

Senate Bill 32

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides for imposition of either penalty for failure to pay estate tax when due or penalty for initial failure to file estate tax return when due.

Applies to estate tax returns due on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to estate tax delinquency penalties; creating new provisions; amending ORS 118.260; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 118.260 is amended to read:

6 118.260. (1) If no return has been filed as required by this chapter, there shall be added to the
7 amount of tax required to be shown on the return a delinquency penalty of five percent of the
8 amount of such tax.

9 (2) If the failure to file a return continues for a period in excess of three months after the due
10 date, there shall be added to the amount of tax required to be shown as tax on the return a failure
11 to file penalty of 20 percent of the amount of such tax. This penalty is in addition to the delin-
12 quency penalty imposed by subsection (1) of this section, **or, if applicable, to the delinquency**
13 **penalty imposed by subsection (4) of this section.**

14 (3) If any part of any deficiency is due to fraud with intent to evade tax, then 100 percent of the
15 total amount of the deficiency shall be assessed and collected.

16 (4) Except for a deferral of payment pursuant to an extension granted under ORS 118.225 or a
17 timely election made under ORS 118.300, if the taxes imposed by ORS 118.005 to 118.540 are not paid
18 on or before the date on which payment of the tax is required to be made under ORS 118.100, there
19 shall be added to the amount of tax required to be shown on the return a delinquency penalty of five
20 percent of the amount of such tax. **This penalty is in lieu of any delinquency penalty applicable**
21 **under subsection (1) of this section.**

22 (5)(a) Except as provided in subsection (6) of this section and paragraph (b) of this subsection,
23 if the tax imposed by ORS 118.005 to 118.540 is not paid on or before the date on which payment
24 of the tax is required to be made under ORS 118.100, interest shall be charged and collected thereon
25 at the rate established under ORS 305.220 for each month or fraction thereof from the time when
26 the tax became due and payable.

27 (b) If payment of the tax or deficiency is extended under ORS 118.225, interest shall be charged
28 and collected on any amount for which extension is granted from the date the tax or deficiency is
29 otherwise due and payable to the date of payment at the rate established under ORS 305.220, with-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 out regard to ORS 305.222, for each month or fraction thereof.

2 (6) In all cases in which a bond is given, under the provisions of ORS 118.300, interest shall be
 3 charged at the rate established under ORS 305.220, without regard to ORS 305.222, for each month
 4 or fraction thereof from the time when the tax became due and payable, until the date of payment.

5 (7) If the tax has not been determined, a deposit may be made to avoid interest. Should the
 6 amount of such payment exceed the sum subsequently determined to be due, the Department of Re-
 7 venue shall refund the excess with interest at the rate established under ORS 305.220, for each
 8 month or fraction of a month during a period beginning 45 days after the due date of the return or
 9 the date that the return is filed, whichever is later, and ending at the time the refund is made.

10 (8) Payments made on the tax shall be applied first to penalty and interest and then to the
 11 principal.

12 (9) For purposes of this section, the amount of tax required to be shown on the return shall be
 13 reduced by the amount of any part of the tax which is paid on or before the date prescribed for
 14 payment of the tax and by the amount of any credit against the tax which may be lawfully claimed
 15 upon the return.

16 **SECTION 2. The amendments to ORS 118.260 by section 1 of this 2017 Act apply to estate**
 17 **tax returns that are due on or after January 1, 2018.**

18 **SECTION 3. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 19 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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