Oregon Update
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News from the State

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As you know, Oregonians are going to be voting on an unprecedented and damaging tax increase this November. OHBA has officially opposed the measure, but because of the implications for home builders and the importance of the issue, we asked the coalition for an article – please share this far and wide with everyone you know so we can defeat this very bad idea. Thanks... Jon

New $6 billion tax on Oregon sales threatens Oregon's consumers and home builders

By John Tapogna, President of ECONorthwest

In late May, the Secretary of State certified that sponsors of Initiative Petition 28 (IP 28) had submitted more than enough petition signatures to qualify their $6 billion tax on Oregon sales for the November General Election ballot.

Like virtually every Oregon industry and every Oregonian, there's good reason for home builders to take a close look at IP 28 and how it will affect them.

The language of IP 28 is simple. It modifies the corporate minimum tax rates passed by voters in 2010 for C-corporations with total annual Oregon sales of $25 million or more, requiring them to pay "$30,001 plus 2.5% of the excess over $25 million."

According to economists in the nonpartisan Legislative Revenue Office (LRO), that change will increase state tax revenues about 25 percent, or more than $6 billion per biennium.

Oregon home builders that are C-corporations with more than $25 million in annual sales likely already have assessed the direct cost of IP 28. LRO economists estimated IP 28 would increase total corporate taxes paid by the construction industry C-corporations by more than 500 percent.

LRO used its sophisticated Oregon Tax Incidence Model (OTIM) to carefully analyze IP 28. OTIM allows LRO economists to "simulate how the tax would affect wages, prices and other economic metrics."

But that is only the direct cost, and doesn't estimate the indirect costs that would be borne by all home builders. IP 28 would impact smaller home builders or those that happen to be organized as S-corporations or so-called "benefit companies," through their purchases. Many costs contractors incur – such as framing lumber, windows and doors, paint and siding, insurance, concrete and rock, utilities, and much more – may be paid to providers subject to the IP 28 tax that pass their IP 28 costs to their contractor customers in higher prices.

Its report concludes that about two-thirds of IP 28's costs will actually be paid by Oregon consumers and businesses that aren't directly subject to the new tax through higher prices paid for nearly everything we buy.

One of the key findings in the LRO study: "Because IP 28 is based on Oregon sales and heavily concentrated on domestic consumer sectors, it is expected to largely act as a consumption tax on the state economy. Taxes initially borne by the retail trade, wholesale trade and utility sectors are expected to result in higher prices for Oregon residents."

All Oregonians will be paying this tax through higher prices on nearly everything they buy – including gasoline, utilities, clothing, medicine, and even food – costing the typical Oregon household more than $600 every year. And, Oregon home builders, their employees and their Oregon customers are all likely to be paying the cost of IP 28, even if they are not directly subject to the tax.

In addition, IP 28 does not tax profits; it taxes sales. Businesses would be forced to pay the tax regardless of whether they make a large profit, a small profit, or no profit. That means that companies struggling to stay in business would have to pay this new tax even when they are losing money. That would force hundreds of local businesses, including home builders, to raise prices, cut jobs, or both.

IP 28 arbitrarily narrows the base of state taxation of business to C-corporations. The LRO report declares that "adds another element of potential market distortion by creating an advantage for businesses that are not directly affected compared to the large C-corporations which are directly subject to the tax."

The report continues: "The measure will also create a competitive advantage for out-of-state C-corporations that sell into the state but are apportioned using the cost of performance method or do not meet corporate nexus requirements." Large companies that directly compete with C-corporations but are organized as S-corporations, benefit companies of sole proprietorships are also competitively advantaged by IP 28, suggesting that companies that can change their corporate structure may choose to change their structure to avoid the tax.

Finally, IP 28's language suggests it will fund schools, senior services, and healthcare. But the fact is, it's impossible to tightly earmark new revenue and there's no guarantee new tax revenues will go their intended purposes. In fact, the Oregon Constitution likely will require that new taxes paid by oil companies go to the state Highway Fund. Like other aspects of this proposal, the earmarking feature was not well thought out.

In short, IP 28 is hastily devised and ill-conceived tax policy. Oregon deserves better.

(Oregon Home Builders Association opposes IP 28 and has joined the coalition working to defeat it. If you and your company have not yet joined, we encourage you to please add your name and your company to the coalition at DefeatTheTaxOnOregonSales.com.)

Safety Update

Accident Report Case Study

A roofer fell from the eave of a sloped roof.

The roofer went up to the roof to begin some roofing work, but he left his fall protection in the truck. Two other workers already on the roof told him to bring it up and put it on. They were already wearing their gear in fall-restraint mode.

After he got his gear from his truck, the roofer went back up on the roof. About that time, the company owner arrived at the site, but he didn't notice that the roofer was still not wearing fall protection.

The roofer needed a battery for a cordless drill, so he walked down the roof toward the eave and asked the owner to get him one from the truck. The owner threw a battery up to him as he approached the eave. When the roofer tried to catch it, he slipped and fell. The owner tried to catch him and took some of the momentum from his fall, but the roofer still broke both of his heels. He fell 12½ feet, landing on concrete.

Findings

The roofer had been trained in the proper use of fall protection, attended regular safety meetings, and knew when fall protection was required. This was not the first time the owner saw the roofer on a roof without fall protection. He talked to the roofer about wearing protection the week before this accident.

Applicable standards (Oregon-OSHA Rules)
437-001-0700(21)(c) – The owner failed to report an overnight hospitalization within 24 hours. The sheriff's office told the owner to report the accident to Oregon OSHA.
437-001-0765(13) – The owner failed to document safety meetings for his employees; he held regular safety meetings, but did not document them.
437-003-0503(2)(a) – The owner failed to document a written certification training record for his employees; the training had been conducted, but not documented.
437-003-1501 – "When employees are exposed to a hazard of falling 10 feet or more to a lower level, the employer shall ensure that fall protection systems are provided, installed, and implemented." The owner did not require his employee to wear fall protection.