Hon. Vicki Berger
Representative 20t h District
900 Court Street NE
Suite H-479
Salem, OR 97301-4062

Dear Ms. Berger;

I listened to the OPB broadcast, this morning, and must commend you for your pragmatic view on the interaction of budgeting costs and forecasting revenues.

However your comment that Oregon has to be competitive with other states on the capital gains rate, shows that you are ignoring that state level capital gains rates have little relationship to the likelihood of business investment. Investment is made on the basis of income potential and business needs, not variations in tax rates among the states. That is why forestry is not a large industry in Arizona.

(1) Most business investment is made by large "C" corporations, which at the Federal level tax ordinary and capital gains at the same rate. So state tax rate differentials are meaningless.

(2) Capital gains on any investment are contingent on the residual value of assets. However with depreciation recapture on depreciable assets, most such gains are likely to be taxed as ordinary income. Most rational business plans contemplate that operating revenue (meaning ordinary income) provides the payback for any investment, whereas the residual value or potential capital gains are highly speculative.

(3) If business investment is made through C Corporations, the shareholders of such corporations, say venture capital interests, are taxable on stock sale gains based on their state of residence, not where the corporate investment is located. If state tax rates mattered then Wall Street would be located in the state of Mississippi.

(4) Venture capital also relies on investments, which either is not taxable or is by flow-through entities, which report their results before tax. Mutual funds are the best example. Pension funds, university endowments similarly are tax – neutral, and thus probably are responsible for making more low-return and low margin investments, which drive down returns for taxable investors.

Capital gains may have their place in a stock broker's sales spiel, but have absolutely no relevance in making business investments. They are the welcome topping on the cake, if things work out well. Please note that in major corporations, the VP of Taxes gets no respect and is rarely consulted on business planning, unless they have operating losses and are seeking tax refunds, or are the subject of a criminal tax investigation.

Please note that differentiating between operating income and capital gains is a very inefficient way of allocating capital. Thus differential tax rates on types of income contradict the principle of letting the market decide, which I thought was a Republican doctrine.

Sincerely,

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Cc: Jody Wiser, Tax Fairness Oregon