

House Committee on Revenue

May 9, 2017

SB 32 – Estate Tax Penalties

Summary

SB 32 amends ORS 118.260 relating to estate tax delinquency penalties. Currently, when an estate tax return is filed late and tax is paid after it's due, the statute requires two five-percent penalties to be imposed: a penalty for paying late and a penalty for filing late. Both are based on the amount of tax that remained unpaid after the due date of the return.

For other tax programs (e.g. personal income tax, withholding tax, and corporate tax, etc.) the five-percent penalty applies only once because the penalty is calculated based on unpaid tax. In other words, there is a penalty of five-percent of the amount of unpaid tax if there is a failure-to-FILE timely OR a penalty of five-percent of the amount of unpaid tax if there is a failure-to-PAY timely, but not both.

SB 32 clarifies that only one five-percent delinquency penalty is imposed when an estate tax return is filed late and the estate tax is paid late.

Comments

The estate tax statutes underwent a major rewrite in 2011 and we believe this inconsistency between tax programs may have been an oversight of the workgroup at the time. This amendment would promote uniformity between tax programs. However, the department can administer it as currently written if the legislature chooses to maintain two penalties for this tax program.

For more information about this testimony, contact Jeff Henderson at 503-947-2124.