

PRELIMINARY STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Fiscal: May have fiscal impact, but no statement yet issued

Revenue: May have revenue impact, but no statement yet issued

Action Date:

Action:

Meeting Dates: 03/24, 04/02

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WHAT THE MEASURE DOES:

Expands the definition of real property to include neighboring states for the purpose of considering the natural resource credit against estate tax. Applies to tax years 2014 and beyond.

ISSUES DISCUSSED:

- Background of the estate tax structure.
- Natural resource credit.
- issues with Oregon properties and out of state natural resources.
- retroactivity and its difficulties verses effectiveness.

EFFECT OF COMMITTEE AMENDMENT:

The "-3" amendment specifies the use of natural resource property credit for in-state property measured against the total in-state portion of the Gross estate. FISCAL: Has minimal fiscal impact REVENUE: Has minimal revenue impact

BACKGROUND:

Prior to the 2003 Oregon legislation, legal opinions indicated that Oregon had not adopted either the Taxpayer Relief Act (TRA97) or the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) in 2001. The primary purpose of HB 3072 was to codify in law the connection to the Taxpayer Relief Act of 1997 (TRA97) for prior tax years 1998-2001. For deaths occurring in 2002, the gross estate value filing threshold was \$1 million, the same as the federal filing threshold under EGTRRA. Another important objective of the 2003 legislation was to clarify that Oregon's estate tax connection is to the federal law under the Taxpayer Relief Act of 1997 for deaths occurring in 2003 and beyond. Oregon is not connected to 2001 federal estate tax law changes contained in the Economic Growth and Tax Relief Reconciliation Act. The 2007 session attempted to preserve family owned farms, fishing business and small forest owners, by increasing the threshold for these estates to \$7.5 million. However, HB 3201 faced difficulties in the implementation phase. The February 2008 session, introduced a credit schedule for the small family owned natural resource properties. The credit increases proportionally in HB 3618 to reach the maximum at tax amount due for the \$7.5 million properties, then declines gradually to \$0 at the \$15 million mark. The 2011 legislative session approved (HB 2541) a major revamp of the estate tax. Oregon confirmed the tax to be an estate tax, and constructed a standalone system that only uses federal definitions. Oregon now uses the definitions from the most recent federal tax code and adds some of its own while the new standalone rate schedule (ORS 118) builds a smooth ramp up in rates, which avoid the bubble up in marginal rates caused by increasing the threshold while using the old (federal) pickup schedule that existed for much lower thresholds. The new law (effective 2012) has a threshold of one million and still allows for a natural resource credit through a defined formula. Ballot Measure 84 of 2012 proposed to repeal the estate tax in Oregon but it failed by 54%.

The whole inheritance tax chapter was amended including the Natural Resource Credit (NRC). The (NRC) tax expenditure was stabilized by the amended bill and is no longer expanding. HB 2541-B, makes it an Estate tax and no longer an inheritance tax. It is a standalone system with a tax schedule in Oregon statutes (ORS) for the first time. It established a gradually increasing tax rate schedule for estates starting from \$1 million value at tax rate 10%, to a marginal rate of 16% at values higher than \$9.5 million. The new rate table was to insure revenue neutrality relative to the previous rates which were based on 2000 Federal law. HB 2541 maintained the use of the natural resource credit, and adds clarifying language and detentions to all these credit to be used properly for the first time since the 2007 session. Defines an operating allowance (15% or \$1 million) for natural resource property, ensuring that farm, forest and fishing businesses are taxed properly on true assets.