

**Oregon reconnect to federal taxable income
Personal income tax, and corporation income and excise taxes**

This bulletin updates ORB 2010-05.

Purpose: To explain Oregon's connection to federal taxable income and the Internal Revenue Code (IRC). This bulletin is not intended as a complete analysis of federal or state tax law. Please consult your tax advisor for more information.

Tax program(s): Personal income tax, and corporation income and excise taxes.

Statute(s): ORS 316.022, 317.010

Issue: Oregon's connection to federal tax laws for tax years 2010 and 2011, and exceptions to the connection.

Background: In general, Oregon income tax law is based on federal income tax law. The 2011 Oregon Legislature passed SB 301, which connects Oregon to most provisions of federal taxable income for tax year 2010 and a full, rolling reconnect for 2011, with some exceptions.

Tax year 2010

If you filed your 2010 tax return before March 26, 2011, and claimed one of the additions or subtractions listed below, you may need to amend your Oregon tax return.

Check your return to see if you claimed one of these additions or subtractions. If you e-filed, make sure the software you used was up to date so that it included Oregon's reconnect.

2010 federal items affected by Oregon's reconnect

Tuition and fees deduction. If you claimed an addition related to tuition and fees (code 132) on line 10, Form 40; or on line 33, Form 40N or 40P, you may amend your return to remove the addition. Claiming a deduction for tuition and fees on your federal return will flow through the federal adjusted gross income (FAGI) to your Oregon return and you don't need to make the addition on your Oregon return.

- If you claimed a federal education credit (Lifetime Learning or American Opportunity) instead of the federal tuition and fees deduction, you may now qualify for an Oregon subtraction (subtraction code 308, line 18, Form 40; or line 37, Form 40N or 40P).

To determine if you qualify and your subtraction amount, see *2010 Full-Year Resident* instructions (page 18); *2010 Part-Year Resident/Nonresident* instructions (page 24), or *2010 Publication 17 ½* (page 64). All instructions are available at www.oregon.gov/dor/PERTAX.

Educator expenses addition. If you claimed an addition related to educator expenses (code 132) on line 10, Form 40; or on line 33, Form 40N or 40P, you may amend your Oregon return and remove the addition. Subtracting the expenses on your federal return will flow through the FAGI and you don't need to add the expenses on your Oregon return.

Self-employed health insurance deduction. If you claimed a subtraction related to self-employment deduction (code 346) on line 18, Form 40; or on line 37, Form 40N or 40P, you must amend your return and remove the subtraction.

Employer-provided health insurance coverage for adult children. If you claimed an addition related to imputed income received from employer-provided health insurance coverage for children (code 133) on line 10, Form 40; or on line 33, Form 40N or 40P, you may amend your return to remove the addition. Oregon doesn't require you to report that as income. If your employer issued you a corrected W-2 without the imputed income in box 14, include it with your amended return.

Additions for tax-free distributions from IRAs for charitable purposes. If you claimed an addition related to tax-free distributions from IRAs for charitable purposes or a conversion easement donation (code 131) on line 10, Form 40; or on line 33, Form 40N or 40P for either of these additions, you may amend your return to remove the addition.

Small Business Jobs Act addition. If you claimed an addition related to any provision in the *Small Business Jobs Act (P.L. 111-240)* (code 101) on line 10, Form 40; or on line 33, Form 40N or 40P for any amount excluded from FAGI under this act, you may amend your return to remove the addition. Items in this category include:

- A temporary exclusion of gain on certain small business stock;
- A increase in the amount allowed as a deduction for start-up expenditures in 2010;
- Deduction for health insurance costs in computing self-employment taxes in 2010 (see above); and
- Tax relief and simplification of deductions related to cell phones.

Important: *Oregon is still disconnected from some items that you may be able to claim on your federal return. If you claim any of these items in tax year 2009 or 2010, an addition is required on your Oregon return (ORS 316.739; ORS 317.301):*

- Additional expensing allowed under IRC section 179. Oregon's limit for 2010 remains at \$134,000 with a dollar-for-dollar reduction beginning at \$530,000.

- Bonus depreciation allowed under IRC section 168(k).
- Any discharge of indebtedness allowed under the 2009 or 2010 changes to IRC section 108 (this includes amounts received under a state loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas—see section 10908 of the Patient Protection and Affordable Care Act, Public Law 111-148).

Contact a tax professional for more information.

Tax year 2011

With some exceptions, the Oregon Legislature reinstated a full rolling reconnect to federal taxable income, including the discharge of indebtedness allowed under IRC section 108, bonus depreciation allowed under IRC section 168(k) and expensing provisions allowed under IRC section 179 (for tax years beginning on or after January 1, 2011, Oregon will have the same expensing limitations as the federal).

Even for tax years beginning on or after January 1, 2011, Oregon is still disconnected from some items that you may be eligible to claim on your federal return. If you claim any of these items, you must include an addition on your Oregon return:

- Federal subsidies for prescription drug plans under IRC section 139A (ORS 316.837; ORS 317.401).
- Domestic production activities (QPAI) under IRC section 199 (ORS 316.836; ORS 317.398).

Fiscal year filers

The disallowed additional expensing and depreciation described above applies to tax years (not calendar years) 2009 and 2010. Therefore any assets placed into service in a fiscal year that begins on or after January 1, 2009 and before January 1, 2011 will have an addition on the applicable Oregon return for the difference between the amount allowed under federal law and the Oregon limits outlined in this bulletin. For example, ABC Corporation is a fiscal year filer whose 2010 fiscal year begins May 1, 2010 and ends April 30, 2011. ABC Corporation acquired and placed in service several pieces of equipment between January 1, 2011 and April 30, 2011. Because these purchases occurred in the 2010 fiscal year, additional federal depreciation is not allowed on the Oregon return and must be added back.

Appendix

Table 1—Additional information on selected disconnect items

- 1. IRC Section 108(i)**—Deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument after December 31, 2008—Under federal law, you may choose to defer the discharge of indebtedness income in connection with the reacquisition of an applicable debt instrument occurring in 2009 and 2010. The deferred income should be included in your gross income ratably over a five tax-year period beginning with the fifth tax year following the taxable year in which a 2009 reacquisition occurred and the fourth tax year following the tax year in which a 2010 reacquisition occurred as described in IRC section 108(i). Oregon does not follow this law for 2009 or 2010. The deferred income elected on your federal return is an addition on your Oregon return. **Note:** For 2009 and 2010, Oregon is disconnected from any change to all of IRC section 108, not just the provisions in IRC section 108(i). **Oregon follows this federal law for 2011.**
- 2. IRC Section 179**—Temporary increase in limitations on expensing of certain depreciable business assets—For fiscal and calendar tax years beginning on or after January 1, 2009, federal law limits the section 179 expense for qualified property to \$250,000 with the phase-out starting at \$800,000. For Oregon purposes, the limit is \$133,000 (\$134,000 for 2010) and the phase-out amount starts at \$530,000. **Note:** For property placed in service in tax years beginning **before** January 1, 2009, Oregon conforms to the federal election amounts of up to \$250,000 of the cost of certain business property in lieu of depreciation and phase-out starting at \$800,000. **Oregon follows this federal law for 2011.**
- 3. IRC Section 168(k)**—Special allowance for certain property acquired during tax year 2009—For property acquired and placed in service during tax years beginning on or after January 1, 2009, and before January 1, 2010, federal law allows an additional 50 percent first-year special depreciation. Oregon does not conform to this provision. Any additional federal deduction allowed for qualified property acquired and placed in service after December 31, 2008, will require an addition on the Oregon return for the first year. The second year and later years will result in a subtraction on the Oregon return. Use the *Oregon Depreciation Schedule* (150-101-025) to determine your addition or subtraction for Oregon purposes. **Note 1:** For certain qualified property acquired and placed in service during tax years beginning on or after January 1, 2007, and before January 1, 2009, federal law allows an additional 50 percent first year special depreciation. Oregon does conform to these provisions. **Note 2:** For property placed in service during tax years beginning on or after January 1, 2011, Oregon conforms to the federal expense deduction for qualified property. You may be able to take a depreciation allowance of 100 percent of the cost of the property.

4. Exclusions from income under **IRC 139A**— For tax years beginning on or after January 1, 2008, federal law allows you to exclude certain subsidy payments made by the federal government related to Part D of the Medicare Prescription Drug Insurance program. You must add this income on your Oregon return. **Oregon is disconnected from this federal law for 2008 and forward.**
5. Deduction of income under **IRC 199**—For tax years beginning on or after January 1, 2005, federal law allows you to deduct income from domestic production activities (QPAI). You must add this income on your Oregon return. **Oregon is disconnected from this federal law for 2005 and forward.**

Table 2—Section 179 and bonus depreciation treatment for federal and Oregon purposes

Tax year	Taxing authority	IRC 168(k) bonus depreciation (generally allowed amounts)	IRC 179 election to expense
2008	Federal	50% bonus	Allowed up to \$250,000 (limited if assets exceed \$800,000)
	Oregon	50% bonus	Allowed up to \$250,000 (limited if assets exceed \$800,000)
2009	Federal	50% bonus	Allowed up to \$250,000 (limited if assets exceed \$800,000)
	Oregon	Not allowed	Allowed up to \$133,000 (limited if assets exceed \$530,000)
2010	Federal	50% bonus (for qualified property placed in service from 1/1/10 to 9/7/10) 100% bonus (for qualified property placed in service from 9/8/10 to 12/31/11)	Allowed up to \$500,000 (limited if assets exceed \$2,000,000) & includes qualifying real property
	Oregon	Not allowed	Allowed up to \$134,000 (limited if assets exceed \$530,000)
2011	Federal	100% bonus	Allowed up to \$500,000 (limited if assets exceed \$2,000,000) & includes qualifying real property
	Oregon	100% bonus	Allowed up to \$500,000 (limited if assets exceed \$2,000,000) & includes qualifying real property



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Anyone using these publications should be alert for changes that may result from legislative action, court decisions, Attorney General opinions, or from enactments or amendments to Oregon Revised Statutes or Oregon Administrative Rules.

For more information, visit www.oregon.gov/dor.

Have a suggestion for a future ORB topic? E-mail it to us, corp.tax.library@state.or.us.

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