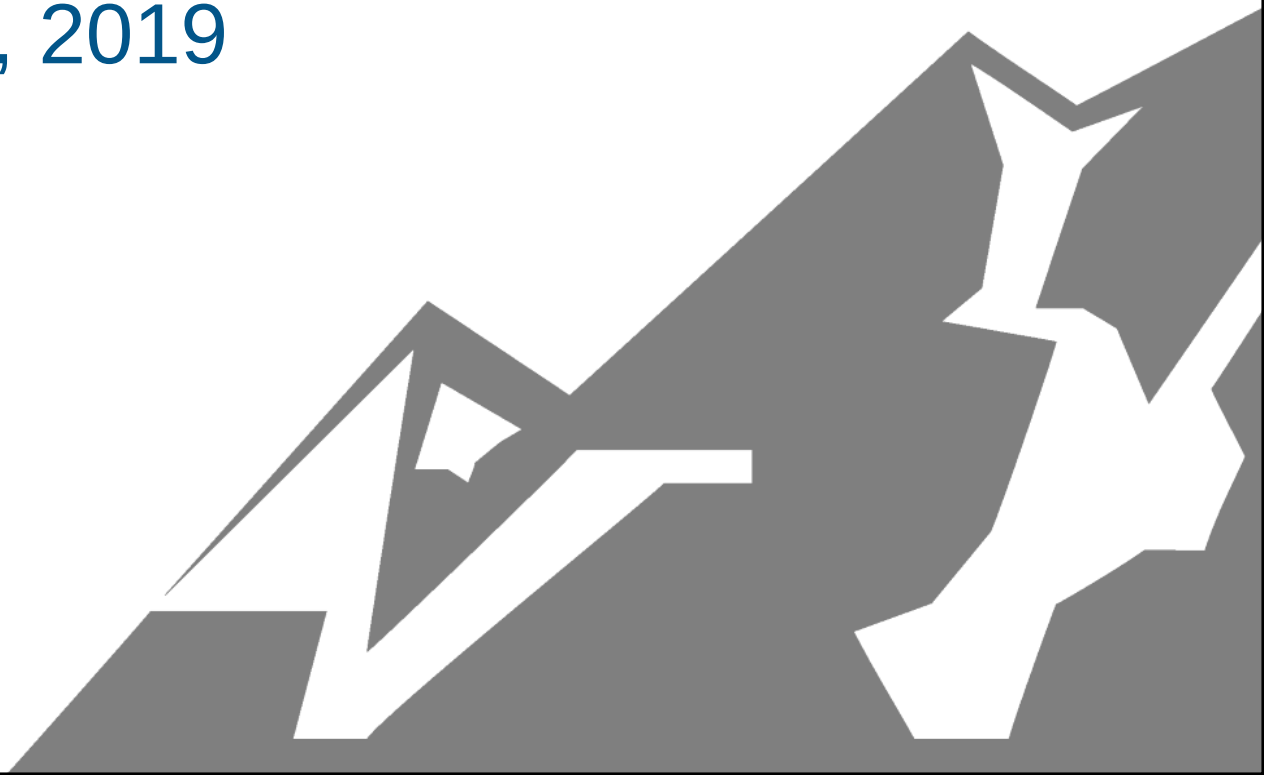
Office of the State Auditor: Tax Expenditure Evaluations Update

Joint Budget Committee

November 14, 2019



Colorado Office of the State Auditor

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Tax Expenditures Overview

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SB 16-203: Our Mandate

"Provide the State with factual evidence of whether the State's tax expenditures achieve the objectives they are intended to achieve."

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Definition of "Tax Expenditure"

- Section 39-21-302(2), C.R.S. Definition:

  "a tax provision that provides a gross or taxable income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue."

- OSA Criteria- The provision must:

  1) Be a *state* provision
  2) Be a *tax* provision
  3) Appear to confer preferential treatment to specific individuals, organizations, or businesses
  4) Potentially result in reduced tax revenue to the State

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Expenditures by Tax Type

Tax Type	Number of Expenditures
Income	91
Sales and Use	72
Excise	30
Insurance Premium	21
Severance	15
Estate	3
Total	**232**

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Structural vs Preferential Expenditures

Structural	Preferential
Establish basic elements of a tax	Promote certain behaviors
Avoid tax duplication	Promote fairness
Promote administrative efficiency	Stimulate certain economic activities
Clarify when the tax applies	
Ensure even taxation	

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Scheduling Evaluations

- Review all provisions by September 2022
  - Oldest first
  - If expiring, prior to the legislative session in which they would need to be renewed
- Group similar expenditures for efficiency

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Staffing and Meeting Statutory Deadline

- We are now fully staffed.
  - Thank you for your support!
- We are on track to meet our 5-year deadline in 2022.
  - We plan to review approximately 60 expenditures per year in 2020 through 2022.

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Expenditures Reviewed

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Completed Reviews

- 15 expenditures reviewed in 2018
- 49 expenditures reviewed in 2019
- Of the 64 reviewed, 45 were structural and 19 preferential

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Purpose and Performance Measures

- Most do not have a direct statement of purpose in statute
- None have had performance measures in statute
- For most, we inferred a purpose and created performance measures

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Revenue Impacts

- For 2019 Evaluations
  - Revenue impact to the State/local governments ($0 to $308 million)
  - Could not determine impact for 7 expenditures

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Data Constraints

- Most evaluations have been impacted by data constraints

- Common DOR data issues:
  - Target data not captured on a DOR form
  - Multiple expenditures aggregated on reporting lines
  - Information on forms is not easily extracted from GenTax
  - Tax information is self-reported by taxpayers
  - Tax information changes over time

- Use of third-party data

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Policy Considerations

Reason for Policy Considerations:

- Not being used, or used minimally
- Changes to the context or other laws that may change the applicability of the original purpose
- Use of the provision that may be outside of the original intent or not originally considered
- Administrative issues and other factors that might make the provision less effective

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2019 Policy Considerations

17 have had policy considerations

- Consider repeal (3)
- Clarify statute (7)
- Review effectiveness (10)
- Administrative issues (4)

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Legislative Committees

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Tax Expenditure Evaluation Interim Study Committee

- Interim committee created to review our policy considerations.
- Recommending 5 bills to Legislative Council
  1. Tax Expenditure Bill Requirements
  2. Long-Term Lodging Sales Tax Exemption
  3. Net Operating Loss Deduction Modifications
  4. Legislative Oversight Committee Concerning Tax
  5. Sales Tax Exemption for Industrial & Manufacturing Energy Use

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Tax Expenditure Evaluation Interim Study Committee

- Authored letter to Statutory Revision Committee to request legislation to repeal:
  - Crop hail insurance premium exemption
  - Nonprofit transit agency fuel tax exemption
  - Sales tax exemption for residents of bordering states
  - Pre-1987 net operating loss deduction
  - Corporate income tax deduction for previously taxed income or gain
- Referred the *Agriculture Inputs Sales and Use Tax* evaluation to the Joint Agriculture Committee.

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Joint Sales and Use Tax Simplification Task Force

- Presented reports we have issued related to sales and use taxes.

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Upcoming Evaluations

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The Plan for 2020

- Review approximately 60 expenditures.
  - Full schedule is on OSA website
  - Publish in January, April, July, and September.
- In January, release reports on several economic development expenditures:
  - Enterprise Zones
  - Renewable Energy Enterprise Zone Credit (expiring)
  - Rural Jump Start (expiring)
  - Beetle Kill Wood Exemption (expiring)
  - Regional Home Office Insurance Rate Reduction

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1525 Sherman Street, 7th Floor, Denver, Colorado 80203

303.869.2800

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