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Senate Bill 207: Apportionment (Joyce v. Finnegan)

Chair Hass and members of the Senate Finance and Revenue Committee, thank you for opportunity to provide written testimony related to Senate Bill 207, which would change Oregon's apportionment standard for multi-state corporations. The Oregon Bankers Association ("OBA") has concerns about the change in approach reflected in the bill.

Senate Bill 207 would change the procedure for apportioning income earned by corporations doing business in multiple states. The bill would move Oregon from the *Joyce* method of apportionment, where the tax status of each entity in a unitary group is considered separately, to the *Finnegan* approach, in which all members of a unitary group are taxable if one member of the group in the state is taxable. The *Joyce* and *Finnegan* approaches are derived from two decisions handed down by the California State Board of Equalization.

Although OBA has not conducted a review of all state law related to apportionment, it is our understanding that the *Joyce* approach is utilized by a majority of states. Oregon would become an outlier with adoption of the *Finnegan* methodology.

The proposed change would increase complexity and compliance costs because it would require more effort to track and audit data.

The *Joyce* approach respects corporate legal entities and determines which sales are included in the sales factor numerator on the basis of the selling entity's individual nexus to the taxing jurisdiction, in this case the State of Oregon. The *Joyce* rule's tendency to view the corporation as a distinct taxpayer is in accord with established corporate law principles.

Further, the proposed change to the *Finnegan* rule is likely due to revenue-raising considerations. While the revenue impact of tax law is a valid state concern, it should not determine the best approach when a competing one seems more proper from a policy perspective.

We would caution against a move to *Finnegan* and urge the committee to maintain the current *Joyce* methodology. Thank you for the opportunity to provide written testimony.

If you have questions, please contact Paul Cosgrove (503) 799-5679 or Kevin Christiansen (503) 576-4123.