through 2025, we believe this amendment aligns with the corresponding Federal law and therefore makes sense. We also note that, in the event that the Federal SALT Cap is rescinded, the existing Oregon PTE-E statute provides for automatic repeal of the PTE-E program.

The PTE-E program is designed to be revenue neutral. That is, the State's personal income tax collections are not affected by the program – the tax is merely collected from the pass-through entity instead of the individual. This structure provides both the State and Oregon taxpayers with the best of both worlds – access to favorable tax treatment that mitigates the effect of the SALT Cap on Oregon small businesses, while ensuring no impact on the State's tax revenues.

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We also write to support the -1 amendments, which would add trusts to the types of qualifying members of pass-through entities that can elect to pay the PTE-E tax at the pass-through level. We believe that adding trusts to the list of qualified entities is an equitable solution that would ensure that more Oregon small businesses have access to this elective tax program. Even the smallest businesses can utilize this ownership for legal, estate planning, or other purposes – in our experience, trusts are not reserved for the wealthy. They are often used by Oregon small businesses and their owners as efficient and cost-effective estate planning vehicles. Use of a trust for ownership purposes should not disqualify these small businesses from the benefits of the PTE-E program.

Further, we strongly support the -2 amendments, which correct certain language in the existing PTE-E statute under which, under the Department of Revenue’s determination¹ related to this provision, the pass-through entity itself is not required to (or allowed to) add back the pass-through entity elective tax already deducted. Aligning the methodology between the entity and member calculations will reduce complexity and allow individuals to accurately calculate and pay their PTE-E tax on time. Eliminating this complexity should also increase compliance, especially for taxpayers who prepare their own tax returns. We believe this complexity was introduced inadvertently in the 2022 PTE-E amendments.

Finally, we respectfully request the Committee consider an additional amendment to allow taxpayers to carry forward overpayments to the following year’s estimated taxes. This provision, which already exists in Oregon personal income tax (and corporate tax) law, has a positive effect on State cashflows (since the State does not have to refund these amounts to taxpayers, just to see them turn around and repay the amounts at the next quarterly payment deadline) and is a common feature of income tax programs. Aligning with existing Oregon and Federal statutes reduces complexity and encourages compliance, especially for small businesses and individuals who prepare their own tax returns.

We appreciate the opportunity to present this testimony. We are also happy to make ourselves available for consultation with Legislative Revenue Office staff or individual legislators as requested.

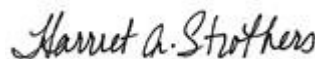
Very Truly Yours,

COBALT, P.C.



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¹ “Revenue issues determination for the treatment of the PTE-E addition.” Oregon Department of Revenue, February 15, 2023: https://www.oregon.gov/dor/programs/businesses/Documents/DOR_Statement_on_PTE-E_Feb%2015_2023.pdf