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The Kicker Debate Continues

By Steve Buckstein

Because of Oregon's recent and projected strong economy, a personal "kicker" tax refund of $686 million is projected to go out in the first half of 2020. This would be the second-largest kicker amount in the state's history. If you pay personal income taxes to the state of Oregon, you will get some of this money as a credit on your future tax liabilities. This will again raise the question: Is the kicker law good or bad public policy?

Some people will be envious that the "rich" will get much bigger refunds than the rest of us and they don't really "need" the money. While the average kicker is projected to be $336, they point to those in the highest adjusted gross income bracket of $401,200 and above who can expect to receive $6,787. What is often unstated in this argument is that those "lucky" top taxpayers paid way more income tax than the rest of us, and they will get back exactly the same percentage of their tax payments as everyone else does.

So, whether the kicker law is good or bad public policy, let's think a little about who this money really belongs to. Is it a rebate for overpaying your taxes, or is it somehow "our" money that is better left in government coffers?

How the kicker works

First, the mechanics of the kicker law: Oregon state government is highly dependent on the personal income tax for its General Fund budget. With a fairly flat tax structure, most wage earners are in the nine percent income tax bracket, while the highest income earners are in the top 9.9 percent bracket. Therefore, state revenue can be quite volatile, going up and down as the economy cycles between boom and bust.

The legislature first passed the kicker law in 1979, and voters added it to the state constitution in 2000. It mandates that state economists estimate what income tax revenue will be over the following two-year budget period. The legislature then must balance the budget by not allocating more money than the estimate. If the estimate is low by two percent or more, then the entire surplus must be returned to taxpayers. The kicker law actually is composed of two parts, dealing with personal income taxes and corporate income taxes differently. In 2012 voters decided that any corporate kickers would be returned to the state general fund to provide additional funding for K-12 public schools.

Some people argue that the way the kicker "kicks" makes little sense. They correctly note that projecting state revenue two years out to within a two percent margin is terribly difficult, and has been done only rarely. Others defend the kicker law as an important brake on runaway government spending, especially since voters have rejected other tax and expenditure limitations at the polls.

Whose money is it?

Whether the kicker law is good or bad public policy doesn't change the answer to a more fundamental question: Whose money is it?

Some argue that the kicker money really belongs to the state. After all, they say, it's in the state's coffers because individuals paid what the tax law said they owed on their tax returns. As long as any Oregonian has a "need" for that money—be they school children, the elderly, the disabled, etc.—then the money should go to them instead of back to the individuals who earned it.

How much is that latte?

Of course, this is the Marxist "from each according to his ability, to each according to his need" justification. Taken further, not only would the kicker money remain with the state, but the state could retroactively come after even more of your previous income if, in the wisdom of government officials, anyone still "needed" those funds.

One way to look at this argument is to think about walking into a coffee shop today and ordering a $3 latte. The price is posted on the wall, but the person behind the counter asks you a question before accepting your order. "Did you get a raise last year?" "Yes," you tell her proudly, "I was very productive last year and my boss gave me a 10 percent raise." "That's great," she replies. "The $3 latte will cost you $3.30." "Why?" you wonder. "Because your ability allows me to better meet my needs."

You wouldn't accept this argument from your barista, and you shouldn't accept it from your government.

Envy is a powerful emotion, but it should not trump reason. If we can find a better way to restrain runaway government spending, we should do so. But until that day arrives, the kicker law is one defense against those who argue that some of the money you earned belongs to someone else just because they "need" it.

Steve Buckstein is Senior Policy Analyst and Founder of Cascade Policy Institute, Oregon's free market public policy research organization. You can find more Cascade Commentaries on Oregon's kicker law here.

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