

**REVENUE: Revenue statement issued**

**FISCAL: Minimal fiscal impact; no statement issued**

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<b>Action:</b>	Do Pass and Be Referred to the Committee on Revenue by Prior Reference
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Barton, Cameron, Garrett, Krieger, Olson, Smith J., Stiegler, Whisnant, Barker
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Shannon Sivell, Counsel
<b>Meeting Dates:</b>	1/26, 3/12, 3/17

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**WHAT THE MEASURE 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:**

- Process for applying for a discharge
- Provisions of the bill

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** As a result of differences in tax rules, some estates may be required to file Oregon inheritance tax returns while being exempt from filing federal estate tax returns. Under the federal system, a trustee, executor or personal representative may apply for a total accounting of all inheritance taxes owed. Upon payment of that amount, the payor may be discharged from personal liability should a later accounting show more funds are owed. (See full text of statute below) In this way, an executor is able to distribute funds as provided by a will or trust BEFORE the statute of limitations for tax liability has run out (generally 2-3 years).

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 payor 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.

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.