

House Bill 3138

Sponsored by Representative NOBLE (at the request of Linda O'Hara)

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**.

Extends time for filing of estate tax return as applicable to estate owing no federal estate tax.
Applies to estates of decedents dying on or after January 1, 2022.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to due date of estate tax return; creating new provisions; amending ORS 118.100; and pre-
3 scribing an effective date.

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

5 **SECTION 1.** ORS 118.100 is amended to read:

6 118.100. (1) The tax provided for in ORS 118.010 shall take effect at and accrue upon the death
7 of the decedent. A return shall be filed and the tax shall be paid to the Department of Revenue on
8 the date the federal estate tax is payable or, if no federal estate tax return is required, no later than
9 *[nine]* **12** months following the date of death of the decedent. If the department determines, pursuant
10 to an amended return or refund claim, that the amount of tax imposed by ORS 118.010 is less than
11 the amount theretofore paid, the excess tax shall be refunded by the department with interest at the
12 rate established by ORS 305.220 for a period beginning 45 days after the due date of the return or
13 on the date the amended return or refund claim is filed, whichever is later, and ending at the time
14 the refund is made.

15 (2) If the amount of federal estate tax reported on a federal estate tax return is changed or
16 corrected by the Internal Revenue Service or other competent authority, resulting in a change in
17 the Oregon taxable estate, the executor shall report the change or correction in federal estate tax
18 to the department. If the federal change or correction results in a reduction of the Oregon taxable
19 estate, the report of the change or correction shall be treated by the department as a claim for re-
20 fund pursuant to ORS 305.270 and, notwithstanding the limitations of ORS 305.270, shall be deemed
21 timely if filed with the department within two years after the federal correction was made. If the
22 change or correction results in an increase in the Oregon taxable estate, the department may issue
23 a notice of deficiency within two years after the federal change or correction was made or within
24 two years after receiving a report of the federal change or correction, whichever is the later. Any
25 executor filing an amended federal estate tax return shall also file an amended return with the de-
26 partment within 90 days thereafter.

27 (3)(a) In the case of an estate that contains property that is valued under section 2032A of the
28 Internal Revenue Code for federal estate tax purposes (relating to the valuation of certain farm or
29 other property) and that ceases to qualify for valuation under section 2032A, an additional tax under
30 ORS 118.005 to 118.540 shall be imposed in the amount attributable to the change in the value of
31 the estate resulting from the imposition of additional federal estate tax under section 2032A.

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.

1 (b) The department shall be notified of the disqualification of the property from valuation under
2 section 2032A in the same time and manner as the federal Internal Revenue Service is notified of
3 the disqualification.

4 (c) The period for assessment of the tax imposed under this subsection, including any penalty
5 or interest, shall be two years from the date on which the department receives the notice described
6 in paragraph (b) of this subsection.

7 (d) The other provisions of ORS 118.005 to 118.540 and ORS chapter 305 shall apply to the ad-
8 ditional tax imposed under this subsection in the same manner in which those provisions apply to
9 the tax imposed under ORS 118.010.

10 (4) For purposes of this section, a change or correction of a federal estate tax return is deemed
11 to be made on the date of the federal audit report.

12 (5) The executor shall, upon request of the department, supply a copy of the federal estate tax
13 return which the executor has filed or may file with the federal government, or a copy of any federal
14 agent's report upon any audit or adjustment of the federal estate tax return.

15 (6) The executor shall explain, on the return, how the reported values were determined and at-
16 tach copies of any appraisals.

17 **SECTION 2. The amendments to ORS 118.100 by section 1 of this 2021 Act apply to estates**
18 **of decedents dying on or after January 1, 2022.**

19 **SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021**
20 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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