Tax Credit Review Process

In 2009, the Legislature passed, and the Governor signed HB 2067. This bill organized the active credits into three groups according to broad policy goals and placed a sunset date on all but three tax credits.[1] The three groups were scheduled to sunset on January 1 of 2012, 2014, or 2016, so that an organized review could occur during the legislative session just prior to their scheduled sunset. The 2011 Legislature conducted the first such review, which encompassed twenty tax credits.

Building on this work, the Legislature passed, and the Governor signed into law, HB 2002 in 2013 which requires a detailed report on sunsetting tax credits (this document is that required report.) For reference purposes, the table below contains a summary of recent tax legislation focusing on tax credit policy work. Collectively, this legislation is the basis of what some researchers have described as 'framework legislation' for the policy analysis and review of indirect spending (Kleinbard, 2010). These bills have culminated in a process to understand and evaluate part of what has become known as Oregon's tax expenditure budget. Theoretically, such a process could include all tax expenditures, but Oregon is currently and has been primarily focused on state income tax credits.

Session	Bill	Description
2007	HB 3201	Created or modified nine tax credits; paid for by phasing-down the personal exemption tax credit
2009	HB 2067	Organized tax credits into three groups with distinct sunset dates to facilitate their future review
2010	HB 3680	Made significant policy changes to the Business Energy Tax Credit
2011	HB 3672	Tax credit omnibus bill: nine tax credits extended and/or modified; one tax credit divided into three tax credits; one tax credit sunset date accelerated; and nine tax credits allowed to sunset
2013	HB 3367	Tax credit omnibus bill: seven credits extended without modification; two credits extended with modifications; four credits allowed to sunset
2013	HB 2002	Requires biennial report on sunsetting tax credits.
2015	HB 2171	Tax credit omnibus bill: two credits extended without modification; five credits extended with modifications; two credits merged into a single credit; modified one tax credit without changing the sunset date; accelerated the sunset date for one tax credit
	HB 3542	Requires a statement of purpose for each proposed tax credit along with the review of estimated revenue impacts of tax credits

[1] The three credits without a sunset date are the personal exemption credit, the credit for taxes paid to another state, and the claim of right income credit. These tax credits were considered part of the normative tax base.

2016	HB 4072	Moved sunset date for University Venture Development Fund from January 1, 2016 to January 1, 2022
	HB 4110	Increased EITC from 8% to 11% of federal credit for taxpayers with dependent < 3
	SB 1507	Omnibus tax credit bill, technical changes and policy changes to 2 credits
2017	HB 2066	Extends or modifies five tax credits and creates a new tax credit for qualified employer training costs
	SB 162	Technical changes to Working Family Dependent Care Credit
2018	HB 4028	Omnibus tax expenditure measure, changes to four credits
	SB 1528	Created credit for Opportunity Grant contributions
2019	HB 2141	Established procedures and uniform requirements of tax credit transfer and certification
	HB 2164	Extended and/or modified eleven tax credits, established short line railroad credit, and replaced 529 subtraction (education & ABLE) with 529 credit (education & ABLE)
	HB 2847	Expanded list of hospitals, whose medial staff may qualify for rural medical provider credit

In each legislative session the tax credit review process has varied to some degree. In a broad sense, however, the process has consisted of three stages: (1) the interim process; (2) the policy committee process; and (3) the Joint Tax Credit Committee process. The interim process involves updating information on the tax credits that are scheduled for the formal review process during the legislative session. It also includes a review of credits with a later sunset date if they meet criteria for early consideration. This stage ends with the pre-session filing of bills extending the sunset date by six years – a default time period intended as a placeholder. These bills are intended to set the stage for legislative discussions and have no direct policy implications.

The second stage begins with legislative leadership assigning the tax credit bills to relevant policy committees with subsequent referrals to the Joint Committee on Tax Expenditures. There are two such extension bills (House and Senate versions) for each credit that simply extend the sunset date.[2] The intent is that each committee reviews the purpose of each credit and evaluates its effectiveness in achieving that purpose. Sample questions have typically been provided to promote discussion. Possible committee actions include: allowing the credit to sunset by simply taking no action on the bill, extending the sunset date without policy changes, extending the sunset date with other policy changes, or replacing the credit with a more effective policy. All but the first option would result in a recommendation to the Joint Committee on Tax Expenditures. The objective is that each policy committee provides some degree of policy guidance to the Joint Committee for any continuation of desired tax credits.

Upon receiving tax credit bills referred from policy committees, the work of the Joint Committee on Tax Expenditures is intended to mirror the Ways & Means budget process. The "base" spending level may be the amount of spending presented in the Governor's recommended budget, an amount set by legislative leadership, or some combination thereof. One example is that this base could be the estimated credit revenue base – the revenue impact of straight credit extensions – within the overall revenue and budget

[2] Proponents of a given policy may have a version drafted that includes modifications.

situation. Consultation among legislative leadership, the Ways & Means Co-chairs, and the House and Senate Revenue Chairs may result in a tax credit budget for the upcoming biennium.

The Joint Committee evaluates credits based on policy committee input, recommendations, and prioritization, while considering general tax policy criteria. The Committee collectively considers all bills affecting the existing tax credits as well as any new credits proposed during the session. Some may be allowed to sunset as scheduled; some could have their sunset date accelerated; and others could be extended and/or modified. Examples of potential modifications include: separating a single tax credit into multiple tax credits, merging multiple tax credits into a single tax credit, adding some form of means-testing, and sunsetting a tax credit early to raise revenue that can then be redirected to a different program.