REVENUE IMPACT OF PROPOSED LEGISLATION

74th Oregon Legislative Assembly
2008 Special Session
Legislative Revenue Office

Bill Number:	SB 1101-A
Area:	Income Taxes
Economist:	Chris Allanach
Date:	2-8-2007

Measure Description:

Clarifies language pertaining to the withholding of income taxes for certain real estate transactions. Clarifies and modifies definitions of terms used in the bill. Examples include adding attorneys to the definition of authorized agent and clarifying that a conveyance pertains to a transfer of Oregon real estate. Changes the amount to be withheld to the least of: (1) four percent of the consideration, (2) the net proceeds from the conveyance (changed from four percent of the net proceeds), or (3) eight (instead of ten) percent of the gain includable in the transferor's Oregon taxable income. Modifies the list of cases where withholding is not required by deleting the general reference to foreclosures and specifically listing, for example, conveyances that are pursuant to a judicial foreclosure proceeding, conveyances that are in lieu of a foreclosure of a mortgage or other security instrument with no additional monetary consideration, cases where the transferor is acting under judicial review, and cases where the sale or exchange qualifies for an exclusion of gain as a principal residence. Allows the Department of Revenue to collect interest on the withholding amount if it is not remitted timely by the authorized agent. Imposes a penalty for the greater of either $500 or 10 percent of the amount required to be withheld (up to $2,500) if the authorized agent fails to withhold. Clarifies when the Department of Revenue may not proceed with collections activity: when the amount withheld is remitted timely, when there is no requirement to withhold, or the authorized agent presents to the Department of Revenue the written affirmation indicating no need to withhold. Allows the authorized agent to withhold taxes without written instructions from the transferor. Applies to conveyances occurring on or after January 1, 2008 and declares any transfers or exemptions granted before the effective date of this Act to be in compliance with this Act. Grants the Department of Revenue rule making authority for determining the form, content, and procedures for submitting the written affirmations.

Revenue Impact:

Minimal

Impact Explanation:

This bill addresses technical and administrative issues that arose during the administrative rules process and generally clarifies terms used and when withholding is or is not required. Provisions that could affect revenue are: (1) limiting the applicability to licensed escrow agents and attorneys; (2) changing to the options for determining the amount withheld; (3) expanding the list of exempt transfers; and (4) the imposition of interest when amounts withheld are not remitted timely or a penalty if required amount is not withheld. Limiting the applicability to licensed escrow agents (or attorneys) may reduce withholding, but most transfers are expected to be handled by such individuals. The reduction in the amount of gain to be withheld from 10 percent to eight percent would affect the timing of receipts – lower withholding is likely offset by lower refunds when tax returns are filed. The expanded list of exemptions is likely to reduce withholding but these types of transactions are expected to be relatively few in number. The imposition of interest and penalty would lead to a positive revenue impact but is expected to be small. Most of the initial revenue impact from HB 2592 in 2007 is due to improved compliance rather than the timing of tax payments. The changes in this bill are not expected to have a significant effect on the revenue from increased compliance with Oregon income tax laws.

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