



Oregon

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Report on BOOST Enforcement Activity

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As required by HB 3698 (2010 Special Session), this report is provided to the Interim Senate Finance & Revenue and House Revenue Committees as a status report on the expansion of the Department of Revenue's enforcement activities related to the Building Opportunities for Oregon Small Business (BOOST) legislation.

Summary of legislation

During the 2010 Special Session the Legislature passed HB 3698 and SB 1017 which together create the BOOST program. BOOST gives financial assistance to small businesses through loans and grants. The cost of the BOOST programs, which will continue through the 2011-13 biennium, is funded by increased tax enforcement work performed by the Department of Revenue (DOR).

The BOOST program funds grants to employers who expand employment by creating full-time positions that are filled with employees who had been unemployed for a minimum of 60 days at the time of hire. Oregon employers apply to the Oregon Business Development Department (OBDD) for a grant, and if approved, are eligible for a \$2,500 grant for each eligible employee they hire and maintain as an employee for six months (the maximum grant is \$50,000 per calendar year). The BOOST program also provides loans to employers of up to \$150,000 for the purpose of job retention.

Recruitment and positions

As a part of the legislation DOR was given 27 full-time positions in order to increase tax revenue from enhanced enforcement activity. The positions include 22 audit positions and 5 policy, managerial, and administrative support positions. Almost all of these positions were filled by April 2010; however, because of the state's budget problems DOR implemented a hiring freeze which left three positions unfilled (the policy and support positions). One additional audit position is vacant due to a resignation.

About half of these positions are dedicated to expand current audit capacity of C-Corporations doing business in Oregon, many of whom are headquartered out-of-state. Audits of out of state corporations typically result in increased tax due to issues related to doing business in multiple states. The other half of the positions will focus on domestic C-Corporations that reside entirely in this state. Domestic corporations typically have adjustments not only to the corporate return but also to the individual returns of the shareholders. This is due to the fact that adjustments made at the corporate level often affect income or expenses reported on the individual return of a corporate shareholder.

Revenue commitment

In return for the positions that DOR received, we committed to generate an additional \$7 million in tax collections during the 2009-11 biennium. Of that amount, \$5 million will be transferred to OBDD to fund the BOOST programs enacted by the legislature. The remaining money collected will be transferred to the Tax Enforcement Fund, which is separate from the General Fund, and will revert to the General Fund at the end of the biennium.

Through September 30, 2010 we have collected a total of \$1,154,060.65 in tax money due to the expansion of enforcement activity related to BOOST, which was transferred to OBDD in October. This puts us on track to meet the projected revenue commitment for this biennium. The next scheduled transfer to OBDD will occur in January 2011.

Identified compliance need

While corporations were not included in the 2009 Report on Personal Income Tax Compliance in Oregon, many of the compliance challenges identified for small businesses relate to corporations. To the extent possible, we have used the information in the report to generate audits for the BOOST auditors. Some of the compliance areas that were identified in the report are: lack of third party reporting of income, lack of reporting income from property transactions and the perception that the department is not aggressive in tax enforcement with certain types of taxpayers. We have been successful in audits that were chosen for these reasons. Other issues that were identified by the report and that impact taxpayer compliance are taxpayer attitudes about paying taxes and the possibility of being audited.

The work of the BOOST auditors is contributing to reducing the tax gap by focusing on complex areas of tax law where taxpayers often take aggressive positions. BOOST audits will continue to focus on areas of law that are found to have a lack of compliance as we study taxpayer behavior and base our audit selection on what we learn.

Training plan

The new auditors began formal training on April 1, 2010 and enforcement activities started in May 2010. Even once the formal training was complete, the first few cases that the auditors worked on were joint audits to allow them to train in the field with other experienced auditors. In preparation for hiring a large group of new auditors the lead technical coordinators focused their efforts on finding tax returns that have a high potential for audit adjustments. Because of this initial effort and their continued case selection work there is an excellent pool of tax returns for the BOOST auditors to audit.

Audit progress/findings

As of the writing of this report we have closed over 450 audit cases including both corporate tax returns and personal income tax returns. In addition we have over 200 tax returns that either have an audit in progress or are ready for an audit to begin. The cases that have been closed so far range from less complex audits that look at only one issue, such as a tax credit or deducted expense to more complex audits that require extensive research and field work at the taxpayer's location, such as gross receipts verification or income classification at the corporate level. As the auditors become more proficient in corporate tax law the number of cases will likely decrease because they will audit more of the complex cases.

The auditors focusing on domestic C corporations have found adjustments to both corporate and personal income tax returns including: excessive rents paid to related parties by the corporation, loans to shareholders not treated as a bona fide loan, adjustments regarding depreciation versus expensing of assets, and the corporation paying for shareholder personal expenses.

The auditors focusing on multi-state corporations are finding adjustments including: tax credit miscalculations, net operating loss miscalculations, making determinations regarding classification of income as business versus non-business, adjustments to apportionment calculations and finding that additional subsidiaries should be included in a consolidated return.

2011-13 Biennium

During the 2011-13 biennium, the BOOST positions are expected to generate an additional \$18 million of revenue from increased enforcement. All of the money collected during the next biennium will be transferred to the Tax Enforcement Fund (TEF) on a monthly basis, there is no subsequent transfer. Any money remaining in the fund on June 30, 2013 will revert to the General Fund.

There is a policy option package that would move the funding of the 27 BOOST positions to General Fund positions for the 2011-13 biennium. The positions are permanent positions; however, for the 2009-11 biennium they were funded by Other Funds (the Amnesty Fund) so the funding mechanism for next biennium will need to be approved by the next Legislature. Once the funding is in place we anticipate filling the vacant positions.