REVENUE IMPACT OF PROPOSED LEGISLATION

Seventy-Sixth Oregon Legislative Assembly, 2011 Regular Session
Legislative Revenue Office

Bill Number: HB 2541 - A
Revenue Area: Estate/Inheritance Tax
Economist: Mazen Malik
Date: 05/23/2011
Revised

Measure Description:

Replaces inheritance tax imposed on basis of former federal credit for state death tax with estate tax imposed as percentage of Oregon estate. Provides deduction of $1.5 million for all estates, and establishes schedule of rates for values above the deduction. Updates connection to federal Internal Revenue Code. Clarifies provisions relating to elections made for state inheritance tax purposes. Defines terms for natural resource property and business. Replaces tax credit for natural resource property with formula and modifies related provisions.

Revenue Impact:

Some impacts are indeterminate; however, the expansion of the Natural resource credit will reduce general fund revenue by about $0.7 million in the average biennium.

Impact Explanation:

The measure includes major rewrites of the Estate Tax statutes by the Oregon Law Commission (OLC). The definitions of relevant terms and the clear connections to the federal tax code introduce flexibility to the tax system. Furthermore, the reformed system provides a structure to implement future policy changes. However, any revenue impact from this bill will originate from one of three main sources. The first source is indeterminate; the second potential source was stabilized by changing the tax rates, and no longer is the source of revenue impact, assuming of the continuation the same conditions. The third source is the natural resource credit. It is still expected to cause revenue reduction of $0.7 million. The following expands the description of these three sources:

1) Some of the introduced changes such as the Operating allowance (working capital), the different treatment of intangibles for residents and nonresidents, reporting, compliance, and implementation date have effects that are indeterminate at this time.

2) The change in the tax schedule, exclusion/exemption and change in rates, which could've potentially caused the largest revenue discrepancy was stabilized by expanding the data used to determine the new rates. The data from the years 2005 to 2009 were used and averaged to arrive at the new rates. The resulting rates, which are in the "-A" version, would yield the same revenue in the years in 2002 to 2009 compared with current rates. The new rates accomplished revenue neutrality, assuming all other factors (behavior, avoidance, etc.) being the same. However, while revenue neutral, the new rate schedule is likely to result in more volatile revenue (larger variance) than current rates. This effect is the outcome of narrowing the base of payers and moving the threshold of the tax incidence. Under the new rates the majority of the tax payers will experience a reduction in tax, while a small group of high value estates will make up the difference by paying more. The reaction to those changes and the uncertain behavior that might be induced as a result of the changing tax environment is not accounted for and not considered in this analysis.

3) The expansion of the natural resource property tax credit is a result of the change in the credit from a table format (usually more precise) to a formula base (not comparable in construction) calculation, which changed the dynamics and the outcome of that credit. The expansion is measured at 22% of the existing credit. The current credit is about $3 million a biennium. This yields an estimated impact of $0.7 million. This credit has been estimated fairly accurately in the past and is independent from the revenue neutrality estimates due to the tax rate and the tax tables. Thus any possible volatility resulting from (2) above should not necessarily be seen to negate or compensate for the amounts in category number (3).

Creates, Extends, or Expands Tax Expenditure: Yes ☒ No ☐

The policy purpose of the Natural Resource credit is to allow for natural resource business to pass to the next generation without being pressured to sell the property for the purpose of paying state taxes. The policy was initiated by the 2007 legislature and fine tuned in succeeding sessions. Under current law the credit reaches $1.5 million a year on average, the proposed expansion will result in the credit reaching $1.83 million a year.

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