

OREGON ESTATE TAX

Overview of Oregon's Estate Tax

Estate, Inheritance, Gift, and Generation Skipping taxes are different forms of taxes on the transfer of wealth. Estate tax is imposed when the property transfer is caused by death and is levied on the value of property left by the deceased. Inheritance tax is also imposed after death, but levied on the amounts that each relative receives depending on their income and relationships to the deceased. Gift taxes are imposed when the property owner is still living and transfers property to different relatives. Generation Skipping tax can be imposed either at time of death or at time of shift in property rights by gift. Gift and generation skipping taxes are often administered as compliments to estate or inheritance taxes. House Bill 2541 (2011) replaced the federally connected tax to an Oregon specific estate tax. Oregon's estate tax currently is connected only to the definitions used in many of the tax forms as the federal estate tax that was in effect on December 31, 2010.

Estates with gross values (total estate value both inside and outside of Oregon) greater than or equal to \$1 million are required to file estate tax returns while estates valued less than \$1 million are not subject to the tax and no return is required. Calculation of Oregon's estate tax is determined by applying the rates listed at the bottom of the page to the Oregon taxable estate value.

$$\begin{aligned}
 \text{Oregon Taxable Estate Value} &= \text{Federal Taxable Estate (as in effect on 12/31/2010)} \\
 &+ \text{Federal state deduction} \\
 &\pm \text{Marital property deduction (if applicable)} \\
 &- \text{Any other exclusions or deductions}
 \end{aligned}$$

If the Oregon taxable estate is at least the amount in column 1 below, 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. For example, the tax imposed on an Oregon taxable estate worth 5,000,000 would be \$425,000.¹

Estate Tax Table

Column 1	Column 2	Column 3	Column 4
Taxable estate equal to or greater than:	Taxable estate less than:	Tax on amount in column 1:	Tax rate percentage applied to taxable estate value greater than amount in column 1:
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.3%
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%

¹ Calculated as \$367,500+(5,000,000-4,500,000) x 11.5%

For estates with property inside and outside of Oregon, a ratio is applied to apportion the value of the property subject to Oregon's estate tax. The ratio is calculated in two ways depending on whether the decedent was an Oregon resident on the date of death.

Oregon Resident Ratio

$$\frac{OR \text{ Real Property} + OR \text{ Tangible Personal Property} + \text{Intangible Personal Property}^2}{\text{Total Value of Decedent's Gross Estate}}$$

Non Resident Ratio

$$\frac{OR \text{ Real Property} + OR \text{ Tangible Personal Property}}{\text{Total Value of Decedent's Gross Estate}}$$

In calculating taxable estate, a number of deductions are available including: funeral expenses, debts, mortgages and liens, bequests and gifts to charities, and bequests to a surviving spouse. Bequests to a surviving spouse act effectively as a deferral of tax as the property for which a marital deduction is allowed must be included in the value of the gross estate when the spouse that received the benefit of the deduction dies.

An optional natural resource credit (NRC) is available for natural resource property (NRP) which includes farm use and forestland use in addition to property used in commercial fishing business operations. The credit is unavailable to estates with a value greater than \$15 million and where the value of the natural resource property in Oregon constitutes less than 50 percent of the value of the estate in Oregon. The natural resource credit is calculated as follows:

$$\text{Tax that would be payable absent the credit} * \frac{\text{lesser of: value of NRP claimed or } \$7.5M}{\text{total adjusted gross estate value}}$$

To qualify for the NRC, the natural resource property must be transferred to a family member, and in five of the previous eight years must have been part of a farm, forestry, or fishing business. The property must also continue to be used in the operation of a farm, forestry or fishing business in at least five of the following eight calendar years following the decedent's death.

The American Taxpayer Relief Act of 2012 made several permanent changes to the federal estate tax which changed the way in which Oregon's estate tax interacts with the federal tax. The federal tax allows for a deduction of state death taxes paid. As the federal tax applies to estates with a gross value equal to \$5.43 million³ or more, Oregon estates with values above the federal exemption threshold receive a reduction in federal tax owed equal to the value of tax paid in Oregon multiplied by their federal estate marginal tax rate.⁴

Brief History of Oregon's Inheritance and Estate Tax

Oregon first enacted an inheritance tax in 1903. The inheritance tax prior to 1978 was calculated as a variable percentage of taxable estate value. The tax varied with the amount of the transfer and the relationship of the beneficiary to the decedent. The 1977 Legislature simplified and enacted a gradual repeal of the Oregon inheritance tax. The new tax rate was fixed at a flat 12% of net taxable estate value for all beneficiaries. Beginning January 1, 1987 the statutory inheritance tax rate became zero and the portion remaining was the "pick-up tax". The pick-up tax refers to the credit against the federal estate tax that existed. Oregon's inheritance tax was equal to the maximum state inheritance tax credit allowed federally.

² Only includes intangible personal property not subject to tax in another state.

³ The exemption is indexed to inflation. The exemption amounts for deaths occurring in 2015 & 2016 are \$5.43 and \$5.45 million respectively.

⁴ The top federal estate tax rate was 40% in 2015.

This simultaneous determination allowed Oregon to impose an inheritance tax without causing an overall increased tax burden.

The 2001 federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) made significant changes in a number of tax areas, including federal estate taxes. The 2001 federal estate tax law changes included a phase-out of the state death tax credit, an increase in the gross estate value filing threshold, a decrease in the highest federal estate tax rates and a complete elimination of the federal estate tax effective 2010 for one year. The phase-out of the total state death tax credit eliminated states' abilities to capture a portion of each estate's federal tax liability beginning in 2005.

Partially in response to EGTRRA, Oregon passed HB 3072 (2003) which codified in law Oregon's connection to the Internal Revenue Code as in effect on December 31, 2000. For deaths that occurred in 2003-2011, Oregon's filing requirement differed from federal requirements. As Oregon's filing requirement was less than the federal requirement, in some cases estates were required to file with Oregon even if no federal return was required.

The 2007 session attempted to preserve family owned farms, fishing business and small forest owners by increasing the threshold for these estates to \$7.5 million. However, HB 3201 faced difficulties in the implementation phase. The February 2008 session introduced a credit schedule for the small family owned natural resource properties.

In 2012, HB 2541 changed the Oregon inheritance tax into the current Oregon estate transfer tax. The bill contained many of the recommendations provided by an Inheritance tax work group of the Oregon Law Commission. Included in the reforms was a credit for natural resource properties.

SB 864 (2015) modified the Natural Resource Credit (NRC). Qualification for the NRC was affirmed to be calculated based upon property within the state of Oregon only, rather than the "gross estate". To qualify for the credit, 50% of the Oregon adjusted gross estate value must be natural resource property.

Exhibit F1

Payable Tax by OR Estate Size -Tax year 2017					
Oregon Taxable Estate	Number of Estates	Payable Tax (i.e. tax owed, based on returns)	percent of total # of returns by estate		percent of total tax \$ by estate
Less than \$1 million	546	\$0	26.94%		0.00%
1m – 1.5m	747	\$11,594,276	36.85%		5.64%
1.5m – 2.5m	389	\$31,574,665	19.19%		15.37%
2.5m – 3.5m	157	\$27,422,784	7.75%		13.35%
3.5m – 4.5m	62	\$15,683,738	3.06%		7.64%
4.5m-5.5m	40	\$11,412,724	1.97%		5.56%
5.5m-6.5m	26	\$12,751,631	1.28%		6.21%
6.5m-7.5m	13	\$8,470,644	0.64%		4.12%
7.5m-9.5m	18	\$10,694,924	0.89%		5.21%
more than 9.5m	29	\$75,793,129	1.43%		36.90%
Total	2,027	\$205,398,515	100.00%		100.00%

*Estates worth \$1 million or more are required to file, but may not owe any taxes, after considering deductions, credits and allowances.

Exhibit F2

Estate / Inheritance Tax Returns, Tax Years 2007-2017				
Tax year	Returns	Payable Tax	Claiming NRC Credit	Natural Resource Credit (NRC) Claimed
2007 *	1,355	118,705,672	42	2,494,644
2008	1,292	75,950,100	31	1,676,046
2009	1,144	84,133,558	31	1,816,780
2010	1,296	80,556,556	23	1,605,202
2011	1,322	93,331,726	27	3,288,147
2012	1,385	94,219,000	25	4,321,000
2013	1,599	106,597,000	32	3,657,000
2014	1,563	113,024,000	31	3,317,000
2015	1,776	157,579,000	51	5,655,000
2016	1,857	175,417,421	44	6,078,918
2017**	2,027	205,398,515	50	5,681,821

*2007 total includes the Natural Resource Exclusion which was replaced by the NRC in 2008 but was applied retroactively

** 2017 has been updated to included returns filed within the extension period

An Estate has 450 days from the date of death to file to file an Oregon Estate Tax Return. Therefore, in order to provide accurate and consistent numbers, there is a 2 year lag in detailed reporting.

Exhibit F3

Inheritance / Estate Tax Collections by Fiscal Year (\$'s in Millions)		
FY	Receipts	% CH.
1971-72	12.9	2%
1972-73	17.6	37%
1973-74	20.4	15%
1974-75	20.4	0%
1975-76	22.3	10%
1976-77	22.8	2%
1977-78	24.8	9%
1978-79	29.3	18%
1979-80	26.2	-11%
1980-81	34.5	32%
1981-82	41.5	20%
1982-83	33.2	-20%
1983-84	33.9	2%
1984-85	27.1	-20%
1985-86	26.3	-3%
1986-87	33.4	27%
1987-88	13.5	-60%
1988-89	8.9	-34%
1989-90	14.0	57%
1990-91	17.8	27%
1991-92	20.4	15%
1992-93	41.5	103%
1993-94	45.3	9%
1994-95	26.0	-43%
1995-96	41.3	59%
1996-97	33.9	-18%
1997-98	41.0	21%
1998-99	48.0	17%
1999-00	47.8	0%
2000-01	43.7	-8%
2001-02	65.2	49%
2002-03	51.4	-21%
2003-04	73.6	43%
2004-05	56.9	-23%
2005-06	80.2	41%
2006-07	81.7	2%
2007-08	109.5	34%
2008-09	87.3	-20%
2009-10	98.0	12%
2010-11	76.2	-22%
2011-12	101.8	33%
2012-13	101.9	0%
2013-14	85.5	-16%
2014-15	111.0	30%
2015-16	126	14%
2016-17	196.9	56%
2017-18	176.5	-10%
2018-19	204.7	16%

Exhibit F4

Inheritance / Estate Tax Receipts as % of General Fund
FYs 1973 - 2019

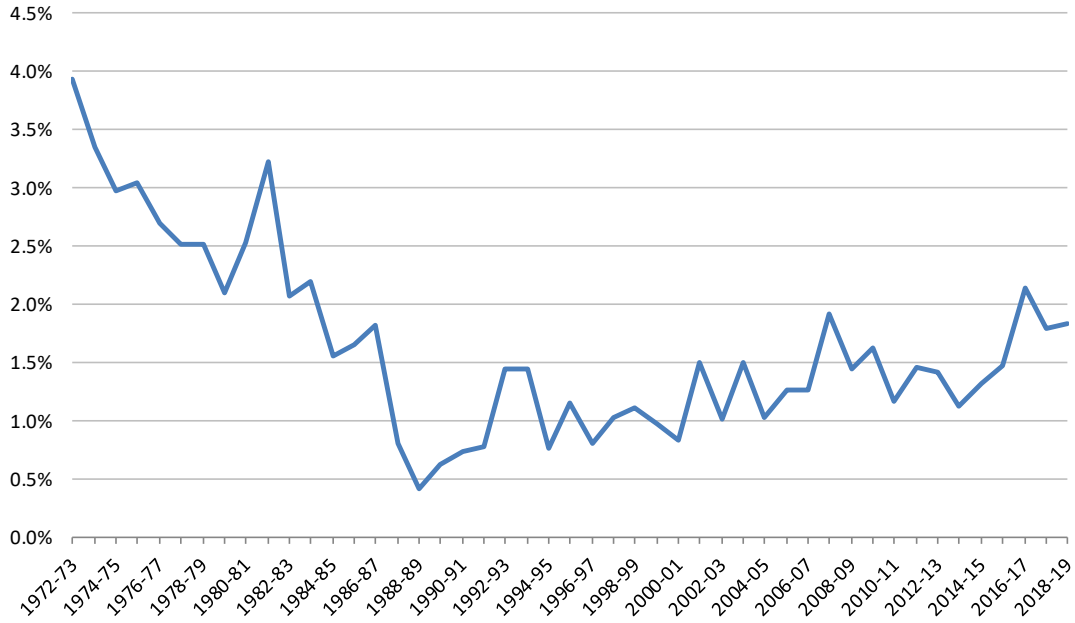
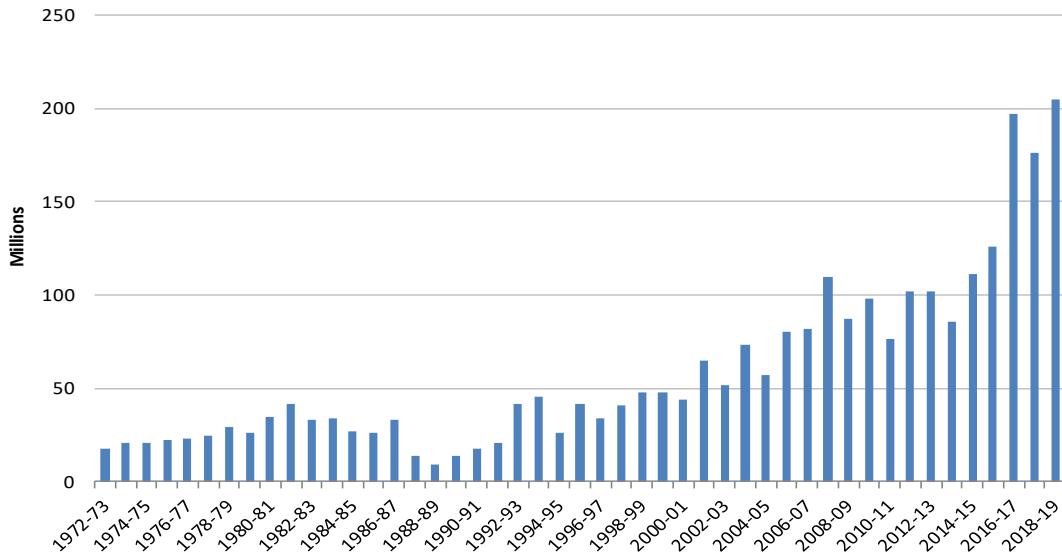


Exhibit F5⁵

Inheritance / Estate Tax Receipts
FYs 1973 - 2019



⁵ Source: Oregon Department of Revenue Comparative Balance Sheet