

**75TH OREGON LEGISLATIVE ASSEMBLY
STAFF MEASURE SUMMARY
SENATE FINANCE & REVENUE COMMITTEE**

**MEASURE: HB 2308 A
CARRIER: Sen. Telfer**

**REVENUE: NO - Revenue Impact
FISCAL: Minimal - Fiscal Impact, no statement issued**

Action: Do Pass.
Vote: 4-0-1
Yeas: Hass, Rosenbaum, Telfer, Burdick
Nays: 0
Exc.: Morse
Prepared By: **Mazen Malik**, Economist
Meeting Dates: 05/14

WHAT THE BILL DOES: Allows a trustee, personal representative or executor to apply to the Oregon Department of Revenue for a determination of the amount of inheritance tax owed. Allows for a discharge from further tax liability to be issued following payment.

ISSUES DISCUSSED:

- Oregon Bar Estate planning section analysis of the problem.
- Repeal of Chapter 119 (gift tax section).
- The 9 months limit in Internal Revenue Code.
- Difficulty of who and when do you get the responsibility for payments after the fact.
- Time for DOR to get the issue straightened.
- Avoid difficulties with natural resource properties.

EFFECT OF COMMITTEE AMENDMENTS: No amendments.

BACKGROUND:

The Oregon law does not parallel language to the IRC code, which allows for closure of the inheritance process. IRC § 2204 provides that if the Personal Representative applies for a determination of the amount of the estate tax and a discharge from personal liability, the Internal Revenue Service has nine (9) months from the later of the filing of the application or the due date of Form 706, which is used to figure the estate tax imposed by Chapter 11 of the Internal Revenue Code, to notify the Personal Representative of the amount of the estate tax. On payment of such tax, other than any estate tax, the time for payment of which is deferred under IRC §§ 6161, 6163 or 6166, and the furnishing of a bond that may be required for the deferred tax, the Personal Representative is discharged from personal liability for any subsequently determined deficiency and is entitled to written evidence of the discharge. If the Personal Representative is not so notified, the Personal Representative is discharged at the end of such nine (9) month period. Oregon does not have a similar provision. Currently, a trustee or personal representative may request a receipt showing that inheritance taxes have been paid. However, unlike IRC 2204, the Internal Revenue Manual, this receipt is not a discharge of liability. The payer may be audited anytime before the statute of limitations for tax liabilities has run out. Responsible executors or trustees therefore often refrain from distributing all the funds in the event an audit assigns more taxes.

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