OREGON DEPARTMENT OF REVENUE

Legislative Testimony

House Committee on Revenue **January 31, 2019**

HB 2101 Centralized Partnership Audit Regime (CPAR)

Summary

Federal laws and regulations on IRS treatment of partnership audit adjustments have changed with the adoption of the Centralized Partnership Audit Regime (CPAR) and the repeal of the Tax Equity and Fiscal Responsibility Act of 1982, known as TEFRA. Current Oregon statutes and rules do not align with the new federal treatment and create an administrative burden on the department to assess the federal partnership adjustments at the state level and for taxpayers to comply.

Partnerships generally are not subject to tax; instead, the partners are. In 1982, Congress enacted unified partnership audit and litigation procedures as part of TEFRA. At the federal level, CPAR changes the default rules for partnerships so that the IRS will collect tax at the partnership level on partnership adjustments, unless the partnership elects to use certain special procedures, such as to push the adjustments out to the partners. Again, under the old TEFRA procedure, the partners paid the tax, not the partnership.

Having the partnership pay is a big change in federal procedure. Oregon law was drafted for the TEFRA era, not CPAR. Under Oregon law, a partnership generally did not pay income tax to Oregon, except in the limited case of an electing large partnership that chose to pay tax at the partnership level.

Oregon is not alone in needing to update its procedures and align to the CPAR. In 2016, the Multistate Tax Commission (MTC) formed a Partnership Project group consisting of industry, states—including Oregon—and staff from MTC to discuss how the states would adapt to CPAR. The intent of the group was to develop and adopt a model uniform statute and accompanying regulations that pertain to the reporting of federal partnership audit adjustments. The MTC just voted to adopt their proposed model January 24, 2019. HB 2101 generally follows the MTC model regarding partnership adjustments. The MTC model also included other, broader changes that would apply to all income taxpayers that get audited by the IRS, not just partnerships. Those broader changes are not included in HB 2101.

Oregon needs to catch up with the repeal of TEFRA and the adoption of CPAR. Without HB 2101, the individual partner in a partnership in a CPAR audit might not receive an adjustment that the partner would other be required to report to Oregon (because it was given to the entity, not the individual), and the partnership also would not have any tax to pay to Oregon—even if the partnership had to pay the IRS additional tax—because Oregon law wouldn't require the entity to report to us.

We ask you to support our efforts at aligning Oregon law with the recent federal law changes.

For more information about this testimony, contact Deanna Mack 503-947-2082.