

Alternative Issues in Corporate Tax

Oregon's Corporate Activity Tax
(CAT) and Tax Haven Provisions



Overview

- Corporate Activity Tax (CAT)
- Listed Jurisdiction Policy
 - Tax havens



Corporate Activity Tax (CAT)

The background of the slide features a large, faint watermark of the State of Oregon seal. The seal is circular and contains the text "STATE OF OREGON" around the perimeter. In the center, there is a figure holding a torch and a plow, with a ship and a tree also visible. Below the seal is a stylized representation of a city skyline with several buildings of varying heights.



CAT Background

- Large decreases in property tax revenue due to ballot measures in 1990s
- Discussion regarding new funding source for schools given property tax changes
- Reports that business' share of taxes was relatively low within the state



CAT Background

- **Applicability**
 - January 1, 2020
 - Anyone doing business within Oregon
- Tax on **commercial activity** in the state
 - Not a transactional tax
 - Not an income tax





CAT Background

- CAT applies to commercial activity
 - Commercial activity is.....
 - Total amount realized by taxpayer from transactions and activity in the regular course of their business in Oregon, without deduction for business expenses.
 - Sales into the state
 - Commercial activity is not.....
 - Exclusion Examples
 - Motor vehicle fuel, groceries
 - Exports
 - Sales to ag. co-ops



CAT Background

- Applied to taxable **commercial activity**
 - Above \$1 million threshold
 - Exclusions
- Tax computation – businesses or unitary groups
 - \$250 flat fee for taxpayers with commercial activity above the \$1 million threshold
 - Commercial activity in excess of \$1 million * 0.0057
 - Subtraction equal to 35% of labor or COGS





Basic Facts on Oregon's CAT

Parameter	Description
Commercial Activity	"...the total amount realized by a person, arising from transactions and activity in the regular course of the person's trade or business..."
Rate	0.57% (0.0057)
Threshold	\$1,000,000
Tax	\$250 + 0.57% of commercial activity above \$1 million
Subtraction	35% of either COGS or Employee Labor Costs
Selected Exclusions	Retail and wholesale groceries, fuel
Special Exclusion	Builders of single-family residential homes allowed 15% of subcontractor labor costs to be excluded
Effective Date	January 1, 2020



CAT Background

- Oregon does not have a general sales tax
 - CAT is considered a modified gross receipts tax
 - Sales tax ballot measures
 - Generally strong opposition to a sales tax





CAT Background

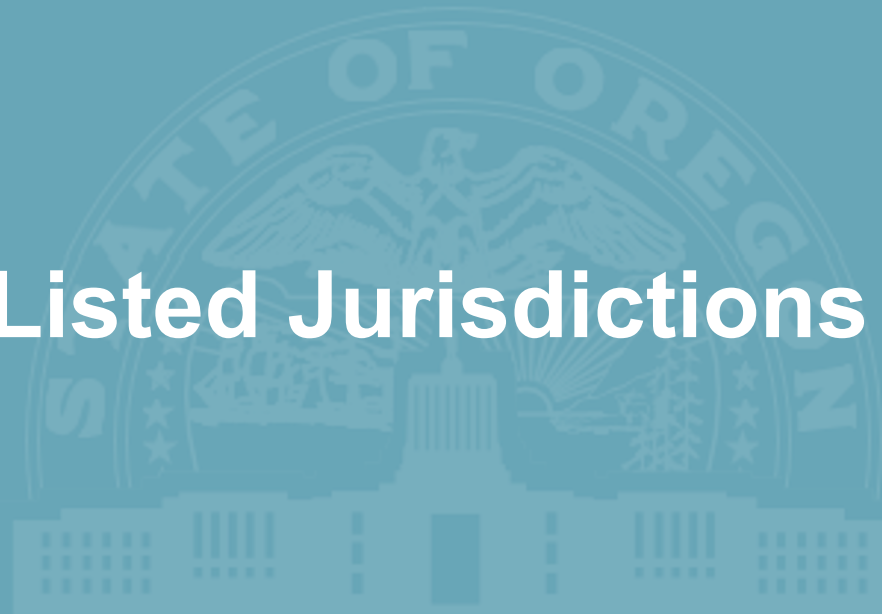
- Policy discussion around stable funding for schools over periods of expansion and contraction
 - Funding to schools exclusively
 - Combined with a PIT rate reduction
- Income tax is less stable during these times than a tax based on sales
- Two-pronged approach
 - Stability due to tax base based on gross receipts (as opposed to income)
 - Stability due to breadth of base applying to all entities above \$1 million threshold, not just C-corps.



Estimating CAT Revenues

- Policy framework from other states with gross receipts taxes
- Focus on Ohio's CAT
 - Some estimates used data on Ohio's CAT revenue collections
- Use of data from Oregon DOR
 - Other estimates developed from all tax return data provided by Oregon's DOR on historic sales
 - All entity type sales data not just C corporations

Listed Jurisdictions





Oregon Tax Haven Provisions

- Requires corporate taxpayers to include on Oregon return income from all listed jurisdictions by a member of the unitary group
- Listed jurisdictions recommended by DOR based on criteria outlined in statute
 - Criteria for determining if a jurisdiction meets the definition of tax haven outlined in statute



Oregon Tax Haven Provisions

- Ongoing Discussion of GILTI and Listed Jurisdiction Interaction
 1. What income is taxed by GILTI vs. the listed jurisdiction law?
 2. Are countries identified by the listed jurisdiction law equally affected by GILTI?
 3. What is the relative tax effect of GILTI vs. the listed jurisdiction law?
- Listed jurisdiction repealed in 2018 as TCJA went into effect

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