Oregon’s 2019-21
Tax Expenditure Report

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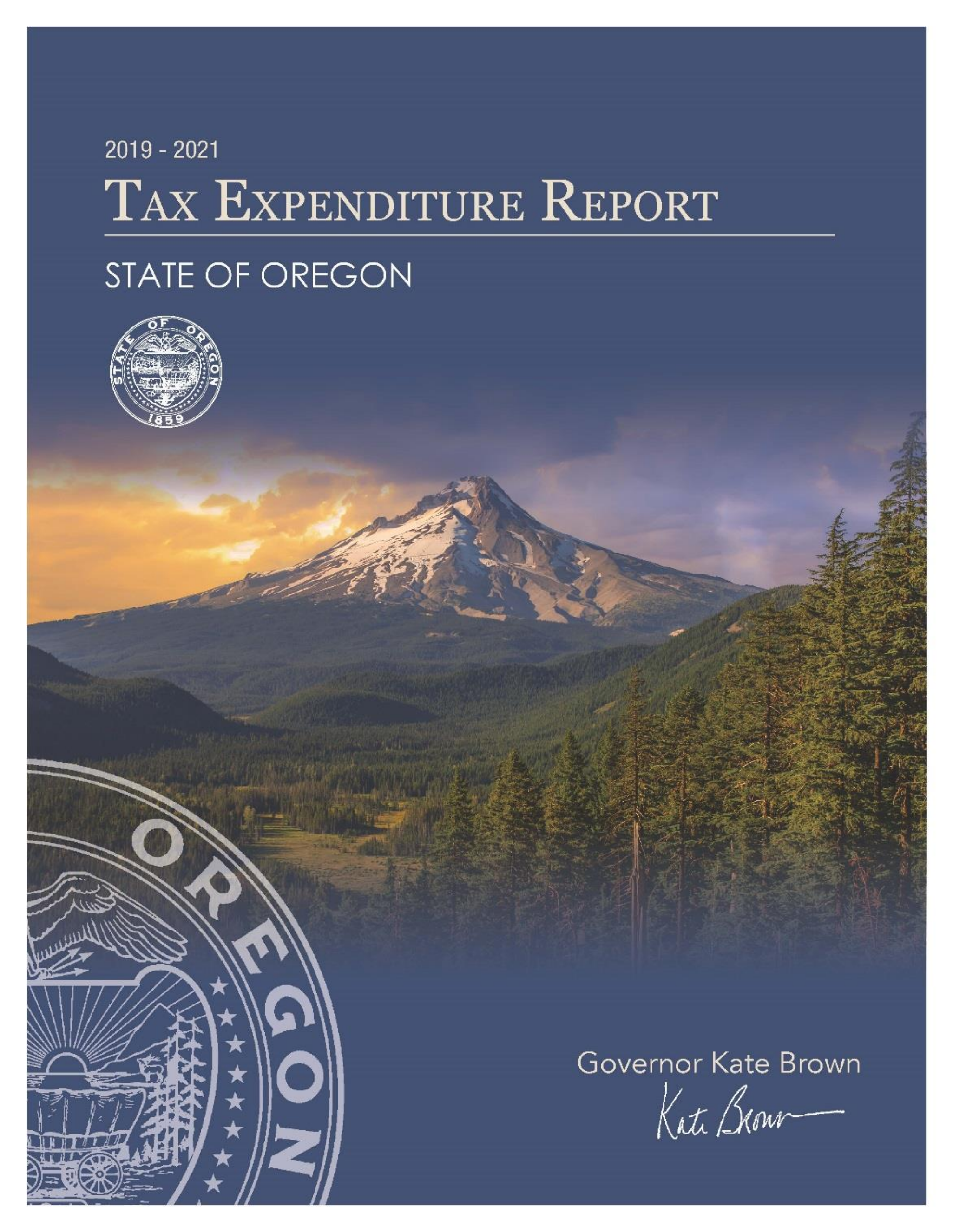

Oregon's Definition of Tax Expenditure

"…any law of the Federal Government or this state that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including but not limited to tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates and tax credits."

Oregon Laws 1995, Chapter 746

(ORS 291.201)

General Overview

- Budget Accountability Act (1995) requires tax expenditure report (biennial)
- “...are similar to direct expenditures” *
- “The tax expenditure report will allow tax expenditures to be debated in conjunction with online budgets...” *

* Oregon Laws 1995, Chapter 746

ORS 291.195

Categories of Tax Expenditures

More like direct spending	Incentives to encourage certain activities Financial assistance for certain taxpayers *(Provisions are even more like direct spending if they are refundable, transferable, or auctioned tax credits)*
Less like direct spending	Provisions that simplify Compliance or Administration Provisions prohibited by Federal Law

Requirements of the Tax Expenditure Report

Set by 1995 Budget Accountability Act (ORS 291.203 and 291.214)

- Statutory authority
- Estimate of lost tax revenue
- Purpose
- Who Benefits?
- Evaluation – Does it achieve its purpose?
- Category of the budget program or function
- Sunset recommendations - extend provision or allow to sunset

DOR’s Role in Tax Expenditure Report

- Identify new/modified/deleted tax expenditures
- Describe the tax expenditures
- Produce estimates of revenue loss
- Work with agencies/others to collect data on use and administration of related programs, and to facilitate agency evaluations
- Coordinate other aspects with DAS Chief Financial Office, Legislative Revenue Office and the Governor’s Office

Contents of the Tax Expenditure Report

- 18 chapters
  - One chapter for each tax program, but corporate and personal income taxes are combined in Chapter 1
  - Chapters 17 and 18 are new for the Vehicle Use and Privilege Taxes
  - There are 368 listed tax expenditures
  - The income tax programs (190) and property tax (134) make up the majority.

Notable Changes for 2019-21 Edition

- Federal Tax Changes
  - Changes in Rates for Personal and Corporate Taxes
  - Limit on deduction for State and Local Taxes (often called SALT)
  - Changes to taxation of international corporations
  - Increases in depreciation and expensing allowances

- As listed in Appendix D of this year's report (page 411):
  - 24 new tax expenditures
  - 32 existing tax expenditures had legislative modifications
  - 23 entries from the 2017-19 report were removed for various reasons
    - 18 of those expired and no longer have an impact

SUMMARY OF OREGON TAX PROGRAMS WITH TAX EXPENDITURES (Dollars in Millions)				
Tax Program	**Number**	**Estimated Revenues 2019-21**	**Revenue Impact 2017-19**	**Revenue Impact 2019-21**
Income (Personal and Corporate)	190	$20,187.5	$12,851.7	$14,176.4
Federal Exclusions	64		$5,830.1	$6,838.7
Federal Adjustments/Deductions	41		$3,008.0	$3,157.9
Oregon Subtractions	27		$2,102.5	$2,311.5
Oregon Credits	50		$1,650.6	$1,561.0
Other Oregon Provisions	8		$260.5	$307.3
Property	134	$15,400.0	$9,834.2	$10,345.3
Full Exemption	93		$8,629.3	$9,051.2
Partial Exemption	27		$644.3	$709.6
Special Assessment	13		$560.3	$584.2
Other Assessment	1		$0.3	$0.3
All Other State Taxes with Tax Expenditures	44	$5,437.7	$395.9	$428.5
All Taxes with Tax Expenditures	368	$41,025.2	$23,081.8	$24,950.2

For reasons explained in the Revenue Impacts section on page 3, there are difficulties with summing tax expenditures. This table is intended only to provide rough orders of magnitudes for large groups of tax expenditures and caution should be exercised when adding revenue impacts.

Top Ten Tax Expenditures for Personal and Corporate Income Taxes

Tax Expenditure	2019-21 Revenue Impact ($Millions)	Percent of Total
Pension Contributions and Earnings	1,980	14%
Employer Paid Medical Benefits	1,628	11%
Personal Exemption	1,239	9%
Federal Income Tax Subtraction	1,037	7%
Home Mortgage Interest	970	7%
Social Security Benefits (Oregon)	924	7%
Social Security Benefits (Federal)	717	5%
Property Taxes	499	4%
Capital Gains on Home Sales	455	3%
Capital Gains on Inherited Property	422	3%
Subtotal	9,872	70%
All Others	4,304	30%
Total	14,176	100%

The three highlighted tax expenditures are specific to Oregon law, the other seven are due to Oregon's connection to Federal taxable income

Top Ten Tax Expenditures for Property Taxes

Tax Expenditure	2019-21 Revenue Impact ($Millions)	Percent of Total
State and Local Property	2,600	25%
Federal Property	1,721	17%
Personal Property for Personal Use	1,470	14%
Motor Vehicles and Trailers	969	9%
Inventory	804	8%
Strategic Investment Program	551	5%
Western Private Standing Timber	411	4%
Farmland	377	4%
Charitable, Literary, and Scientific Organizations	212	2%
Religious Organizations	126	1%
Subtotal	9,240	89%
All Others	1,106	11%
Total	10,345	100%

Emerging Issue: Ambiguity in Sunsets

ORS 315.037

(1)As used in this section, “tax expenditure” has the meaning given that term in ORS 291.201 (“Tax expenditure” defined for ORS 291.201 to 291.222).

(2)Any tax credit enacted by the Legislative Assembly on or after January 1, 2010, shall apply for a maximum of six tax years beginning with the initial tax year for which the credit is applicable, unless the Legislative Assembly expressly provides for another period of applicability.

(3)Any tax expenditure enacted by the Legislative Assembly on or after January 1, 2014, shall apply for a maximum of six tax years beginning with the initial tax year for which the tax expenditure is applicable, unless the Legislative Assembly expressly provides for another period of applicability.

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Factors that weigh toward inclusion of a provision in the Tax Expenditure Report

- It is reflected on an assessment record, tax return, tax statement, or other tax filing document as a deduction, exclusion, subtraction, exemption, deferral, preferential tax rates, or tax credit.
- It applies only to a targeted group of taxpayers and reduces the tax owed through some other mechanism. For example, specifying a formula for appraising certain property so that it results in a lower taxable value.
- It reduces tax revenue for a tax program. Reductions in penalties, interest, or “fees” owed are not included.
- It is reported by the federal Joint Committee on Taxation as a reduction in federal taxable income, and that reduction flows through to Oregon’s treatment of that income.

Factors that weigh toward exclusion

- It is a filing status, tax rate, or other mathematical feature of the tax calculation that applies to all taxpayers. *(e.g. standard deduction; value & rate limits in Measures 5 and 50)*
- It is an exclusion implemented when the tax was created, as a way to define the tax base.
- It is a subtraction of ordinary and necessary expenses in a business that operates for profit.
- It is a reduction in tax that is necessary to avoid double-taxation of income. *(*e.g. credit for “claim of right” or credit for taxes paid to another state.*)*
- It is a rebate or other spending program. The program may appear to be tied to taxes, but occurs separately. *(e.g. Oregon Greenlight Labor Rebate)*

Example of Ambiguous Sunset

ORS 320.405(1):

A tax is imposed on each vehicle dealer for the privilege of engaging in the business of selling taxable motor vehicles at retail in this state.

ORS 320.425(1):

Notwithstanding ORS 320.405, a seller is not liable for the privilege tax with respect to a taxable motor vehicle that is sold to:

(a) A purchaser who is not a resident of this state; or

(b) A business if the storage, use or other consumption of the taxable motor vehicle will occur primarily outside this state.

The question for us: is this an “exemption” from the “impact of established taxes”?

Result of the Ambiguity

From the 2019-21 Tax Expenditure Report (Page 401-402):

18.003 VEHICLES SOLD FOR OUT OF STATE USE

Description: A seller of otherwise taxable motor vehicles is not liable for the vehicle privilege tax for vehicles sold to non-Oregon residents. Sales of otherwise taxable motor vehicles to a business for use primarily outside of Oregon are also exempt.

There is some ambiguity about whether this specific exemption is a tax expenditure as defined by ORS 291.201. It has been included in the report for informational purposes. See the Introduction for a discussion of the definition of tax expenditures.

ORS 315.037(3) establishes that any tax expenditure enacted on or after January 1, 2014 shall apply for a maximum of six tax years. **If the provision of the law exempting vehicles sold to non-Oregon residents from the vehicle privilege tax is a tax expenditure, then this exemption would be subject to the six year limit. In that case, the last effective tax year for this exemption would be 2023. If this exemption does not meet the definition of a tax expenditure, then it is not subject to the six year limit and it will not expire.**

Questions?

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