

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 7, 2007 in Room 519-S of the Capitol.

All members were present except:

Representative Kenny Wilk- E

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Office of Revisor of Statutes

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagon, KDOR

Denise Walsh, Hill's Pet Nutrition, Inc.

Christy Caldwell, Greater Topeka Chamber of Commerce

Shirley Sicilian, Multistate Tax Commission

Lucky DeFries, Coffman, DeFries & Northern, P.A.

Duane Simpson, Kansas Grain and Feed

Jim Hall, The American Council of Life Insurance (ACLI)

Bob Tomlinson, KS Insurance Department

David Hanson, KS Insurance Associations

Others attending:

See attached list.

The Vice- Chair called for bill introductions.

Representative Menghini made a motion to introduce a committee bill increasing the earned income tax credits to 20%. Representative Holland seconded the motion. The motion carried.

**SB 240 - Apportionment of net income for income tax purposes for certain taxpayers.**

The Vice-Chair opened the public hearing on **SB 240**.

Secretary Wagon said that the Department of Revenue in concert with the Department of Commerce has brought forward **SB 240**, which provides a change in the apportionment formula for corporate tax. It would allow a company, that invests \$100 million and meets specific criteria, to take advantage of using just the sales factor instead of all three factors, property, payroll and sales. The Department supports **SB 240** as it would allow Kansas to compete favorably against Missouri for, in this instance, a proposed plant. There is a precedent for this in Kansas as the single factor has been applied in several other scenarios.

Denise Walsh, Hill's Pet Nutrition, Inc. said **SB 240** would allow the state to grant single factor relief to manufacturers making significant investments in the state, hiring Kansans, and paying above-average wages. It would make Kansas competitive with other states in the Midwest, who have significant advantages on their corporate tax structures. This would have a long term positive effect on any potential expansions and investments Hill's considers for their current and proposed Kansas manufacturing facilities. She stated that the current plant is operating at capacity and the new plant must be operating by fourth quarter 2008. Therefore, the bill is time sensitive and she asked the Committee's cooperation (Attachment 1).

Christy Caldwell, Greater Topeka Chamber of Commerce, spoke in support of **SB 240**. She said a new Hill's Nutrition plant would have a tremendous economic effect on the community through labor, employment and service industries. She reminded the Committee that site selectors look very carefully at corporate tax rates when comparing locations in the United States or in deciding whether to move offshore and urged passage of the bill without any amendments (Attachment 2).

Seeing no other conferees, the Chairman closed the hearing on **SB 240**. There being no opposition to immediately working the bill, the Vice-Chair asked the wishes of the Committee.

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 7 in Room 519-S of the Capitol.

Representative Holland made a motion to pass **SB 240** out favorably and be placed on the consent calendar. Representative Menghini seconded the motion. The motion carried.

### **HB 2495 - Decrease in the income tax surtax on corporations.**

The Vice-Chairman opened the hearing on **HB 2495** and invited Shirley Sicilian, Multistate Tax Commission, to the podium as a proponent to the bill. She stated that the bill has three purposes: 1) to clarify that non-corporate income taxpayers are included in the combined group; 2) to expand the definition of "business income" that is subject to apportionment; and 3) to clarify that returns of principal from investment of short-term working capital are not included in the sales factor as a "gross receipt." She reviewed the details of each purpose. She said the bill is very timely as these same issues are currently being addressed by most other states and the proposals in the bill are being adopted in many of those states (Attachment 3).

Lucky DeFries, Coffman, DeFries & Northern, P.A. spoke to the Committee in opposition to **HB 2495**. He stated the business community has many concerns regarding the amendments and during a business group discussion convened by the Secretary of Revenue and the Governor during the fall the business group unanimously rejected those ideas. He explained why key points in the legislation are not in the best interest of Kansas businesses, and suggested there were alternative formulas available in existing legislation (Attachment 4).

Duane Simpson, Kansas Grain and Feed, testified that the Dillmore amendment creates a bill that could significantly raise corporate income taxes on some of their association's members. It defeats the intent of the Governor's tax package based on tax cuts that would spur economic growth. He requested the Committee reconsider the Dillmore amendment (Attachment 5).

Jim Hall, The American Council of Life Insurance, questioned the amendment in the final paragraph of Section 4 of the bill. That provision would grant sweeping authority to KDOR to force insurance companies to pay not only Kansas premium taxes but also Kansas income taxes through the insurers' non-insurance affiliates. Double taxing law abiding insurance companies is not an appropriate solution to a tax avoidance problem posed by non-insurers. He urged the Committee to carefully consider **HB 2495** (Attachment 6).

Bob Tomlinson, Kansas Insurance Department, testified that the amendment would impose a tax upon the Kansas taxable income of every corporation doing business within Kansas and the Department does not support the bill in its current form. He offered the Department's help in looking at the problem on both the state and national level and in the development of language that would prevent corporations from avoiding taxation and just as importantly, would not produce an unreasonable burden upon Kansas insurance companies (Attachment 7).

David Hanson, Kansas Insurance Associations said that the provisions in the proposed amendments to **HB 2495** would allow combined reporting of business income and taxation, thus would be contrary to the provisions in existing statute. Insurance companies pay premium taxes in other states at rates set by those states. This bill would increase the overall tax rate in Kansas and result in other states charging a higher retaliatory tax to our companies for any premiums written in those states, then costing our companies more and causing more tax dollars to flow to other states (Attachment 8).

It was noted that the following KDOR memorandums were distributed to the committee: 1) Analysis of Corporate Income Tax 2000-2002 (Executive Summary); 2) Update to Analysis of Kansas Corporate Income Tax Dated October 14, 2004 (Tax Year 2003); and 3) Update to Analysis of Kansas Corporate Income Tax Dated October 14, 2004 (Tax Year 2004)(Attachment 9).

Discussion continued until the Vice-Chair, due to time constraints, closed the hearing on **HB 2495** and advised they would return to the bill after the scheduled hearing tomorrow. At that time Representative Dillmore would have the floor.

The meeting was adjourned at 10:30 a.m. The next meeting is March 8, 2006.