

House Bill 2069

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires annual adjustment for inflation of estate tax exclusion amount and threshold for requirement to file estate tax return.

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

1 Relating to inflation adjustments of Oregon estate tax provisions; creating new provisions; amending
2 ORS 118.010 and 118.160; and prescribing an effective date.

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

4 **SECTION 1.** ORS 118.010 is amended to read:

5 118.010. (1) As used in this section:

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

8 (b) "Resident decedent" means an individual who is domiciled in Oregon on the date the indi-
9 vidual dies.

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

11 (a) Resident decedent; and

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

13 (A) Real property located in Oregon; or

14 (B) Tangible personal property located in Oregon.

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

17 (a) Increased by:

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

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

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

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

26 (b) Reduced by:

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

29 (B) Any other applicable exclusions or deductions.
30

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.

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

(5)(a) Notwithstanding subsection (4) of this section, no tax is due under this chapter with respect to the estates of decedents who die on or after January 1, 2012, unless the value of the Oregon taxable estate is \$1 million or more after being adjusted for inflation.

(b) The Department of Revenue shall annually adjust the exclusion amount according to the cost-of-living adjustment for the calendar year. The department shall make this adjustment by multiplying \$1 million by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2016.

(c) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) If the exclusion amount after adjustment for inflation is greater than \$1 million, in lieu of the amount in subsection (4) of this section, the tax due on the decedent’s estate shall be computed by:

(A) Calculating the amount of tax under subsection (4) of this section that would have been imposed prior to the effective date of this 2017 Act on an estate equal to the exclusion amount; and

(B) Reducing the tax that would otherwise be due on the decedent’s estate by the amount arrived at in subparagraph (A) of this paragraph.

[5] (6) In the case of a resident decedent owning, on the date of the decedent’s death, real property located outside Oregon or tangible personal property located outside Oregon, the tax imposed under this section shall be the amount determined under subsection (4) of this section multiplied by a ratio. The numerator of the ratio shall be the sum of the value of the decedent’s real property located in Oregon, tangible personal property located in Oregon and intangible personal property. The numerator may not include any intangible personal property subject to a tax imposed,

1 as a result of the death of the decedent, by another state or country. The denominator of the ratio
2 shall be the total value of the decedent's gross estate.

3 [(6)] (7) In the case of a nonresident decedent owning, on the date of the decedent's death, real
4 property located in Oregon or tangible personal property located in Oregon, the tax imposed under
5 this section shall be the amount determined under subsection (4) of this section multiplied by a ratio.
6 The numerator of the ratio shall be the sum of the value of the decedent's real property located in
7 Oregon and tangible personal property located in Oregon. The denominator shall be the total value
8 of the decedent's gross estate.

9 [(7)] (8) Payment, in whole or in part, of estate taxes from funds of an estate or trust on any
10 benefit subject to tax under ORS 118.005 to 118.540 is not to be considered a further taxable benefit,
11 when such payment is directed by the decedent's will or by a trust agreement.

12 [(8)(a)] (9)(a) If the federal taxable estate is determined by making an election under section
13 2031(c), 2032, 2032A, 2056 or 2056A of the Internal Revenue Code or another provision of the
14 Internal Revenue Code, or if a federal estate tax return is not required under the Internal Revenue
15 Code, an executor may make separate elections for state estate tax purposes under that same pro-
16 vision.

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

19 (c) Elections described in this subsection are irrevocable.

20 **SECTION 2.** ORS 118.160 is amended to read:

21 118.160. (1) Except as provided in subsection (2) of this section:

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

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

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

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

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

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

35 (c) An estate tax return is not required with respect to the estates of decedents who die on or
36 after January 1, 2012, unless the value of the gross estate is \$1 million or more.

37 **(2)(a) The Department of Revenue shall annually adjust the filing threshold amount ac-**
38 **cording to the cost-of-living adjustment for the calendar year. The department shall make**
39 **this adjustment by multiplying \$1 million by the percentage (if any) by which the monthly**
40 **averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending**
41 **August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Con-**
42 **sumer Price Index for the 12 consecutive months ending August 31, 2016.**

43 **(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S.**
44 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
45 **Bureau of Labor Statistics of the United States Department of Labor.**

1 [(2)] (3) In every estate, whether or not subject to administration and whether or not a federal
2 estate tax return is required to be filed, the executor shall at such times and in such manner as
3 required by rules of the Department of Revenue, file with the department a return in a form pro-
4 vided by the department setting forth a list and description of all transfers of property, in trust or
5 otherwise, made by the decedent in the lifetime of the decedent as a division or distribution of the
6 estate of the decedent and any further data that the department requires to determine estate tax
7 under this chapter.

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

10 **SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017**
11 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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