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Issue Brief
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The 2007 Kicker: Wrongheaded, Unjust, Costly, and a Federal Tax Increase

The "close of session" economic and revenue forecast released in late August by the Office of Economic Analysis confirmed that personal income tax revenues for the 2005-07 budget cycle exceeded the 2005 close of session forecast by 2 percent or more.[1] Under Oregon law, the Department of Revenue will send – or "kick back" – the entire amount of unanticipated personal income tax revenue by December 15, 2007. The legislature chose not to redirect the unanticipated funds, known as "the kicker," to a reserve account or toward investments in public structures.[2]

The close of session forecast certified that the personal income tax kicker will total almost $1.1 billion ($1,071,200,000). Taxpayers will get checks equal to 18.6 percent of their 2006 state income tax liability.

The 2007 kicker is wrongheaded

The 2007 kicker is wrongheaded because it wastes a precious opportunity for Oregon to prepare adequately for the next recession. Sometime in the future, when the legislature grapples with painful cuts to schools, health care and public safety programs, Oregonians likely will be kicking themselves for not saving this year's kicker. As OCPP set forth in a recent report, *It Better Only Drizzle*, Oregon's reserve accounts are woefully inadequate to weather a downturn similar to what happened in 2001 because they lack the unanticipated revenues that comprise the 2007 kicker. [3]

The 2007 kicker is unjust

The kicker checks will exacerbate the problem that too few Oregonians are benefiting from Oregon's growing economy. As OCPP noted this past Labor Day, only the highest-paid fifth of workers saw their earnings rise faster than inflation from 2002 through 2005, while the rest of the workforce, the bottom 80 percent, saw their wages fall behind inflation.[4] During that period, nearly all (97 percent) of Oregon income gains went to the richest 1 percent— households with annual incomes exceeding about $360,000 and averaging about $862,000.

The 2007 kicker exacerbates income inequality:

- While the average refund will be about $612, the typical (median) taxpayer will receive approximately $297.
- The wealthiest 1 percent of taxpayers, those with incomes over about $360,000 and averaging about $862,000, will receive slightly more than 22 percent of the total amount refunded. Their average kicker will be $13,548, about 45 times the amount that the typical taxpayer will receive.
- The top fifth of taxpayers will garner nearly two-thirds of the kicker, averaging $2,002, or six times what the typical taxpayer will receive.
- The poorest 20 percent of taxpayers will receive less than 1 percent of the total kicker amount, with an average refund of just $28.

The 2007 Kicker Exacerbates Income Inequality				
Adjusted gross income group	Adjusted gross income range*	Share of kicker	Aggregate amount of kicker	Average amount of kicker
First 20%	up to $9,500	0.9%	$9,636,240	$28
Second 20%	$9,500 to $21,700	4.7%	$50,702,636	$145
Middle 20%	$21,700 to $39,000	10.3%	$110,857,023	$317**
Fourth 20%	$39,000 to $68,200	18.6%	$199,230,081	$569
Top 20%	$68,200 and above	65.4%	$700,774,020	$2,002
Top 5%	$180,900 and above	38.7%	$414,238,459	$4,734
Top 1%	$360,100 and above	22.1%	$237,088,373	$13,548
TOTAL		100.0%	$1,071,200,000	$612

* Adjusted gross income (AGI) is not the same thing as total income. AGI includes only the federally taxable portion of certain forms of income and excludes certain deductions from income, such as deductions for moving expenses, alimony, and student loan interest.

** This figure represents the average kicker to be received by taxpayers in the middle quintile and approximates the median. The Legislative Revenue Office estimates the median income taxpayer will receive a kicker of $297.

Source: OCPP analysis of Oregon Department of Revenue data.

The 2007 kicker is costly

Apart from disproportionately benefiting the only segment of the population that had income gains as the economy expanded, the kicker comes with its own financial burden to the state. This year's kicker will be the largest personal income tax kicker in history, both in dollar terms and in terms of percentage refunded.

The state receives its largest influx of funds between January and April of each year; at other times during the two-year budget period the state is cash poor. Since 2002 the state has used "Tax Anticipation Notes" (TANs) to borrow money to meet cash needs throughout the biennium.

Because the state will not have the $1.07 billion in hand in November and December of 2007 when the 2007 kicker checks are mailed, it will have to borrow money to cover the cost of the kicker checks. The net interest costs on the TANs will be approximately $45 million — nearly five times more than the total amount being refunded to the poorest 20 percent of Oregonians. [5]

If the state had chosen to save the unanticipated revenues in a reserve account, it would have been able to avoid virtually all borrowing costs this biennium and would have made about $31 million in interest on the $1.07 billion. In other words, the state would have about $76 million more in resources if it had saved the unanticipated funds for the inevitable rainy day.[6]

Prior to 1995, the state paid the personal kicker through a tax credit; the state still pays the corporate kicker as a tax credit. Starting with the 1995 kicker, the state began sending the personal kicker in a check in the fall following the end of the biennium. Sending the kicker by check is more costly than providing the kicker as a credit on a tax return. First, the state will incur about $1 million for printing and mailing the checks. Second, if it were a credit the state would save about $22 million in TANs interest costs compared to the current system.[7]

The 2007 kicker increases Oregonians' federal taxes

A significant portion of the kicker refunds will not be enjoyed by Oregonians. Instead, many Oregonians will be sending a portion of the kicker to the federal government in higher federal income taxes.

Oregon taxpayers will send about $214 million of the $1,071 billion kicker refund – about 20 percent – to the federal government in the form of higher federal income taxes. If Congress extends to 2007 an exemption to the federal "alternative minimum tax" in place for tax year 2006, Oregon taxpayers will lose about $209 million — or 19 percent — of the $1,071 billion kicker to higher federal income taxes. Had the kicker been saved in the Oregon Rainy Day Fund, the full amount would have stayed in Oregon.

Conclusion

In sum, the kicker is wrongheaded, unjust, and costly, and results in a federal tax increase — all-around bad public policy. As Oregonians receive their kicker checks, they should consider these shortfalls and commit to revisiting the kicker policy.

Endnotes:

[1] *Oregon Economic and Revenue Forecast*, September 2007. Available at http://www.oregon.gov/DAS/OEA/docs/economic/forecast0907.pdf.

[2] The Legislative Assembly has authority under the constitution to suspend the kicker upon a three-fifths vote of both houses. The 2007 Legislative Assembly suspended the corporate kicker but not the personal kicker.

[3] See Leachman, Michael, and Charles Sheketoff, *It Better Only Drizzle*, Oregon Center for Public Policy, October 18, 2007. Available at http://www.ocpp.org/cgi-bin/display.cgi?page=071017rainyday.

[4] See Leachman, Michael, and Joy Margheim, *An Economy for the Few*, Oregon Center for Public Policy, August 31, 2007. Available at http://www.ocpp.org/2007/rpt20070831LaborDayFNL.pdf.

[5] "General Fund Cash Flow Needs," testimony of Mark Miedema and Michael Kennedy, Oregon Department of Administrative Services, to the Interim Senate Finance and Revenue Committee, October 19, 2007.

[6] Ibid.

[7] Ibid.

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