

Kicking the Apportionment Formula



*Recent Changes in Oregon's
Corporation Excise/Income Tax,
and Some Unintended Consequences*

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Overview

- **Recent Changes**
 - Expanded R&D Credit
 - Exception to Sales Throwback for Corps using “Public Warehouses”
 - Federal Connection with QPAI decoupling
 - Accelerated adoption of Single-Sales-Factor for Corporate Apportionment
- **Consequences of Apportionment Changes**
 - Some “intended losers” were interim winners
 - Net losses are apportioned differently than income.
 - Oregon’s Kicker Law becomes the Robin Hood of tax credits– Robbing from the winners to give to the losers.

Please consider data in this presentation as preliminary. A final paper with most of the analysis presented here will be finalized this winter.

Expansion of R&D Credit

- Increase total amount of credit available to any one firm in a year from \$750,000 to \$2,000,000 for tax year 2006.

Tax Year 2003 Oregon C Corporation Excise Tax Returns

Qualified Research Activities

Credit Usage by Oregon Taxable Income

Oregon Taxable Income Category	Number of Taxpayers Claiming Credit	Amount of Credit Claimed (\$000)	Number of Taxpayers with Reduction in Tax Liability	Amount of Credit Used (\$000)
Zero Income or Loss ¹	91	\$24,441	0	\$0
\$1 - \$50,000	13	\$207	13	\$13
\$50,000 - \$100,000	8	\$138	8	\$33
\$100,000 - \$250,000	9	\$198	9	\$71
\$250,000 - \$500,000	5 or fewer	\$135	5 or fewer	\$48
\$500,000 - \$1 million	9	\$1,027	9	\$267
\$1 million to \$5 million	16	\$1,426	16	\$1,167
\$5 million to \$10 million	5 or fewer	\$420	5 or fewer	\$420
Over \$10 million	5 or fewer	\$2,032	5 or fewer	\$1,227
Total	156	\$30,024	65	\$3,247

¹ Includes losses in current year as well as losses carried forward from prior years.

Exception to Sales Throwback

- Goods Shipped from a “Public Warehouse” are not thrown back if taxpayer’s only activities in Oregon is the storage of goods in the public warehouse, and employees soliciting sales.
- “Public Warehouse” is a warehouse that stores goods for unrelated parties.
- Oregon DOR may disallow this exemption if “if the warehouse is being used primarily for tax avoidance purposes or if transactions related to the use of the warehouse are primarily for tax avoidance purposes.”

Decoupling from QPAI

- Oregon updated definition of Internal Revenue Code to refer to IRS as of 12/31/2004, and re-established a rolling connection to the Internal Revenue Code beginning 1/1/05.
- Requires addback to Oregon Income any deduction taken as part of Qualified Production Activities
- Estimated revenue effects:
 - \$18.6 Million 2005-07
 - \$27.7 Million 2007-09
- ETI Repeal worth \$9.6 Million and \$23 Million

Accelerated Single Sales Factor

- **PRIOR SCHEDULE**
 - Moved to 80/10/10 as of May 2003
 - Scheduled 90/5/5 beginning July 2006
 - Single Sales Factor starting July 2008
- **NOW**
 - Single sales factor to apply to all tax years beginning July 1, 2005.

Accelerated Single Sales Factor

•Simulated Static Revenue Impact for Prior Years

	Simulated Oregon Tax After Credits under Differing Apportionment		
	Double Weighted Sales	80% Weighted Sales	Single Sales Factor
Tax Year 1999	\$ 391,761,000	\$ 339,806,000	\$ 317,312,000
2000	\$ 355,244,000	\$ 297,395,000	\$ 292,464,000
2001	\$ 244,424,000	\$ 234,318,000	\$ 233,647,000
2002	\$ 231,261,000	\$ 218,929,000	\$ 216,398,000
2003	\$ 309,397,000	\$ 282,306,000	\$ 264,607,000
Average	\$ 306,417,000	\$ 274,551,000	\$ 264,886,000
Relative to Double Weight	100%	90%	86%

Accelerated Single Sales Factor

	Simulated Oregon Tax After Credits under Differing Apportionment for Tax Year 2003		
	Double Weighted Sales	80% Weighted Sales	Single Sales Factor
Agriculture, Forestry, etc.	\$ 2,961,000	\$ 2,839,000	\$ 2,700,000
Mining	\$ 1,413,000	\$ 2,062,000	\$ 2,500,000
Utilities	\$ 113,000	\$ 107,000	\$ 105,000
Construction	\$ 5,872,000	\$ 5,911,000	\$ 5,971,000
Manufacturing	\$ 68,358,000	\$ 40,147,000	\$ 22,294,000
Wholesale Trade	\$ 41,172,000	\$ 44,875,000	\$ 45,696,000
Retail Trade	\$ 51,275,000	\$ 53,404,000	\$ 55,093,000
Transportation and Warehousing	\$ 4,719,000	\$ 4,871,000	\$ 4,983,000
Information	\$ 8,054,000	\$ 8,056,000	\$ 7,844,000
Finance and Insurance	\$ 81,022,000	\$ 78,329,000	\$ 76,952,000
Real Estate	\$ 3,941,000	\$ 3,924,000	\$ 4,055,000
Professional/Tech Services	\$ 5,009,000	\$ 5,039,000	\$ 5,016,000
Management of Companies	\$ 17,405,000	\$ 14,114,000	\$ 11,935,000
Admin Support and Waste Mgt	\$ 2,057,000	\$ 2,072,000	\$ 2,096,000
Education Services	\$ 783,000	\$ 794,000	\$ 786,000
Health Care and Social Asst.	\$ 1,821,000	\$ 1,896,000	\$ 1,951,000
Arts Entertainment and Rec.	\$ 580,000	\$ 660,000	\$ 719,000
Accommodation and Food Services	\$ 2,866,000	\$ 2,862,000	\$ 2,913,000
Other Services	\$ 2,084,000	\$ 2,133,000	\$ 2,303,000
Unknown	\$ 7,892,000	\$ 8,211,000	\$ 8,695,000
All	\$ 309,397,000	\$ 282,306,000	\$ 264,607,000

Accelerated Single Sales Factor

	Change in Oregon Tax versus Double Weighted Sales for Tax Year 2003		
	Double Weighted Sales	80% Weighted Sales	Single Sales Factor
Agriculture, Forestry, etc.	0.0%	-4.1%	-8.8%
Mining	0.0%	45.9%	76.9%
Utilities	0.0%	-5.3%	-7.1%
Construction	0.0%	0.7%	1.7%
Manufacturing	0.0%	-41.3%	-67.4%
Wholesale Trade	0.0%	9.0%	11.0%
Retail Trade	0.0%	4.2%	7.4%
Transportation and Warehousing	0.0%	3.2%	5.6%
Information	0.0%	0.0%	-2.6%
Finance and Insurance	0.0%	-3.3%	-5.0%
Real Estate	0.0%	-0.4%	2.9%
Professional/Tech Services	0.0%	0.6%	0.1%
Management of Companies	0.0%	-18.9%	-31.4%
Admin Support and Waste Mgt	0.0%	0.7%	1.9%
Education Services	0.0%	1.4%	0.4%
Health Care and Social Asst.	0.0%	4.1%	7.1%
Arts Entertainment and Rec.	0.0%	13.8%	24.0%
Accommodation and Food Services	0.0%	-0.1%	1.6%
Other Services	0.0%	2.4%	10.5%
Unknown	0.0%	4.0%	10.2%
All	0.0%	-8.8%	-14.5%

Accelerated Single Sales Factor

	Number of Winners/Losers in Transition to Single Sales Factor: Tax Year 2003, All Filing Corporations			
	Number not Apportioning	Number of Losers	Number with no Effect	Number of Winners
Agriculture, Forestry, etc.	3,252	19	129	36
Mining	95	8	12	5 or fewer
Utilities	50	.	15	5 or fewer
Construction	9,373	139	1,008	108
Manufacturing	3,880	171	570	123
Wholesale Trade	3,153	660	1,538	271
Retail Trade	5,842	178	432	87
Transportation and Warehousing	1,650	81	297	53
Information	966	32	297	43
Finance and Insurance	2,097	168	1,471	111
Real Estate	2,869	71	277	46
Professional/Tech Services	6,576	191	907	137
Management of Companies	171	68	147	49
Admin Support and Waste Mgt	2,844	104	497	47
Education Services	430	17	56	9
Health Care and Social Asst.	3,893	28	130	13
Arts Entertainment and Rec.	666	17	60	7
Accommodation and Food Services	3,781	28	151	19
Other Services	3,306	39	183	23
Unknown	10,534	594	3,889	162
All	65,428	2,613	12,066	1,350

Accelerated Single Sales Factor

- **Conclusions About Effect of Single Sales Factor**
 - Overall, taxpayers keep more money
 - So it leads to static revenue loss

 - 3 sectors have more winners than losers
 - 6 sectors are net winners
 - Number of losers is twice the number of winners

Apportionment Changes

- **Some corporations that pay more under a 100% Sales Factor than with double weighted sales end up paying less with 80% sales.**
- **WHY???**
 - Double-Weighted Sales adjusts denominator for number of apportionment factors.
 - 80%/90%/100% Sales factor formulas do not make the adjustment
 - Requires either Prop or Payroll equal 0

Apportionment Changes

- **Example:**
 - Corporation X has the following factors:
 - Property Factor = 0%
 - Payroll Factor = 24%
 - Sales Factor = 30%
 - Double Weighted Sales → 28%
($2*30 + 24$)/3
 - 80% Weighted → 26.4%
($0.8*30 + 0.1*24 + 0.1*0$)
 - 100% Weighted → 30%
- **So...Simulations can show odd result**

Apportionment Changes

•The Impact of These Taxpayers on Oregon Simulations

- About 150 taxpayers win in transition from Double-Weighted Sales to 80% Sales, but end up no better off (or worse off) with 100% Sales.
- Usually the effect is small, but in 2000 they get an initial gain of \$250,000 with a final loss of \$75,000.
- Total increase from 80% to 100% sales is \$325,000 which is enough to complicate analysis for some subgroups (e.g. sectors) of taxpayers.

Tax Year	N	Tax: Double Sales	Tax: 80%Sales	Tax: 90%Sales	Tax: 100%Sales
1999	172	\$ 378,319	\$ 329,084	\$ 358,717	\$ 388,367
2000	158	\$ 2,026,654	\$ 1,775,081	\$ 1,938,976	\$ 2,102,939
2001	148	\$ 1,087,797	\$ 972,736	\$ 1,038,812	\$ 1,101,695
2002	136	\$ 346,195	\$ 302,000	\$ 326,825	\$ 348,775
2003	141	\$ 1,086,312	\$ 1,055,194	\$ 1,110,446	\$ 1,157,583

Apportionment Changes

- **Mismatch of Income and Loss Carryforward**
 - **Losers (pay more under SSF)**
 - Loss is carried forward from smaller base
 - “Typical” Oregon Construction Taxpayer
 - Sales Factor = 4.0%
 - Prop Factor = 2.3%
 - Payroll Factor = 3.2%
 - Double Weighted Sales → 3.4%
 - **Winners (pay less under SSF)**
 - Loss is carried forward from larger base
 - “Typical” Oregon Utility Taxpayer
 - Sales Factor = 3.5%
 - Prop Factor = 10.7%
 - Payroll Factor = 10.1%
 - Double Weighted Sales → 7.0%

Apportionment and the Kicker

- **Oregon’s Kicker Law**
 - **General Fund Split into Two Pieces**
 - Corporate Income/Excise Taxes
 - All other General Fund Revenue
 - **If actual revenue from either piece exceed the “Close of Session Forecast” by more than 2%, the entire excess is refunded.**
 - Close of Session forecast is usually prior to start of biennium (by statute, 2005-07 COS forecast was 5/05 with adjustment for changes made in session)
 - Legislature (with 2/3 vote) can increase forecast
 - **For Corporate Tax, excess is refunded as a percentage credit in the next tax year**
 - **Excess in other GF sources results in check payments to Personal Income Tax payers**

Apportionment and the Kicker

- **2003-05 biennium Corporate Tax**
 - COS Forecast \$539.7M
 - Actual receipts \$640.8M
- **Kicker is a credit to each corporation based on the total prior surplus as percent of current estimated total corporate liability.**
- **Kicker is 36% credit for TY05**
- **Sensitive to inevitable forecast error**
 - **Low estimate → Credits > Surplus**
 - 1995 Surplus=\$167M, Credits=\$224M
 - **High estimate → Credits < Surplus**
 - 1997 Surplus=\$203M, Credits=\$169M

Apportionment and the Kicker

- **\$101 million surplus**
 - Result of payments made primarily for tax years 2003 and 2004.
 - Most of 2003 filers used Double Weighted Sales formula
 - Most 2004 taxpayers at 80% sales
 - Most Paid in at Double or 80% weight
- **Kicker is 2005 Credit**
 - Most 2005 taxpayers that use 80% sales used Double-Weight for 2003
 - Most that use 100% sales used 80% for 2003

Apportionment and the Kicker

- **Rob from the Winners and give to the Losers**
 - **Manufacturing often cited as primary winner with 100% sales factor**
 - **“Typical” Oregon Manufacturing company**
 - Double Weighted Apportionment = 3.1%
 - Single Weighted Apportionment = 1.6%
 - **Wholesale often cited as a losing sector with 100% sales factor**
 - **Typical Oregon Wholesale company**
 - Double Weighted Apportionment = 0.9%
 - Single Weighted Apportionment = 1.1%

Apportionment and the Kicker

- **Lopsided Payments and Kicker**
 - **Overall rate of credit is 15.7% of payments made in 2003-05 biennium**

Assuming payments by sector match average over last five years if 2005 apportionment formulae were used:

- **Manufacturing Sector**
 - **Paid \$115.3M in 2003-05**
 - **Estimated to get \$10.8M (9.4%)**
- **Wholesale Sector**
 - **Paid in \$101.2M**
 - **Estimated to get \$18.5M (18.3%)**

Apportionment and the Kicker

	Estimated		% of Amount Paid In
	\$Paid In	\$Surplus Credit	
Agriculture, Forestry, Fishing, and Hunting	9,729,785	1,360,171	14.0%
Mining	5,797,598	645,018	11.1%
Utilities	6,328,205	1,182,091	18.7%
Construction	16,903,817	3,075,709	18.2%
Manufacturing	115,322,392	10,825,384	9.4%
Wholesale Trade	101,208,621	18,532,722	18.3%
Retail Trade	102,549,514	19,081,892	18.6%
Transportation and Warehousing	14,545,806	2,047,442	14.1%
Information	21,841,883	4,380,118	20.1%
Finance and Insurance	164,252,430	21,923,229	13.3%
Real Estate, Rental, and Leasing	9,796,200	1,955,633	20.0%
Professional, Scientific, and Technical Services	12,642,076	2,114,530	16.7%
Management of Companies and Enterprises	23,683,668	6,881,845	29.1%
Administrative, Support, and Waste Management	4,139,338	1,024,167	24.7%
Education Services	2,327,154	248,803	10.7%
Health Care and Social Assistance	3,636,114	691,534	19.0%
Arts, Entertainment, and Recreation	1,086,181	245,186	22.6%
Accommodation and Food Services	7,602,057	1,468,794	19.3%
Other Services (except Public Administration)	6,288,851	1,200,215	19.1%
Unknown	13,308,229	2,115,517	15.9%
All	642,989,919	101,000,000	
			Weighted Average
			15.7%