

House Bill 3434

Sponsored by Representative WILDE

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**.

Increases threshold for filing of estate tax return and for liability for estate tax. Requires person receiving property from decedent to use decedent's basis in property, not "stepped up" basis.

Applies to estates of decedents dying on or after January 1, 2020.

Transfers amount equal to estimated increase in revenue attributable to amendments to statutes to Higher Education Coordinating Commission for allocation to public universities and for funding of Oregon Opportunity Grants. Provides for distribution to Public Employees Retirement System for deposit in School Districts Unfunded Liability Fund, in lieu of transfer to university, if university increases resident tuition rates by percentage exceeding inflation plus two percent in either of two immediately preceding academic years.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to higher education funding; creating new provisions; amending ORS 118.010 and 118.160;
3 and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 118.**

6 **SECTION 2. Notwithstanding ORS 118.010 (4), no tax is due under this chapter with re-**
7 **spect to the estates of decedents who die on or after January 1, 2020, unless the value of the**
8 **Oregon taxable estate is \$5 million or more.**

9 **SECTION 3. ORS 118.160 is amended to read:**

10 118.160. (1) Except as provided in subsection (2) of this section:

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

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

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

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

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

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

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

26 (A) January 1, 2012, **and before January 1, 2020**, unless the value of the gross estate is \$1
27 million or more[.]; **or**

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.

(B) January 1, 2020, unless the value of the gross estate is \$5 million or more.

(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 a division or distribution of the estate of the decedent and any further data that the department requires to determine estate tax under this chapter.

SECTION 4. 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:

(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) 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%

1	4,500,000	5,500,000	367,500	11.5%
2	5,500,000	6,500,000	482,500	12.0%
3	6,500,000	7,500,000	602,500	13.0%
4	7,500,000	8,500,000	732,500	14.0%
5	8,500,000	9,500,000	872,500	15.0%
6	9,500,000		1,022,500	16.0%

(5) 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, as a result of the death of the decedent, by another state or country. The denominator of the ratio shall be the total value of the decedent’s gross estate.

(6) In the case of a nonresident decedent owning, on the date of the decedent’s death, real property located in Oregon or tangible personal property located in 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 and tangible personal property located in Oregon. The denominator shall be the total value of the decedent’s gross estate.

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

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

(9) Notwithstanding subsection (8) of this section and section 1014 of the Internal Revenue Code, for purposes of this section, the basis in property in the hands of a person acquiring property from a decedent shall equal the basis of the property in the hands of the decedent.

SECTION 5. The amendments to ORS 118.010 by section 4 of this 2019 Act apply to estates of decedents dying on or after January 1, 2020.

SECTION 6. (1) On or before October 1 of each year, beginning with October 1, 2021, the Department of Revenue shall:

(a) For estates of decedents dying on or after January 1 of the preceding year and ending before January 1 of the current year, estimate the increase, if any, in the amount of estate tax revenue received by the department that is attributable to the amendments to ORS 118.010 by section 4 of this 2019 Act, less the amount of decrease, if any, attributable to the operation of section 2 of this 2019 Act; and

1 **(b) Transfer an amount equal to the estimate required under paragraph (a) of this sub-**
2 **section to the Higher Education Coordinating Commission to be distributed as follows:**

3 **(A) 50 percent to be allocated among public universities listed in ORS 352.002 using a**
4 **formula consistent with the commission’s current formula required under ORS 350.075 (3)(f);**
5 **and**

6 **(B) 50 percent to be used to provide Oregon Opportunity Grants as provided in ORS**
7 **348.205.**

8 **(2)(a) Notwithstanding subsection (1) of this section, any university that in either of the**
9 **two academic years ending in the two immediately preceding calendar years has increased**
10 **tuition rates for resident students by more than the sum of two percent plus the increase**
11 **in the cost-of-living adjustment for the calendar year may not receive an allocation under**
12 **this section.**

13 **(b) Any amount that, but for the restriction in paragraph (a) of this subsection, would**
14 **otherwise be allocated to a university shall be transferred to the Public Employees Retire-**
15 **ment System for deposit into the School Districts Unfunded Liability Fund established by**
16 **section 24, chapter 105, Oregon Laws 2018.**

17 **(3)(a) For purposes of this section, the cost-of-living adjustment for any calendar year is**
18 **the percentage, if any, by which the monthly averaged U.S. City Average Consumer Price**
19 **Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the**
20 **monthly averaged index for the second quarter of the calendar year 1992.**

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

24 **SECTION 7. This 2019 Act takes effect on the 91st day after the date on which the 2019**
25 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

26