



Kansas House Taxation Committee
Verbal Testimony in Support on House Bill 2553
Presented by Don Brown, Managing Director for U.S. State and Local Government Relations
Cargill, Incorporated
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Chair Johnson and Committee Members, my name is Don Brown. I serve as managing director of U.S. state and local government relations for Cargill. On behalf of our employees, customers, and suppliers across Kansas, we at Cargill appreciate the opportunity to testify today in support of House Bill 2553.

Cargill is a global company with 160,000 employees in 70 countries serving customers in 150 countries. Some of you may be familiar with Cargill's businesses in Kansas and I would like to speak briefly of our global footprint. Founded in 1865, Cargill's 155,000 employees across 70 countries work to achieve our purpose of nourishing the world in a safe, responsible and sustainable way.

Every day, we connect farmers with markets, customers with ingredients, and people and animals with the food they need to thrive. We connect producers and users of grains and oilseeds around the globe through origination, trading, processing, and distribution, as well as offering a range of farmer services and risk management solutions. Some of many products we produce for our customers are cocoa and chocolate, beef, turkeys, corn sweeteners, ethanol, biodiesel, food grade salt and water softener salt, and deicing salt. We produce animal feed and premix to feed beef cattle, dairy cattle, swine, and poultry. Our aquaculture business feeds salmon, shrimp and tilapia.

We also move these agricultural and industrial products around the world – from places where these products are in surplus to places where they are needed for people and animals to thrive. Each year we manage about 250,000 shipments of goods across borders.

As much as we are a global company, we are also a midwestern company. Cargill was founded just 450 miles Northeast in Conover, Iowa. For decades, we have had deep roots and operations here in Kansas, where today we employ nearly 4,500 hard-working people. In Kansas:

- We have grain elevators in Atchison, Hutchinson Lenexa, Salina, and Topeka; animal feed plants in Kansas City, McPherson, Olathe, and Emporia, where we recently made a \$4 million investment.
- We have a salt evaporation facility in Hutchinson and a beef plant in Dodge City that employees over 2,500.

- A little over a year ago, Cargill opened a \$70 million, 188,000 square-foot headquarters for our Protein businesses in Wichita – it currently houses 1,200 employees and we are planning to hire more.
- In May last year, we opened a \$90 million-dollar, state of the art biodiesel facility also in Wichita. When it is fully operational, it will produce 60 million gallons of biodiesel annually.

We also invest in the communities in which we operate. During our last fiscal year, Cargill contributed more than two and half million dollars to organizations across Kansas, including our \$1 million, two-year partnership with the Wichita State University Foundation to build a new home for the W. Frank Barton School of Business. We also made sizable contributions to the Kansas Food Bank Warehouse, Agriculture Future of America, Kansas State University, and Kansas Big Brothers – Big Sisters.

Cargill is proud of our work in Kansas, and excited about our future here. That is why I want to share why we strongly support House Bill 2553.

Federal tax reform created a category of foreign income – Global Intangible Low Tax Income, commonly referred to as GILTI, that is now subject to U.S. tax. GILTI is defined as income in excess of what policymakers determined to be a normal rate of return (10 percent) on tangible assets. Even though the definition suggests that it applies to high return intangible income, it really captures any income in excess of the deemed rate of return.

For fed purposes, GILTI and the deemed repatriation of post-1986 foreign earnings were enacted to offset the federal rate reductions by broadening the base and moving closer to a territorial tax system – meaning taxing only the income earned in the U.S. Because Kansas has not reduced its tax rates, Kansas should not tax this income from foreign companies. Further, because Kansas has chosen to tax corporations on a water's edge basis, Kansas should not include this income earned by companies outside the U.S. waters' edge in Kansas apportionable income.

There are also Constitutional issues that would be raised with how Kansas would tax GILTI. One of the glaring is Kansas using domestic activity apportionment factors to determine the percentage of GILTI subject to tax in Kansas. Apportionment formulas must represent where the income is generated – Kansas does not include the foreign factors that generate GILTI.

Also, because of Kansas' apportionment formula, the taxpayer's property in Kansas is part of the formula. The greater a company's investment in Kansas, the greater the Kansas apportionment factor, and greater the share of GILTI that will be subject to Kansas corporate tax. I have five points to make why Kansas not taxing this income is important to Cargill.

Number 1. This is a Competitive Issue for Cargill. Like our foreign competitors, Cargill competes for opportunities to serve farmers, customers, and consumers in markets around the world. Wherever we operate, we pay local taxes, including income taxes, export taxes, value-added taxes, and other excise and sales taxes. But many of Cargill's competitors are foreign multinational corporations whose home countries and territories have much lesser tax burdens. Unlike our foreign competitors, Cargill pays U.S. federal and state income taxes on our foreign income and investments. This puts Cargill at a comparative disadvantage with non-U.S. multinationals as we compete for business and investments. Considering these additional tax obligations, Cargill's success depends on fair and predictable state tax policies that allow us to continue making investments here, while competing in the global marketplace.

Number 2. This is a Competitive Issue for Kansas. Kansas's fair and competitive tax environment allows businesses like Cargill to grow and invest here. Adopting HB 2553 will ensure Kansas's tax climate remains competitive for employers like Cargill. Without this clarifying policy, Kansas would essentially levy a tax on foreign income on companies whose global business is supporting jobs and economic gains here at home. That would be neither fair to employers, nor competitive for the state. Further, Kansas' method of apportioning GILTI penalizes those multinationals who have chosen to invest in Kansas.

Number 3. Without HB 2553, Businesses Like Cargill Would See a Major Tax Increase. Because the Kansas tax code automatically conformed to the TCJA federal changes, without enacting HB 2553, a significant amount of income earned by our foreign operations – will be subject to Kansas taxation. This will result in large tax increases for Cargill every year.

Number 4. Most States Have Not Adopted Onerous Tax Increases on GILTI. Following federal enactment of the TCJA, most states have chosen not to include raise taxes by including GILTI in their tax base.

Number 5: Kansas' approach for taxing GILTI will raise serious legal and policy issues and almost certainly will lead to litigation. As I mentioned previously, Kansas is using apportionment factors from a taxpayer's domestic business operations to apportion foreign income, which almost certainly will be challenged.

We urge you to pass HB 2553, which will avoid unnecessary litigation, and prevent Kansas from becoming an outlier compared to other states that have chosen not to raise taxes that would limit businesses' ability to compete and grow.

Again, thank you for your time and consideration.