OSPIRG
Standing Up
To Powerful Interests

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March 11, 2015

TO: House Committee on Revenue
FR: David Rosenfeld, Executive Director, Oregon State Public Interest Research Group (OSPIRG)
RE: House Bill 2077

OSPIRG supports a number of provisions contained in House Bill 2077 as introduced, on the grounds they would help reduce the practice of large corporations using accounting gimmicks to reduce their Oregon tax liability.

It is fairly settled as fact that many of America's largest corporations use sophisticated schemes to shift U.S. earnings to subsidiaries in offshore tax havens—countries with minimal or no taxes—in order to reduce their state and federal tax liability by billions of dollars. At least 362 companies, making up over 70% of the Fortune 500, operate nearly 8,000 subsidiaries in tax haven jurisdictions as of 2013. This includes household names such as: Bank of America, Nike, Apple, Microsoft, and Pfizer.[i]

The scale of this tax avoidance is significant; our own analysis estimates that the state of Oregon loses over $200 million in state tax revenue annually to corporate tax avoidance.[ii]

When corporations dodge taxes, small business owners and medium-sized domestic companies have to pick up the tab. This takes the form of cuts to public programs or higher tax rates. We've calculated that if offsetting the impact of corporate tax avoidance in Oregon took the form only of tax increases spread evenly among Oregon businesses, each would have to cough up an additional $664 in Oregon taxes annually.[iii]

Equally significant, multinational tax dodging puts the many businesses that play by letter and spirit of the rules at a competitive disadvantage. Businesses should compete on innovation and the quality of their products, not on their ability to pay for an army of clever tax attorneys and accountants. Unfortunately, the opposite is true. As a result, we have two tax systems – one for smaller companies and the sizeable domestic companies that play by the rules, and one for the corporations that use offshore tax schemes to avoid their taxes. The winners of this system are large multinationals like banks, high tech companies, and pharmaceutical companies, and the losers are retailers, small businesses, and ordinary taxpayers, who are forced to pick up the tab for tax haven abuse.

There are a number of ways in which federal and state lawmakers can and should crack down on corporate tax avoidance. Oregon lawmakers took a great first step in 2013 by approving a law that required companies to treat income reported to offshore subsidiaries in particularly notorious tax havens like the Cayman Islands as domestic income.[iv]

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Another simple step in the right direction is to increase transparency, and require sizable corporations to publicly disclose their tax liability, with an itemization of the deductions and credits they used to reduce their tax liability. Disclosing this information will allow citizens, watchdog groups and legislators to understand whether companies are paying large sums in taxes, and provide an understanding of how companies are using special provisions in the tax law to reduce their taxes. If a company increases the number of jobs in Oregon while using a new tax credit, this fact could be publicly confirmed and might be the basis for expanding that credit. If a company claims that Oregon taxes are too onerous and it requires additional sweeteners to stay in the state, it could be verified whether that company actually pays taxes at a high rate. This information can help elevate debate about tax policy in countless ways.

Opponents of this approach will often argue that this approach is anti-competitive because it forces businesses to disclose proprietary information. However, not all corporate tax information is inherently proprietary, and should not be a blanket excuse against any form of public transparency. Thus, one important question for policymakers is what types of disclosure fall well before the line.

There are a number of provisions in House Bill 2077 that are eminently reasonable first steps:

- Sections 1, 2, 4, 5, 6 & 7
- Section 3 (5) (h-l)
- Section 3 (6) (a, f & h)

This is not to say the other provisions of the bill are not worth consideration. Given the degree to which corporate tax avoidance creates an anti-competitive marketplace, there may be a public interest in more robust transparency above and the beyond the aforementioned sections. We do not at this point take a position on those other sections.

However, if the Legislature is looking for a strong starting point for more transparency that unequivocally serves the public interest with little downside, the above sections are a good place to begin.

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[i] OSPIRG Foundation, June 2014, "Offshore Shell Games 2014: The Use of Offshore Tax Havens by Fortune 500 Companies."
[ii] OSPIRG Foundation, January 2013, "The Hidden Cost of Offshore Tax Havens: State Budgets Under Pressure from Tax Loophole Abuse."
[iii] OSPIRG Foundation, April 2014, "Picking Up the Tab 2014: Average Citizens and Small Businesses Pay the Price for Offshore Tax Havens."
[iv] House Bill 2460-B from the 2013 Oregon Legislative Session.