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Summary

Individual Oregon income taxpayers are set to receive a record $1.1 billion in so-called kicker refunds just before Christmas. Whether the kicker law is good or bad public policy, it is an important brake on runaway government spending. Perhaps more importantly, the money belongs to those who earned it, not those who "need" it.

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

4850 SW Scholls Ferry Road
Suite 103
Portland, Oregon 97225

t: 503.242.0900
f: 503.242.3822
info@cascadepolicy.org
www.cascadepolicy.org

Kicker Envy

By Steve Buckstein

Individual Oregon income taxpayers are set to receive a record $1.1 billion in so-called kicker refunds just before Christmas. The checks will equal 18.6 percent of the state income tax each filer paid in 2006. The average taxpayer will see $612.

But even before those checks hit our mailboxes, some are questioning whose money it is, and others seem envious that the "rich" are getting much bigger checks than the rest of us. So, whether the kicker law is good or bad public policy, let's think a little about who this $1.1 billion 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 top nine percent income tax 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 must then balance the budget by not allocating more money than the estimate. If the estimate is low by two percent or more, then all the surplus must be returned to taxpayers. The kicker law actually is composed of two parts, personal income taxes and corporate income taxes. This last legislative session suspended the corporate kicker for one cycle in order to build a rainy day fund.

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.

This year's $1.1 billion personal kicker refund sets a record because tax revenue grew much faster than the forecast. Even though state economists didn't foresee the entire windfall, they saw enough to let the current two-year budget grow by a whopping 20 percent. The rest is coming back to us in the form of kicker checks.

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 2006 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.

Next, some argue that the kicker "lavishes a windfall on those who don't need it." They point to the 5,000 taxpayers who will receive more than $10,000 each while most of us will only see a few hundred dollars in our mailboxes. What is often unstated in this argument is that those 5,000 "lucky" taxpayers paid on average over $53,763 in state income taxes in order to earn their $10,000 refunds. They will get back exactly the same percentage of their tax payments everyone else does, 18.6 percent.

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 your money belongs to someone else just because they "need" it.

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Steve Buckstein is Senior Policy Analyst and founder of Cascade Policy Institute, a think tank based in Portland, Oregon. For other Cascade publications on health care and economic opportunity in Oregon, visit www.cascadepolicy.org.

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Please contact:

Nancy Wheaton
Cascade Policy Institute
4850 SW Scholls Ferry Rd.
Suite 103
Portland, Oregon 97225

Phone: (503) 242-0900
Fax: (503) 242-3822

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