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Summary:

Individual Oregon income taxpayers may receive so-called kicker refunds totaling $408 million, which will reduce their 2017 tax liability. 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 to 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?"

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Kicker Envy 2017

By Steve Buckstein

Individual Oregon income taxpayers may receive kicker refunds when they file their 2017 tax returns based on a percentage of the state income tax they paid in 2016. Based on the May revenue forecast, $408 million could be coming back to taxpayers, with the average refund being $210. A final determination of whether the kicker will "kick" and how big it will be should be announced on August 23.

But even before those potential refunds reduce our 2017 tax liability, some are questioning whose money it is, and others seem envious that the "rich" will get much bigger refunds than the rest of us. 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.

Next, some argue that the kicker "lavishes a windfall on those who don't need it." They point to the top one percent of taxpayers with adjusted gross incomes over about $386,000 who would receive more than $4,500 each, while the average taxpayer would only get back $210. 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.

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.

Oregon Income Tax Calculator: https://smartasset.com/taxes/oregon-tax-calculator

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