

D R A F T

SUMMARY

For purposes of estate tax, conforms threshold for imposition of tax and for requirement to file return to basic exclusion amount applicable to federal estate.

Applies to estates of decedents dying on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to conforming Oregon estate tax to federal threshold; creating new provisions; amending ORS 118.010 and 118.160; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 118.010 is amended to read:

118.010. (1) As used in this section:

(a) "Nonresident decedent" means an individual who is domiciled outside of Oregon on the date the individual dies.

(b) "Resident decedent" means an individual who is domiciled in Oregon on the date the individual dies.

(2) A tax is imposed upon a transfer of the property of each:

(a) Resident decedent; and

(b) Nonresident decedent whose estate includes any interest in:

(A) Real property located in Oregon; or

(B) Tangible personal property located in Oregon.

(3) The Oregon taxable estate to be used for purposes of computing the tax imposed under this section shall be the federal taxable estate:

(a) Increased by:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

(A) The deduction for state estate, inheritance, legacy or succession taxes allowable under section 2058 of the Internal Revenue Code; and

(B) If the decedent is a surviving spouse owning the property at death, the value of the following property unless included in the federal taxable estate:

(i) Property for which a deduction for Oregon special marital property under ORS 118.016 was previously allowed; or

(ii) Property for which a separate Oregon election under section 2056 or 2056A of the Internal Revenue Code was previously allowed; and

(b) Reduced by:

(A) The value on the date of the decedent's death of all Oregon special marital property under ORS 118.013; *[and]*

(B) The basic exclusion amount under section 2010(c)(3) of the Internal Revenue Code, as amended and in effect on December 31, 2016, minus \$1 million; and

[(B)] (C) Any other applicable exclusions or deductions.

(4) The tax imposed under this section shall be calculated by applying the rates in the following table. If the Oregon taxable estate is at least the amount in column 1, but less than the amount in column 2, the tax is the amount in column 3, increased by the excess above the amount in column 1 multiplied by the percentage in column 4:

1	2	3	4
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.25%
2,500,000	3,500,000	152,500	10.5%
3,500,000	4,500,000	257,500	11.0%
4,500,000	5,500,000	367,500	11.5%
5,500,000	6,500,000	482,500	12.0%
6,500,000	7,500,000	602,500	13.0%
7,500,000	8,500,000	732,500	14.0%

1	8,500,000	9,500,000	872,500	15.0%
2	9,500,000		1,022,500	16.0%

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4 (5) In the case of a resident decedent owning, on the date of the
5 decedent's death, real property located outside Oregon or tangible personal
6 property located outside Oregon, the tax imposed under this section shall be
7 the amount determined under subsection (4) of this section multiplied by a
8 ratio. The numerator of the ratio shall be the sum of the value of the
9 decedent's real property located in Oregon, tangible personal property lo-
10 cated in Oregon and intangible personal property. The numerator may not
11 include any intangible personal property subject to a tax imposed, as a result
12 of the death of the decedent, by another state or country. The denominator
13 of the ratio shall be the total value of the decedent's gross estate.

14 (6) In the case of a nonresident decedent owning, on the date of the
15 decedent's death, real property located in Oregon or tangible personal prop-
16 erty located in Oregon, the tax imposed under this section shall be the
17 amount determined under subsection (4) of this section multiplied by a ratio.
18 The numerator of the ratio shall be the sum of the value of the decedent's
19 real property located in Oregon and tangible personal property located in
20 Oregon. The denominator shall be the total value of the decedent's gross
21 estate.

22 (7) Payment, in whole or in part, of estate taxes from funds of an estate
23 or trust on any benefit subject to tax under ORS 118.005 to 118.540 is not to
24 be considered a further taxable benefit, when such payment is directed by the
25 decedent's will or by a trust agreement.

26 (8)(a) If the federal taxable estate is determined by making an election
27 under section 2031(c), 2032, 2032A, 2056 or 2056A of the Internal Revenue
28 Code or another provision of the Internal Revenue Code, or if a federal es-
29 tate tax return is not required under the Internal Revenue Code, an executor
30 may make separate elections for state estate tax purposes under that same
31 provision.

(b) An executor may make elections under ORS 118.013 and 118.140 and section 2056 of the Internal Revenue Code for state estate tax purposes.

(c) Elections described in this subsection are irrevocable.

SECTION 2. ORS 118.160 is amended to read:

118.160. (1) Except as provided in subsection (2) of this section:

(a) An inheritance tax return is not required with respect to the estates of decedents who die on or after January 1, 1987, and before January 1, 2003, unless a federal estate tax return is required to be filed;

(b) An inheritance tax return is not required with respect to the estates of decedents who die on or after:

(A) January 1, 2003, and before January 1, 2004, unless the value of the gross estate is \$700,000 or more;

(B) January 1, 2004, and before January 1, 2005, unless the value of the gross estate is \$850,000 or more;

(C) January 1, 2005, and before January 1, 2006, unless the value of the gross estate is \$950,000 or more; or

(D) January 1, 2006, and before January 1, 2012, unless the value of the gross estate is \$1 million or more; and

(c) An estate tax return is not required with respect to the estates of decedents who die on or after:

(A) January 1, 2012, **and before January 1, 2018**, unless the value of the gross estate is \$1 million or more[.]; **or**

(B) January 1, 2018, unless the value of the gross estate exceeds the basic exclusion amount under section 2010(c)(3) of the Internal Revenue Code, as amended and in effect on December 31, 2016.

(2) In every estate, whether or not subject to administration and whether or not a federal estate tax return is required to be filed, the executor shall at such times and in such manner as required by rules of the Department of Revenue, file with the department a return in a form provided by the department setting forth a list and description of all transfers of property, in trust or otherwise, made by the decedent in the lifetime of the decedent as

3 **SECTION 3. The amendments to ORS 118.010 and 118.160 by sections**
4 **1 and 2 of this 2017 Act apply to estates of decedents dying on or after**
5 **January 1, 2018.**

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