



ISSUE BRIEF

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BASICS ON --- WEIGHT-MILE TAXES IN OREGON

Weight-mile taxes are a type of highway user fee assessed on trucks. Under a weight-mile system, the tax rate increases with the weight of a truck and it is paid per mile of truck operation in the state. Although Oregon has gas and diesel taxes for cars and other light vehicles, heavy vehicles pay weight-mile taxes instead. The purpose of a tax based on weight and distance is to assess more accurately for road wear. Oregon has collected some form of weight-distance tax on trucks since 1925.

Why a weight-mile tax?

Most of the ongoing revenue collected by states and the federal government for highway construction and maintenance is from vehicle fuel taxes. To the extent that a vehicle's fuel use correlates with its road use and wear, a fuel tax is an equitable way to "charge" for use of the road system. Variations in vehicle fuel economy, however, weaken the correlation between a fuel tax and road wear. This is true for all vehicles, but especially for heavy vehicles. An increase in truck weight that nearly doubles road wear may only increase fuel use by 10%. A weight-mile tax can be structured to more accurately assess for costs of wear.

Calculation of the tax

The amount assessed under the weight-mile tax is calculated by multiplying a weight-graduated tax rate by the number of miles a truck is driven in the state. Weight-mile tax rate tables are found in ORS 825.476. The tax rate increases as the registered weight¹ of the truck increases and varies from 3.64 cents/mile for a 28,000-pound truck to 13.24 cents/mile for a 105,000-pound truck.

The weight-mile tax rate in statute for a truck registered at 80,000 pounds is 11.97 cents/mile. If the truck is driven 4,000 miles/month in Oregon, the weight-mile tax assessment for that month would be $4,000 \times .1197 = \$478.80$.

The weight-mile tax rate for a 54,000 pound truck is 6.09 cents/ mile. If this lighter truck is driven 4,000 miles/month in Oregon, the weight-mile tax for that month would be $4,000 \times .0609 = \$243.60$.

The 308 mile trip between the California border and the Washington border on Interstate-5 would cost \$36.87 in weight-mile taxes for the 80,000 pound truck ($308 \times .1197$). The same 308 mile trip would cost \$18.76 in weight-mile taxes for the 54,000 pound truck ($308 \times .0609$). For comparison, a car averaging 20 mpg would pay \$3.70 in state gas taxes for the 308 mile trip.

¹ Registration fees are based on a truck's registration weight, the highest weight at which they operate. The registration weight includes the weight of the truck and the weight of its cargo. Weight-mile tax rates are based on a truck's declared weight, which is also a loaded operating weight. A truck can have multiple declared weights if it operates under different configurations (i.e. number of trailers). A different weight-mile tax rate would apply to the mileage reported under each declared weight. Unloaded miles are not reported separately unless configuration changes, but the rates take average unloaded miles into account.

Revenue collected

For the fiscal year ending July 1, 2000, Oregon collected \$225 million in weight-mile taxes on trucks. In the same year \$14.5 million in truck registration fees were collected. Weight-mile taxes represented about 30% of state Highway Fund revenue.

Use of weight-mile tax revenues

Oregon truck and auto taxes, including registration fees, fuel taxes, and the weight-mile tax, are all dedicated by the Oregon Constitution² to public highways, streets, roads, and rest areas³. The Constitution also permits such taxes on trucks to be used to enforce commercial vehicle size, weight, and equipment regulations as aspects of highway protection.

About 40% of highway funds collected by the state (after deducting administrative costs) are shared with cities and counties. Local governments are also limited (by the constitution) to spending their share of the state Highway Fund on streets and roads.

Truck tax systems in other states

Most states tax trucks operating on their roads through a combination of diesel taxes and registration fees. The other states that collect weight-mile taxes are New Mexico, New York, and Kentucky. These states also tax diesel used in trucks. Oregon is the only state that does not collect any diesel taxes on heavy trucks. Earlier this year, the Idaho legislature repealed its weight-mile tax. The legislation followed an Idaho District Court decision that Idaho's tax system discriminated against interstate trucking companies, in violation of the Interstate Commerce Clause of the U.S. Constitution, by having reduced weight-mile tax rates for natural resource commodities. The lawsuit was brought by the American Trucking Associations.

Other states typically assess higher truck registration fees than Oregon. Some fees are based on the value of the vehicle, and/or sales tax or property taxes on vehicles, which Oregon does not have. These latter taxes are not typically dedicated to road uses, but they do affect the cost of operating a truck. States also differ in the extent to which general fund revenue from state income or sales taxes is used on roads. General funds in Oregon are not spent on roads, but State Police Highway Patrol is principally general funded.

Because it is designed to assess for road wear, Oregon's weight-mile system taxes the heaviest trucks the highest price per mile. As a result, Oregon is one of the highest tax states in the country for the heaviest trucks that travel high numbers of miles. Medium and low weight or mileage trucks pay taxes that are comparable or lower than in other states. Oregon's truck registration fees at \$120 - \$415/year are comparatively low, especially for the heaviest trucks.

Collection of the weight-mile tax

Trucking companies are required to report their Oregon road miles and to transmit the calculated weight-mile tax on those miles, either monthly or quarterly, to the Department of Transportation (ODOT). ODOT

² Article IX Section 3a.

³ The constitution includes an exception for taxes on recreational vehicles to be used for parks and recreation areas.

staff reviews and periodically performs audits of the submitted paperwork and/or records kept at the company's place of business. Data from ODOT weigh stations, other points of encounter with law enforcement, and fuel purchase records provided by truck stops are used in such audits to verify the company's mileage reports.

Apportioning fees – prorate

A logical question is often asked, "What keeps a company from registering all its trucks in a low registration fee state or from purchasing all its fuel in a low fuel tax state?"

Most states and some Canadian provinces have joined the *International Registration Plan (IRP)* that apportions state truck registration fees for a truck operating interstate based on the portion of its miles traveled in each state or province. If a truck runs 10% of its miles in its home state and 90% of its miles in a neighboring state with higher registration fees, it would owe 10% of the home state's registration fee to its home state and 90% of the higher fee to the neighboring state. The company could send one check for the entire amount to its base state and that state would then "settle up" with the other state through the IRP.

A similar program, called the *International Fuel Tax Agreement (IFTA)*, is available for the proration of fuel taxes. Under IFTA, interstate truckers pay state fuel taxes wherever they purchase fuel, but the taxes get apportioned among all the states/provinces through which they travel. The concept is that the fuel tax is due where the fuel is burned, not where it is purchased. This prorate system between states is based on mileage reporting by the trucking company and is dependent on enforcement and audit by the company's base state collection agency.

While the IRP and IFTA apportion registration fees and fuel taxes among states, they do not eliminate evasion. Truck taxes can be evaded by under-reporting mileage in high fuel tax, high registration fee, or high weight-mile states, so the audit function is critical to enforcement. Under IFTA and IRP, only the home state audits a trucking company.

Setting weight-mile tax rates

Weight-mile tax rates are set in statute and thus can only be changed through legislation. The state Department of Administrative Services periodically performs studies to determine how the burden of upcoming highway expenditures should be allocated among highway users, that is, between cars and trucks and also between different types and weights of trucks. The agency then makes recommendations based on these studies to the legislature, which has the ability to legislate adjustments to the rates if necessary. The studies are called Cost Responsibility or Cost Allocation Studies. A 2000 study is currently underway with results expected early in 2001.

The 1999 legislature referred a constitutional amendment to voters⁴ that requires state taxes and fees on vehicles to be generated in a manner so as to ensure that the light and heavy vehicle share is fair and proportionate to cost incurred to the highway system by each class of vehicle. It requires a biennial review, and adjustment as necessary, to ensure fairness and proportionality. The measure received voter approval.

⁴ Ballot Measure 76 (November, 1999)

Recent tax rate changes

Weight-mile tax rates were reduced twelve percent by the 1999 legislature⁵ and six percent by the 1995 legislature⁶. These two reductions bring tax rates for the heavier trucks to just over what they were in 1991. Both reductions were based on cost allocation studies estimating that trucks would be over-paying their cost-responsibility (compared to cars) if the rates were not reduced. Weight-mile tax rates were last raised in 1991. The 1991 increase was about 10%, as was a previous increase in 1989. These increases corresponded to the percentage increase in the gas tax for lighter vehicles in those same years.

Flat fees

Flat fees are highway user fees based on the operating weight of a truck, but not on its mileage. Trucks carrying certain commodities in Oregon are given the option of paying flat fees instead of the weight-mile tax. The flat fee option is available to log, chip, and dump trucks. Flat fee rates are found in ORS 825.480 and vary from \$5.50 and \$5.55 per hundred pounds for dump and log trucks respectively to \$22.40 per hundred pounds for chip trucks. The higher chip truck rate is due to their higher average annual miles.

Under Oregon's flat fee concept, the flat rate is supposed to be set to collect the same amount from all the vehicles carrying a particular eligible commodity as would be collected by the weight-mile tax on those vehicles. The purpose of the flat fee was to reduce record-keeping and reporting requirements for the hauling of commodities that were more seasonal, short haul, and often a mix of taxable and nontaxable (i.e. not public road) miles. A flat fee system gives a significant tax benefit to users of the system who travel significantly more than the average number of miles a year for their class of truck. Flat fee rates were not decreased when weight-mile taxes were decreased in 1999.

A Flat Fee Study published in September⁷ indicates that sand and gravel carriers and log carriers using the flat fee option are underpaying their cost responsibility under current statutory rates.

Axle incentives

Axle incentives are tax reductions given for trucks operating with more than the required number of axles for the weight they are carrying. Road wear is more directly affected by weight per axle than by total weight of a truck and Oregon's tax reflects this by assessing trucks that are reducing road wear at a lower rate. Although all states and the federal government enforce limits on the weight a truck can carry on each axle, Oregon is unique in also having an axle incentive in its tax system. This incentive is available only on the heaviest trucks (those over 80,000 pounds), where it matters the most. For any given weight, the tax rate in ORS 825.476 is reduced as the number of axles increases. A recent study⁸ indicates a relatively minor increase in the number of axles on trucks but did not attribute the increase directly to the axle incentive.

⁵ HB 3344 (1999)

⁶ HB 2134 (1995)

⁷ *Flat Fee Study: Wood Chip, Log, Sand and Gravel Carriers*, Oregon Department of Transportation. September 2000.

⁸ *Effect of Weight-Mile Tax on Road Damage in Oregon*, Anthony Ruffolo et al., for the Oregon Department of Transportation and the Federal Highway Administration, September 1999.

Farm vehicles

Most farm vehicles are not required to pay the weight-mile tax. They instead pay the state diesel tax and a registration fee. Large farm vehicles used for hire are required to pay the weight-mile tax on their for-hire miles.

1999 legislation and voter referendum

In a transportation funding bill⁹ that would have increased gas taxes and vehicle registration fees for cars and other light vehicles, the 1999 legislature, at the urging of several trucking associations, included provisions that would have eliminated the truck weight-mile tax, replacing it with a new diesel tax for trucks and a substantial increase in truck registration fees. Triple A of Oregon opposed elimination of the weight-mile tax and sufficient signatures were collected to get the legislation referred to voters. The referendum¹⁰ failed at the ballot and the legislation did not take effect.

Trucking association arguments for eliminating the weight-mile tax included administrative cost savings to trucking companies and the state, uniformity with other state tax systems, and reduction of evasion. Triple A arguments included cost shifting from high-mileage trucks to low-mileage trucks with elimination of the weight-mile tax, and inability over time to maintain revenue levels from trucks under the proposed system.

American Trucking Associations lawsuit

In July 2000, the American Trucking Associations, along with two trucking companies, Reddaway and CRST, filed a class action lawsuit in Marion County Circuit Court against Oregon and the Oregon Department of Transportation for the weight-distance tax imposed by the state. The complaint seeks an injunction on collection of the tax and refund of a portion of taxes paid since January 2000. The suit contends that exemptions from the tax for farm vehicles and alternative payment options (flat fee options) for hauling certain commodities are discriminatory in violation of the Equal Protection Clause of the 14th Amendment and the Commerce Clause of the U.S. Constitution. The state Department of Justice response denies the complaint's allegations of discrimination and seeks dismissal of the complaint. The case is currently pending.

⁹ HB 2082 (1999)

¹⁰ Ballot Measure 82 (May, 2000)