

# State business tax causes confusion

Largest tax hike in state history

By MIKE ROGOWAY  
The Oregonian

Ross Stock has known since last spring that his softwood lumber mill in Toledo would be subject to Oregon's new, \$1 billion business tax. Nine months later, though, he still doesn't know what it will cost him.

The new corporate activity tax, which went into effect in January, appears to be the largest tax hike in state history. Oregon lawmakers approved it last spring, levying a 0.57% tax on most business transactions within the state to raise \$1 billion for schools and education. However, they left the details of the tax to the Oregon Department of Revenue, and to future legislatures.

That means business managers like Stock are still puzzling over what it will cost them and how to plan their investments. And they have to figure it right away — the first payments are due at the end of April.

"There's a lot of accounting confusion just because nobody else has a tax like this in the United States," lamented Stock, general manager at Western Cascade Industries. His sawmill typically employs 85 and produces 60 million board feet a year, mostly sold to Southern California.

Accountants tell Stock they just don't know how the tax will apply to milled lumber that he sells to buy-



The Oregonian

**'There's a lot of accounting confusion just because nobody else has a tax like this in the United States,' said Ross Stock, general manager of Western Cascade Industries, pictured, in Toledo.**

ers out of state. Some of the sales nominally take place in Oregon, but many of them go straight to builders in California. And he's not sure whether those sales are taxable or not.

The answer matters a great deal.

Stock estimates the impact of the new tax could vary by hundreds of thousands of dollars, depending on how the tax applies to those sales and how his suppliers pass along their own costs from the new tax. That's an enormous amount of uncertainty that will have profound implications for his business, one way or another.

"We're happy to live by the rules. We don't even know what the rules are," Stock said. "We don't want

to be at a competitive disadvantage. We don't even know how to avoid that."

Business owners, accountants and lawyers all over Oregon are scratching their heads over the new corporate activity tax. It's unusual in several ways, taxing revenue rather than profits and providing few industry exemptions.

That's by design. Lawmakers crafted a tax with a low rate, just 0.57%, that applies equally to just about every industry. The idea was that a small tax, spread broadly, would have relatively little impact on any one business and be relatively straightforward to administer.

From the outset, some industries — construction and manufacturing, among others — warned the tax would

weigh disproportionately on their activities because it applies at each stage of the supply chain.

The cumulative effect, known as pyramiding, means that the tax accumulates for products as they move from manufacturer to supplier to the end buyer.

Many states have corporate taxes higher than Oregon's. Some, including Washington, levy a tax on revenue. Oregon's tax is modeled on a similar tax in Ohio, but that tax was a replacement for other business taxes. Oregon layered its tax on top of existing corporate taxes.

"Even for seasoned taxpayers you don't have an equivalent in other states," said Mike Stober, director of government affairs for Ore-

gon Business & Industry, the state's largest business association.

"This is uncharted territory for everybody," Stober said.

Businesses large and small are still awaiting definitive word from the Oregon Department of Revenue on which sales, specifically, the state believes are subject to the tax. The department didn't post its first temporary rules until December and now has 17 altogether. Final rules will come later this year.

Businesses, though, have to make decisions now. They owe taxes quarterly, with the first payments for the corporate activity tax due April 30. Legislation now under consideration could provide some flexibility in how tax collectors treat businesses that pay too little while the rules are still evolving.

Lawmakers in Salem are using the short legislative session to weigh additional changes that could clarify the situation — or muddy the waters further. And big industries are lobbying for exemptions that could save them millions of dollars.

The corporate activity tax aims to raise \$1 billion altogether, boosting state educa-

tion spending by about 17% and adding hundreds of millions of dollars for early childhood education programs.

Districts around Oregon are now planning how to spend the windfall, aiming to lower class size and to boost support for struggling students and for kids from diverse backgrounds who have historically benefitted less from the state's educational programs.

Though the Legislature levied the tax on businesses, economists say companies will inevitably pass some portion of the tax on to consumers. So lawmakers cut Oregon's personal income tax at the same time they raised business taxes, hoping to offset higher prices they anticipate some retailers will pass on to consumers.

Oregon companies have long enjoyed some of the nation's lowest business taxes, according to government spending watchdogs, primarily because the state doesn't have a sales tax.

The corporate activity tax will change the equation — but not dramatically. The "pro-growth" Tax Foundation estimates Oregon will fall from No. 8 in the nation for lowest business taxes to No. 15.

## ICE subpoenas county sheriff's office

Working around state's sanctuary law

By CONRAD WILSON  
Oregon Public Broadcasting

The Washington County Sheriff's Office said Tuesday it would comply with subpoenas from U.S. Immigration and Customs Enforcement for information the agency is seeking about two people it wants to deport.

The move appears aimed at circumventing Oregon's sanctuary law, which is among the oldest in the country and has long blocked ICE and local law enforcement agencies from sharing some information.

ICE is seeking details about two Mexican nationals that it claims are not in the country legally. According to jail records posted online, the Washington County Jail is currently holding both men.

An ICE official said its use of subpoenas is not new, but historically the agency hasn't issued them against other law enforcement agencies. Still, these are the first subpoenas by ICE in Oregon.

Last month, ICE began issuing subpoenas to other law enforcement agencies in Denver and New York, both so-called sanctuary communities. They've since expanded the practice to California and Connecticut, which also limit local law enforcement's interactions with ICE.

Oregon's sanctuary law is more than 30 years old and has served as a model

for others. It limits local and state police from enforcing federal immigration policies.

The legislation was intended to prohibit racial profiling. It says no law enforcement agency can use its resources for the sole purpose of detecting or apprehending people whose only violation is being in the country unlawfully.

In 2018, voters rejected an effort to repeal the sanctuary law, with 63% voting to keep it in place.

But that hasn't stopped ICE from issuing requests to jails across the state to hold inmates who are from other countries. Oregon jails have largely ignored those requests.

Oregon and other sanctuary communities don't comply with ICE detainers, in part because they're signed by other ICE officials, not a judge. For that reason, opponents have argued they are not legally sufficient to compel local authorities. ICE has argued that local jurisdictions should comply with its detainer requests.

"Politically motivated sanctuary laws tie the hands of local law enforcement agencies who clearly see that working with ICE is crucial to public safety," said Bryan Wilcox, deputy field office director for ICE's Enforcement and Removal Operations in Seattle.

Washington County said Tuesday that their lawyers had reviewed the subpoenas and would comply.

"Oregon law prohibits local police from sharing certain information for purpose of enforcement of federal immigration laws,

except as provided by state or federal law," the Washington County Sheriff's Office said in a statement. "The information sought in these subpoenas relates to information that local police are generally prohibited from sharing under Oregon law and failure to comply with these subpoenas may be punished by an order of contempt by a federal judge."

The Trump administration has waged a battle against sanctuary jurisdictions over the last three years.

Just last week, U.S. Attorney for Oregon Billy Williams said he supported a U.S. Department of Justice lawsuit against King County, Washington, after the county blocked the use of its airfield for ICE deportation flights.

"I share the Attorney General's belief that sanctuary status declarations directly contravene federal immigration law and threaten public safety," Williams said in a statement. "The notion that states and other jurisdictions can interfere in the sharing of critical public safety information involving criminal conduct ignores the supremacy of federal law."

Despite many studies and data to the contrary showing immigrants commit fewer crimes than native-born Americans, immigration officials have repeatedly highlighted high-profile cases involving immigrants in sanctuary communities who commit violent crimes as a way to rail against the policies.

The issue is so divisive that Portland's elected officials voted to pull police officers off of the FBI's Joint Terrorism Task Force in 2019 over its limited use of immigration-related arrests.

Some immigration attorneys bristled at the idea of ICE issuing subpoenas, noting they're very similar to an administrative ICE warrant.

"Both are administratively issued without any court involvement or procedural safeguards," said Stephen Manning, director of the Innovation Law Lab. "The story here is ICE and the Trump administration's intimidation tactics aimed at jurisdictions like Oregon who are not just throwing their justice systems into anti-immigrant deportation actions and rather insist on procedural and constitutional regularity."

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