



TAX EXPENDITURES

FOR THE SENATE COMMITTEE ON FINANC & REVENUE

FEBRUARY 28, 2019



2

WHAT IS THE INTENT?

- What information is most valuable for Legislature?
- How should that information be conveyed?
- Authority to define what is and what is not a tax expenditure?
- Academic discussion to practical impact

3

TAX EXPENDITURE TIMELINE

- 1995: Tax Expenditure Report becomes a required document
- 2009: Automatic 6-year sunset on income tax credits, if no sunset date is created
- 2013: Expansion of automatic 6-year sunset to all tax expenditures



4

TAX EXPENDITURE REPORT CREATION

HB 2255 (1995)

- **291.201 “Tax expenditure” defined for ORS 291.201 to 291.222.** As used in ORS 291.201 to 291.222, “tax expenditure” means any law of the federal government or this state that exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including but not limited to tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates and tax credits.
- **173.820 Duties and powers.**
... the Legislative Revenue Officer shall:
 - (c) Ascertain facts and make recommendations to the Legislative Assembly concerning the Governor’s tax expenditure report

5

SUBSEQUENT LEGISLATION

HB 2067 (2009) AND HB 3367 (2013)

- **315.037 Tax expenditures applicable for limited time.** (1) As used in this section, “tax expenditure” has the meaning given that term in ORS 291.201.
- (2) Any tax credit enacted by the Legislative Assembly on or after January 1, 2010, shall apply for a maximum of six tax years beginning with the initial tax year for which the credit is applicable, unless the Legislative Assembly expressly provides for another period of applicability.
- (3) Any tax expenditure enacted by the Legislative Assembly on or after January 1, 2014, shall apply for a maximum of six tax years beginning with the initial tax year for which the tax expenditure is applicable, unless the Legislative Assembly expressly provides for another period of applicability. [Formerly 315.050]

6

EXAMPLE I: CLEAR SUNSET DATE (1.405 EARNED INCOME CREDIT)

- **315.266 Earned income; rules.** (1)(a) In addition to any other credit available for purposes of ORS chapter 316, an eligible resident individual shall be allowed a credit against the tax otherwise due under ORS chapter 316 for the tax year in an amount equal to **eight percent** of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(b) Notwithstanding paragraph (a) of this subsection, for a taxpayer with a dependent under the age of three at the close of the tax year, the credit allowed under this section shall be in an amount equal to **11 percent** of the earned income credit allowable to the individual for the same tax year under section 32 of the Internal Revenue Code.

(2) ... (7)

Note: Section 6, chapter 880, Oregon Laws 2007, provides:

Sec. 6. ORS 315.266 applies to tax years beginning before January 1, 2020

7

EXAMPLE 2: NO SPECIFIED SUNSET DATE (1.404 EMPLOYEE TRAINING)

- **315.523 Employee training.** (1) As used in this section, “qualifying county” means a county with a population greater than 60,000 but less than 80,000 that (a) ... (f)
 - (2) A credit ... is allowed to a taxpayer who is located in a qualifying county and who establishes and implements an employee training program in collaboration with a local community college...
 - (3) The credit allowed under this section shall be equal to 12 percent of the taxpayer’s expenses to establish and implement the employee training program described in subsection (2) of this section.
 - (4) ... (10)
- “Because the legislation enacting this statute did not explicitly set a sunset for this tax expenditure, ORS 315.037(2) establishes the sunset as six years after the first effective tax year. In this case, the last effective tax year is 2022.” (from the 2019-21 Tax Expenditure Report)

8

EXAMPLE 3: NO SPECIFIED SUNSET DATE (1.507 NONRESIDENT ARMED FORCES)

- **316.027 “Resident” defined.** (1) For purposes of this chapter, unless the context requires otherwise:
 - (a) “Resident” or “resident of this state” means ...
 - (b) “Resident” or “resident of this state” does not include:
 - (A) ... (C)
 - (D) A member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3), other than annual training duty or inactive-duty training, if the member’s residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside this state.

9

TAX BASE OR TAX EXPENDITURE BICYCLE TAX (2017)

320.400 Definitions for ORS 320.400 to 320.490 and 803.203. As used in ORS 320.400 to 320.490 and 803.203:

- (1)(a) “Bicycle” means a vehicle that is designed to be operated on the ground on wheels and is propelled exclusively by human power.
- (b) “Bicycle” does not include durable medical equipment.
- (2) ... (4)
- (5) “Taxable bicycle” means a new bicycle that has wheels of at least 26 inches in diameter and a retail sales price of \$200 or more.

10

ALTERNATIVE REPORT STRUCTURES

- Income Tax
 - Connection to federal law vs Oregon statute
 - Program categorization
- Property Tax
 - Impact on State School Fund
 - Geographical impact
- Other?