

Oregon Connection to Federal Tax Law

House Committee on Revenue

January 11, 2024

State of Oregon

LEGISLATIVE REVENUE OFFICE





Outline

- Brief history of federal tax connection (also called “conformity”)
- Types of connections generally
- No major Internal Revenue Code changes in 2023

- Specific connections in LC 291
- Applicability of LC 291





Brief History of Connection

- Oregon Constitution
 - Legislature cannot cede legislative authority (including to U.S. Congress)
 - An exception exists allowing Oregon income tax to be based on Federal “definition of income”
- 1970 General Election Measure 2:
“Automatic Adoption, Federal Income Tax Amendments”
Allowed an exception for the income tax to use the federal “definition of income”





Purpose of Connection

- Oregon income tax law was simplified in 1969 by conforming to the definition of federal taxable income.
- 1970 Measure 2 (HJR 3) stated purpose was to allow automatic adoption of changes in federal taxable income for state income tax.
 - Legislature retained ability to reject or modify changes in taxable income.
 - An automatic connection does not affect tax rates or state tax credits.





Two Types of Connection to Federal Tax Law

- Continuous Connection to Federal Taxable Income (including future changes)
 - Definitions of Gross Income and Deductions
 - Some Explicit Exceptions
- Fixed-Date Connection (connected to date in the past)
 - Some Tax Credits (e.g. Earned Income Credit) tied to Federal Credit
 - Updated Definitions for state sponsored tax deferred savings
 - State Retirement Plan (PERS), e.g. definition of eligible employee/employer
 - Oregon 529 College/ABLE Savings Plans, general IRC reference
 - Property tax definitions (e.g. adjusted gross income for Disabled and Senior Homeowner property tax deferral)
 - Unemployment Insurance, general IRC reference
 - Family and Medical Leave Insurance, definition of self-employment income
 - Definition of nonprofit, i.e., 501(c)(3)
- Other States
 - About half of states have “rolling” connections.





Examples of provisions that differ in Oregon

- Oregon does not connect directly to
 - Federal Credits
 - Oregon Earned Income Credit is a percent of Federal
 - Other Credits, and Property Tax provisions may use federal definitions (e.g. Property Tax Special Assessment for Conservation Easement uses federal Definition)
 - Federal Tax Rates
- Oregon has different treatment/values
 - Standard Deduction
 - Personal Exemption
 - Depreciation (Oregon connected to 2008 law for 2009 & 2010)
 - Pass-through income (Fed 20% deduction of Qualified Business Income, Oregon reduced rates on specified pass-through income)
 - Social Security Income (Any taxed at federal level subtracted for Oregon)
 - State or Municipal Bond interest exemption if from other states
 - Etc.





What changed in 2023

- Nothing significant
 - Last significant federal changes were reviewed last year
- Federal changes made in 2022
- CHIPS Act
 - Inflation Reduction Act
 - SECURE 2.0 Act





Contents of LC 291

- General Statement including Rolling Reconnect
 - Personal Tax and Corporate Excise/Income Tax
- Fixed Date Connections to specific provisions
 - Tax Credits
 - Definitions of Income for non-income tax programs
 - Definition of nonprofit
 - Definitions needed for Public Service Retirement Plan

(These are examples – See “Section Contents, LC 291” in meeting materials for section-by-section breakdown)





General Statement of Connection

- General Statement similar for *Personal Income Tax, and Corporate Excise/Income Tax*
 - (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of the United States or to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue Code as they are amended and in effect:
 - (A) On December 31, [2022] 2023; or
 - (B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

(A) is static reference, and (B) is “Rolling Reconnect”





Specific Fixed Date Connections

- Example (from Section 25 of LC 291):
 - (g) “Nonprofit corporation” means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, *[2022]* **2023**.
- 35 fixed connections increment definitions by one year
 - Usually December 31, *[2022]* **2023**
(30 instances)
 - Sometimes January 1, *[2023]* **2024**
(5 instances related to PERS definition of employee, death benefits, etc.)





LC 291 Applicability and Retroactivity (Section 30)

- Applies to transactions and activity from January 1, 2024 (unless stated otherwise)
- Cancels penalty/interest if a tax deficiency or refund arises from retroactive application of fixed-date provisions
- Requires taxpayer to file amended return (or DOR issue refund or notice of deficiency) if necessary to reflect required changes.



For More Information

- Legislative Revenue Office
- ~~900 Court St. NE, Room 160~~
 - 255 Capitol St, 5th Floor
- Salem, OR 97301
- 503-986-1266
- <https://www.oregonlegislature.gov/lro>