Oregon Life and Health IGA Assessments

ORS 734.835	Year Enacted:	1975	Transferable:	No
	Length:	5-year	Means Tested:	No
	Refundable:	No	Carryfoward:	None
TER 1.445	Kind of cap:	None	Inflation Adjusted:	No

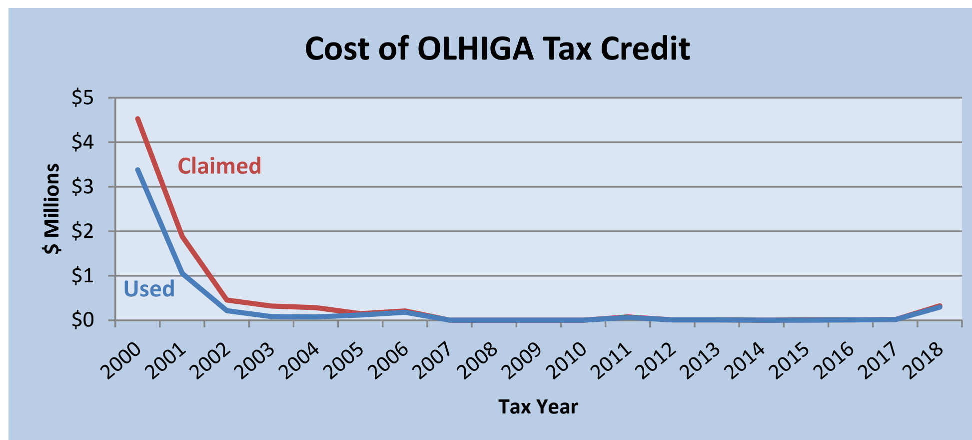
Policy Purpose

Assessments to the Oregon Life and Health Insurance Guaranty Association (OLHIGA) are used to pay claims against insurers who become insolvent. Because the tax credit equals the amount of the assessment (taken uniformly over five years), a reasonable interpretation of its ***policy purpose is to subsidize the cost of insurance guarantee assessments with General Fund resources***.

Description

Insurance companies are allowed a credit against corporate income taxes for certain assessments paid to the Oregon Life and Health Insurance Guaranty Association (OLHIGA). Qualifying assessments are those that are used to cover the cost of claims against insurers who have become insolvent (these are known as class B assessments and are discussed in greater detail in the policy analysis section). Insurers take the credit over five years in an amount equal to 20 percent of the assessment for each year beginning with the year in which the assessment was paid. The credit is nonrefundable and unused credit amounts cannot be carried forward.

The chart below shows the historic use of this credit for tax years 2000 to 2017. Usage of this credit depends on class B assessments levied for insurers that have become insolvent. As shown in the chart, this credit has been rarely used in recent years as OLHIGA assessments have been limited.



Policy Analysis

The Oregon Life & Health Insurance Guaranty Association was established in 1975 and is composed of all insurers licensed to sell life insurance, accident and health insurance, and individual annuities in Oregon. Membership is mandatory. In the event an insurer becomes insolvent, the Association pays claims to the policy beneficiaries. The cost of such claims is recouped by a matching assessment paid by each participating insurer. The insurers are then allowed to claim an annual corporate income tax credit that is equal to 20 percent of the assessment. The credit may be claimed for five years so that the entire assessment is covered.

The net effect of this credit structure is that General Fund resources are used to pay for class B assessments. As the credit is nonrefundable and cannot be carried forward, ability to use the credit depends on the particular circumstances of the insurer in each tax year. Credits cannot be used to reduce Oregon's corporate minimum tax which further reduces the potential use of this credit. For these reasons, only part of the class B assessment cost is ultimately shifted to the General Fund. If the intent is to shift all costs of such assessments to the General Fund, then the credit may need to be modified to become refundable or allowed to be carried forward.

The decline in the number of claimants that occurred following the early 2000s was due to fewer insurance companies slipping into insolvency and, subsequently, no assessments being imposed. Beginning in October of 2017 and through March of 2020, four assessments totaling nearly $8.8 million were levied for Penn Treaty Network America which was placed in liquidation in March of 2017. As a result, usage of this credit has increased beginning with the 2018 tax year. While $8.8 million in assessments have been levied, actual use of the credit will depend on individual insurers and their ability to offset existing tax liability with the credit. Historic use of the credit suggests about 65 percent of the credit claimed is used to reduce tax liability, though the recent size of assessments could reduce credit usage.

A direct appropriation could be advantageous in that it would avoid tax liability being a limiting factor for some insurers without sufficient tax liability to fully claim the credit. However, as class B assessments occur irregularly and amount of such assessments can vary substantially, allocating resources for a direct appropriation could be cumbersome. By contrast, the existence of a tax credit can be more flexible and responsive to assessments.

The current statutory framework of the tax credit sunset does not allow for the remaining years of a past assessment to be claimed. As the credit is taken over five years (20 percent of assessment each year) if the credit is allowed to sunset it could limit a taxpayer's ability to claim up to 80 percent of the remaining outstanding assessment levied prior to the credit's sunset date.

It appears that a majority of other states offer some kind of similar tax offset for guaranty fund assessments. In many states, insurance companies are subject to a premium tax instead of an income tax, so the offset would be against that tax and would not be an income tax credit, per se.

Other Issues

The administrative costs of this tax credit are born by the DCBS, the DOR, and insurance companies. Given the infrequent use of the tax credit, these costs are likely to be marginal and vary over time.