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## OREGON LAW COMMISSION

### MEMORANDUM

DATE: February 10, 2011  
TO: House Revenue Committee  
FROM: Lane Shetterly, Oregon Law Commission Chair and Inheritance Tax Work Group Chair  
Wendy Johnson, Oregon Law Commission Deputy Director and General Counsel  
RE: Inheritance Tax Law Reform Project Interim Update (HB 2541)

MEASURE: HB 2541  
EXHIBIT: B  
HOUSE REVENUE COMMITTEE  
DATE: 2/10/2011 PAGES: 19  
SUBMITTED BY: LANE SHETTERLY

#### **INTRODUCTION:**

After the 2009 legislative session, the Legislative Revenue Office and several legislators, including the chairs and members of the House and Senate Revenue Committees, requested that the Oregon Law Commission conduct a law reform project regarding Oregon's inheritance taxation laws. The request was to review ORS Chapter 118 (the inheritance tax chapter) and make recommendations for any reform to the 2011 Legislative Assembly, including a proposed bill. Legislative leadership also requested periodic interim reports.

The Commission approved the law reform project in September 2009 and appointed a Work Group. The Work Group is chaired by Commissioner Lane Shetterly and is composed of nine members and eight advisors. The Work Group membership includes six lawyers with expertise in estate planning, elder law, taxation, and business entity law; a CPA; a tax academic; and the Hon. Henry Breithaupt, Oregon's Tax Court judge. Advisors include representatives from the Department of Revenue and Department of Justice; individuals with farm, nursery, and tax policy expertise; and representatives of the Governor's and House Speaker's offices. The Work Group also has the assistance of LRO and LC. The Work Group has met monthly since October 2009. Special subgroups were also formed and have met to focus on complex issues regarding natural resource property, marital property, and intangible property.

#### **HOW DID OREGON GET HERE?**

Oregon has had an inheritance tax since 1903. Since 1977, Oregon has tied its state inheritance tax to the federal estate tax system. That is, Oregon has relied largely on the federal estate tax code for its definitions and for determining the taxable estate. From 1926 to 2004, federal law permitted a credit on federal estate tax returns for state estate taxes paid. Thus, state estate taxes had very little burden on tax payers because the credit effectively made it a pass-through to states of money that otherwise would have gone to the federal government, anyway.

In 2001, the pass-through credit changed. In that year, Congress passed the Economic Growth and Tax Relief Reconciliation Act (EGTRRA), which phased out the state tax credit from 2001-2004. And in 2005, the credit on the federal return was completely eliminated and replaced with a deduction for state estate taxes paid. This new deduction on the federal return computes out to giving taxpayers approximately 45% to 50% back of what is paid in state estate taxes. In

addition, EGTRRA raised significantly the filing threshold for paying federal estate taxes; the threshold increase was phased in, moving from \$1 million in 2002 to \$3.5 million in 2009.

Most states, including Oregon, had set their state estate tax rate in statute as the maximum allowable credit on the federal return. When the credit was repealed, states that wanted to continue to receive estate tax revenues (including Oregon) had to decouple from the federal credit provision since it had been repealed. Twenty-eight states have amended their laws to repeal the estate tax or chose to let their estate tax expire when the pick-up tax expired. Almost all of the other states opted to amend their statutes and stay linked in some way to the pre-2001 federal code.

In 2003, Oregon opted to stay continually linked to the federal estate tax code as it existed on December 31, 2000 (2000 federal estate tax code). However, this structure is perceived as having both administrative and tax policy problems. Administratively, it is cumbersome because the 2000 federal estate tax code is getting more and more remote as time goes by, and more difficult for practitioners even to find. Tax policy issues tend to center around the different exemption amounts, treatment of surviving spouses, treatment of family businesses (particularly family businesses that are related to natural resources), and comparisons with other states. Oregon did diverge from the federal code and adopt a modified state QTIP provision known as Oregon State Marital Property in 2005 and a Natural Resource Credit in 2007. Those provisions have continued to carry some questions and concerns, partially because they are different from federal law and partially because they are complex, new, and present overlapping questions. On December 15, 2010, H.R. 4853 was enacted by Congress. Title III of that law reinstated the federal estate tax that had expired in 2010, increased the federal exclusion to \$5 million, and made further amendments to the law. All of these factors suggested the need for a comprehensive review of Oregon's own inheritance tax law and policy and a rewrite of ORS Chapter 108.

#### **KEY FACTS:**

- Oregon inheritance tax revenues currently average about \$200 million a biennium. Inheritance tax revenues are fairly volatile as revenue depends on who dies in a given year. The Work Group is operating under the directive from the Revenue Committees that recommendations for law reform should be substantially revenue neutral.
- Around 1,000 inheritance tax returns are filed each year in Oregon.
- Over half of the total number of Oregon inheritance tax returns have been for estates between \$1 million and \$2 million; those returns produce approximately ¼ of the biennial inheritance tax revenue.
- Oregon's inheritance tax presently is a complicated graduated rate with a range of 6-16% (there really isn't a rate because the tax is linked to the old 2000 federal estate tax credit that was available).
- Presently, an estate under \$1 million pays no tax, while an estate over \$1 million begins paying tax at a 41% marginal rate, which is significantly higher than the 6.4% Oregon inheritance tax rate applicable to the same values. As a result an estate slightly over \$1 million pays over \$30,000 in tax on the entire taxable estate. This is a confusing tax result, and the "steep ramp" is perceived as unfair and it creates significant incentives to manage estates in a way that avoids the \$1 million threshold.

- Oregon and Washington are the only states in the western United States with an estate tax. Washington has a \$2 million threshold, tax rates are 10-19%, and Washington uses a ramp structure (tax on dollars over the threshold only).

### **PRELIMINARY RECOMMENDATIONS:**

The Inheritance Tax Work Group has made several preliminary recommendations that are now being integrated into a bill draft, prepared by Deputy Legislative Counsel, Kate Tosswill. The draft is still a work in progress as the group continues to discuss a few issues. The bill before you is the draft as it existed on October 28, 2010. The Work Group has been working from a draft dated January 21, 2011, and is awaiting a new draft from Legislative Counsel to reflect the progress of two more meetings subsequent to that draft.

The following represents a summary list of key substantive provision concepts that the group presently is considering recommending to the Oregon Law Commission and ultimately the 2011 Legislative Assembly.

#### **Estate Tax, No Longer Inheritance Tax**

1. Use the right terminology throughout ORS Chapter 118 and call the tax what it is—an estate tax and NOT an inheritance tax (it is the estate that is taxed, not individual inheritance beneficiaries). (Changes made throughout the bill.)

#### **Federal Connection, but Oregon Threshold**

2. Decouple from the old 2000 federal estate tax code and reconnect to a newer and more readily available version for most definitions and the basic federal tax structure. Now that Congress passed H.R. 4853 on December 17, 2010, the bill will use a tie-in date of December 31, 2010. See Section 2 and Section 3 (ORS 118.010(2) deleted).
3. Rather than track the federal estate tax threshold, maintain an Oregon-specific estate size that will trigger Oregon's tax. Oregon's threshold is presently \$1 million. The 2009 federal threshold was \$3.5 million; there was no federal estate tax in 2010; the new 2011 threshold is \$5 million. The current bill draft would raise the Oregon threshold to \$1.5 million. See Section 3 and Section 8.
4. Add a new "adjusted gross estate" definition which means the federal gross estate with the federal 2053 (administration expenses) and 2054 (losses) deductions and use that throughout the law. Use a consistent "Oregon taxable estate" term as well throughout the estate tax chapter.

#### **Tax Rate Computation**

5. Set and codify Oregon's own estate tax rates and no longer rely on the 2000 federal tax code allowable credit as the state rate that is computed by reference to two complicated outdated tax schedules. See Section 3.

6. Make more reasonable the tax computation process by taxing dollars over the Oregon threshold only (ramp structure), instead of taxing the entire estate if it is over the threshold (present wall). See Section 3.
7. Keep a graduated rate rather than a flat rate, but strive to keep the top rate competitive with Washington (the only Western state with an estate tax). Bill draft uses a rate range of 8.6% to 19.6%. See Section 3.

### **Marital Property**

8. Maintain but clarify Oregon's Special Marital Property provisions. See Sections 3 and 4. That is, property can continue to be passed on to a surviving spouse with a deferred tax by making the special marital property election.
9. Make cleanup adjustments so that spouses and domestic partners are treated equally throughout ORS Chapter 118 according to Legislative Counsel drafting protocols. (No substantive changes are intended.)
10. Fix the use of the word "distribution" in ORS 118.016 so as to cover all possible property interests. See Section 5.
11. Move the substantive provisions of OAR 150.118.010(7) into the ORS. Namely, clarify that an executor may make separate elections for state estate and federal estate tax purposes. That is, one can make a federal marital deduction (and QTIP) AND also a state QTIP or an Oregon special marital property election for the same property—the elections should be treated as separate elections with different requirements. See Section 3. Clarify when marital property previously claimed must be added back into the Oregon taxable estate.

### **Intangible Property**

12. Recommend no longer taxing intangible property held by the estates of nonresident decedents. The workgroup considered the definitional complexities of determining how to tax entities owned by a nonresident which owned property in multiple states, and concluded that it was too difficult to adopt laws and regulations which would fairly and accurately define the property that is included as well as the property excluded. The enforcement of a law taxing intangible property of a nonresident is administratively very difficult, and it is a very unlikely source of income for Oregon. See Section 3.
13. Recommend removing the confusing reciprocal exemption of intangible personal property provision in ORS 118.010(4)(b) and OAR 150-118.010(4)(b). See Section 3.
14. Do not tax intangible property of resident's Oregon taxable estate if that same property will be taxed in another state. See Section 3.

## Natural Resource Property

15. Provide for a revised natural resource property credit with a clarified definition of natural resource property that includes real property and personal property of a farm, fishing, or forestry business. See Section 7. (Still being revised.)
16. Cap the natural resource property credit that can be taken. (Still being revised, but leaning towards cap of \$6 million or \$7.5 million.)
17. Reverse the present administrative rule, OAR 150-118.140(2), and provide that an estate can take a credit for Oregon natural resource property on the state return for qualifying property even if the estate used a marital deduction for the same property on the federal return to defer federal estate taxes. That is, one is NOT bound by federal elections on the Oregon return in this special overlap area of natural resource property and marital deductions. This ensures that every Oregon estate will have a true opportunity to use the natural resource property credit, not just the second spouse. See Section 3.
18. Eliminate “working capital” within the natural resource property concept and instead provide for an “operating allowance” within the definition of “natural resource property.” See Section 7. Place a limit on the operating allowance of cash and cash equivalents that an estate can claim for the credit at the lesser of 20% of the other natural resource property for which a credit is made or \$1.5 million. (Still being revised.) The operating allowance would have the same restrictions as real and personal property claimed as part of the natural resource property credit, i.e. must be used/available for at least 5 of the next 8 years.
19. Provide that *personal* property elected as natural resource property is subject to the future use requirement and must not be converted during the 5 out of 8 years period, i.e. requires expansion beyond just real property for the look forward requirement. See Section 7.
20. Provide that real property or personal property that was elected for a natural resource property credit can be replaced with other qualifying property and does not cause a disposition with additional tax due. However, bill will provide that real property may only be replaced with qualifying real property, and generally the federal provisions for 1031 or 1033 exchanges will apply to such real property replacements. Section 7.
21. Revise the qualifications for the natural resource credit to require the following: 1) gross estate may not exceed \$15 million; 2) 50% of the gross estate must be natural resource property; 3) for farm or forestry businesses, 25% of the natural resource property must be real property; 4) the natural resource property claimed is transferred to a family member; 5) during 5 out of the 8 years prior to the decedent’s death, the decedent or a family member operated a farm, fishing or forestry business and the property for which a credit is claimed is part of that business. See Section 7 (still being revised).

22. Clarify look back requirement. Require that real property claimed for the credit must be owned for 5 out of 8 years prior to decedent's death. Allow tacking for real property exchanges. Do not impose look back requirement on personal property.
23. For fishing business qualification for the natural resource credit, decedent must have owned a vessel used for commercial purposes, held a boat license, held a commercial fishing license, and held one or more restricted fisheries permits as provided in ORS Chapter 508 for 5 out of the 8 years prior to the decedent's death. (Still revising, but considering expansion to include fishing in Alaska and international waters.)
24. Codify OAR 150-118.140(5)(b) which provides that payment of federal estate taxes or state inheritance taxes is NOT an expense incurred in operation of the natural resource business.
25. Require identification of property for which the credit is taken in a statement filed with the return and require heirs to file an annual report of the natural property with the Department of Revenue until the five year requirement is met.
26. Provide for tax due date for additional tax if the natural resource property is converted to a disqualifying use before the 5 year requirement is fulfilled. Due date set at 6 months after the date on which the disposition or event occurs. See Section 7.

#### **Interest Issues**

27. An Oregon estate which is subject to federal estate taxes and qualifies under IRC 6166 may elect to defer the payment of federal estate taxes. When a Section 6166 election is made, federal law allows a reduced interest rate on the federal taxes owed: 2% on \$1,000,000 of value and 45% of the underpayment rate (currently under 2%) on the balance. On the other hand, an estate electing to pay the Oregon inheritance tax on a deferred basis pays the normal Oregon deficiency interest rate (currently 5%) (this is consistent with the Oregon statutes as currently drafted), and a 4% penalty delinquency rate applies as well starting 60 days after the ODR assesses the tax (to raise the current rate to 9%) even if all payments are made by the due dates established when the election is made. The proposed legislation would remove the enhanced interest penalty when the executor of estate has gotten an extension to pay from the Oregon DOR under ORS 118.225 (after application and providing security). See Section 12.
28. Provide in statute that no interest is payable by the state on overpayments of estate taxes until 45 days after the due date of the return, or in the case of a return filed after the due date, no interest is due until 45 days after the date of filing. This change parallels the federal law model for interest and stops Oregon from paying interest that is potentially higher than an investor would receive at a bank.

#### **Oregon Department of Revenue**

29. Since Oregon can no longer rely as much on the auditing of the IRS for estate tax compliance (due to the gap between Oregon's threshold and the federal estate tax

threshold), provide more resources to Oregon Department of Revenue to assist with compliance and auditing.

### **Cleanup**

30. Remove vestiges of the old gift tax that still are lingering in Chapter 118. See e.g. Section 8. Will delete ORS 118.240, etc.
31. Codify a due date for paying Oregon's estate tax for estates that are smaller than the federal threshold and thus have no federal tax due, but still have an Oregon tax due. Section 6(1) and Section 10. Present statute reads as if there is no Oregon estate tax due when there is no federal estate tax due, and that is inaccurate. Due date is 9 months following the date of death of the decedent.
32. Clean up statutes and terms for consistency and clarity throughout and move some substantive administrative rule provisions into statute. Make recommendations on rule changes that are outdated or conflicting with recommended revised statutes. Improve readability throughout ORS Chapter 118.
33. Repeal outdated provisions.
34. Codify requirement for substantiating values for property on estate tax return and require attachment of any appraisals.

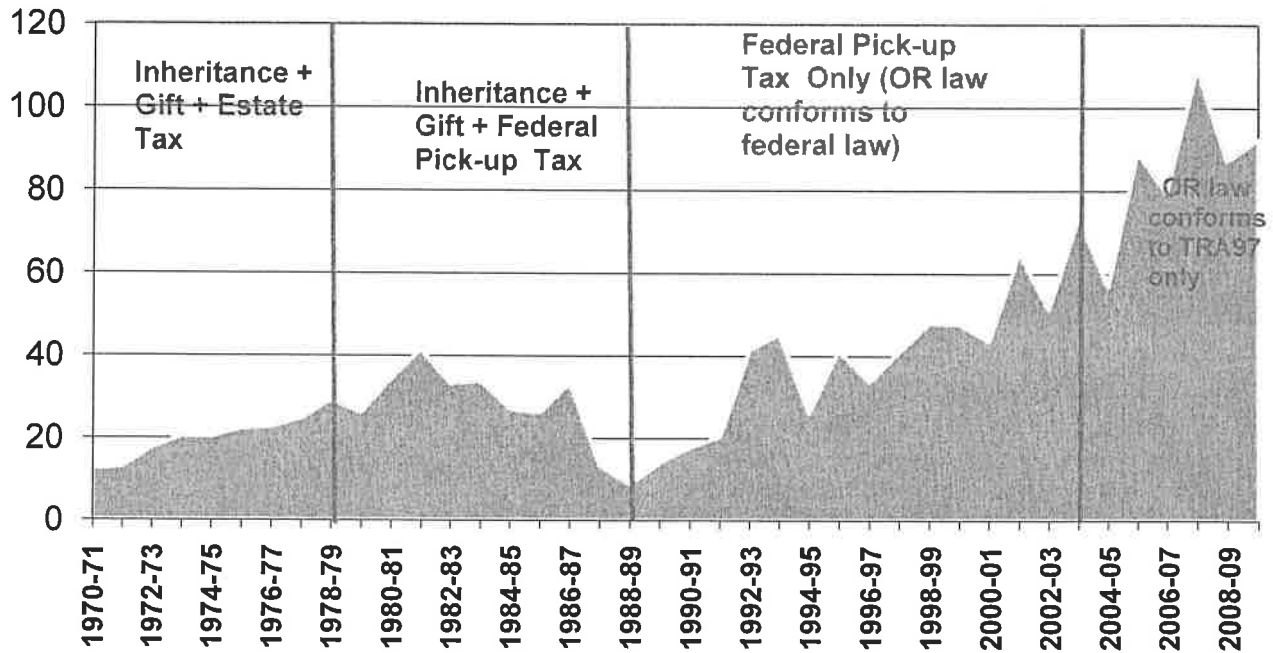
### **NEXT STEPS:**

Having worked through most of the estate tax issues, the work group will finalize its recommendations soon. The Work Group will then present its recommendations to the Commission for approval and then ultimately the 2011 Legislative Assembly. The Work Group continues to review recent congressional action on the federal estate tax to make necessary state estate tax adjustments to conform. The Work Group's completed bill draft and accompanying explanatory report is expected in March 2011.

### **CONTACT:**

- All Commission meetings are public meetings, and thus those interested in the discussion are welcome to attend in person or by phone.
- Past meeting materials, work group membership, and research materials are available on the Commission's website at: [http://www.willamette.edu/wucl/olc/groups/2009-2011/inheritance\\_tax/index.php](http://www.willamette.edu/wucl/olc/groups/2009-2011/inheritance_tax/index.php)
- If you would like to get on the email mailing list of the work group and receive meeting notices, meeting summaries, research materials, etc., please contact the Law Commission's legal assistant, Lisa Ehlers at [lehlers@willamette.edu](mailto:lehlers@willamette.edu) or 503-370-6973.
- The Commission's offices are at Willamette University College of Law, 790 State Street, Salem, OR (just across the street from the capitol's west end).

## Oregon Estate and Inheritance Tax Collections: FY 1971-2010



Fiscal Yr.	\$ Amount	% Change
1970-71	12,613,154	
1971-72	12,910,782	2.4%
1972-73	17,649,065	36.7%
1973-74	20,375,279	15.4%
1974-75	20,354,671	-0.1%
1975-76	22,334,631	9.7%
1976-77	22,814,203	2.1%
1977-78	24,782,221	8.6%
1978-79	29,307,501	18.3%
1979-80	26,190,894	-10.6%
1980-81	34,490,610	31.7%
1981-82	41,494,561	20.3%
1982-83	33,236,857	-19.9%
1983-84	33,855,381	1.9%
1984-85	27,084,953	-20.0%
1985-86	26,313,563	-2.8%
1986-87	33,413,595	27.0%
1987-88	13,476,313	-59.7%
1988-89	8,875,434	-34.1%
1989-90	13,962,361	57.3%

Fiscal Yr.	\$ Amount	% Change
1990-91	17,766,526	27.2%
1991-92	20,398,303	14.8%
1992-93	41,480,573	103.4%
1993-94	45,323,450	9.3%
1994-95	26,014,021	-42.6%
1995-96	41,264,996	58.6%
1996-97	33,856,234	-18.0%
1997-98	41,489,930	22.5%
1998-99	47,483,851	14.4%
1999-00	47,684,649	0.4%
2000-01	43,729,981	-8.3%
2001-02	65,201,986	49.1%
2002-03	51,431,290	-21.1%
2003-04	73,609,000	43.1%
2004-05	56,852,202	-22.7%
2005-06	89,282,588	57.0%
2006-07	79,649,893	-10.8%
2007-08	109,548,647	37.5%
2008-09	87,270,813	-20.3%
2009-10	92,615,490	6.1%



**OREGON ESTATE TAXES - FOR DEATHS IN 2000 - 2009  
BREAKDOWN OF 2002, 2003, 2004, 2005, 2006, 2007 , 2008, and 2009  
ESTATE TAX RETURNS BY GROSS ESTATE VALUE**

Oregon Tax (\$_millions)	Tax Year	Total # of Returns	Payable Tax	Natural Resource Credit
	2000	879	44.20	
	2001	878	70.85	
	2002	761	42.21	
	2003	1059	81.02	
	2004	1055	55.92	
	2005	1113	100.22	
	2006	1210	78.95	
	2007	1336	118.94	
	2008	1059	81.02	1.604
	2009	922	65.31	1.197

2002 Estate Tax Returns With Gross Estate Value				
Size of Oregon Gross Estate	# of Returns	% of total returns	OR Payable Tax	% of total OR Payable Tax
Under \$1 million	83	11%	4,935,443	11.2%
\$1 million up to \$1.5 million	291	38%	6,213,058	14.1%
\$1.5 million up to \$2 million	142	19%	4,467,029	10.1%
\$2 million up to \$3.5 million	141	19%	7,488,570	16.9%
\$3.5 million up to \$5 million	51	7%	4,510,715	10.2%
\$5 million up to \$10 million	34	4%	4,825,541	10.9%
\$10 million up to \$20 million	9	1%	2,302,594	5.2%
more than \$20 million	10	1%	9,462,100	21.4%
<b>TOTAL</b>	<b>761</b>	<b>100%</b>	<b>\$44,205,050</b>	<b>100%</b>
2003 Estate Tax Returns With Gross Estate Value				
Under \$1 million	316	32%	5,809,013	7.2%
\$1 million up to \$1.5 million	331	31%	9,850,943	12.2%
\$1.5 million up to \$2 million	130	13%	5,411,579	6.7%
\$2 million up to \$3.5 million	159	13%	11,492,568	14.2%
\$3.5 million up to \$5 million	42	3%	5,625,740	6.9%
\$5 million up to \$10 million	54	5%	15,178,405	18.7%
\$10 million up to \$20 million	16	1%	7,845,815	9.7%
more than \$20 million	11	1%	19,805,473	24.4%
<b>TOTAL</b>	<b>1059</b>	<b>100%</b>	<b>\$81,019,537</b>	<b>100%</b>
2004 Estate Tax Returns With Gross Estate Value				
Under \$1 million	208	20%	2,360,071	4.2%
\$1 million up to \$1.5 million	364	35%	10,416,571	18.6%
\$1.5 million up to \$2 million	185	18%	7,336,983	13.1%
\$2 million up to \$3.5 million	177	17%	10,473,499	18.7%
\$3.5 million up to \$5 million	49	5%	5,085,992	9.1%
\$5 million up to \$10 million	47	4%	9,182,442	16.4%
\$10 million up to \$20 million	16	2%	9,583,749	17.1%
more than \$20 million	9	1%	1,484,893	2.7%
<b>TOTAL</b>	<b>1055</b>	<b>100%</b>	<b>55,924,200</b>	<b>100%</b>

2005 Estate Tax Returns With Gross Estate Value				
Under \$1 million	89	8%	206,806	0.2%
\$1 million up to \$1.5 million	418	38%	9,972,041	9.9%
\$1.5 million up to \$2 million	235	21%	8,995,817	9.0%
\$2 million up to \$3.5 million	217	19%	13,792,373	13.8%
\$3.5 million up to \$5 million	72	6%	7,513,990	7.5%
\$5 million up to \$10 million	61	5%	13,674,762	13.6%
\$10 million up to \$20 million	13	1%	8,813,423	8.8%
more than \$20 million	8	1%	37,255,012	37.2%
<b>TOTAL</b>	<b>1113</b>	<b>100%</b>	<b>100,224,223</b>	<b>100%</b>

2006 Estate Tax Returns With Gross Estate Value				
Under \$1 million	35	3%	166,845	0.2%
\$1 million up to \$1.5 million	455	38%	9,751,662	12.4%
\$1.5 million up to \$2 million	261	22%	11,384,211	14.4%
\$2 million up to \$3.5 million	272	22%	15,911,228	20.2%
\$3.5 million up to \$5 million	85	7%	10,922,107	13.8%
\$5 million up to \$10 million	55	5%	11,382,863	14.4%
\$10 million up to \$20 million	33	3%	13,565,266	17.2%
more than \$20 million	14	1%	5,862,469	7.4%
<b>TOTAL</b>	<b>1210</b>	<b>100%</b>	<b>78,946,652</b>	<b>100%</b>

2007 Estate Tax Returns With Gross Estate Value				
Under \$1 million	118	9%	1,057,408	0.9%
\$1 million up to \$1.5 million	496	37%	11,593,082	9.7%
\$1.5 million up to \$2 million	261	20%	11,411,850	9.6%
\$2 million up to \$3.5 million	291	22%	19,783,547	16.6%
\$3.5 million up to \$5 million	83	6%	10,458,921	8.8%
\$5 million up to \$10 million	59	4%	16,374,370	13.8%
\$10 million up to \$20 million	19	1%	16,627,556	14.0%
more than \$20 million	9	1%	31,637,117	26.6%
<b>TOTAL</b>	<b>1336</b>	<b>100%</b>	<b>118,943,851</b>	<b>100%</b>

2008 Estate Tax Returns With Gross Estate Value				
Under \$1 million	132	10%	1,013,902	1.4%
\$1 million up to \$1.5 million	489	39%	11,002,248	14.7%
\$1.5 million up to \$2 million	242	19%	10,259,395	13.7%
\$2 million up to \$3.5 million	264	21%	17,125,279	22.9%
\$3.5 million up to \$5 million	71	6%	8,858,291	11.8%
\$5 million up to \$10 million	39	3%	10,295,297	13.7%
\$10 million up to \$20 million	16	1%	9,344,958	12.5%
more than \$20 million	7	1%	7,012,461	9.4%
<b>TOTAL</b>	<b>1260</b>	<b>100%</b>	<b>74,911,831</b>	<b>100%</b>

2009 Estate Tax Returns With Gross Estate Value				
Under \$1 million	82	9%	1,064,862	1.6%
\$1 million up to \$1.5 million	358	39%	8,295,659	12.7%
\$1.5 million up to \$2 million	180	20%	7,349,091	11.3%
\$2 million up to \$3.5 million	182	20%	13,178,355	20.2%
\$3.5 million up to \$5 million	59	6%	9,236,174	14.1%
\$5 million up to \$10 million	46	5%	11,050,150	16.9%
\$10 million up to \$20 million	6	1%	5,399,326	8.3%
more than \$20 million	9	1%	9,734,733	14.9%
<b>TOTAL</b>	<b>922</b>	<b>100%</b>	<b>65,308,350</b>	<b>100%</b>

## 50 State Approaches to Taxation of Property at Death

### I. No Tax of Estate or Inheritance at Death (28 states):

AK, AL, AR, AZ, CA, CO, FL, GA, ID, KS, LA, MI, MO, MS, MT, ND, NH, NM, NV, OK, SC, SD, TX, UT, VA, WI, WV, WY

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### II. Estate Tax States:

- a) \$5 million Exemption  
NC ( $\approx 10 - 16\%$ )\*
- b) \$3.5 Million Exemption:  
CT (7.2 - 12%)  
DE (10.4 - 16%) (ambiguity - may be \$5 million)  
HI (really \$3.6 million)
- c) \$2.75 Million Exemption:  
VT ( $\approx 10 - 16\%$ )\*
- d) \$2 Million Exemption:  
IL ( $\approx 10 - 16\%$ )\*  
WA (10 - 19%)
- e) \$1 Million Exemption:  
DC ( $\approx 10 - 16\%$ )\*  
MA ( $\approx 10 - 16\%$ )\*  
MD ( $\approx 10 - 16\%$ )\*  
ME ( $\approx 10 - 16\%$ )\*  
MN ( $\approx 10 - 16\%$ )\*  
NY ( $\approx 10 - 16\%$ )\*  
OR ( $\approx 10 - 16\%$ )\*  
TN (5.5 - 9.5%)
- f) \$850,000 Exemption:  
RI ( $\approx 10 - 16\%$ )\*
- g) \$675,000 Exemption:  
NJ ( $\approx 10 - 16\%$ )\*
- h) \$338,333 Exemption:  
OH (2 - 7%)

### III. Inheritance Tax States:

IA, IN, KY, MD, NE, NJ, PA (rate varies based on relationship and amount)

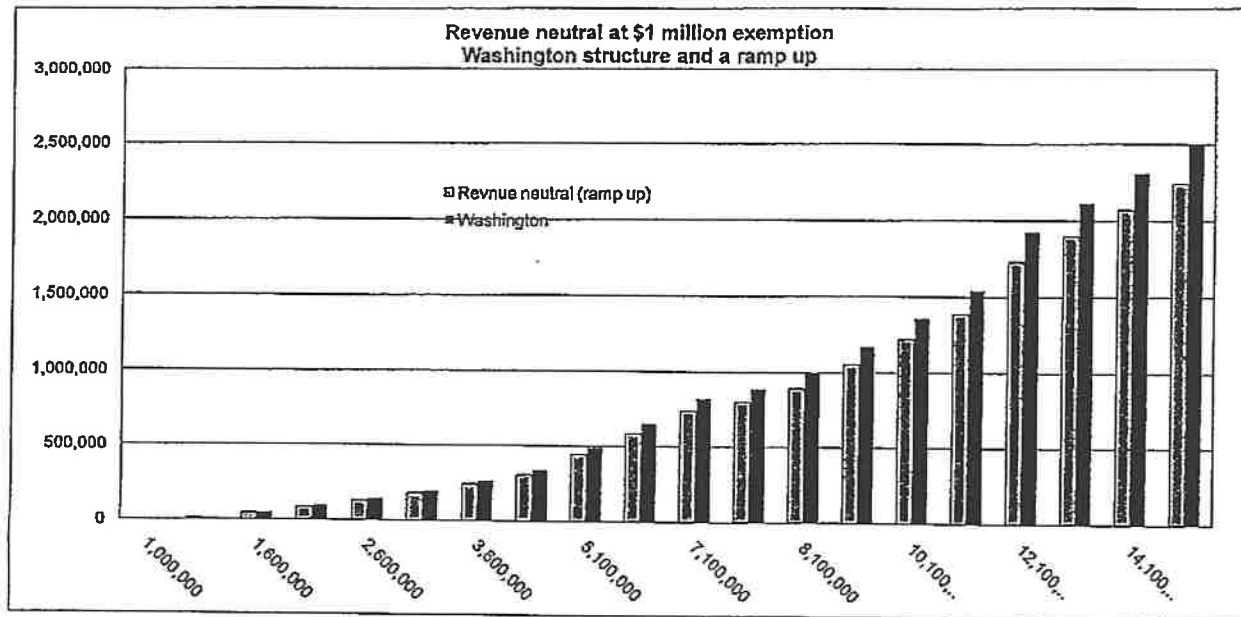
\* tax rate is allowable credit for state death taxes under §2011 of federal IRC (pre-2001)

DRAFT

Oregon Inheritance Tax		new	
Above one million threshold			
Value is at least ut not more than			
1,000,000	1,100,000	0	7.6%
1,100,000	1,600,000	7,634	7.6%
1,600,000	2,100,000	45,805	8.1%
2,100,000	2,600,000	86,221	9.0%
2,600,000	3,100,000	131,127	9.7%
3,100,000	3,600,000	179,626	12.6%
3,600,000	4,100,000	242,495	12.8%
4,100,000	5,100,000	306,263	13.6%
5,100,000	6,100,000	441,881	14.5%
6,100,000	7,100,000	586,480	15.3%
7,100,000	7,500,000	739,162	15.3%
7,500,000	8,100,000	800,235	15.4%
8,100,000	9,100,000	892,922	16.2%
9,100,000	10,100,000	1,055,035	16.6%
10,100,000	11,100,000	1,221,189	16.7%
11,100,000	12,100,000	1,387,792	17.1%
12,100,000	13,100,000	1,387,792	17.1%
13,100,000	14,100,000	1,387,792	17.1%
14,100,000	15,100,000	1,387,792	17.1%
15,100,000			

Avg 3 yrs	Washington Inheritance Tax			
	Above one million threshold			
#	Tax value is at least not more than			
0	1,000,000	1,100,000	0	8.5%
7,634	1,100,000	1,600,000	8,500	8.5%
45,805	1,600,000	2,100,000	51,000	9.0%
86,221	2,100,000	2,600,000	96,000	10.0%
131,127	2,600,000	3,100,000	146,000	10.8%
179,626	3,100,000	3,600,000	200,000	14.0%
242,495	3,600,000	4,100,000	270,000	14.2%
306,263	4,100,000	5,100,000	341,000	15.1%
441,881	5,100,000	6,100,000	492,000	16.1%
586,480	6,100,000	7,100,000	653,000	17.0%
739,162	7,100,000	7,500,000	823,000	17.0%
800,235	7,500,000	8,100,000	891,000	17.2%
892,922	8,100,000	9,100,000	994,200	18.1%
1,055,035	9,100,000	10,100,000	1,174,700	18.5%
1,221,189	10,100,000	11,100,000	1,359,700	18.6%
1,387,792	11,100,000	12,100,000	1,545,200	19.0%
1,729,082	12,100,000	13,100,000	1,545,200	19.0%
1,899,727	13,100,000	14,100,000	1,545,200	19.0%
2,070,372	14,100,000	15,100,000	1,545,200	19.0%
2,241,017	15,100,000		1,545,200	19.0%

Tax	
lower value	upper value
0	8,500
8,500	51,000
51,000	96,000
96,000	146,000
146,000	200,000
200,000	270,000
270,000	341,000
341,000	492,000
492,000	653,000
653,000	823,000
823,000	891,000
891,000	994,200
994,200	1,174,700
1,174,700	1,359,700
1,359,700	1,545,200
1,545,200	1,735,200
1,925,200	2,115,200
2,115,200	2,305,200
2,305,200	2,495,200
2,495,200	

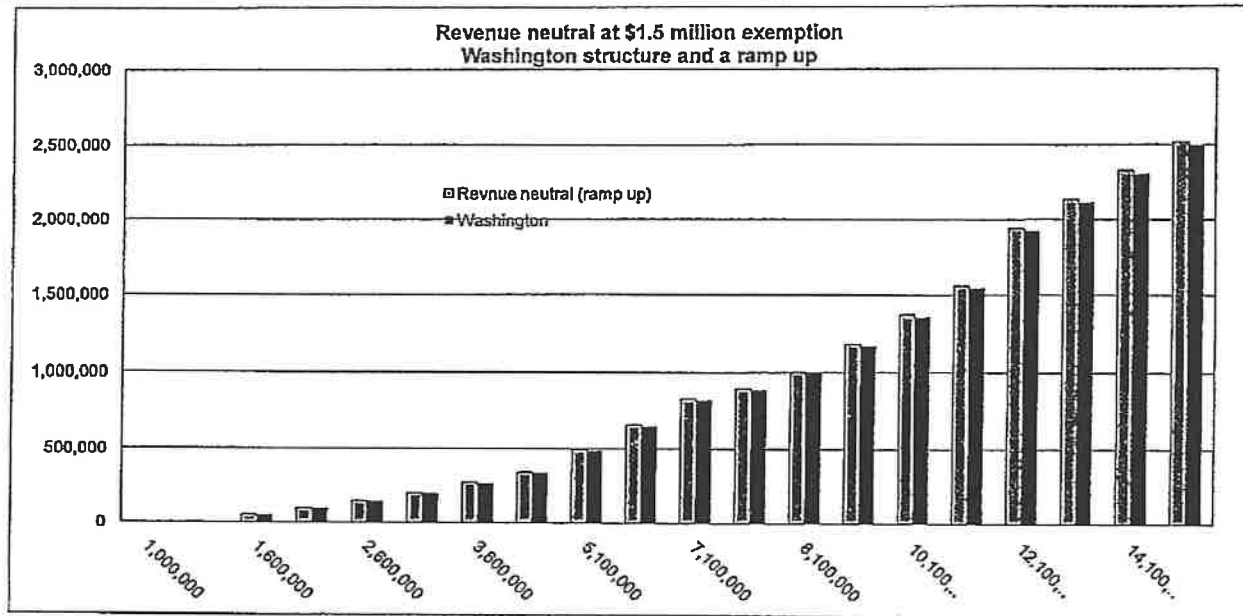


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Oregon Inheritance Tax		new	
Above 1.5 million threshold			
Value	is at least	but not more than	
1,000,000	1,100,000	0	8.6%
1,100,000	1,600,000	8,574	8.6%
1,600,000	2,100,000	51,443	9.1%
2,100,000	2,600,000	96,833	10.1%
2,600,000	3,100,000	147,268	10.9%
3,100,000	3,600,000	201,736	14.1%
3,600,000	4,100,000	272,344	14.3%
4,100,000	5,100,000	343,960	15.2%
5,100,000	6,100,000	496,271	16.2%
6,100,000	7,100,000	658,669	17.1%
7,100,000	7,500,000	830,145	17.1%
7,500,000	8,100,000	898,735	17.3%
8,100,000	9,100,000	1,002,831	18.2%
9,100,000	10,100,000	1,184,898	18.7%
10,100,000	11,100,000	1,371,504	18.7%
11,100,000	12,100,000	1,558,615	19.2%
12,100,000	13,100,000	1,558,615	19.2%
13,100,000	14,100,000	1,558,615	19.2%
14,100,000	15,100,000	1,558,615	19.2%
15,100,000		1,558,615	19.2%

Avg 3 yrs	Washington Inheritance Tax			
	Above 1.5 million threshold			
	Value	is at least	but not more than	
0	1,000,000	1,100,000	0	8.5%
8,574	1,100,000	1,600,000	8,500	8.5%
51,443	1,600,000	2,100,000	51,000	9.0%
96,833	2,100,000	2,600,000	96,000	10.0%
147,268	2,600,000	3,100,000	146,000	10.8%
201,736	3,100,000	3,600,000	200,000	14.0%
272,344	3,600,000	4,100,000	270,000	14.2%
343,960	4,100,000	5,100,000	341,000	15.1%
496,271	5,100,000	6,100,000	492,000	16.1%
658,669	6,100,000	7,100,000	653,000	17.0%
830,145	7,100,000	7,500,000	823,000	17.0%
898,735	7,500,000	8,100,000	891,000	17.2%
1,002,831	8,100,000	9,100,000	994,200	18.1%
1,184,898	9,100,000	10,100,000	1,174,700	18.5%
1,371,504	10,100,000	11,100,000	1,359,700	18.6%
1,558,615	11,100,000	12,100,000	1,545,200	19.0%
1,941,914	12,100,000	13,100,000	1,645,200	19.0%
2,133,563	13,100,000	14,100,000	1,545,200	19.0%
2,325,213	14,100,000	15,100,000	1,545,200	19.0%
2,516,862	15,100,000		1,545,200	19.0%

Tax	
lower value	upper value
0	8,500
8,500	51,000
51,000	96,000
96,000	146,000
146,000	200,000
200,000	270,000
270,000	341,000
341,000	492,000
492,000	653,000
653,000	823,000
823,000	891,000
891,000	994,200
994,200	1,174,700
1,174,700	1,359,700
1,359,700	1,545,200
1,545,200	1,735,200
1,925,200	2,115,200
2,115,200	2,305,200
2,305,200	2,495,200
2,495,200	

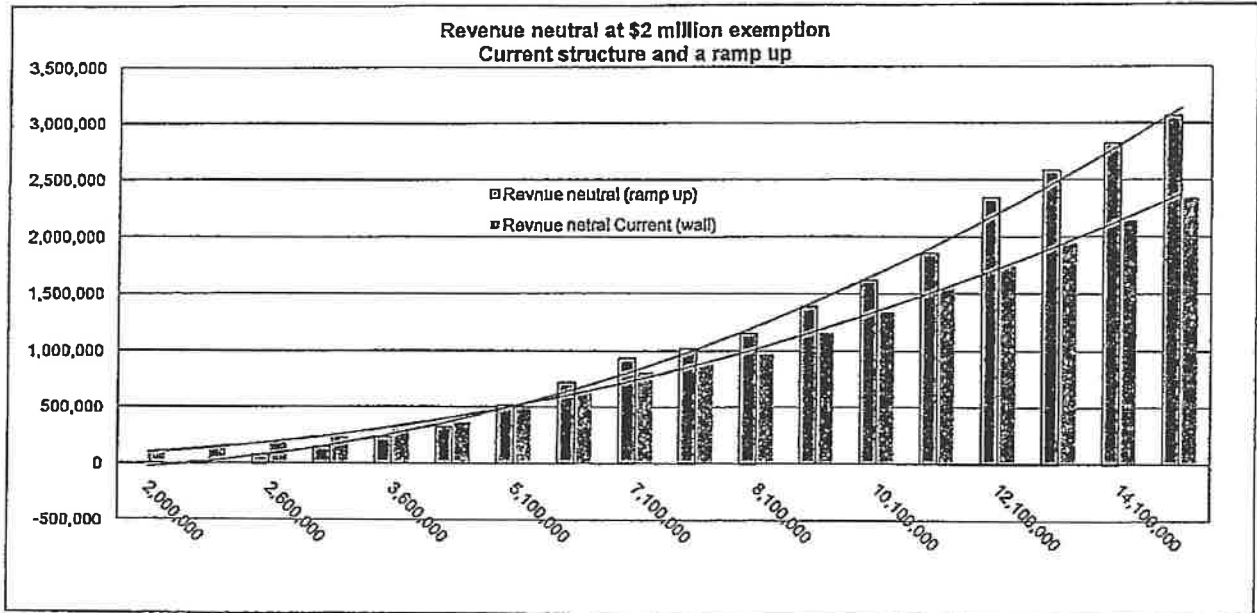


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Oregon Inheritance Tax		new	
Above two million threshold			
Value is at least but not more than			
1,000,000	1,100,000	0	0.0%
1,100,000	2,000,000	0	0.0%
2,000,000	2,100,000	0	12.7%
2,100,000	2,600,000	12,717	12.7%
2,600,000	3,100,000	76,300	13.7%
3,100,000	3,600,000	144,971	17.8%
3,600,000	4,100,000	233,988	18.1%
4,100,000	5,100,000	324,277	19.2%
5,100,000	6,100,000	516,299	20.5%
6,100,000	7,100,000	721,038	21.6%
7,100,000	7,500,000	937,223	21.6%
7,500,000	8,100,000	1,023,697	21.9%
8,100,000	9,100,000	1,154,933	23.0%
9,100,000	10,100,000	1,384,470	23.5%
10,100,000	11,100,000	1,619,730	23.6%
11,100,000	12,100,000	1,855,625	24.2%
12,100,000	13,100,000	1,855,625	24.2%
13,100,000	14,100,000	1,855,625	24.2%
14,100,000	15,100,000	1,855,625	24.2%
15,100,000		1,855,625	24.2%

Avg 3 yrs	Washington Inheritance Tax			
	Above two million threshold			
	Tax value is at least not more than			
0	1,000,000	1,100,000	0	0.0%
0	1,100,000	2,000,000	0	0.0%
0	2,000,000	2,100,000	0	10.0%
12,717	2,100,000	2,600,000	10,000	10.0%
76,300	2,600,000	3,100,000	60,000	10.8%
144,971	3,100,000	3,600,000	114,000	14.0%
233,988	3,600,000	4,100,000	184,000	14.2%
324,277	4,100,000	5,100,000	255,000	15.1%
516,299	5,100,000	6,100,000	406,000	16.1%
721,038	6,100,000	7,100,000	567,000	17.0%
937,223	7,100,000	7,500,000	737,000	17.0%
1,023,697	7,500,000	8,100,000	805,000	17.2%
1,154,933	8,100,000	9,100,000	908,200	18.1%
1,384,470	9,100,000	10,100,000	1,088,700	18.5%
1,619,730	10,100,000	11,100,000	1,273,700	18.6%
1,855,625	11,100,000	12,100,000	1,459,200	19.0%
2,338,861	12,100,000	13,100,000	1,459,200	19.0%
2,580,478	13,100,000	14,100,000	1,459,200	19.0%
2,822,096	14,100,000	15,100,000	1,459,200	19.0%
3,063,714	15,100,000		1,459,200	19.0%

Tax	
lower value	upper value
0	
0	
0	10,000
10,000	60,000
60,000	114,000
114,000	184,000
184,000	255,000
255,000	406,000
406,000	567,000
567,000	737,000
737,000	805,000
805,000	908,200
908,200	1,088,700
1,088,700	1,273,700
1,273,700	1,459,200
1,459,200	1,649,200
1,839,200	2,029,200
2,029,200	2,219,200
2,219,200	2,409,200
2,409,200	



**Form**  
**IT-1**  
**(120)**

**Oregon**  
**Inheritance**  
**Tax Return**

Year of Death  
**2010**

**For Office Use Only**

Date received

Payment

BIN

**Part 1** (Please print or type.)

Decedent's first name, middle initial, and last name		Decedent's Social Security number	
		- -	
Date of death	Decedent's domicile (legal residence)—City, County, State, Country		Year domicile established
Is the estate being probated in Oregon? <input type="checkbox"/> Yes If Yes— Oregon county: _____ <input type="checkbox"/> No Oregon probate number: _____		<input type="checkbox"/> An extension of time to file is attached. <input type="checkbox"/> An extension of time to pay is attached. <input type="checkbox"/> This is an amended return. <input type="checkbox"/> A separate election is claimed.	
Executor's name		Executor's daytime telephone number	
		( )	
Executor's mailing address		City	State ZIP code

**Attach a copy of all required schedules and supporting documents.**

**Part 2— Tax computation**

*Round all amounts to the nearest whole dollar.*

1. Total gross estate (from page 3, Part 5, line 12).....	1.	
2. Total allowable deductions (from page 3, Part 5, line 23).....	2.	
3. Taxable estate (subtract line 2 from line 1).....	3.	
4. Adjusted taxable gifts [total taxable gifts (see instructions) ].....	4.	
5. Add lines 3 and 4 .....	5.	
6. Tentative tax on the amount on line 5 above; (see instructions, Table A) .....	6.	
7. a. If line 5 exceeds \$10,000,000, enter the lesser of line 5 or \$17,184,000. If line 5 is \$10,000,000 or less, skip lines 7a and 7b and enter -0- on line 7c .....	7a.	
b. Subtract \$10,000,000 from line 7a .....	7b.	
c. Enter 5% (0.05) of line 7b .....	7c.	
8. Total tentative tax (add lines 6 and 7c) .....	8.	
9. Total gift tax payable with respect to gifts made by the decedent after December 31, 1976 (see instructions) .....	9.	
10. Gross estate tax (subtract line 9 from line 8) .....	10.	
11. Maximum unified credit \$345,800, minimum -0- (see instructions) .....	11.	
12. Adjustment to unified credit (applicable credit amount, do not exceed \$6,000) .....	12.	
13. Allowable unified credit (applicable credit amount) (subtract line 12 from line 11) .....	13.	
14. Subtract line 13 from line 10 (do not enter less than zero) .....	14.	
15. a. Oregon inheritance tax (see instructions, Table B) .....	15a.	
b. Compare the amounts on lines 14 and 15a and enter the smaller amount on line 15b .....	15b.	
16. Proration of Oregon inheritance tax (complete only if there is property located in states other than Oregon):		
a. Gross value of property located in Oregon (identify on attached copy of the federal schedules by highlighting) .....	16a.	
b. Gross value of decedent's estate (amount from line 1).....	16b.	
c. Percent of estate located in Oregon (line 16a divided by line 16b, round decimal to four places).....	16c.	_____ %
17. Tax payable to Oregon (line 15b multiplied by line 16c, or amount from line 15b if no entry on line 16c).....	17.	
18. Natural resource or fishing business property credit (Schedule NRC, see instructions).....	18.	
19. Net inheritance tax (line 17 less line 18, not less than zero).....	19.	
20. Amount paid by the due date of return .....	20.	
21. <b>Tax due.</b> Is line 19 more than line 20? If so, line 19 minus line 20.....	<b>TAX DUE</b>	21.
22. <b>Overpayment.</b> Is line 20 more than line 19? If so line 20 minus line 19.....	<b>OVERPAYMENT</b>	22.
23. Penalty due, see instructions .....		23.
24. Interest due, see instructions .....		24.
25. <b>Total due</b> (add lines 21, 23, and 24) .....	<b>TOTAL DUE</b>	25.
26. <b>Refund</b> (line 22 minus lines 23 and 24).....	<b>REFUND</b>	26.

Part 3—Elections by the executor

Check the "Yes" or "No" box for each question. See instructions.

- 1. Do you elect alternate valuation?
2. Do you elect special use valuation? Attach Schedule A-1
3. Do you elect to pay the taxes in installments as described in Section 6166? Attach additional information; see instructions
4. Do you elect to postpone the part of the taxes attributable to a reversionary or remainder of interest as described in Section 6163?

Part 4—General information

Attach the necessary supplemental documents. You must attach the death certificate. See instructions.

- 1. Marital status of the decedent at time of death:
2. a. Surviving spouse's/Oregon registered domestic partner's name:
b. Survivor's Social Security number:
c. Amount received (see instructions):

3a. Individuals (other than the surviving spouse/Oregon registered domestic partner), trusts, or other estates who receive benefits from the estate (do not include charitable beneficiaries shown in Schedule O) (see instructions). For Privacy Act Notice (applicable to individual beneficiaries only), see the instructions for Form 1040.

Table with 4 columns: Name of individual, trust, or estate receiving \$5,000 or more; Identifying number; Relationship to decedent; Amount (see Instructions). Includes a Total row at the bottom.

Check the "Yes" or "No" box for each question.

- 4. Does the gross estate contain any Section 2044 property [qualified terminable interest property (QTIP) from a prior gift or estate]? See instructions (Schedule F)
5. a. Have federal gift tax returns ever been filed?
b. Period(s) covered:
c. Internal Revenue office(s) where filed:

If you answer "Yes" to any of questions 6-14, you must attach additional information as described in the instructions.

- 6. a. Was there any insurance on the decedent's life that is not included on the return as part of the gross estate? (Schedule D, Form 712)...6a.
b. Did the decedent own any insurance on the life of another that is not included in the gross estate? (Schedule D, Form 712) ..... 6b.
7. Did the decedent at the time of death own any property as a joint tenant with right of survivorship in which (a) one or more of the other joint tenants was someone other than the decedent's spouse, and (b) less than the full value of the property is included on the return as part of the gross estate? (Schedule E).....7.
8. Did the decedent, at the time of death, own any interest in a partnership or unincorporated business or any stock in an inactive or closely held corporation? (Schedule E and Schedule F).....8.
9. Did the decedent make any transfer described in Section 2035, 2036, 2037, or 2038? (Schedule G).....9.
10. Were there in existence at the time of the decedent's death:
a. Any trusts created by the decedent during his or her lifetime? (Schedule G and trust document).....10a.
b. Any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship? (Schedule F and trust document)..... 10b.



**Part 4—General information (continued)**

- 11. Did the decedent ever possess, exercise, or release any general power of appointment? (Schedule H).....11.  Yes  No
- 12. Was the marital deduction computed under the transitional rule of Public Law 97-34, Section 403(e)(3) (Economic Recovery Act of 1981)? If "Yes," attach a separate computation of the marital deduction, enter the amount on part 5, line 20, and note on line 20 "computation attached" .....12.  Yes  No
- 13. Was the decedent, immediately before death, receiving an annuity described in the "General" paragraph of the instructions for Schedule I? (Schedule I) .....13.  Yes  No
- 14. Was the decedent ever the beneficiary of a trust for which a deduction was claimed by the estate of a pre-deceased spouse or Oregon registered domestic partner under Section 2056(b)(7) and which is not reported on this return? If "Yes," attach an explanation.....14.  Yes  No

**Part 5—Recapitulation**

*Round all amounts to the nearest whole dollar.*

**Gross Estate**

	Alternate value	Value at date of death
1. Schedule A—Real estate.....1.		
2. Schedule B—Stocks and bonds .....2.		
3. Schedule C—Mortgages, notes, and cash.....3.		
4. Schedule D—Insurance on the decedent's life [attach Form(s) 712].....4.		
5. Schedule E—Jointly owned property [attach Form(s) 712 for life insurance].....5.		
6. Schedule F—Other miscellaneous property [attach Form(s) 712 for life insurance] ...6.		
7. Schedule G—Transfers during decedent's life [attach Form(s) 712 for life insurance] .....7.		
8. Schedule H—Powers of appointment.....8.		
9. Schedule I—Annuities .....9.		
10. Total gross estate (add lines 1 through 9).....10.		
11. Schedule U—Qualified conservation easement exclusion.....11.		
12. <b>Total gross estate less exclusion</b> (line 10 minus line 11). Enter here and on part 2, line 1 .....12.		

**Deductions ..... Amount**

13. Schedule J—Funeral expenses and expense incurred in administering property subject to claims .....13.	
14. Schedule K—Debts of the decedent .....14.	
15. Schedule K—Mortgages and liens .....15.	
16. Total of lines 13 through 15 .....16.	
17. Allowable amount of deductions from line 16 (see instructions).....17.	
18. Schedule L—Net losses during administration .....18.	
19. Schedule L—Expenses incurred in administering property not subject to claims .....19.	
20. Schedule M—Bequests, etc., to surviving spouse/Oregon registered domestic partner (see instructions).....20.	
21. Schedule O—Charitable, public, and similar gifts and bequests.....21.	
22. Schedule T—Qualified family-owned business interest deduction (see instructions).....22.	
23. <b>Total deductions</b> (add lines 17 through 22) (Enter here and on part 2, line 2) .....23.	

**Part 6—Signatures**

Under penalties of false swearing, I declare that I have examined this return, including accompanying schedules and statements. To the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than the executor, this declaration is based on all information of which the preparer has any knowledge.

Signature of executor X	Title	Executor's telephone no.	Executor's SSN or FEIN - -	Date
Signature of executor X	Title	Executor's telephone no.	Executor's SSN or FEIN - -	Date

**Check the box to authorize** the following individual(s) to receive and provide confidential tax information relating to the decedent and the estate:

Name of preparer	Title	Telephone number ( )
Mailing address	City	State ZIP code

**Attach a copy of all required schedules and supporting documents.**

**Mail to:** Oregon Department of Revenue, PO Box 14110, Salem OR 97309-0910