MEASURE: HB 2541
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SUBMITTED BY: Clint Bentz

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To: Senate Committee on Finance & Revenue

From: Clint Bentz, CPA, voting member Oregon Law Commission Work Group, family forestland owner

RE: Inheritance Tax Law Reform Bill (HB 2541)

On behalf of the tax preparer community and the natural resources community I urge you to pass this important legislation as written.

As a CPA and as a family forestland owner, I have been working on estate tax and Natural Resource Property tax credit issues over the last several sessions of the Oregon Legislature and was pleased to be chosen to serve as a voting member of the Oregon Law Commission Work Group which created HB 2541.

The existing statutory framework of ORS 118 is in great need of reform. The current law connects to the Federal code as of December 31, 2000 and forces estates to compute the estate tax under that statutory framework which includes several provisions such as the Qualified Family Owned Business Interest deduction that have been out of the federal code since 2004. Many tax practitioners do not have access to this old code.

Most Oregon taxpayers assume that the first $1 million of their estate is exempt from Oregon Inheritance tax. That is not the case. Under our current law, a tax is owed on the first dollar that is transferred, but you do not have to file a return and pay the tax owed unless under the old 2000 federal law a federal tax would have been owed. The net effect is that for most estates if the estate is under $1 million, they do not have to pay the Oregon Inheritance Tax, but once the estate exceeds $1 million they pay the tax on the entire estate, not just the amount in excess of $1 million. Under HB 2541, the first $1.5 million of the estate is exempt from tax and the estate only pays taxes on the amount in excess over $1.5 million. Of all Western states, only Washington has an estate tax and they exempt the first $2 million from taxation.

All estates no matter what size receive the benefit of having the first $1.5 million be exempt from tax. In order to pay for this new exemption for all estates, the rate of tax on the amounts over $1.5 million needed to be increased from current law in order for these changes to be revenue neutral.

Since its inception, the Natural Resources Property (NRP) tax credit has been challenging for taxpayers and their professionals to understand and compute, and difficult for the Department of Revenue to administer. HB 2541 clarifies the law based on real-world input from the practitioner community and makes this important tax credit easier to figure and track by the tax practitioners and easier to administer by the Department.

Taxpayers who received valid extensions or entered into installment agreements to pay the inheritance tax were being charged penalty interest rates on these agreements. HB 2541 removes the enhanced penalty rate (an additional 4%) from such cases.

Finally, even though the Oregon law was based on the 2000 Federal law, if a taxpayer had to file a federal estate tax return under current law, any elections made on that return were binding on the Oregon return unless differences were allowed by statute (such as the Oregon Special Marital Property statute). Also, under current law it is not clear that an Oregon return is due if no Federal return is due. HB 2541 corrects this and makes it clear that while we now use the new federal code for definitions, the Oregon statute is a stand alone statute and taxpayers are not bound by most elections made on the federal return when completing the Oregon return.