



*Executive summary*

2018

**ORS 293.229(2)**  
**Liquidated and**  
**Delinquent Accounts**  
**Report**

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December 31, 2018



# Executive summary

In the 2017 Legislative Session, Senate Bill 1067 passed requiring state agencies with an ending balance on its liquidated and delinquent (L&D) accounts of \$50 million or greater to submit a report to the committees or interim committees of the Legislative Assembly related to ways and means. The report is to:

- a) Describe major categories of L&D accounts held by the state agency.
- b) Describe circumstances under which the state agency writes off or adjusts L&D amounts or removes an account from L&D status.
- c) Describe actions undertaken by the state agency to reduce the amount of L&D debt owed to it at the end of each fiscal year.
- d) Set forth a plan for future actions that will reduce the amount of L&D debt owed to the state agency at the end of each fiscal year and describe any additional resources that are necessary to carry out the plan.

## Background

The intent of the Legislature for the Department of Revenue (DOR) is the “administration of the revenue and tax laws of this state, except as specifically otherwise provided in such laws” (ORS 305.015). To achieve this, one of DOR’s principle goals is to maximize voluntary compliance. Approximately 97 percent of the revenue generated by DOR comes through voluntary compliance. DOR believes that appropriate enforcement of Oregon tax law, including collection activities, is crucial to the health of the state’s revenue system and should be carried out in a manner in which it supports voluntary compliance.

## Major categories of L&D accounts held by DOR

For this report DOR identifies two major categories of L&D debt held by the agency: “failure-to-file” (filing enforcement) and “all others” (primarily self-assessed). These categories are frequently indicative of a taxpayer’s willingness to pay and the level of effort the agency will expend to resolve the account.

“All other debts” are those for which the taxpayer has displayed a willingness to comply with Oregon tax law by filing a tax return and withholding or making estimated payments, but can’t pay the full amount due by the deadline. Generally, a taxpayer who self-assesses a tax liability is more willing and proactive to resolve the amount due, even after the amount has progressed to collections.

Failure-to-file (FTF) assessments are generated by DOR as part of the filing enforcement process. The assessments use third party and federal tax information to estimate tax liability when the taxpayer doesn’t file a return. In accordance with ORS 305.265(10)(a), FTF assessments are estimates of the taxpayer’s liability and may increase or decrease if the taxpayer files a return with the information necessary to determine their correct tax liability. By law, Oregon taxpayers are afforded an indefinite amount of time to file their return. The tax liability shown on that return replaces DOR’s FTF assessment.

## Write-offs, adjustments, and removal from L&D balances

Amounts previously reported as L&D debt may be removed from the agency’s L&D balance. DOR performs write-offs in accordance with ORS 293.240 unless the agency determines that amount should be cancelled under ORS 305.155. DOR also performs cancellations if it determines that the administration or the cost of collection would exceed the amount the agency expects to recover. These cancellations are subject to agency approved policies. Other adjustments that can create a reduction in DOR’s L&D amounts are related to a taxpayer filing a return after the agency has completed a FTF assessment, appeal case decisions, and amended returns. All of these transaction types result in reducing DOR’s L&D balance because the debt no longer exists.

## Past and future efforts to reduce DOR's L&D balance

When considering DOR's L&D balance and the effectiveness of its accounts receivable management, it is important to note that other agency objectives, such as filing enforcement and external factors may result in increases to the agency's L&D balance. DOR has taken a three-pronged approach to counter these increases.

### *Reduce amounts aging to L&D*

While the agency can't select the businesses or individuals with whom it will do business, DOR does take steps to reduce the number of debts that could potentially age to L&D status. This is similar to how a business typically won't extend credit to individuals who haven't previously shown the ability to pay their debts.

### *Maximize collection of L&D debts*

Recent access to new tools and data and the ongoing evaluation of the use of these resources allow the agency to better assess the effectiveness of its collection processes and make changes as appropriate.

### *Reducing L&D balance through other means*

Not all amounts included in DOR's L&D balance are resolved through payment. The nature of tax administration is one that results in some debts being resolved by other means, such as the taxpayer filing more accurate amended returns or the filing of a return to resolve a FTF. Additionally, DOR uses other accounting tools, such as its write-off and cancellation authority, to remove amounts determined to be uncollectible from the agency's L&D balance.

## Conclusion

Having recently completed the final phase of DOR's core system replacement, the agency continues to learn and improve on L&D collection and AR management tools available in GenTax. Collection activity and AR management would benefit from a stabilization period, allowing the agency to prioritize resources to implement internal enhancement initiatives as necessary. Enhancement initiatives include:

- Automating the creation of garnishments in specific situations, and write-off and cancellation of debts that meet eligibility criteria.
- Scoring debts to ensure appropriate treatment of accounts.
- Improving taxpayer self-sufficiency tools.
- Other system enhancements for efficiency and improved reporting.



*ORS 293.229(2) report*

2018

# Liquidated and Delinquent Accounts

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December 31, 2018



## Introduction

In the 2017 Legislative Session, Senate Bill 1067 passed, which included a new reporting requirement for state agencies with a total ending balance of \$50 million or greater for their liquidated and delinquent (L&D) accounts. That requirement was codified in Oregon Revised Statutes (ORS) 293.229(2) and specifically requires state agencies to:

- a) Describe major categories of L&D accounts held by the state agency.
- b) Describe circumstances under which the state agency writes off or adjusts L&D amounts or removes an account from L&D status.
- c) Describe actions undertaken by the state agency to reduce the amount of L&D debt owed to it at the end of each fiscal year.
- d) Set forth a plan for future actions that will reduce the amount of L&D debt owed to the state agency at the end of each fiscal year and describe any additional resources that are necessary to carry out the plan.

In October 2018, the Oregon Department of Revenue (DOR) submitted its annual L&D report to the Legislative Fiscal Office (LFO) as required by ORS 293.229(1). The report showed that the agency ended the 2018 fiscal year with 150,338 L&D accounts with a value of \$848,727,568.

## Background

DOR administers nearly 40 tax programs. These tax programs generated over \$11.9 billion in revenue during the 2018 fiscal year, of which \$239 million<sup>1</sup> was a result of the DOR's collection activities on L&D accounts. Approximately 97 percent of the revenue generated by DOR comes, not directly from its collection activities on L&D accounts, but rather through voluntary compliance. Still, DOR's collection activities on L&D accounts is crucial to the health of the state's revenue system and support voluntary compliance, which is a primary component of Oregon's tax system.

One of DOR's key responsibilities is to ensure taxpayers comply with the state's tax law. This aligns with the Legislature's intent for DOR, which is "administration of the revenue and tax laws of this state, except as specifically otherwise provided in such laws" (ORS 305.015). To achieve this, one of DOR's principle goals is to maximize voluntary compliance. To better understand DOR's L&D accounts ending balance, it is helpful to understand the connection that exist between voluntary compliance and appropriate enforcement, including collections.

There is a compulsory duty to comply with tax law, but the nature of income tax is that only the taxpayer has the information to compute their correct tax. This means that taxpayers are expected to voluntarily file an accurate, timely report of their income and a calculation of their tax due, and pay that tax by the due date. For taxpayers who diligently attempt to file and report taxes correctly, education and assistance through taxpayer outreach and some audit activities are the most effective means to promote voluntary compliance. This approach results in maximizing revenues streams for the state and effective use of state resources. If this approach doesn't yield the result of taxpayers meeting their obligations, active collections activities would commence.

DOR collection activities are a component of the appropriate enforcement of Oregon tax law and are conducted in ways that support voluntary compliance. For example, a taxpayer may have a balance owing for personal income tax debt that has progressed to collections within DOR. Rather than focus only on maximizing collections of the single amount owed, DOR takes a balanced approach by educating the taxpayer and assisting them in understanding and coming into compliance while we collect to help them avoid accruing debt in the future. In some cases, this may result in reducing the amount the taxpayer owes or increasing the repayment period, but, overall, revenue streams are increased through promoting long-term voluntary compliance behavior.

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<sup>1</sup> As reported on DOR's L&D report to LFO for fiscal year 2018.

## Major categories of L&D accounts held by DOR

L&D accounts held by DOR are primarily comprised of tax debt, along with associated penalties, interest, and fees. These accounts can be broken out into two categories: failure-to-file (filing enforcement) and all others (primarily self-assessed). These categories are frequently indicative of a taxpayer's willingness to pay and the level of effort the agency will expend to resolve the account. For fiscal year 2018, the ending balance for failure-to-file accounts was \$391,953,826 and for all others was \$456,773,742.

### *All other debt*

Multiple types of debt are included in this category such as deficiency assessment debt or penalties for failing to comply with certain filing requirements. For the purposes of this report, we focus on self-assessed debts because these constitute the bulk of debt types outside of failure-to-file assessments.

There are some taxpayers that diligently file and report taxes, but are unable to pay the entire tax obligation by the due date. These are referred to as self-assessed debts, and they may progress to active collections. This may occur due to a number of factors that may impact the taxpayer's financial situation and their ability to pay. For some, the inability to pay is due to loss of their job, divorce, or illness. For others, they have overextended themselves financially and have chosen to pay other debts instead. Also, the complexity of computing their tax liability may play a factor. In these cases, although the taxpayer demonstrates a willingness to comply with tax law by filing timely and making payments to that liability throughout the year through estimated payments or withholding, they are generally unable to pay the full amount due on time because they didn't accurately estimate their tax liability at the start of the year. Generally, a taxpayer who self-assesses a tax liability is more willing and proactive in resolving the amount due, even after the balance has progressed to collections.

### *Failure-to-file assessment debt*

Third party and federal tax information is used to identify individuals and businesses that didn't file a tax return despite having a requirement to do so. These taxpayers are encouraged to file on their own, but if they don't, DOR will estimate the taxpayer's liability and assess the tax using the best information available. This activity is commonly known as filing enforcement and results in failure-to-file assessments (FTF). FTF debt amounts are our best estimate and DOR believes this to be in line with statutory expectations found in ORS 305.265(10)(a)<sup>2</sup>. However, these debts are still only estimates and can increase or decrease at any time if the taxpayer files a return, which is one showing their self-reported tax liability.

Recent efficiencies resulting from automation in some of DOR's filing enforcement processes has resulted in an inflation of the L&D balance because this debt is based on an estimation made by the agency. In the agency's legacy system, filing enforcement was an entirely manual process. Nearly all of the agency's filing enforcement work—including FTF assessments—is now automated through use of business rules and third-party data stored in the agency's new core system, GenTax. This means the agency can initiate enforcement action much faster than before—and generate more FTF assessments. Although the increased efficiency in performing filing enforcement work has resulted in an increase in DOR's FTF L&D balance, it is necessary to continue to do this work in order to protect the state's largest revenue stream.

FTF debts are different from other tax assessments with regard to appeal rights. Self-assessed tax debts don't have appeal rights because the taxpayer themselves reported that an amount is due. And, although a taxpayer is able to appeal a deficiency assessment, they must do so within 90 days of the assessment date. Appeal rights on FTF debt, on the other hand, don't expire until the taxpayer files a tax return, which replaces DOR's FTF return as the record of the taxpayer's self-reported tax liability. Senate Bill 495, passed during the 1999 Legislative session and codified in ORS 305.265(10)(b),<sup>3</sup> removed the 90-day appeal period limit for FTF assessments and gave taxpayers an indefinite amount of time to file and report the correct amount due.<sup>4</sup> This means that there is no cutoff after which DOR's assessed amount can be definitively considered the final debt owed.

<sup>2</sup> ORS 305.265(10)(a)—“In the case of a failure to file a report or return on the date prescribed therefor (determined with regard to any extension for filing), the department shall determine the tax according to the best of its information and belief...”

<sup>3</sup> ORS 305.265(10)(b)—“Notwithstanding subsection (14) of this section and ORS 305.280, and only to the extent allowed by rules adopted by the department, the department may accept the filing of a report or return submitted by a person who has been assessed a tax under paragraph (a) of this subsection.”

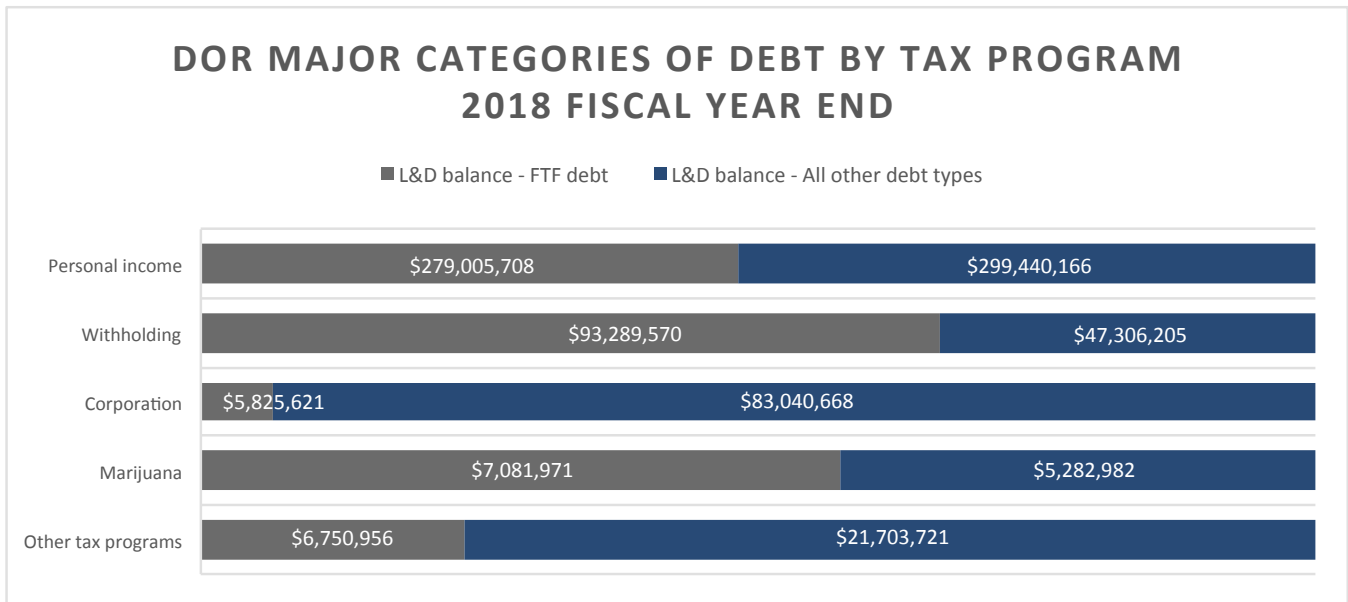
<sup>4</sup> If DOR sets up a FTF determination and the taxpayer subsequently files a tax return with an amount due, these debts are reclassified as self-assessed debts because the taxpayers willingness to pay and effort of the agency to collect now more so mirror those observed in the “all other debt” category.



FTF assessments more often result in debts that age to L&D. There are many reasons that make this category of debt more likely to age to L&D. For instance, FTF assessments are often accompanied by large penalties (up to 100 percent of the amount of the tax liability) for not filing and paying on time for multiple filing periods. Secondly, the taxpayer finds themselves paying not only the past due L&D amounts, but also must continue to withhold or make estimated payments for the current filing period, a possible financial burden for the taxpayer. Lastly, a taxpayer may not agree with the assessment, but didn't respond to DOR's requests to resolve the matter until after collection activities have ensued.

DOR's collection activities support its filing enforcement activities. FTFs would have little effect in terms of enforcing tax law if collection of the amounts established by these assessments weren't pursued. Revenue agents report that, in many cases, taxpayers don't respond to multiple attempts by DOR to contact them until after collections activity begins. Still, it is important to note that the principle purpose of filing enforcement isn't to establish amounts to be collected by DOR revenue agents, but rather to compel the taxpayer to file a return. In some cases, these balances are resolved by the taxpayer filing a return for the FTF period.

The chart below illustrates DOR's two major categories of L&D debt, FTF and all other, by tax program. The four largest tax programs in terms of L&D balance at the end of fiscal year 2018 are listed individually, while all other tax programs with an L&D balance are consolidated. Note that the tax programs materially affecting DOR's ending L&D balance also include the largest amounts of FTF debts.



## Write-offs, adjustments, and removal from L&D balances

A write-off is an accounting transaction that removes the balance from the accounts receivables, but the amount remains legally enforceable. A debt qualifies for write off when all of the following apply for the past three years:

1. No assets located;
2. No payments received on any liability;
3. No correspondence received, returns filed, or contact made; and
4. If applicable, a lien is on record, but no significant collection progress has been made. (ORS 293.240)

Accounts in write-off status are tracked by GenTax and returned to active collections if the account becomes collectable again.

A cancellation is also an accounting transaction that removes the balance from the accounts receivables, but is distinct from a write-off because it also removes the liability from the debtor's account. A cancellation is considered final and the debt can't be restored for future collection. DOR reports cancellations under the "adjustment" line of the annual L&D report to LFO.

Generally, amounts determined to be uncollectible are written off, unless the agency determines the amount should be cancelled under ORS 305.155 because all of the following apply:

1. The tax has been delinquent for seven or more years,
2. All reasonable efforts have been made to collect,
3. The taxpayer can't be located or is dead, and
4. The tax is wholly uncollectible.

DOR may also cancel an amount if it determines that the administration and cost of collection would exceed the amount the agency expects to recover. A primary example of the use of its cancellation authority can be found in DOR's process for offers of compromise, otherwise known as settlement offers. These cancellations are subject to a rigorous review and approval process using criteria approved by the Oregon Attorney General. Additionally, an amount may be cancelled as a result of a bankruptcy case determination.

Amounts assessed and reported as L&D and then subsequently reversed are removed from the agency's L&D balance. These reversals also have the effect of reducing the agency's ending balance. These are considered neither write-offs nor cancellations, but rather are reported in the "reversals" line of the L&D report to LFO. Reversals include amounts assessed but then reversed due to a taxpayer filing a return after DOR has assessed a FTF. Reversals also include amounts reversed due to appeal case decisions and amended returns. The reversal of tax due always results in reversal of the associated penalties and interest.

## **L&D account reduction efforts—2018**

With respect to DOR's L&D balance, it is important to consider that the agency has two objectives that seem to be in opposition to one another. On one hand, DOR strives to optimize collections and reduce the amount owed to the state. While on the other hand, DOR must address tax filing noncompliance, which inevitably contributes to the L&D balance. Therefore, DOR's success in managing its accounts receivable can't be measured solely by the L&D ending balance as compared to prior reporting periods, but must also consider the impacts of its enforcement activities—on both the L&D balance and Oregon's tax environment.

There are some factors outside of the agency's control—such as new tax programs or the overall health of the economy—that may increase the L&D balance. DOR has established three approaches to counter the increase:

1. Reduce the number of debts that could potentially age to L&D status.
2. Improve DOR's processes, access to data, and collections tools in order to optimize the collection of L&D debts.
3. Manage the agency's L&D balance by means other than collections.

### ***Reduce amounts aging to L&D***

- The personal and corporate income tax compliance programs solicit payment at the conclusion of an audit, prior to the debt reaching collections. This affords the taxpayer the opportunity to avoid additional penalty and interest and brings in revenue for the state sooner.
- At the conclusion of an audit or filing enforcement activity, compliance staff asks taxpayers to amend or submit missing returns for other filing periods voluntarily in order to get into compliance. Taxpayers are more likely to file correctly at this point in order to avoid additional penalty and interests.
- Filing enforcement activities are prioritized on accounts that are more likely to result in revenues for the state. For example, DOR prioritizes filing periods where we have received estimated payments or withholding credit, but have no return to apply the payment against.
- Enhancement to DOR's system, serving to automate filing enforcement activities, enables a more systematic and timely filing enforcement process. More timely filing enforcement activity allows DOR to address both compliance and collections sooner and more successfully.
- DOR has made more revenue agents available immediately following filing deadlines to take payments in full or establish payment plans sooner for amounts owed. This is accomplished by focusing on reducing call wait times and reassigning staff to answer calls during peak periods.
- DOR's long-standing policy is to not allow new debt to be added to existing payment plans. Debtors are expected to pay their existing debt before requesting a new payment plan for new debt. This policy, along with educating debtors, serves to reduce the likelihood of future delinquent debt by reinforcing the expectation that tax payment is due by the filing deadline.

### *Maximize collection of L&D debts*

- Improved capability to store data files in a central location in GenTax allows DOR to query the information for the entire account portfolio rather than one by one. This has enabled DOR to focus its finite resources on accounts more likely to yield a payment, rather than work accounts by oldest to newest.
  - For instance, in our legacy systems, revenue agents used Oregon Employment Department wage data to help determine a debtor's ability to pay or to find a garnishment source, but they were limited to looking up each debtor individually. In GenTax, this is loaded into a central data warehouse that is queried to identify the most collectible debts by evaluating all available third-party data. In the first year since the final GenTax rollout, collection areas have used this capability to increase the number of garnishments issued, resulting in an additional \$20 million in garnishment payments in fiscal year 2018 over fiscal year 2017.<sup>5</sup>
- DOR has adjusted the dollar threshold and business rules for automated recording of collection warrants to include a larger pool of debtors, while still excluding those actively engaging with us to resolve their debt.
- DOR incentivizes debtors to set up automated clearing house (ACH) payment plans by offering ACH payment plans for up to 18 months, which is a longer repayment period than allowed for most other types of payment plans. These payment plans have proven more successful than traditional paper check or credit/debit card payment methods, in part because they are not dependent on the debtor remembering to make monthly payments.
- We share information with the Oregon Liquor Control Commission for potential license sanctions when retailers owe recreational marijuana tax debt.
- DOR has successfully implemented vendor coordination with the Oregon Department of Transportation and State Financial Management System (SFMS) agencies. Under this program, if a vendor who contracts with one of these state agencies owes tax debt, their payment for services provided may be applied to their debt.
- DOR has incorporated two new high-value data sources into its collection activities—the State New Hire Report and the Financial Institution Data Match—and has established strategies and accompanying policies and procedures for use of this data.
- DOR has updated its approach to the use of private collection firms (PCFs). In addition to sending accounts to PCFs as required by law (one year without a payment), DOR has automated the transition of accounts to PCFs to get accounts to them sooner. The department is also including more lower-balance accounts in PCF portfolios. These changes allow DOR to better use internal agency resources while appropriately leveraging external resources.
- The Personal Income Tax and Compliance Division added a new unit to handle calls from taxpayers with questions related to filing enforcement activities. Previously, the same group of people answered all calls relating to collections or filing enforcement. This new structure allows revenue agents to concentrate on collection activities (such as taking payments, setting up payment plans, and issuing garnishments) and focuses early conversations with taxpayers on filing past due returns to promote voluntary compliance.

### *Reducing L&D balance through other means*

- DOR utilizes AR management tools such as write off and cancellation to remove appropriate amounts from its L&D balance. See the section entitled "Write-offs, adjustments and removal from L&D balances" above for more information.
- As a result of a 2017 Legislative budget note, DOR contracted with Deloitte to conduct an outcome-based management assessment. The results will inform on the agency's efforts to develop an outcome-based management system that will ultimately contribute to improved strategic alignment and performance metrics for DOR collections and AR management. The timing on the development of an OBM system is dependent upon continued funding, which will be considered by the 2019 Legislature.
- Not all debts are resolved through a payment. DOR uses the authority granted in ORS 305.265(10)(b) to encourage taxpayers to file a return in order to establish their correct tax liability, even after the debt has aged to L&D. This approach serves a dual purpose of resolving a large portion of FTF debts while also reducing the agency's L&D balance and promoting long-term voluntary compliance by collecting only amounts associated with the taxpayer's self-reported tax liability.

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<sup>5</sup> DOR is unable to project the expected level of success from this new approach for future years, as this amount includes collections on older accounts where DOR wasn't previously able to easily identify an effective garnishment source because of the highly manual nature of the process.

## Future L&D reduction efforts

In addition to continuing the efforts described in the section above, we have operational plans that aim to ensure continued progress toward reducing the amounts owed to the state this fiscal year. Actions include, but are not limited to:

- Partnering with DOR's Research Section to better understand the data that is available in GenTax. This will help to inform future enhancements to the way collection areas use GenTax to track, analyze, and improve collections.
- Conducting outreach to the public, including Oregon employers. The department is taking advantage of opportunities created by new tax programs to contact every employer in Oregon and educate them on their requirements to file and pay. This outreach also serves to identify and close accounts for businesses in our system that registered with us incorrectly, which may have resulted in erroneous FTFs.
- Expand the information available to taxpayers online, particularly about collections and tax obligations. DOR has recently improved navigation on its external website to make it quicker and easier to help taxpayers find the information they're looking for based on site analytics and user feedback. There are also plans to develop more detailed content about the agency's collections process.
- Improve existing self-sufficiency tools to make it easier for taxpayers to understand their debt, provide required information, interact with the agency, and make payments.
- Provide new tools and resources to help taxpayers voluntarily comply.
  - For example, DOR has created an online withholding calculator and an Oregon-specific W-4 to assist the public in determining the appropriate amount of Oregon withholding. This is, in part, in response to Congress passing the Tax Cuts and Jobs Act (TCJA) in December 2017. Some of the federal changes directly impact Oregon's personal income tax, including changes to calculating withholding allowances that may increase the risk of taxpayers not having enough withheld from their wages to cover their Oregon tax liability. These new tools are meant to help taxpayers avoid withholding incorrectly, which can result in balances past due.

## Conclusion

Having recently completed the final phase of DOR's core system replacement, the agency continues to learn and improve on L&D collection and AR management tools available in GenTax. Collection activity and AR management would benefit from a stabilization period, allowing the agency to prioritize resources to implement internal enhancement initiatives as necessary. Enhancement initiatives include:

- Automating the creation of garnishments in specific situations, and write-off and cancellation of debts that meet eligibility criteria.
- Scoring debts to ensure appropriate treatment of accounts.
- Improving taxpayer self-sufficiency tools.
- Other system enhancements for efficiency and improved reporting.