Oregon lawmakers must prevent the double-dip tax disaster

Commentary

Photo by Jim Choate, flicker.com

March 25, 2021By Daniel Hauser and Juan Carlos Ordóñez

Take a massive, poorly targeted business-support program. Add to it a highly unusual federal tax break for the businesses getting the federal money. Then pile on yet another tax break for those businesses.

What do you get? The Paycheck Protection Program (PPP) double-dip tax break.

Right now, the PPP double-dip tax break threatens to swallow about $450 to $600 million in Oregon resources that would otherwise go to schools and other essential services. Oregon is on course to take this huge revenue hit because our state connects to the federal tax code. Congress created the Paycheck Protection Program (PPP), as well as the double-dip tax break, but Oregonians get stuck paying for the double-dip — unless the legislature steps in and says no.

By scaling back the double-dip tax break, lawmakers can target help at struggling small businesses, while saving resources our state needs to help improve the lives of all Oregonians.

The Paycheck Protection Program: a trillion-dollar, poorly targeted program

The Paycheck Protection Program was sold as a way to help businesses struggling during the economic shutdown. This program rescued many struggling businesses. However, Congress placed few requirements that would ensure the businesses really needed the help. Many businesses easily met the few limitations that existed. As a result, millions in PPP loans went to large publicly-traded corporations, lobbying firms representing some of the country's largest corporations, Kanye West's sneaker brand, and large law firms. Although recipients of loans of $2 million or more had to certify that economic conditions necessitated the loan, no such requirement existed for loans below that amount. Thus, the vast majority of the loans went out without any proof of economic need.

PPP loans are likely to be widely forgiven. The loans can be forgiven if the business meets modest requirements, including maintaining employee and compensation levels and using most (but not all) of the funds on payroll. This transforms the PPP into a more than $800 billion grant program, much of it poorly targeted.

Normally, forgiven business loans count as taxable income. Congress deviated from this policy with the PPP, exempting businesses from this requirement. This created a unique break for recipients of forgiven PPP loans.

Initially, the bleeding stopped there. In 2020, the IRS said that a taxpayer could *not* deduct expenses paid for with the forgiven loan. Otherwise, the IRS pointed out, businesses would get a double tax benefit: the income would not be taxed but the stuff paid for with that income would count as a tax deduction.

But in early 2021, Congress reversed the IRS decision, creating the "double-dip" tax benefit. Because of the state's connection to the federal tax code, Oregon doubles down on the double-dip tax break.

The double-dip tax break worsens racial inequities

The public health crisis and resulting economic crisis hit people of color harder, including business owners of color. This is just the latest by-product of structural racism, the policies and practices that lead to worse outcomes for people of color. National data indicates Black and other people of color-owned businesses, as well as woman-owned businesses, suffered disproportionately at the onset of the pandemic. And yet, Paycheck Protection Program funds overwhelmingly flowed to white-owned businesses. To some extent, discrimination kept loans away from Black business owners.

Oregon data is consistent with the national trends. Barely over 1 percent of PPP loans over $150,000 — and not a single loan over $5 million — went to business owners who indicated they were non-white.[1] Only 4 percent of the loans of over $150,000 went to businesses that indicated they were female-owned, and only one such business got a loan over $5 million. While many respondents did not identify their race or ethnicity when applying for a loan, the best available data indicates that the PPP did little to help businesses owned by Oregonians of color and women.

Because the PPP program turned out to be disproportionately a bailout for white male business owners, the double-dip tax break too will become a tax break helping more white male business owners — many of whom never needed help in the first place. And right now, Oregon is on track to replicate this inequitable tax policy.

Oregon can do better

Oregon must think critically about which businesses need the most help during this crisis. Oregonians in every community in our state are struggling to afford childcare, healthcare, and housing. Some business owners struggle to remain afloat, while others are doing better than ever. The need is tremendous and the resources are tight.

The double-dip tax break is the wrong way to spend hundreds of millions of dollars. While some of the money will help struggling businesses, millions will go to companies that are doing just fine — businesses that have already benefited from a poorly-targeted federal program plus the federal double-dip tax break.

For the good of all Oregonians, the legislature should trim back the double-dip tax break and invest the savings in those who need it most.

How should the legislature do this?

First, Oregon should treat all of the forgiven PPP loans over $25,000 as taxable income, but still allow businesses to deduct those expenses. This would keep in place the double tax break for the smallest businesses while eliminating one for the larger ones. In other words, even the larger businesses would get a "single-dip." (Of course, all businesses would still enjoy the federal "double-dip" tax break, because Oregon can't do anything about that.) Almost half (48 percent) of the loans issued in Oregon were for under $25,000. These businesses would see no impact from a legislative fix.

Second, Oregon should use the millions of dollars in freed-up revenue to invest in the Oregonians and Oregon businesses in greatest need of support. Many Oregonians need help to rebuild from the wildfires that crippled much of the state last year. Many businesses owned by people of color have received no help. Families are struggling to keep their children safe and healthy. There is no lack of ways to put the tax savings to good use.

The Oregon House Committee on Revenue has considered an amendment to House Bill 2457 that would include all forgiven loans as taxable income. With only modest changes, this amendment can make the double-dip tax break fiasco a policy that improves the lives of Oregonians.

---

[1] OCPP analysis of data available from the U.S. Small Business Administration on Paycheck Protection Program loans.

Posted in Budget, Taxes.

More about: rolling reconnect, small business, tax expenditures

6420 S Macadam Ave, Ste 200, Portland OR 97239-0127 | 971-279-4732 | info (at) ocpp.org