

Northwest REPORTS



2016 Northwest Election Outlook

Just as President Obama said, "Elections have consequences" and here in the Northwest, food manufacturers face real consequences in the 2016 state elections.



We all know how important it is to have a pro-business Legislature. Just look at the differences between Washington State and Oregon, for example. Over the last two years, Oregon has passed many laws harmful to the food industry, while the Washington Legislature has not.

The Washington Legislature is much more pro-business than in Oregon. The 2014 election produced a split-party Legislature in Washington but not in Oregon. NWFPA focuses on results not political parties. That is why we work with legislators from both parties to advance laws that help food manufacturers in that state. However, over the last two years the Oregon Legislature passed many measures that create a severe competitive disadvantage with food makers

in other states who are not subject to those same laws. The Idaho Legislature, luckily, remains a strong ally of the food industry which has resulted in increased investment by food companies.

The results of the 2016 election will have consequences that the Northwest food industry will live with for the next two years. Will Oregon become more moderate? Will Washington's political balance be disrupted? What ballot measures will pass in each state that impacts the industry? The good news is that we do not have to sit idly by and wait. NWFPA-sponsored Food PACs provide a tool to get your voice and policy objectives into the political process. This is an invaluable resource that greatly helps NWFPA's advocacy efforts.

In both Washington and Oregon (the two states where NWFPA has a PAC) the NWFPA Government Affairs Director works with our contract lobbyists, coalition partners, and the PAC board to create NWFPA's political agenda. This is a data driven process that uses research, polling numbers, and other tools to recommend a spending strategy that will lead to a pro-business Legislature that supports the food industry. To become a Washington or Oregon Food PAC Board member, make a donation today!

Not only are State Legislative races critical in securing favorable laws for the food industry, so is the initiative process. We have seen an increase in the use of ballot initiatives to circumvent the legislative process and pass laws directly via the

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At Del Monte Foods, Inc. we're passionate about bringing high-quality, healthy, and nutritious foods to people in a way that protects the environment, builds strong ties to our communities, and enables our company, consumers, customers and employees to grow and flourish.

We have long been considered a leader in introducing agricultural practices that minimize the use of pesticides and help farmers grow stronger, more productive crops with less fertilizer, water, and other materials. We know that the success of our business relies on a healthy environment, and in our growers' fields and across our own operations.

Equally important is our attention to the relationships we have established within our family of employees, our suppliers, customers, and the communities in which we live and work.





Letter from the President



WHEN WILL THE BAD IDEAS END?

As you read this edition of Northwest Reports, it will become quickly apparent that there is no shortage of bad ideas coming from your state legislature and agencies.

Our role as an association is to be your voice to prevent these bad ideas from impacting your business and becoming full-blown crises. We do this through a strategic management discipline called “issue management,” a public affairs practice that is used to close the gap between expectations of each group of stakeholders, including NWFPA members, state agencies, legislative bodies, advocacy groups and the public.

This is our seven-step process:

1. Conduct an environmental scan. What is important to members, suppliers, press, lawmakers, regulators, coalitions and other interested groups.
2. Identify the issues. What is happening that can impact business
3. Monitor the issues. What is this about, who is involved, etc.?
4. Analyze the impact. What does this mean for our Members? What are the unintended consequences?
5. Plan a strategy. What, if anything, are we going to do about it?
6. Implement the plan. Just do it!
7. Evaluate. Analyze results, make adjustments if necessary

However, there is another factor important to the success of this process and closing the gap between stakeholders. And that is in having a stronger unified voice and greater member participation. Here are seven ways you can help make that happen:

1. Become a member of NWFPA. This helps your voice be heard and improves your and your association’s ability to better understand issues that impact business.
2. Encourage others to join. Already a member? Reach out those in your supply chain to do the same.
3. Be present, attend meetings. Participate in discussions and decision making at the committee and leadership level of NWFPA. Send your company staff to Association events and training, and reach out to your supply chain to do the same.
4. Fundraise. Have your company donate to the Oregon and Washington Food PAC and reach out to those in your supply chain and encourage them to do the same.
5. Get involved in local politics. Help educate your community on the value of your organization and economic impact of your business.
6. Volunteer. Testify on bills at the state legislature or an NWFPA organized meeting with state agencies.
7. Encourage participation. Let those in your supply chain know about your Association’s mission and encourage them to get involved on issues important to the industry.

With your talent, time and help, NWFPA can make a difference and defeat the many bad ideas that impact the food and beverage industry in the Northwest. Join us in making that difference.

Call me to learn more about how to get involved. 503.327.2200

David McGiverin

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Northwest Food Processors Association



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ballot box. Below are ballot initiatives we are monitoring in Washington, Oregon and Idaho. The success of these campaigns will be directly linked to the financial resources available to fund them. Statewide ballot measures are costly, multi-million dollar campaigns that require additional fundraising in order to be successful. Since most food companies are impacted by labor costs, energy prices, and taxes, you need to donate to the following campaigns.

Washington Carbon Tax

Initiative 732 (I-732) would add a \$25 per metric ton price on carbon dioxide emitted in Washington. This would result in a dramatic increase in the price of energy for Washington food manufacturers. If passed, I-732 would increase the cost of transportation fuel by \$.25 per gallon, the price of natural gas by 15%, and the price of electricity by 10% by 2018. To make matters worse, I-732's gas price increase comes with no additional revenue for roads, bridges, or transit.

NWFPA policy is opposed to any state-based carbon pricing legislation or ballot measures.

Washington Minimum Wage Increase

Initiative 1433 (I-1433) would increase the current \$9.47 wage to \$11 an hour in 2017, \$11.50 in 2018, \$12 in 2019 and \$13.50 an hour in 2020. It would also allow workers to accrue up to seven days of paid sick leave per year for one hour for every 40 hours worked.

NWFPA policy is opposed to any state-based legislation or ballot measure that increases the minimum wage.

Oregon Gross Receipts Tax

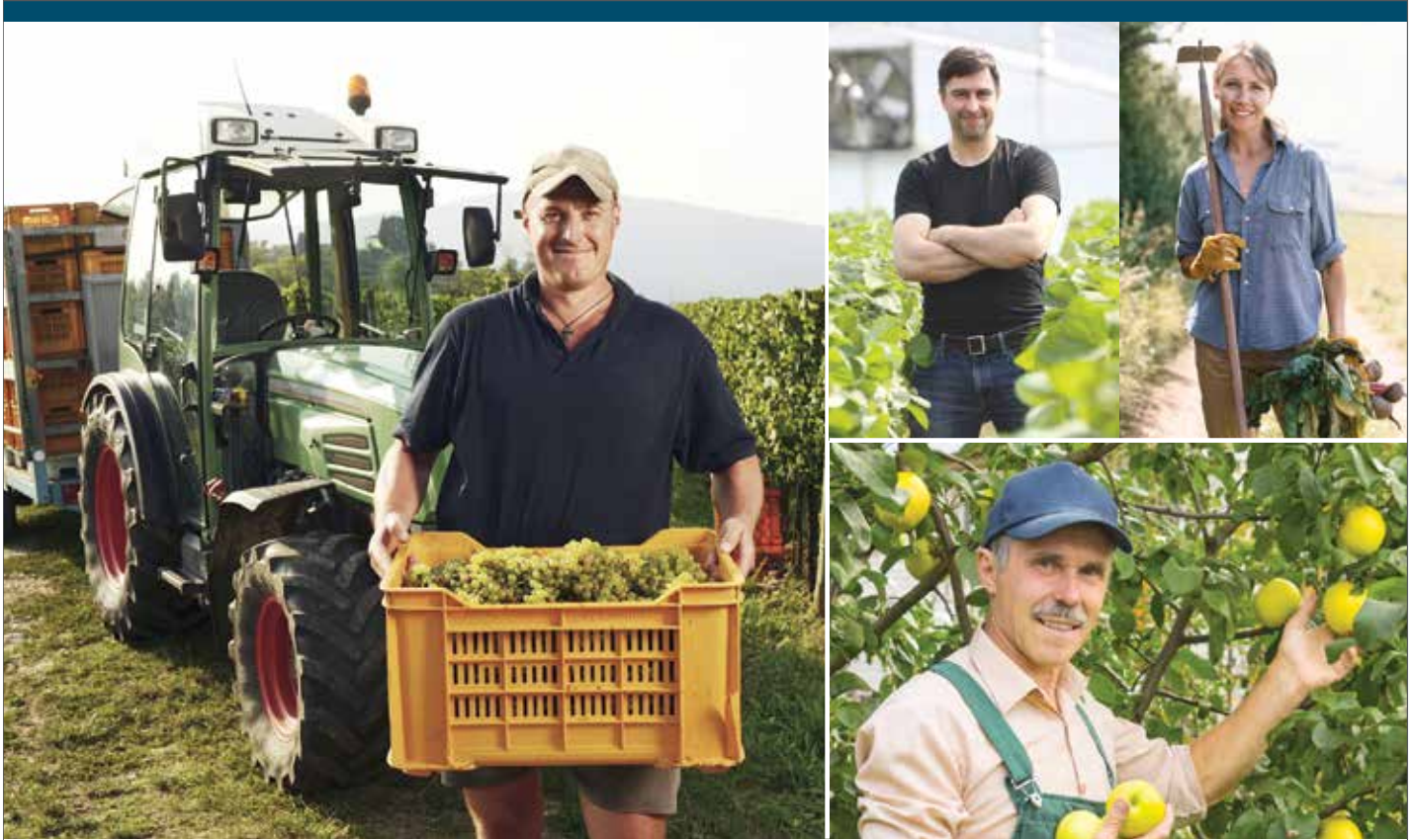
Ballot measure 97 (formerly IP 28) would increase Oregon's corporate minimum tax when sales exceed \$25 million for C corporations. If Oregon C corp sales are over \$25 million, then that company would pay annually \$30,001 for the first \$25 million in sales and then a 2.5 cents tax for every dollar in sales thereafter. BM 97 is estimated to raise an additional \$6 billion a biennium (2 years) to the state but would result in the loss of 38,200 private sector jobs. Additionally, all NWFPA members in Oregon that do business with a C corp can expect their prices to increase.

NWFPA policy is opposed to this tax increase measure.

Idaho Administrative Rule Review

House Joint Resolution 5 (HJR 5) was sent to the voters from the Idaho Legislature. HJR 5 amends Idaho's Constitution, adding language to reaffirm the Legislature's authority to accept or reject the rules proposed by state agencies each year. This is a common, albeit unique, practice in Idaho that would be helpful if done in Washington and Oregon.

NWFPA supports this proposed amendment.



Paying too much for health coverage?

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Why Join NWFPFA?

Top Reasons to Join NWFPFA:

- Drive legislative policy and regulatory decisions
- Access technical and regulatory resources
- Support the industry
- Develop professional relationships and leadership skills
- Access education and gain insight to emerging industry trends
- Profitability
- Promote overall safety and credibility of your business

Now is a perfect time to join or renew your membership in the Northwest Food Processors Association. Whether you are a first time or returning member, this is the time to make that membership decision to ensure the association's financial health. Joining NWFPFA gives your company access to a host of unique growth opportunities.

NWFPFA offers your business four types of membership depending on what nature of company you represent:

- Northwest Food Processor
- Affiliate Food Processor
- Associate Food Processor
- Industry Supplier

Engagement opportunities in Committees, PACs, Training Center, Northwest Reports, and Events are at your fingertips when you are a member of NWFPFA. Partnership opportunities include a strengthened commitment to communication and development of resources including our outreach program, regulatory and legislative research, as well as significant contributions to energy programs that impact Northwest food processors.

Call **Tawnia Linde** at **503.327.2212** for more information or email membership@nwfpfa.org.



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New Processor Members



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Kaizen Institute North America

Kaizen Institute North America provides consulting and training services for Continuous Improvement and Project Management. With a company combined over 100 years experience in food processing or food machinery and supplies, our Continuous Improvement team specializes in designing and leading Continuous Improvement transformation initiatives tailored specifically to each client's unique situation. We have a team of experienced, hands-on consultants who engage at all levels of an organization to establish and institutionalize a holistic Continuous Improvement culture. <http://us.kaizen.com>

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Food Safety in Oregon, Washington, & Idaho



Brian Campbell, Director, Operations and Technical Affairs along with other members of the NWFPA staff work closely with our members, the legislatures and the regulatory agencies in Idaho, Oregon and Washington to help shape the Food Safety programs in our region.

The food processors, regulators and legislative bodies in each of our states have varying

strategies and programs for ensuring that everyone has a safe and wholesome food supply. Here are a few details related to current initiatives and activities in Idaho, Oregon and Washington related to Food Safety programs.

Idaho

Food Safety Modernization Act (FSMA) Efforts

In the spring of 2013, the Idaho State Department of Agriculture (ISDA) began to actively follow the development of the FSMA rules. During that year, Idaho, Oregon and Washington co-organized a tour of the Pacific Northwest with industry leaders for Deputy Mike Taylor (FDA) and his staff of subject matter experts. There is no doubt that these tours had some influence on the revisions to the supplemental FSMA rules.

The agency also commented on the first version of all seven FSMA rules in 2013 and joined the National Association of State Departments of Agriculture (NASDA) national technical working group to write a state implementation framework for the Produce Safety Rule under the cooperative agreement between NASDA and FDA. Working with the NASDA technical working group gave the ISDA the opportunity to provide critical input to FDA from the State perspective on all FSMA rules. ISDA staff teamed with the state of Florida to write Chapter 4 of the implementation framework: Outreach, Education, Compliance and Enforcement.

In 2014, the ISDA commented on the second version of four FSMA rules and, as a result of working with the NASDA technical working group, had the opportunity to attend several rule-specific FDA meetings that involved sharing of information and ideas related FSMA. ISDA

staff has also taken every opportunity to attend FDA-sanctioned trainings and certification sessions. In the summer of 2015, ISDA formed a FSMA advisory committee. The committee consists of a broad scope of members from affected industries including human and animal food and feed, fruits and vegetables, dairy processors, health department representatives, trucking associations, water users, university extension and legislators. To date, the committee has provided vital input guiding the regulatory direction of FSMA in Idaho. Other than regulating under the Pasteurized Milk Ordinance, the ISDA does not have any food safety authority. However, during the 2016 Legislative Session, HB 499 was passed which essentially provided for the first steps to potential state regulation of FSMA. Specifically, the bill names the ISDA as the delegated state authority for regulation of any nonretail activities subject to FSMA. However, prior to implementing this regulation, ISDA and the Idaho Department of Health and Welfare would conduct negotiated rulemaking. The ISDA will await direction from policymakers before embarking on further policy changes.

The collaborative and cooperative efforts between Idaho, Oregon and Washington towards the development of FSMA rules, organization of informative tours, and information and idea sharing has been and will be vital in advancing a consistent, national integrated food safety system resulting in long-term improvements to public health by lowering the risk of foodborne illnesses.

Oregon

The Oregon Department of Agriculture Food Safety Program continues to work with an Advisory Committee to gather feedback on legislation and budget requests for the 2017 session, discuss FSMA, and provide updates about the program's ongoing operations. We have greatly appreciated the participation of the advisory committee and look forward to meeting again in November.

The Food Safety Program has developed three proposed legislative concepts for the 2017 legislative session. One concept is a statutory cleanup of our milk statute to achieve greater consistency with the Pasteurized Milk Ordinance; one would add dietary supplements to the definition of food to clarify ODA's regulatory authority related to dietary supplements, and the third would give ODA authority to implement the Food Safety



conduct activities that are under ODA's jurisdiction as well as OHA's, but for efficiency, only one agency licenses and inspects each combination facility. In addition, we signed a MOU with Oregon Health Authority describing how the two agencies will work together on illness investigations involving ODA-licensed firms.

ODA has updated materials on its website for the Manufacturing Equipment Tax Exemption to reflect legislation passed and rules adopted in 2015. To learn more about the tax exemption and for application materials, visit <http://www.oregon.gov/ODA/programs/FoodSafety/Pages/MachineryEquipment.aspx>. We'd like to thank all our licensees that renewed online for the 2016-2017 licensing year. ODA had a 95% online renewal rate during its regular license renewal period. The increase in online renewals has helped ODA gain efficiency and we also hope that it has been a convenient option for our customers. This year, we sent out an email reminder in addition to the reminder postcards sent out by our licensing program.

At the 2015 National Conference on Interstate Milk Shipments (NCIMS) conference, the voting delegates passed proposal 211 and the Appendix N Modification Committee was charged to develop a pilot program, establishing a regulatory framework by which testing raw milk for veterinary drugs would be required for drugs other than beta-lactams. The tetracycline family of drugs was selected based on use on dairy farms, availability of test methods, and speed of implementation. Participation in this pilot will include all 50 States and Puerto Rico as well as Grade "A" milk facilities in those states. The pilot will begin January 9, 2017 for a period of 18 months. The Oregon Shellfish Task Force has developed a set of ~60 recommendations for inclusion in their October 2016 report to the legislature. The task force last meeting will be September 8, and will work on streamlining those recommendations, combining similar or redundant recommendations into a smaller list.

From August 1, 2015 to July 31, 2016, the Food Safety program completed 506 FDA contract inspections of food manufacturing firms, fulfilling our contract for the year with the Food and Drug Administration. Accepted Option Year 1 to renew the FDA contract for year 2016-2017. The Food Safety Program also completed Year 4 of the Manufactured Foods Regulatory Program Standards with the FDA and will now enter Year 5.

Washington

Federal partnerships elevate Washington's food safety profile

Many programs within the Washington State Department of Agriculture (WSDA) rely on federal funds to provide the

level of services state residents and our customers expect. The Food Safety and Consumer Services Division (FSCS) is one example of how this partnership and extra resources are taking us to a new level of carrying out our mission.

FSCS has increased use of "federal cooperative agreements" – basically financial grants with expectations and milestone goals attached – primarily from the U.S. Food and Drug Administration.

Beginning in 2009, the division boosted efforts to collaborate in applying for more grants than ever before. Today, FSCS is managing a total of 17 FDA grants, contracts or cooperative agreements providing more than \$6.24 million. In general, these are being used for new or upgraded equipment, dedicated staffing, advanced training and strengthened coordination with federal and state partners.

So what exactly are these additional resources making possible?

Washington is one of just 18 states to have a Rapid Response Team (RRT) to mount coordinated responses to human and animal food emergencies. These are multi-agency, multi-disciplinary teams that operate on national incident command structures.

Randy Treadwell leads the RRT for WSDA. He said the federal support assures our state has a team that is properly equipped, trained and prepared to mobilize quickly when there's a food or feed-borne outbreak or other food emergency.

"We rely on state general funds, but these grants have helped to elevate the stature of our Food Safety and Consumer Services Lab in the country and within the state," said Candace Jacobs, assistant director of the FSCS Division.

For example, with support from the RRT program, the agency purchased a whole genome sequencer for the lab. This is relatively new, state-of-the-art technology allowing food and feed-borne illness investigators to more quickly identify the source of an outbreak.

The ability to read -- or "sequence" -- massive amounts of DNA data provides a map or fingerprint of an organism. Faster sequencing allows more rapid comparisons between cultures from people struck ill by contamination and cultures collected from foods and processing plants. This leads to more precise identifications that can get tainted foods off the shelf quickly and better protect consumers. Washington is one of only about a dozen states to acquire this technology.

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Northwest
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Why Expo?

Nationally Known Speakers

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“Brand Integrity: Going National While Keeping Northwest Cool”

Tuesday Breakfast Keynote: Gary Kushner, Ron Simon, and Joseph Bottiglieri
“Foodborne Illness Litigation & Its Ramifications: What Should Keep You Up at Night”

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Qualifying as a world-class lab is another benefit resulting from these federal resources. The International Standards Organization (ISO) accredits services and systems that meet global specifications. Meeting these rigorous standards means data from WSDA's lab is accepted at any other lab in the country, or the world.

While it's costly to assure that our equipment is calibrated and maintained to ISO specifications, the accreditation also makes it possible to qualify for more grants.

FSCS is also working to implement the massive federal Food Safety Modernization Act. This sweeping reform of the nation's food safety regulation was signed into law in 2011. FDA continues to roll out layers of new rules that affect each state's current regulatory structure. The monetary support from cooperative agreements is allowing WSDA to align our efforts with this national legislation.

These are just a few examples of how WSDA is upping the ante to improve food safety and react quickly when contamination outbreaks occur. The bottom line goal is clear - boosting the public's confidence in their food and feed supply, preventing foodborne illness and saving lives.

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KAPSTONE



What Oregon's Proposed Gross Receipts Tax Could Mean for Food Processors

Oregon voters will see a new proposed tax on the ballot this November - measure 97 - one that could have weighty consequences for businesses and residents. Food processors are no exception.

The basics: Measure 97, formerly known as Initiative petition (IP) 28, would have two primary effects. First, it would create a 2.5 percent tax on C corporations' gross receipts if they exceed \$25 million per year. It's important to note that the tax would apply on the gross receipts themselves, not net income, meaning businesses with slim margins might be hard-pressed to afford it. Second, measure 97 would remove Oregon's \$100,000 minimum tax liability—already the highest in the nation—for companies above the \$25 million annual sales threshold. Instead, companies above the threshold would pay the 2.5 percent tax on sales plus a flat \$30,001.

Though the tax is aimed at C corporations, its impact would extend much further because any organization (or individual) making a purchase from a C corporation would ultimately cover the increased cost of doing business. In effect, measure 97 would create a hidden sales tax for all consumers within Oregon. The tax also pyramids, so products that change hands multiple times before reaching their final consumer could have the tax applied several times. Among utilities, power is often traded multiple times—which could easily add 5 to 10 percent to the cost of power alone. When you consider the impact of this tax on all a business's inputs, the effect could be staggering.

To demonstrate a few more ways the tax could impact food processors, agribusinesses, and related companies, let's start by debunking a few commonly held misconceptions about the tax.

Misconceptions

False: Agricultural cooperatives are exempt.

First, even though agricultural co-ops aren't technically C corporations, they would be subject to the direct tax, unlike S corporations, partnerships, and B corporations. Still, organizations not subject to the direct tax would pay in terms of increased cost of doing business. Utilities are one area where food processors will feel this tax

profoundly: A company that pays \$1 million per year in power to a C corporation, once two to four layers of the 2.5 percent tax are added, might end up paying an additional \$50,000 to \$100,000 in utilities per year.

Other direct inputs would add up as well. Even for smaller organizations that use mostly ingredients from smaller vendors—say, berries sourced from local growers—some materials, such as sugar, may be sourced from large public companies. When you extrapolate this increase across other purchases Oregon companies make, from payroll service providers and labor providers to equipment vendors and more, the effect of measure 97's proposed gross receipts tax is magnified many times over.

False: Only large, out-of-state corporations will pay the tax.

Any organization that files an Oregon tax return as a C corporation must pay the tax—not only those headquartered outside the state.

False: The tax applies only to sales made in Oregon. If you don't have tax nexus in another state but do make sales to customers located there, those sales are typically "thrown back" to Oregon and would be subject to the new tax.

Say, for example, an Oregon-based food distributor ships goods to all 50 states. Sales to out-of-state customers are excluded from the tax only to the extent the company files tax returns in those other states. Tax laws vary by state, so take California: Assuming the distributor doesn't have any employees, real estate, inventory, or other nexus-generating activity in California, its sales to a California wholesale customer wouldn't be taxable in California. Instead, they'd be taxable in Oregon, making them subject to the tax.

Tax May Create Some Winners

Though there's no question the proposed tax would have a profound impact on C corporations with over \$25 million in sales or on their business partners, not everyone would be impacted as significantly.

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S corporations, B corporations, and partnerships that aren't dependent on large C corporations as vendors would be able to mitigate some of the impact.

Mitigating the Impact

Reconsider Entity Type

Oregon C corporations that have the ability to restructure to a different entity type may want to consider doing so. S corporations, B corporations, and partnerships are exempt from the direct tax, though restructuring into one of these entity types comes with complications and compliance requirements of its own. Although many publicly traded companies don't have the option of choosing a different entity type, many privately held companies that were originally formed as C corporations would very likely never have made the same decision if they incorporated today. If you have a choice, examine whether restructuring to a S or B corporation would be valuable.

Examine Nexus

Second, it may be worthwhile to have a multistate tax nexus study performed. In many cases, nexus studies set out with the aim of reducing exposure in other states, but if the proposed tax becomes law, it may be worth diverting more income out of Oregon. In some cases, it may even make sense to create taxable nexus in a state—storing and shipping finished goods inventory from the

state, for example—because the tax incurred in doing so may present a bargain compared with the incremental Oregon gross receipts tax.

Next Steps

- At this stage, it's important that companies examine their exposure to the tax. A few questions to ask:
- How much would the tax increase your cost of doing business, and how would it impact your margins?
- As your margins tighten, how would future capital projects be impacted? Debt repayments?
- To what extent can you source inputs from vendors that won't be subject to the tax (and therefore won't be passing it on to you)?
- What is your customers' sensitivity to price increases? Is it feasible for your business to pass the tax on—as will inevitably happen—without eroding your customer base? If not, how many customers could you afford to lose?
- Is restructuring as a different entity type feasible, and to what extent would it shelter you from the proposed tax?

Depending on the answers to these questions, you may be able to make adjustments to your business that mitigate the impact of the tax—and shed light on whether to support the tax when it comes to a vote in November.



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