

REVENUE: Revenue Impact Issued

FISCAL: No Fiscal Impact

Action: Do pass with Amendments and be printed Engrossed

Vote: 4-0-0

Yeas: Hass, Telfer, Morse, Burdick

Nays: 0

Exc.: 0

Prepared By: Mazen Malik, Economist

Meeting Dates: 5/23, 6/8

WHAT THE BILL DOES: Replaces inheritance tax imposed on basis of former federal credit for state death tax with estate tax imposed as percentage of Oregon taxable estate. Establishes a standalone Oregon tax rate schedule. Updates connection to federal Internal Revenue Code. Clarifies provisions relating to elections made for state inheritance tax purposes. Replaces tax credit table for natural resource property with a formula and modifies related provisions. Applies to estates of decedents who die on or after January 1, 2012.

ISSUES DISCUSSED:

- Other similar bills in the previous sessions and how the issue started.
- Natural resource properties and tax policy to encourage family ownership.
- Revenue neutrality based on different assumptions. NRC and revenue impacts.
- Policy decisions and choices as it relates to tax system and structure.
- Changes made to reduce the rates, and keep revenue neutral, Operating allowance.

EFFECT OF COMMITTEE AMENDMENTS: The amendment makes the implementation date 2012 rather than a retroactive date to 2011. The amendment changes the operating allowance to \$1 million and 15%. It also makes notification of tax consequence prior to transfer. The amendment introduces tax rate schedule from \$1 million at 10%, to a marginal rate of 16% at values higher than \$9.5 million. The new rate table will insure revenue neutrality relative to the current Federal law based rates.

BACKGROUND: Oregon's inheritance tax statutes, found in ORS Chapter 118, are tied to the 2000 federal Internal Revenue Code. Oregon law was perceived as a supplement to the federal Internal Revenue Code during the time of the pass-through estate tax credit. The 2000 tax rates are based on the state estate tax credit in federal code that has been changed by successive federal acts. Oregon's state estate tax chapter is perceived as being disjointed, and never originally intended to serve as a stand-alone code. The continuing use of such a structure while federal law is in continual change has created administrative and tax policy gridlock. The Oregon legislature tried in the past to address two main areas. Those include marital property and natural resource property. In those two areas, Oregon has stepped away from the federal approach and created its own provisions, but problems with those provisions have continued to arise. Notably, the "working capital" provision of the natural resource credit, which has been under continued review and amendment but it is thought to be nonfunctional as current law stands. In recent years, Oregon's estate tax chapter has been the focus of amendment every session. These proposed changes attempted to reflect and align to policy objectives. However, that was not easy to accomplish and reproduce in legal language of the Oregon Statutes. Therefore, a comprehensive review of the state inheritance tax law was needed to inject some flexibility and sturdiness capable of reflecting policy directions and changes. At the end of the 2009 legislative session, the House and Senate Revenue Committees requested that the Oregon Law Commission (OLC) conduct a law reform project regarding Oregon's inheritance taxation laws and make recommendations for reform to the 2011 Legislative Assembly. After periodic interim reports the OLC has proposed the current bill. The whole inheritance tax chapter was amended as well as the Natural Resource Credit (NRC).