SB 456: Estate tax bills represent distorted priorities

Senate Committee on Finance | Bennett Minton | 5/15/2023

Chair Meek, Vice Chair Boquist, members of the committee:

I'm Bennett Minton with Tax Fairness Oregon. We are a network of volunteers who advocate a tax code that is rational and equitable.

By our count, this is the committee's sixth public hearing on bills that would reduce the estate tax. One of them escaped our notice. In our fifth appearance, our message is familiar:

With all the needs of Oregonians, we are disappointed that the committee is so focused on reducing taxes on the heirs of about perhaps 1,800 estates annually (see LRO, Basic Facts 2023, Exhibit F-1). Stated another way, we do not comprehend the concern with those who stand to receive bequests from multi-millionaires.

The effect of the -1 amendment on one $1.5 million estate is a check to its inheritors of $50,000, paid for by other Oregonians. The effect on the budget is a reduction of services estimated at $140 million a biennium, because unlike the U.S. Congress, the Oregon Legislature cannot print money.

The budget is a statement of values. The committee's agenda reflects its values.

While the committee has examined the estate tax, it has ignored other issues that degrade our lives. For some, you have scratched the surface. For example, the harmful effects of the Commercial Activity Tax. The CAT may be understood as a substitute for a fairer property tax, which is unsustainable under the constraints of Measures 5 and 50.

Or the hollowing out of services in rural counties, partly because they lack adequate revenue sources, like a sales tax or a robust harvest tax. Without taxes to fund those services, forget about attracting doctors or volunteer firefighters, as several bills would purportedly do by handing out tax credits.

Last week on SB 1034, Senator Golden talked about the need for revenue to fund the needs of Oregonians. He noted the "one-off" way in which the committee has heard and approved bills that reduce revenues without considering the effect on the General Fund.

By contrast, the Ways and Means Committee makes choices, driven by the revenue available. It funds one thing and therefore not another. But the sums available to Ways and Means result from your choices.

Instead of providing stewardship to Oregon's overall revenue system, the Finance Committee's agenda this year has largely been one of considering reductions in funding that continue for years or forever.

The effect of raising the estate tax exemption, without an offset, is to reduce revenues permanently.

I recognize that the committee members are in a system and a culture not of their making. The state constitution allows voters to micromanage the tax code. Much of the criticism of the CAT stems from the reality that this committee, which designed the tax, was mindful of potential opposition from the business lobby. The committee knew big business could challenge the law at the ballot box and spend unlimited sums to convince voters to reject it. That reality limited the committee's choices.

This week you will receive the revenue estimate that will determine what Ways and Means can spend. The legislature has no power to say: "We want to fund X, Y, and Z. Tax committees, go get the money." Instead, unelected administrators will report to you what's available.

No successful family or business operates that way. They work from vision: What do we want to create? They go out and get money, either from earnings or from loans, and build toward that vision. Oregon? It operates from an economist who tells you: "This is how much money we think you have. Make do."

Meanwhile, Ways and Means members heard from about 250 Oregonians on their four-city road show. Not a single person in those hearings asked for tax cuts, according to the notes Senator Dembrow posted in his weekly newsletters. All of them pleaded for funding for schools, colleges, libraries, mental health, physical health, community investment. I read a couple hundred of the more than a thousand written submissions. Clicking on them at random, I didn't run across one that asked for tax cuts.

The revenue committees can't fix this insane system. But you could explore it. You could shed light on it.

Instead, you dwell on how to benefit the heirs of 0.04% of Oregonians.

Without wishing to divert attention from this rob-many-Peters-to-pay-one-Paul scenario, I respond to Rep. Mannix's claim in the hearing that you would raise revenue by increasing the exemption, because Oregonians would rather move to a state without an estate tax than remain and have the state tax a share of the inheritances their heirs had no role in creating. His assertion assumes a dynamic effect—a change in behavior—that would reverse the static loss in revenue from cutting taxes. I've been following this academic debate for decades. Let's examine what might prompt this change in behavior.

- Assume an Oregonian with a $10 million estate. An increase in the exemption to $1.5 million isn't going to make any appreciable difference in the estate's liability, so no change in behavior is likely.
- Assume a married Oregonian who has put assets in a trust; the taxpayer has already protected $2 million between spouses. The amended bill would protect $3 million. If the estate were $4 million, and the decedent made zero tax-free bequests, such as to charity, then heirs would have a total tax bill of $200,000 under current law and $100,000 under the amendment. Would the couple pull up stakes to save their two children 5 percent on an inheritance of $2 million? Possibly, but unlikely.

A rational person in either of these scenarios would not move for tax purposes. Where is this mythical "sweet spot" under which the state would experience an increase in revenue from an increase in the exemption?

If the committee wants to raise the exemption, we urge you, as we have before, to make it up elsewhere among this class of most fortunate Oregonians.