



HB 2331: Protect Central Assessment of Large Broadcast Companies

Testimony for House Revenue – Brenda Gilmer – February 24, 2020

My name is Brenda Gilmer, appearing on behalf of Tax Fairness Oregon, a network of volunteers who support a rational and equitable tax code. We oppose the bill as written. I am a new member of TFO, but not new to taxes. I graduated from law school in Montana and learned tax law at NYU's graduate tax program. For the last fourteen years of my career, I worked as a lawyer for the Montana Department of Revenue. I wrote many tax bills and administrative rules. To simplify, always trying to simplify the tax system so it is understandable to our citizenry.

Oregon and Montana are both members of WSATA, Western States Association of Tax Administrators, along with members Alaska, Arizona, California, Colorado, Idaho, Nevada, New Mexico, Texas, Utah, Washington, Wyoming, and Hawaii. This broad coalition of states understands and abides by appraisal standards unique to unitary valuation. They have adopted uniform standards, which, in part, help insulate each state from a fairly unified communication industry attack on state level valuation and administration. HB2331 appears to be another attack, using messy language and clumsy form, to create ambiguity that can be widely exploited if successful.

HR2331 should not be passed because if enacted as written it would prevent Oregon from capturing its fair share of the total unitary value of the assets of those broadcast radio and television companies operating in the state that should be centrally assessed. With this bill, only the stand-alone value of the physical assets located in each county would be taxed and that would significantly undervalue, for tax purpose only, property that sells at a significantly higher value when considered as part of the whole. That is the basis for unitary appraisal, not physical connection or identifiable customers. You can, however, very carefully, exclude the ma and pa stations spoken of by Bob Wise at the February 22, 2021 1 pm, that produce and broadcast local news and programming locally. "Very carefully" does require an understanding of unitary appraisal. It also requires an understanding that some companies exploit every ambiguity, and one way of doing that is to construct entities who meet the language, somehow. **The caution urged in the February 22 hearing should be taken very seriously.**

The "broadcast," over-the-air aspect of the assets of interstate and inter-county companies is not relevant to value or central assessment. All communication companies use over-the-air transmission of signals. For radio and broadcast television stations, broadcasting over public airwaves may be only one of the means by which they disseminate their product. **The important considerations for fair taxation are (1) whether a TV or radio company that has a license to transmit its business content to its intended audience over the air is operating in multiple counties or states (2) and whether its assets would be sold as part of a unit (for example station) or whether bits and pieces would be offered and sold to separate buyers.**

For valuation, it does not matter in the market whether the audience is reached by over-the-air connection or by physical wire. What would be the selling unit? The next hearing should provide a lot more information. It is so fortunate that citizens are now able to participate digitally. The Oregon community at large should be educated about the issue and the amount of money at stake. Education money at stake.

While working for the Montana Department of Revenue I learned that local valuation leaves each county vulnerable to attack at each valuation event. Deep pockets create and fund massive resources to prosecute appeals against EACH county. Companies subject to central assessment used to meet annually to create the theories of attack on all counties in all states. States can fight that. Counties are not equipped, usually, to do that. I do not know Oregon's situation in that respect. I watched how economists can construct some argument, playing with the change-edges of categories.

Check out COMCAST's record. Find out who came up with the idea of feeding a "heart tug, good American, needed, decent" red herring to plow new ground to exploit in future appeals as they tried to make, and made, mischief at the expense of the school children of Oregon. Read the cases and the reasoning. Comcast lost because they should have.

DOR employee Seiji Shiratori and state economist Jaime McGovern spoke of things that need to be understood by the general public. This is not rocket science. The property tax system is broken. Centrally assessed taxes are a large component of the Oregon tax base and should never be lightly amended. Again, education money is at stake.

Communications is the right category for broadcast television and radio property taxation. Every exception to a tax rule creates ambiguity that is exploited by people whose full time job is, literally, creating and exploiting ambiguity. Sensible, simplifying property tax provisions and administration are tools to do right by our system of education and our children.