

Oppose HB 1275 As Amended – Targeting Colorado Taxpayers

Sponsors: Reps. Foote & Pettersen / Senators Jones & Donovan

Summary: Requires a company's combined tax return to include any foreign affiliates that are incorporated in tax haven jurisdictions for purposes of determining tax avoidance. Allows exemption for including foreign affiliates, but only if company can prove to the "satisfaction of DOR" that they are incorporated in a tax haven for legitimate business purposes. Allows Dept of Revenue (DOR) to develop black list of countries they believe are tax havens.

Proponents Target Colorado Companies Recruited by State Officials

HB 1275 creates assumption that CO companies operating globally are bad actors & should prove otherwise.

Companies operate in other countries for legitimate business purposes such as:

Manufacturing of products, research & development, streamlining supply chains, or seeking new customers.

Many companies falsely targeted by the proponents were recruited by Office of Economic Development and state economic development organizations and create more than **85,000 JOBS IN COLORADO!**

Concerns with HB 1275 As AMENDED:

- **Gives DOR Discretion to Define "Legitimate Business Purpose":** Bill requires company to prove to the "satisfaction of DOR" they are incorporated in tax haven for legitimate business purposes, but fails to define "legitimate business purpose" or criteria. Gives unchecked discretion to DOR and zero guidance to taxpayers.
 - **Amendment L003 DOES NOT FIX bill:** Amendment L003 adopted in the House Finance Committee attempts to use Section 7701(o) of Federal Economic Substance Doctrine for defining a legitimate business purpose. This Doctrine fails to work for purposes of tax havens because it only applies to transactions made by a company not acts of incorporation.
- **Gives DOR Discretion to Black List Countries:** Bill gives complete discretion to DOR to develop a black list. Other states abandoned black listing in order to maintain strong trade relations & encourage economic development in other countries. DOR fails to have international expertise for making such a decision;
- **Makes Colorado Less Competitive:** Only 2 states (MT & OR) have adopted similar legislation. The Federal Government has NOT adopted tax haven legislation, the District of Columbia just repealed their black listing statute and California rejected tax haven legislation;
- **Creates Risk of Double Taxation on Colorado Companies:** HB 1275 expands CO's tax authority beyond the current water's edge boundary and fails to provide protections through existing tax treaties, therefore creating potential for double taxation on Colorado companies;
- **Changes Historical Tax Policy:** This bill changes 30 years of CO tax policy & affects the tax filing status of thousands of companies. In 1985, HB 1010 passed making CO a water's edge combined reporting state after months of stakeholder meetings involving businesses, DOR, and interest groups. Current law gives clear determination of which affiliations are required to be considered for combined reporting and criteria those affiliates needed to meet to be included in a combined report.

Current Laws Prevent Tax Evasion: DOR currently has the authority to determine income shifting, and should use their existing tools to prevent corporate tax abuse if the State believes it exists.