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## Advisors & CPAs

Written testimony in Support of HB 3934, Portability of Estate Tax

Hearing on April 3, 2025

Dear Chair Nathanson, Vice-Chair Reschke, Vice-Chair Walters and members of the House Committee:

My name is John Hawkins and thank you for the opportunity to testify in Support of HB 3934 providing the portability of the Oregon Estate Tax exemption.

I practice as a CPA with REDW Advisors and CPAs, LLC here in Salem Oregon. I am dual licensed as both a CPA and an Attorney, but I have practiced my entire career as a CPA. I am near the end of my 39<sup>th</sup> tax season. A significant portion of my practice is with trusts and estates. This includes my own clients as they age and referrals from several sources to assist with tax returns when there has been the death of a loved one.

I'm always disappointed when a have a family where estate planning not done and the opportunity use the \$1million exemption for the first spouse was missed. The portability of the Oregon exemption would greatly benefit those families.

For families that have a net worth of over \$1 million and have established an estate plan, that plan will generally include the creation of a "bypass trust" to use the Oregon \$1 million exemption of the first spouse to die. That trust will be created on the death of the first spouse and will usually continue to be in existence for the remainder of the surviving spouse's life. When the deceased spouse's share of assets is over \$1million, then a second trust is usually created. The bypass trust is limited to only \$1 million of assets to avoid creating an Oregon estate tax liability. Any excess over the \$1 million threshold is transferred to a separate trust that will make an Oregon only QTIP (Qualified Terminal Interest Property) election. The QTIP election makes this second trust qualify for the marital deduction for Oregon purposes and not trigger Oregon estate tax on the first death.

Thereafter, each year when the surviving spouse comes to my office to have their tax returns prepared, I will prepare three tax returns:

- The surviving spouse's individual return form 1040
- The bypass trust's fiduciary return from 1041
- The Oregon QTIP trust's fiduciary return from 1041

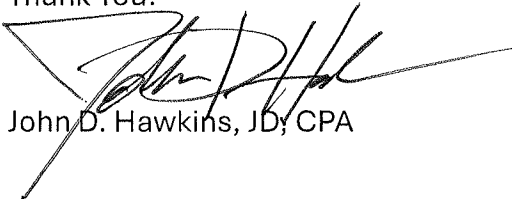
The surviving spouse will need to file these returns for the remainder of their life. Assets will need to be segregated and managed by the separate trusts. Administration of these trusts will often continue for many years.

I've had many surviving spouses become very frustrated by the complexity and cost of maintaining these trusts. They may be confused by the provisions that they as trustee must follow in administering the trust(s). If the trust is not administered properly, they could have liability for their errors. In some situations, the Oregon QTIP is small and is seen as not worth the bother.

Also, the assets that are used to fund these trusts can create specific problems. For example, if a trust owns half of the family home, then that trust would not qualify for the IRC Section 121 exclusion of gain on the sale of a principal residence. Retirement plans and IRA can add complexity if a trust is a beneficiary, This morning, I reviewed an Oregon 706 estate tax return where the deceased husband had a retirement plan valued at \$1.5 million and life insurance of \$150,000. However, other than a small balance in a checking account, there were no other assets. Both the retirement plan and the life insurance passed to the surviving wife by beneficiary designation and the deceased husband's \$1 million exemption was unused. The portability of the exemption would have been useful for this couple.

Many of the difficulties and complexities can be eliminated by the portability of the Oregon Estate Tax exemption provide by HB 3934. I respectfully ask that you support HB 3934.

Thank You.

A handwritten signature in black ink, appearing to read "John D. Hawkins", is written over a large, stylized, handwritten "X" mark.

John D. Hawkins, JD, CPA