

Testimony

SB 5

Robert A. O'Neill, CPA

Hello, my name is Rob O'Neill, I am a practicing CPA with the largest CPA firm in the state of Oregon. I also lead the state and local tax practice for the region and the credits & incentives practice nationally for the firm. I also chair the tax & fiscal policy committee for OBI. Here are my key design elements and recommendations for the Oregon R&D tax credit:

Refundability / Transferability Provisions:

- Allow refunds for companies with <150 FTE employees.
 - It should be better than Arizona's 75% refund option but not as rich as New York being fully refundable.
 - My recommendation for Oregon is 85% for refunded credits.
 - Small businesses need access to transferability.
- Between 151 – 500 FTE employees; a 75% refundable credit versus 50% in your recommendation.
 - 50% is too big of a haircut to have a competitive credit.
 - Medium sized businesses need access to transferability.
 - Transferred credits will sell for more than 75% and bring more money to R&D firms.
- >500 FTE employees, no refundability which will help control cost of the program.
 - Large businesses need access to a transferability option.
- Access to a transferable option is critical as businesses may not be able to wait for the state to pay a refund claim.
 - Certain businesses are in losses or have no Oregon tax liability to offset.
 - Businesses like predictability and a business-to-business transaction pursuant to a transfer agreement is highly predictable. The transfer can also be done separate to when you file your tax return and then waiting for the state to process and audit your refund claim.
 - No one likes waiting for refunds.
 - Just look at what is happening to the Employee Retention Tax Credit at the federal level. Companies have been waiting for over a year to receive a refund from the IRS.
 - If someone needs the money now, we need to give them the ability to sell their credit at a floor of 75%.
- Transferable credits are mainstream. Most states use them to fund various programs including Oregon. The Inflation Reduction Act will add over \$1 trillion of transferable credits for its green initiatives. A sound R&D package uses both refundability and transferability to be the most effective tax credit.
- Transferability is also a way to partially cap the size of the credit program. I like a \$100 million annual transfer cap like New Jersey. I would also propose to cap the number of credits that can be refunded annually. In trying to do better than Arizona (\$5M), I would recommend \$20 million annually.

Rate & Calculation:

- I would conform to the methods allowed for federal purposes, but also allow the alternative calculation for Oregon, but eliminate throwback sales from the Oregon alternative method.
- I would propose 15% across all methods to make it simpler to calculate and be competitive while allowing more companies and industries to qualify and to align with SB 1084 and coming down from the committee's recommendation of 25%.
 - Limiting to CHIPs Act recipients is far too narrow of an R&D tax credit.

Caps:

- I prefer the \$15 million per taxpayer cap in SB 1084.
- I would not differentiate the cap between small business and large business; it adds complexity with limited value.
- Add an annual refundability credit cap and transferability cap.
 - \$20 million in refunds annually.
 - \$100 million in transferable credits annually.

Carryover:

- Carryover recommendation of 5 years is appropriate.

Program Length:

- Adopt a longer-term program term as businesses typically model more than 5 years out.
- 10-year program at a minimum.

Thank you for your consideration. I am happy to discuss any of these program recommendations with the committee.

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