

Oregon State Lottery



WRITTEN TESTIMONY

Date: February 18, 2013

To: The Honorable Phil Barnhart, Chair
The Honorable Jules Bailey, Vice Chair
The Honorable Vicki Berger, Vice Chair
House Committee on Revenue

From: Larry Niswender, Director
Oregon State Lottery

Re: **HB 2231** – Amends ORS 316.194 and changes the withholding threshold for lottery prizes.

Good morning. For the record, my name is Larry Niswender. I am the Director for the Oregon Lottery.

The Oregon Lottery is not taking a position on this bill. We are here to provide factual and historically relevant information to inform the Committee, to share policy considerations, and address any questions you may have for the Lottery.

Proposed Amendments:

HB 2231 proposes to change the threshold at which Lottery will be required to withhold eight percent for state taxes. The Lottery currently withholds state taxes on any prize above \$5,000 at 8% and issues a W2G for prizes between \$600 and \$5,000 for Traditional Prizes and for Video prizes above \$1,200.

The Lottery has provided the Department of Revenue with historical prize payment level data relevant to this bill (copy attached), so it could evaluate potential state tax collections (prior to any offset the tax payer may ultimately qualify for based on their yearend tax return). The Lottery data provided also confirmed the numbers and value of delinquent child support collections, something that would likely be reduced by some indeterminate amount by any reduction of the state tax threshold.

While the Lottery is not taking a position on the bill, the prize value blank in the bill (currently set at \$5,000) does create uncertainty as to the impact a legislative change could have on Lottery operations, players, sales, and revenue. The lower the threshold, the more likely the impacts will be in each of these areas.

Fiscal Impact on Lottery

If the blank is filled in for an amount above \$1,200, the only increased operational cost per transaction for the Lottery would be the additional time necessary to communicate with players to explain the change in withholding at the lower amount. Since the Lottery already reports on prizes over \$600, the additional withholding should not adversely impact Lottery operations, once the game system changes necessary to implement a lower tax threshold are made.

Any costs that may be passed on to the Lottery from the gaming system vendor are indeterminate at this time. It is possible that these costs will be the responsibility of the gaming system vendor. Additional research on this issue is underway. An estimate of the amount of time necessary for the gaming system vendor to implement the tax threshold change has been requested but is not yet available.

If, for example, the legislature were to choose to fill in the blank in the bill with an amount below \$1,200, players winning video prizes (who can now be paid by the video retailer) would be required to travel to Salem (Lottery's only prize payment location) to receive their prize payment.

Lottery understands that the Department of Revenue is not advocating for the threshold to be significantly lowered, but Lottery wants to ensure the Committee understands the potential adverse impacts as it deliberates on various policy options.

As noted previously, it would be very problematic from a system standpoint and a Lottery workload perspective to require all players to come in and claim traditional

prizes below \$600 and video prizes below \$1,200. These are currently paid by our 2,300 retailers statewide.

There would also be a significant impact on sales (and state transfers of lottery revenue) because of the requirement for all players with prizes to travel to Salem to claim smaller prizes. The prizes won at this level are frequently used for additional game play at retail establishments. Having to players travel to Salem to collect a small net check would pose a burden that would impact game play.

Chart

It is important to understand the chart attached to my testimony makes a simple calculation of potential additional tax withholding of \$3.5 million for 2012 IF ALL PRIZES were paid in Salem and subject to withholding. This tax withholding number is inflated for a couple reasons.

First, there are winners from other States where we do not withhold a State tax for those residents. For example, there are a large number of Washingtonians that play Lottery games in Oregon due to border proximity, and Washington does not have slot style games outside of Casinos.

Second, tax withholding by the Lottery does not directly translate into tax money retained by the State. Current law excludes taxation on the first \$600 of prizes and gambling losses can be netted against winnings for the purpose of determining taxable income.

The Department of Revenue has a better view into individual tax returns to know how much withholding actually results in tax revenue, but for the sake of example, if you assume that the gain/loss netting and exclusion of withholding for non-Oregonians results in 60% retained taxable revenue for the State. That would reduce the \$44.2 million in 2012 prizes on the attachment to \$26.5 million in prizes and taxable income. Tax rates vary by individual, but most do not pay the maximum state taxes. Assuming a

6% average tax rate would mean tax revenue of approximately \$1.6 million in additional 2012 revenue realized for the State.

This would also be a best case scenario, in that there would be expenses associated with additional tax processing of refunds, costs to change Lottery gaming systems and staff increases at Lottery, if withholding levels were reduced below \$600 and video prizes below \$1200. This does also not include reduced Lottery sales attributable to tax policy or withholding issues.

This concludes my prepared testimony on this bill. If you have any questions, I would be happy to address them.

ATTACHMENT

2011 WZG's					
WZG Gross Winnings	Number of WZGs	Value of WZGs	Potential State Tax	Number of DCS Claims	Value of DCS Claims
\$0.00 - \$1,499.99	3,243	2,854,619.93	228,369.59	35	23,156.01
\$1,500 - \$1,999.99	5,344	8,463,072.00	677,045.76	62	62,207.55
\$2,000 - \$2,999.99	2,565	5,471,636.25	437,730.90	54	85,524.46
\$3,000 - \$3,999.99	1,402	4,386,975.05	350,958.00	22	36,383.07
\$4,000 - \$4,999.99	579	2,364,400.65	189,152.05	8	18,084.48
Total	13,133	\$ 23,540,703.88	\$ 1,883,256.31	181	\$ 225,355.57

There were 1,803 WZG's over \$5,000 in 2011; Winnings of \$550,311,155.20; State Tax of \$3,360,758
 **There were 17 WZG's over \$5,000 in 2011 with DCS withholdings; Number of Claims 17; Value of Claims \$37,416.61

2012 WZG's					
WZG Gross Winnings	Number of WZGs	Value of WZGs	Potential State Tax	Number of DCS Claims	Value of DCS Claims
\$0.00 - \$1,499.99	3,166	2,758,020.24	220,641.62	24	14,517.45
\$1,500 - \$1,999.99	10,831	16,811,368.95	1,344,909.52	147	139,408.08
\$2,000 - \$2,999.99	5,352	12,161,745.70	972,939.66	99	140,092.30
\$3,000 - \$3,999.99	2,223	6,919,714.00	553,577.12	37	45,073.46
\$4,000 - \$4,999.99	1,297	5,566,985.15	445,358.81	26	60,144.66
Total	22,869	\$ 44,217,834.04	\$ 3,537,426.72	333	\$ 399,235.95

There were 2,133 WZG's over \$5,000 in 2012; Winnings of \$56,444,785.01; State Tax of \$3,898,983
 **There were 46 WZG's over \$5,000 in 2012 with DCS withholdings; Value of Claims \$129,815.76