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April 29, 2012

Steve March  
Auditor  
Multnomah County  
501 S.E. Hawthorne Blvd  
Room 601  
Portland, OR 97214  
mult.auditor@multco.us

Dear Mr. March:

I am reporting possible tax fraud and tax evasion by Charles Hales, who states his current address as 7136 S.E. 27th Avenue, Portland, OR 97202.

Please refer to the attached Complaint to the Secretary of State of Oregon and to the newspaper articles it incorporates.

### **Violations of Multnomah County Tax Law**

I allege that Mr. Hales did not pay any Multnomah County ITAX for the years 2004 and 2005, even though he claims in statements to Multnomah County to have been a full-time resident of Multnomah County for both of those years.

Over the past year, Oregon newspapers have reported that Charles Hales for the years 2004 through 2009 filed Oregon nonresident income tax returns, each of which stated that his residence address was in Stevenson, Washington (and not in Oregon) for the entire year. He paid Oregon income taxes only on his Oregon-source income, not on his total income. THE OREGONIAN on April 6, 2012, reported:

As such, he reported Oregon taxable income in 2008 and 2009 of about \$8,000 out of an overall income of about \$175,000 both years. That put his net Oregon income tax at about \$300.

WILLAMETTE WEEK of April 11, 2012, reported:

Hales' tax returns show his Washington state residence saved him an estimated \$29,900 in 2008 and 2009, the years covered by the returns Hales released to WW.

Nevertheless, Charles Hales continued to vote in Oregon elections throughout that 6-year period. During the years 2004-05, he voted from an address on Hayden Island, in Multnomah County. When I pointed out to elections officers that such voting was unlawful, because he was claiming not to be a resident of Oregon during those years, Charles Hales responded to the Director of Elections of Multnomah County on April 18, 2012, that for that 6-year period (2004-09) he considered himself to be an Oregon resident who was only "temporarily away from Oregon." According to the Director of Elections:

In the same interview of April 18, 2012, I asked Mr. Hales if, during the time he lived in Washington State, he considered his Oregon residence address the place to which his habitation was fixed, and whether or not he intended to return. He said that during that time he considered himself to be temporarily away and that he always intended to return to his Oregon residence.

Charles Hales's assertion that "his habitation was fixed" in Oregon (during the time he lived in Washington) and that he "considered himself to be temporarily away and that he always intended to return to his Oregon residence" flatly contradicts his sworn statement of each of his 6 Oregon nonresident income tax returns for 2004-09 that he was not a resident of Oregon for any part of those years. His new statement is an admission that his "domicile" during those years was Oregon.

He has made other public statements that contradict his sworn claim to have been a nonresident of Oregon during 2004-09. WILLAMETTE WEEK of April 11, 2012, reported:

When WW asked Hales in June about his residency, he made false statements. He said he never declared Washington as his residence for tax purposes. "I am and have always been an Oregon resident," he said.

### **Violation of ITAX Requirements**

Under the ITAX Administrative Rules, every resident of Multnomah County who was required to file an Oregon income tax return for the taxable years 2003-05 was also required to file an ITAX return. The ITAX Rules § 11-605 defines "resident" as:

a taxpayer domiciled within Multnomah County for any portion of the taxable year. ORS 316.027 and OAR 150-316.027 are hereby adopted and shall control when residency questions arise.

I allege that Charles Hales either:

- (1) did not file ITAX returns for 2004-05, even though his residence was in Multnomah County for all of those years (according to him), or

- (2) did file ITAX returns for 2004-05 but unlawfully excluded his non-Oregon source income.

### **Not Filing ITAX Returns for 2004-05**

It appears very likely that Charles Hales did not file did not file ITAX returns for 2004-05, even though his residence was in Multnomah County for all of those years (according to him).

Mr. Hales did file Oregon income tax returns in at least some of the years was living in Washington (2008-09 that I know of) and presumably filed them in 2004-05. He was required by law to do so, because he was a resident of Oregon during those years, according to his own statement.

If Mr. Hales did not file Oregon income tax returns for all of the years 2004-09, his failure to do so was unlawful. I have alerted the Oregon Department of Revenue to his possible violation of Oregon income tax laws and rules. See the attached letter of April 20, 2012, to the ODOR's Fraud Coordinator.

### **If Mr. Hales did File TAX Returns for 2004-05**

If Mr. Hales did file ITAX returns for 2004-05, I allege that he unlawfully excluded his non-Oregon source income from those returns, because on his federal income tax returns for those years he was claiming to be a full-time resident of Washington.

### **Residency and Domicile**

Because the ITAX Rules adopted the same definition of residence and domicile as apply to the Oregon personal income tax, the entire discussion of his residence in the attached letter is applicable. The ITAX Rules further adopted, as applicable to the ITAX, the analogous portions of Oregon laws and rules pertaining to personal income taxes.

### **§ 11-602 Conformity to State Income Tax Laws**

The policy of Multnomah County is to follow the state of Oregon laws and regulations adopted by the Department of Revenue relating to personal income tax. The ITAX shall be construed in conformity with such laws and regulations imposing taxes on or measured by net income. Should a question arise under the ITAX on which this subchapter is silent, the Administrator may look to the laws of the state for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this subchapter or the state law is otherwise inapplicable.

### **§ 11-603 Adoption of Oregon Revised Statutes and Oregon Administrative Rules by Reference**

The Administrator and the Multnomah County Board of Commissioners may adopt Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) by reference. To the extent necessary, references in an ORS or an OAR to the State of Oregon or its agencies will be deemed substituted references for Multnomah County and its corresponding agencies.

### **Additional Tax Laws Violated by Charles Hales**

The ITAX return for each of 2004 and 2005 required the signer to sign this declaration: "The undersigned declared that the information on this return is true." To the extent that Mr. Hales filed ITAX returns for those years, claiming he was not a resident of Multnomah County, he made false statements on those returns.

Because the ITAX Rules incorporated the analogous portions of ORS, making a false statement on an ITAX return also violates several laws, including these:

**ORS 305.810 Verification of return, statement or document filed under tax laws.** Any return, statement or other document required to be filed under any provision of the laws administered by the Department of Revenue, in lieu of any oath otherwise required, shall:

- (1) Contain or be verified by a written declaration that it is made under penalties for false swearing; or
- (2) Be verified, by such other means as the department may prescribe by rule, that it is made under penalties for false swearing.

**ORS 305.815 False return, statement or document prohibited.** No person shall willfully make and subscribe any return, statement or other document that contains or is verified by a declaration under ORS 305.810 that it is made under penalties for false swearing if the person does not believe the return, statement or other document is true and correct as to every material matter.

**ORS 314.075 Evading requirements of law prohibited.** No person, or officer or employee of a corporation or a member or employee of a partnership, shall, with intent to evade any requirement of any law imposing taxes upon or measured by net income or any lawful requirement of the Department of Revenue thereunder:

- (1) Fail to pay any tax or to make, sign or verify any return or to supply any information required;
- (2) Make, render, sign or verify any false or fraudulent return or statement; or
- (3) Supply any false or fraudulent information.

Under ORS 305.990(4), violation of ORS 305.815 is a Class A misdemeanor, punishable by a prison term of up to one year and/or a fine of \$6,250. ORS 161.615(1), ORS 161.635(1)(a).

Under ORS 314.991(1), violation of ORS 314.075 subjects the violator to a penalty of not more than \$1,000 and is a Class C felony, punishable by a fine of up to \$125,000 and/or a prison term of up to 5 years. ORS 161.605(3); ORS 161.625(1)(d).

### **Statutes of Limitation**

Prosecution of Charles Hales for violation of ITAX requirements is not prevented by the analogous statute of limitation. ORS 314.410 states:

(1) At any time within three years after the return was filed, the Department of Revenue may give notice of deficiency as prescribed in ORS 305.265.

(2) If the department finds that gross income equal to 25 percent or more of the gross income reported has been omitted from the taxpayer's return, notice of the deficiency may be given at any time within five years after the return was filed.

(3) If the department finds that a return reports or reflects the use of a listed transaction, as defined in ORS 314.307, and that use of that listed transaction results in a deficiency in tax paid, notice of that deficiency may be given at any time within nine years after the return was filed.

(4)(a) The limitations to the giving of notice of a deficiency provided in this section do not apply to a deficiency resulting from false or fraudulent returns, or in cases where no return has been filed.

Mr. Hales was, according to his own current statements, a Multnomah County resident for 2004 and 2005. If he did not file ITAX returns for either of those years, there is no statute of limitations barring prosecution. If he filed ITAX returns for those years, claiming to be not a resident of Multnomah County, the filed returns would appear to be false or fraudulent. Thus, no statute of limitations would bar prosecution of Charles Hales for all of the nonexistent or false/fraudulent ITAX returns for 2004-05.

I thank you in advance for considering this information.

Sincerely,

Seth Woolley