

## 2 Percent Surplus Refund (Kicker) History Personal Income Tax

The 1979 Oregon Legislature passed the “2 percent kicker” law, which requires the state to refund excess revenue to taxpayers when actual General Fund revenues exceed the forecast amount by more than 2 percent. This limitation is applied separately to corporate income tax revenue and the sum of personal income tax revenue and all other General Fund revenue. If revenues from the corporation income tax exceed their forecast by more than 2 percent, then all revenue in excess of the forecast is refunded to corporations. If revenues from all other General Fund sources exceed their forecast, the total excess is refunded to individuals through the personal income tax program. The information included here pertains only to this latter group.

Prior to 1994, these refunds were made via a tax credit on the Oregon tax form for the calendar year in which the biennium ended. For example, actual revenues exceeded the forecast amount for the 1987–89 biennium (which ended on June 30, 1989) so the credit was allowed on the 1989 tax returns. The 1995 Oregon Legislature changed the law governing the method by which the refund was issued to taxpayers. Since 1995, the refunds have been made as direct payments to taxpayers via a check based on their liability for the first full calendar year of the biennium. These checks are mailed to taxpayers in the year in which the biennium ends and are commonly referred to as “kicker checks.” For example, actual revenues exceeded the forecast amount for the 1997–99 biennium so refunds were required. Based on 1998 income tax liability, taxpayers were issued checks in the fall of 1999.

Since the inception of the kicker law, refunds have been issued for seven of the eleven biennia. In the first two biennia (1979–81 and 1981–83) the state actually experienced a shortfall. Surpluses in each of the next three biennia resulted in refunds. For the 1989–91 biennium, the surplus of \$186 million would have resulted in a credit of approximately 10 percent, but the Legislature voted to suspend the kicker. The state experienced a surplus for 1991–93 but it was less than 2 percent, so refunds were not issued. In each of the following four biennia, surpluses exceeded the 2 percent limit so refunds were issued that ranged from 4.6 percent to 14.4 percent of a taxpayer’s liability. The table below shows the history of the personal income tax kicker.

<b>2 Percent Personal Surplus Kicker History</b>					
Biennium	Tax Year	Surplus/Shortfall (\$ Millions)	Credit or Refund <sup>1</sup>		
			Percentage	Mean (\$)	Median (\$)
1979-81	1981	-141.0	None	---	---
1981-83	1983	-115.2	None	---	---
1983-85	1985	88.7	7.7%	81	48
1985-87	1987	224.2	16.6%	192	103
1987-89	1989	175.2	9.8%	133	69
1989-91	1991	185.9	Suspended	---	---
1991-93	1993	60.1	None	---	---
1993-95	1995	162.8	6.27%	111	55
1995-97	1997	431.5	14.37%	287	140
1997-99	1999	167.3	4.57%	103	49
1999-01	2001	253.6	6.02%	155	70
2001-03	2003	-1,216.0	None	---	---

<sup>1</sup> Prior to 1994, the kicker was returned to taxpayers via a credit on the tax return. Since then, refund checks have been mailed directly to taxpayers.

## 2 Percent Surplus Refund (Kicker) History Corporate Income Tax

The state surplus refund, or kicker, refers to the provision in Oregon law that returns money to taxpayers if actual revenues differ from forecast revenues by more than 2 percent.

The kicker is calculated by dividing all General Fund money into one of two categories:

1. Corporate taxes,
2. All other General Fund revenue.

Collections at the end of a biennium are compared to the forecast at the close of the regular session. If collections in either of these two categories are at least 2 percent greater than the forecast for that category, then all of the excess (including the 2 percent) is returned to taxpayers.

The money is returned to taxpayers via a check or a credit. If corporate tax collections exceed the forecast, the money is refunded as a credit on the tax return for the tax year in which the biennium ends.

The Legislature may vote to suspend the kicker.

Exhibit D.1 shows the recent history of the corporation kicker.

**Exhibit D.1**  
**2 Percent Corporation Kicker Credit History**

Biennium	Tax Year	Surplus/Shortfall (\$ Million)	Percentage	Mean for all C Corps (\$)	Mean for C Corps Receiving Benefit (\$)
1979-81	1981	-25.0	None	NA	NA
1981-83	1983	-110.0	None	NA	NA
1983-85	1985	13.0	10.6%	125	805
1985-87	1987	7.0	6.2%	234	581
1987-89	1989	36.0	19.7%	918	1,200
1989-91	1991	-23.0	None	NA	NA
1991-93	1993	18.0	Suspended	NA	NA
1993-95	1995	167.0	50.1%	5,664	12,239
1995-97	1997	203.0	42.2%	4,378	10,782
1997-99	1999	-69.0	None	NA	NA
1999-01	2001	-43.9	None	NA	NA