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)
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

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