



August 5, 2022

Mr. Don Jones  
Policy Analyst II  
City of Portland Revenue Division  
111 SW Columbia St., Suite 600  
Portland, OR 97201  
Sent via email: [don.jones@portlandoregon.gov](mailto:don.jones@portlandoregon.gov)

**Re: Proposed Revenue Division Portland City Code Changes**

Dear Mr. Jones,

In response to the City of Portland Revenue Division’s (“Revenue Division”) request for comments on the proposed code amendments to the income taxes it administers, the undersigned business organizations submit these comments for your consideration. The Portland Business Alliance, Oregon Business & Industry, and the Smart Growth Coalition have spent the last two years engaging with local and state officials to address challenges pertaining to the lack of uniformity between these local taxes and Oregon income tax law. We applaud the Revenue Division’s efforts to make meaningful steps to address these challenges.

First and foremost, the Revenue Division’s commitment to enact any administrative or policy changes in concert among the three governments is commendable. One of the most common concerns raised by taxpayers is the difficulty navigating the various rules and requirements for filing these local taxes. Under the rules today, many Portland businesses are required to file and pay seven different income taxes, each using a different set of rules for determining income. As a matter of practicality, the lack of uniformity among the various jurisdictions is a substantial burden for taxpayers. In some circumstances, a business may pay more for accounting fees than in tax to a government. Frankly, the status quo is unsustainable for Portland’s business climate and is already affecting the region’s ability to recruit and retain private investment.<sup>1</sup>

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<sup>1</sup> In September 2021, Oregon Business & Industry commissioned a [statewide survey](#) asking certified public accountants and chamber of commerce leaders if their clients and members were considering relocating their businesses outside the region and, if so, their motivations. The survey found that 80 percent of respondents were aware of businesses desiring to leave the region over taxes.

Crucially, the Portland area needs to simplify and make the various regional taxes uniform to ease the compliance burden for taxpayers. The following comments reinforce the need to align to the state's market-sourcing regime, conform to the state's special industry apportionment rules, and, more generally, restructure personal and business income taxes to mirror the state's personal and corporate income taxes.

### **Aligning to Oregon's Market-Sourcing and Most Other Apportionment Requirements**

We support the Revenue Division's proposal to align the local income tax apportionment rules more closely to the state income tax. The current cost-of-performance policy is antiquated and creates a significant tax preference for service companies outside the area, contradicting regional efforts to recruit new and existing business investments. The new general rule proposed in Portland City Code Section 7.02.610(3)(C) ("Apportionment of Income") and the striking of the cost-of-performance sourcing requirement is a preferable policy to simplify tax filing while also making the tax system more equitable for local businesses. We also appreciate the Revenue Division's approach to making this policy change. By tying the language to the state's statutory and regulatory regime, any rules and guidance provided by the Oregon Department of Revenue should apply to the local taxes. This method will provide a simple and straightforward process for taxpayers to use in navigating the local taxes.

### **Revenue Division Should Conform to Oregon's Special Industry Apportionment Rules**

Although the code amendment achieves a preferable policy with the new general rule and shift to market-sourcing, there remains additional work for the Revenue Division to align the apportionment rules to the state. We remain concerned about the differences between the state and local special industry apportionment rules and the complexity those requirements may create for affected taxpayers.

Currently, the code and administrative rules specify unique apportionment rules for certain industries, such as freight, air and ground transportation, and communications. These special industry apportionment rules do not comport with the special rules designated by state statute and guidance. For example, the Oregon legislature, Department of Revenue, and stakeholders spent many years fine-tuning these policies to avoid conflict, controversy, and, most importantly, litigation.<sup>2</sup> To alleviate unnecessary compliance burdens on taxpayers navigating these local taxes, **we respectfully ask the Revenue Division to repeal the local special industry apportionment rules and defer to the state's guidance.**

### **Portland, Multnomah County & Metro Should Conform to Oregon's Tax Structure**

The proposed code amendment significantly reduces the apportionment complexity for these taxes; however, there remain many other issues needing attention. We strongly encourage the Revenue Division and the jurisdictions to move towards aligning the tax structure to mirror the state personal and corporate income tax. Adopting a uniform tax regime with the state would substantially reduce complexity and provide certainty for individuals, businesses, and tax preparers navigating tax filing.

We are concerned the lack of uniformity with the state tax structure adds unnecessary complexity to the tax filing process. Specifically, the entity tax structure for businesses makes tax filing challenging to navigate and, in some circumstances, more costly for local taxpayers. For example, Metro adopted

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<sup>2</sup> For example, the Revenue Division's rules for providers of electronic and telephonic services appear to ambiguously overlap with Oregon's special rule for broadcasters, recently updated by [SB 136](#) (2021).

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a deduction-adjustment mechanism to address double taxation of pass-through income within the business entity and personal income taxes.<sup>3</sup> However, the deduction may result in a lesser credit for residents than nonresidents, resulting in a tax preference for out-of-area businesses and business owners. Conflicts between the entity and personal income taxes are easily avoidable. **The Revenue Division and jurisdictions should unify the tax structure with the state, imposing a personal and corporate income tax, to remedy the complexities of the entity-level tax.**

In conclusion, we very much appreciate the Revenue Division and jurisdictions opening the income tax code for revisions to align the apportionment rules more closely with the state. Conforming with the state's market-sourcing regime is a substantial improvement from the status quo and will make tax filing easier and fairer for our local taxpayers. Still, we believe additional changes remain necessary to ease compliance and reduce administrative and equity burdens within these taxes. Thank you for the opportunity to submit these comments.

Sincerely,

Beaverton Chamber of Commerce  
Black Business Association of Oregon  
Building Owners & Managers Association of Oregon  
Oregon Business & Industry  
Oregon Trucking Associations  
Portland Business Alliance  
Portland Metropolitan Association of Realtors  
Peak Policy  
Smart Growth Coalition  
Washington County Chamber of Commerce  
WorkSystems Inc.  
Working Waterfront Coalition

Cc: Mayor Ted Wheeler  
Multnomah County Chair Deborah Kafoury  
Metro Council President Lynn Peterson

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<sup>3</sup> See Metro Administrative Rule 7.06(1135) ("Business Income Subject to Metro Business Income Tax: Adjustments for Pass Through Income")