

From: kris alman
To: [LRO](#)
Subject: Disconnect from federal pass-through: testimony for 2/6 Senate Finance Committee
Date: Monday, February 5, 2018 2:26:56 PM
Attachments: [Screen Shot 2018-02-05 at 8.08.01 AM.png](#)
[Screen Shot 2018-02-05 at 8.07.23 AM.png](#)
[Screen Shot 2018-02-05 at 7.49.52 AM.png](#)

Please make sure this testimony is available for the hearing tomorrow.

Thank you,

Kris Alman

On Mon, Feb 5, 2018 at 10:01 AM, kris alman <kris.alman@gmail.com> wrote:

Chairs Hass and members of the Senate Finance and Revenue Committee,

The GOP tax will have varied effects on Oregon's general fund if we fully connect to the Internal Revenue Code.^[1]

A total of roughly 115 provisions in 3 categories:

- 30 Individual (includes pass-through deduction), generally tax years 2018 - 2025
- 65 business, generally tax years 2018+
- 20 international, generally tax years 2018+

| Policy | Individuals | | Businesses | | | International | | |
|-------------------------|-------------|------------|-----------------------|-------------|------------|--------------------|-------------|------------|
| | Federal Tax | Oregon Tax | Policy | Federal Tax | Oregon Tax | Policy | Federal Tax | Oregon Tax |
| Tax rates | - | + | Tax rates | - | | Repatriation | + | |
| Personal exemption | + | - | Interest deduction | + | + | | | |
| Standard deduction | - | + | NOLs | + | + | Territorial System | | |
| Itemized deductions | + | + | R&D amortization | + | + | | | |
| Modify the AMT | - | + | Bonus Depreciation | - | - | | | |
| Child/ Dependent credit | - | + | AMT repeal | - | - | | | |
| PTE deduction | - | - | Deduction limitations | + | + | | | |
| Inflation adjustment | + | - | | | | | | |

Updating the connection date to federal Internal Revenue Code and other provisions of federal tax law gives Oregon lawmakers the opportunity to disconnect from specific provisions.

Oregon is one of 21 states that have "fixed date" conformity^[2] to the Internal Revenue Code. Unlike rolling conformity, which adopts IRC provisions automatically, *affirmative legislative action* is required to update the state's tax code to conform to the IRC as of a specific date. Oregon did not decouple or disconnect from specific tax provisions in 2011, though we did in 2008.^[3]

Oregon should disconnect from at least 3 tax provisions.

- Small business pass-through
- 529 college savings accounts
- Section 179 expensing limits

Connecting to the federal government on the federal small business pass-through tax break will be devastating to Oregon's general fund. This tax break is a 20% deduction, with a phase-out starting at \$315,000 of income for couples.^[4] If Oregon connects to this deduction, the estimated loss in Oregon is \$400 Million per biennium. Senator Hass (on a panel convened by Congressman Blumenauer January 13) emphasized, with the backing of a CPA in the audience, how this tax break would be so harmful.

Since Measure 25 was passed in 1996, the Oregon legislature has required a 3/5 supermajority vote to fix bad tax breaks. With a simple majority vote NOW, we can disconnect from the federal pass-through tax break.^[5]

The legislature needs to fix both Oregon's and the federal small business pass-through tax breaks. It is not an either/or situation. Both the Oregon and federal pass-through tax breaks favor the highest earning businesses—which are arguably not small. As is true of my SB 1527 testimony, the vast majority of businesses benefiting from the federal tax break are not "small" businesses.^[6]

Nationally, pass-throughs make up more than 95 percent of business tax filings; and more than 70 percent of small-business employers have adjusted gross incomes below \$200,000. Thus, connecting to the IRC on this specific tax break will send revenue from the general fund primarily to the wealthiest small business owners. These are the kinds of businesses who can pay CPAs to calculate whether it is more advantageous to organize as a corporation^[7] or as "small" business.

With the federal tax break, partnerships and other types of businesses can "pass through" income to silent investors, whose income is taxed at the individual tax rate. Indeed, very large law firms, hedge funds and multibillion-dollar

businesses like Georgia-Pacific (a Koch Industries subsidiary) and Fidelity Investments claim an outsized share of pass-through income. High-earning, capital-intensive real estate investors (like the Trump organization^[8]) will see their tax rates dip from 39.6% to 29.6%.

Oregon should also disconnect from the provisions that allow 529 college savings accounts to be extended to K-12 private school tuition.

Oregon should not connect to new Section 179 expensing limits that increase from \$500,000 to \$1 Million.

Oregon Business and Industry Chairman Sam Tannahill^[9] said that “it is in the best interests of our state to give Oregon businesses incentives to make *job-creating capital investments*, including the full depreciation and expensing provisions” in the new federal law. While this tax break phases out over time, Oregon can’t depend on these businesses to spend this money on creating new jobs.

| | Tax Year | | | | | | | | | |
|--------------------|----------|-------|-------|-------|-------|-------|------|------|------|------|
| | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
| Businesses | | | | | | | | | | |
| Bonus Depreciation | -\$76 | -\$77 | -\$57 | -\$36 | -\$25 | -\$11 | \$6 | \$19 | \$27 | \$23 |

Respectfully,

Kris Alman

[1] <https://olis.leg.state.or.us/liz/201711/Downloads/CommitteeMeetingDocument/139556>

[2] <https://www.scstatehouse.gov/Archives/CitizensInterestPage/TRAC/021910Meeting/Conformity.pdf>

[3] <https://www.cbpp.org/research/states-can-avert-new-revenue-loss-and-protect-their-economies-by-decoupling-from-federal>

[4] <https://www.nytimes.com/interactive/2017/12/15/us/politics/final-republican-tax-bill-cuts.html>

[5] <https://www.cbpp.org/research/six-reasons-why-supermajority-requirements-to-raise-taxes-are-a-bad-idea>

[6] <https://www.nytimes.com/interactive/2017/12/20/us/politics/small-business-tax-cut-pass-throughs.html>

[7] *ibid.* The top income tax rate for corporations will fall to 21 percent next year. Though not directly comparable, the top pass-through rate will effectively fall to 29.6 percent with the deduction. On the other hand, corporations are taxed twice, first on income and then on returns to investors, resulting in a higher tax burden overall.

[8] <https://www.nytimes.com/2017/12/16/business/the-winners-and-losers-in-the-tax-bill.html>

[9] <http://kuow.org/post/federal-tax-cut-leaves-oregon-its-own-budget-hole>

From: kris alman
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 10:43:21 PM

Chair Hass and members of the Senate Committee On Finance and Revenue,

If there is one thing Americans learned in 2016, it's that our economy is rigged. One of the ways the wealthiest individuals and businesses do this is through the tax code at federal, state and local levels. At the root of this is money in politics and a great ROI for the wealthy beneficiaries. America's complicated, unfair tax code is "lawful;" and it's high time to level the playing field.

That's why **the Grand Bargain Small Business pass-through tax break of 2013, which reduced tax rates on specific businesses^[1] should be repealed**, not tweaked, as Section 10 of SB 1527 purports to do. Doing so, we'd **have \$100 Million more per year in general fund coffers** to spend on essential services.

First, this can be repealed with a simple majority vote. ^[2] A tax expenditure generally is not a bill that actually levies a tax, but rather one that *regulates how a tax is applied or credited*. Therefore repealing this tax break would not make it a "bill for raising revenue." The Supreme Court ruling in *City of Seattle Department of Revenue*^[3] clarified this.

Secondly, the vast majority of businesses benefiting from this tax break are not "small" businesses. Sole proprietors don't benefit from this tax break. Indeed, less than 8% of the benefits go to tax filers earning <\$200,000. Nationally, pass-throughs make up more than 95 percent of business tax filings,^[4] and more than 70 percent of small-business employers have adjusted gross incomes below \$200,000. Thus the proposed change to this law will continue to flow primarily to the wealthiest small business owners, who can pay CPAs to calculate whether the base or opt-in approach yields a better tax advantage.^[5]

Will this tax break drain the general fund even more with the GOP pass-through tax break? The toxic alchemy of these two tax breaks will both widen income and wealth inequality in Oregon *and* drain the general fund.

The Grand Bargain tax break is no bargain for the average Oregonian. Oregon needs the \$200 million to pay for schools, expanded Medicaid, clean energy, affordable housing and a host of other public services vital to Oregon. **Repeal Oregon's not-so-small business pass-through tax break.**

SB 1527 should be further amended to remove Section 11. This Section would eliminate the "throwback rule," and create "nowhere income."^[6]

A master of "nowhere income" is Nike. Nike earned infamy in the Paradise Papers, using a tax vehicle called the C.V. or, *commanditaire vennootschap*, which is essentially a Dutch version of a partnership.^[7] Nike Innovate CV is not based in Bermuda. It is not actually based anywhere—nowhere money. Apple, Uber, Google and Facebook, companies with so much of their value in their intellectual property, also game the global economy with the CV. It's called

the Double Irish.^[8]

Rather behaving as a good corporate citizen, Nike uses its global stature to assert sovereignty, demanding and receiving corporate welfare through special tax breaks. In demonstrating these bad behaviors, other interstate businesses surely expect nowhere income.

Oregon needs to stop rewarding Nike for their financial innovations. Remove Section 11 from this bill to keep the throwback rule in place.

Respectfully,
Kris Alman

[1] In a special session October 2013, the legislature passed this bill with PERS reforms that the Supreme Court ruled unconstitutional.

<https://olis.leg.state.or.us/liz/2013S1/Downloads/MeasureDocument/HB3601>;

<http://projects.registerguard.com/rg/news/local/33039068-75/oregon-supreme-court-overturns-pers-reforms.html.csp>

[2] <https://www.ocpp.org/2017/03/02/fs20170302-bill-raise-revenue-tax-expenditure/>

[3] <http://caselaw.findlaw.com/or-supreme-court/1713132.html>

[4] <https://www.nytimes.com/interactive/2017/12/20/us/politics/small-business-tax-cut-pass-throughs.html>

[5] <https://olis.leg.state.or.us/liz/2017I1/Downloads/CommitteeMeetingDocument/139577>

[6] <https://itep.org/wp-content/uploads/pb39throw.pdf>

[7] <http://fortune.com/2015/10/22/uber-tax-shell/>

[8] <http://www.newser.com/story/251192/paradise-papers-spill-nike-apples-tax-secrets.html>

From: marie
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 7:28:17 PM

I am writing about Section 11, which refers to the profits of businesses that are paid not by the business, but as a part of the business owners' taxes.

Should my neighbor who is a clerk, package handler, school teacher or engineer pay higher taxes than me because I own a technology business, day care, or landscaping company?

Under current law, a couple with \$17,000 of taxable income would be in Oregon's 9% tax bracket, while business owners would only pay 7% on that same amount of business income. In fact, business owners get tax breaks on the first \$5 million of income! The average couple is paying a higher tax rate than business owners with millions in income. The new Federal law adds even more benefits. This is not ok!

Marie Wakefield
3054 Hwy 20
Newport , OR 97365
wakefieldm_2000@yahoo.com

From: mary
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 4:14:38 PM

Chair Hass and members of the Senate Finance and Revenue Committee:

I am writing to urge the committee to repeal the business pass through tax break contained in Section 11 of SB 1527. This legislation, passed in a special session in 2013, primarily benefits high earning businesses, who are arguably not paying their fair share to maintain public services in Oregon from which they benefit (education, infrastructure, transportation, to name a few). The State of Oregon has a revenue problem. We do not have enough revenue, and working class Oregonians are suffering as a result. As a public school teacher in SE Portland, I see the results of this lack of revenue on a daily basis in staffing cuts, families struggling to find and keep affordable housing, and high numbers of students with asthma. Instead of giving this tax break to businesses, we could be using the money to pay for the staffing required to decrease class sizes, to invest in affordable housing and/or to subsidize cleaner forms of transportation that would result in less polluted air along highway corridors.

Mary Watkins
Portland, OR 97213

From: Mike Litt
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 11:36:40 AM

Please eliminate the Oregon personal tax break on income of business owners in SB 1527. And don't allow the new business owners tax break that congress passed and Trump signed to apply to Oregon taxes. Pass SB 1529 to disconnect this from Oregon's tax code. Together, these actions will save about \$600 million per biennium. This money could provide more than 2 weeks of school per year, or reduce tuition at our State universities.

All Oregon income should be taxed the same. With our current tax code in SB 1527, a couple with \$17,000 in taxable income would be in Oregon's 9% tax bracket, whereas business owners would only pay 7%.

In Oregon as in the rest of our country, income inequality is a growing problem which is unfair and hurts the economy. I will judge my representatives and senators on the basis of their actions to reduce and not to perpetuate this terrible problem.

Sincerely,

Mike Litt
13100 SE River Rd
Milwaukie 97222

From: nancyn@efn.org
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 9:49:23 AM

Dear Senate Revenue Committee Members,

It is not fair that wage earners are taxed at a higher rate than business owners. All income should be taxed at the same rate.

Getting rid of that special rate for business owners in Section 11 of SB 1527 will level the playing field. Please do not extend the break for any business owner.

There are so many needs for the state funds that would come from taxing all income in the same way. One is adequately funding the foster care system. Another is better funding drop out prevention in our schools. The school year could be extended. These are all important functions of government that benefit children. Please put them first.

Nancy Nichols
93849 Deadwood Creek Road
Deadwood, Oregon 97430

From: p.story@comcast.net
To: [LRO](#)
Subject: SB 1527
Date: Monday, February 5, 2018 1:21:32 PM

To the Finance and Revenue Committee:

I am writing to strongly oppose SB 1527. This bill gives a special tax break to business owners. There was a time when owners expected their businesses to make it in the free enterprise system, not by getting lower tax rates than what their employees pay. But this so-called “pass through” giveaway may give an extra \$200 million per biennium to business owners. This special giveaway should simply be eliminated by the Finance and Revenue Committee.

Likewise, I strongly oppose the even more expensive SB 1529—the Trump business owner tax break for 2018. I have read that if we let this federal tax break apply in Oregon, the combined bills, SB 1527 and SB 1529, could cost the state at least \$500 million. C’mon Senators, do the right thing—stop these two bills now and keep it fair for all Oregon taxpayers.

Patrick Story
4619 SE 44th Ave.
Portland, OR 97206

From: Peter Drummond
To: [LRO](#)
Subject: SB 1527
Date: Monday, February 5, 2018 1:35:58 PM

Chair Hass and members of the Senate Finance and Revenue Committee,

In reference to Section 11 of SB 1527, this committee should repeal the Oregon personal tax break on the income of business owners. This legislation, passed in a special session in 2013, primarily benefits the high earning businesses. We should be retaining all \$200 million per biennium to fund essential services that benefit all Oregonians, whether directly or in long term social outcomes. Our state is currently experiencing a crippling deficiency of funding, resulting in demonstrable and immense harm to our most vulnerable populations; as a social worker, every day I watch foster care children languish in hotels while their caseworkers are too overburdened to ensure their basic safety and developmental well-being, shelters for the homeless close despite increasing numbers of houseless individuals, and our public schools offer an education far below the national average. At a time of unprecedented wealth and prosperity in Oregon, it is utterly unconscionable that we continuously fail to provide basic social services and supports to those most in need, all while watching a wealth gap explode between the wealthiest and poorest citizens.

Respectfully,

Peter Drummond

From: Rick Belliveau
To: [LRO](#)
Subject: SB 1527
Date: Sunday, February 4, 2018 12:15:20 PM

Start email for SB 1527:

Chair Hass and members of the Senate Finance and Revenue Committee,
In reference to Section 10 of SB 1527, this committee should repeal the business pass-through. This legislation, passed in a special session in 2013, primarily benefits the high earning businesses, which are arguably not small. We should be retaining all \$200 million per biennium to provide vital services for all Oregonians.

My wife Rachel is a second grade teacher in Portland and she sees the direct impact of the decimation of our public services. Let's make Oregon a place where all people are given a fair shot and can thrive.

Respectfully,

Richard Belliveau
3715 NE 8th Ave
Portland, OR 97212

From: RICHARD FREEMAN
To: [LRO](#)
Subject: SB 1527
Date: Monday, February 5, 2018 12:12:24 PM

As a Democratic PCP, and citizen of Oregon, I am writing you to urge the Legislature to eliminate the personal tax break of business owners' income, in SB1527.

Also, I strongly feel that the Federal tax break given to business owners shouldn't apply to taxes in the State of Oregon.

Thank You for your consideration.