

**REVENUE IMPACT OF  
PROPOSED LEGISLATION**  
81st Oregon Legislative Assembly  
2022 Regular Session  
Legislative Revenue Office

<b>Bill Number:</b>	<b>SB 1524 - A24</b>
<b>Revenue Area:</b>	<b>Corporate Activity Tax, Income Tax, Property Tax</b>
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<b>Date:</b>	<b>3/2/2022</b>

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

**Measure Description:**

Extends sunset of Gain Share distributions from July 15, 2024 to July 15, 2025.

Exempts from corporate activity tax, sales of prescription drugs by pharmacies with nine or fewer locations under common ownership within Oregon. Applies to tax years 2022 through 2025.

Allows eligible personal income or corporate income taxpayer to elect to use a three-year net operating loss carryback. Defines eligible taxpayer as a taxpayer primarily doing business in 2017 North American Industry Classification System code 111 (crop production) or code 112 (animal production and aquaculture). Requires Oregon addition and subtraction from taxable income as necessary for aligning with taxpayer's federal taxable income. Makes changes to net operating loss carryback applicable to losses arising in tax years 2023 through 2028.

Makes other modifications to certain tax expenditures and tax programs.

**Revenue Impact (in \$Millions):**

Policy	Biennium		
	2021-23	2023-25	2025-27
<b>General Fund</b>			
Gain Share			-\$17.8
CAT exclusion deductibility	\$0.1	\$0.2	\$0.1
Net operating loss carryback		-\$11.1	-\$19.2
<b>Total General Fund</b>	<b>-\$0.1</b>	<b>-\$10.9</b>	<b>-\$36.9</b>
<b>Fund Receipts</b>			
Gain Share distributions to local governments			\$17.8
<b>Fund for Student Success</b>			
CAT exclusion	-\$1.7	-\$2.9	-\$1.2

**Impact Explanation:**

**Gain Share Sunset Extension**

Extending the sunset on Gain Share distributions will result in personal income tax receipts, that would otherwise be dedicated to the General Fund, being distributed to local governments. The vast majority of distributions are directed to Washington County with seven other counties having received distributions in past years. Distributions

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result from determined annual amount of personal income tax revenue attributable to retained jobs and newly created jobs for eligible projects receiving a Strategic Investment Program property tax exemption. Estimate of future distributions is based on an analysis of historic distributions and property tax exemption qualification.

### **Farm Net Operating Loss Carryback**

Measure allows eligible taxpayers to carryback specified losses to the three tax years preceding the tax year in which the loss arises. Loss carryback is available to losses arising in tax years 2023 through 2028 for personal income and corporate income/excise taxpayers. Loss carrybacks provide taxpayers with the ability to realize the tax value of business losses more quickly by amending tax returns of previous years rather than carrying losses forward to subsequent years when such losses can be used to offset future income subject to taxation. Under current law, personal income farm losses can generally be carried back for two years though such losses may only offset up to 80 percent of taxable income. Under current law, C corporations may only carry losses forward.

For personal income taxpayers, the length of time farm losses could be carried back has fluctuated in recent years due to federal tax law changes. Measure effectively allows an additional year in which personal income farm losses can be carried back and does not subject such loss carrybacks to the 80 percent of taxable income limitation. As this loss carryback provision is specific to Oregon, taxpayers are required to account for applicable differences in taxable income reported on their federal personal income tax return when filing their Oregon tax return. Revenue impact estimate for personal income taxpayers was made through an analysis of historic tax returns and forecast of expected farm losses.

To develop the estimated revenue decline from allowing C corporations to carryback losses for three years, information from DOR on annual losses and industry distribution was used. Given that future losses are difficult to predict, LRO calculated an average loss based on data from 2010 to 2019. That information was combined with averages on apportionment percentages by industry over time, to arrive at the estimates for the C corporations. The estimates indicate a revenue loss during 2023-25 and 2025-27 biennia. However, the effect of the policy is to shift losses backward in time rather than forward in time, as corporations would under current law. This measure moves some losses from later biennia to nearer biennia, as it allows losses to be carried backward in time.

### **Corporate Activity Tax Partial Pharmacy Exclusion**

The measure excludes from the definition of commercial activity, prescription drug sales from eligible pharmacies. Eligible pharmacies are defined as pharmacies with nine or fewer locations under common ownership in Oregon. Using information provided by the Oregon Pharmacy Board on the number of pharmacies grouped by owner, LRO compiled an estimate of the number of pharmacies that are likely to fall under this exclusion. The majority of the affected pharmacies are independent community pharmacies so industry data on pharmaceutical sales by independent pharmacies was used to develop an estimate for the sales volume generated by these pharmacies. Information from the Department of Revenue was also used to estimate the effective tax rate for independent pharmacies under the CAT.

### **Minimal Impacts**

Minimal impacts on revenue are expected for changes to Oregon's Business Alternative Income Tax, and property tax exemption for new housing in rural counties.

**Creates, Extends, or Expands Tax Expenditure: Yes  No**

**Corporate Activity Tax Eligible Pharmacy Exclusion**

The policy purpose of the eligible pharmacy exclusion is to prevent the closure of community pharmacies due to the Corporate Activity Tax.

**Farm Net Operating Loss Carryback**

The policy purpose of the net operating loss carryback provision is to smooth the tax liability of farm businesses reflective of the ups and downs in farm business income and losses.