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TO: OREGON SENATE COMMITTEE ON FINANCE AND REVENUE

RE: SB 137-2 Provision to Tax 2020 PPP Loan Forgiveness Income in Excess of \$100,000

Thank you for the opportunity to provide testimony on this bill that is currently under consideration by the Committee on Finance and Revenue. I have been practicing as a CPA in McMinnville since 1976 and have never seen a bill passed by the Oregon legislature following an income tax filing deadline that retroactively increased income taxes on business entities or individuals.

Since our firm has over 20 business entity clients with 2020 PPP loans under forgiveness, 14 of which are loans over \$100,000, we advised all of them in January and February that their returns would be extended past the March 15 (and in some cases May 15) tax filing deadlines, because of the necessity to have completion of the loan forgiveness process before the returns are filed. With several of them having completed that process by the end of February, we further advised that it would be wise to wait a little longer to determine the intent of the Oregon legislature with respect to any possible disconnect from the federal CARES and Consolidated Appropriations Act. This advice was only precautionary, because there was no evidence in the media, on the Department of Revenue website, or in its "Revenews" emails of any possibility for a disconnect with respect to PPP loan forgiveness. For additional risk analysis, during a February 23, 2021 business forum, another local CPA and I specifically asked one of the representatives from our district about the possibility that Oregon might disconnect from the Consolidated Appropriations Act with respect to PPP loan forgiveness. The answer was that it was not under consideration at that time, and if it were to happen in the future, it was doubtful that the provision would be retroactive. Several of our clients, who had documentation of their loan forgiveness, needed to file their business and individual returns for lending purposes. We made them wait until late April and finally decided that it should be safe to proceed, because four months had passed since the end of the tax year without any action from the Oregon legislature regarding PPP loan forgiveness income. Those business and individual returns have been filed. Passage of SB 137-2 as proposed will require amended tax returns. One of the reasons why Congress delayed the 2020 individual tax filing deadline until May 15, 2021 was the process for administering this and other provisions of the CARES and Consolidated Appropriations Act, as well as the retroactive provisions of the American Rescue Plan passed in mid-March 2021. We are now past that deadline also.

I find it completely unacceptable that the Oregon legislature could consider a bill nearly 5 months after the end of tax year 2020 with a provision that retroactively changes the tax law for 2020 PPP loan forgiveness income, because there was inadequate notification to the accounting profession and general public prior to the income tax filing deadlines. This process differs dramatically from the Federal legislation in March 2021, because the accounting profession and general public were repeatedly notified of the existence and progress of the Federal legislation beginning in January, such as taxpayers with unemployment benefits or ACA premium tax credits were advised to delay the filing of their tax returns until after the legislation was passed.

The tax professionals in this state are committed to helping the public comply with the laws and regulations promulgated by the legislature and Department of Revenue. You have already asked us to assist in the process of compliance with a new Corporate Activity Tax effective in 2020. If you want to maintain a reasonable level of cooperation, I highly discourage the inclusion of a provision in SB 137-2 that retroactively taxes a portion of PPP loans forgiven in 2020. Thank you for your consideration of a call to reasonableness in the legislative and tax administration processes.

Kathleen Bernards

Kathleen Bernards, President of Bernards, CPA