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Senate Committee on Finance and Revenue
Oregon State Legislature
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Re: Senate Bills 188, 304, 319, 674, and 701 relating Oregon estate tax

Dear Chair Hass, Vice Chair Bentz, and members of the committee:

In addition to levying taxes on income and capital gains earned during a taxpayer's lifetime, Oregon also collects revenue from taxes levied at the time of death of an owner of real or financial assets. In this way, the state taxes income twice—first when the taxpayer earns the income, and a second time on the accumulated savings at the time of the taxpayer's death. The federal government also levies taxes on current income and the accumulated value of assets at the time of death.

What is important to economists is the incidence and effect of death taxation. One issue is that, to some degree, the levy of death taxes in a setting of prior taxation of income constitutes double taxation. It is also clear that death taxes are a form of taxation of savings since the value of an estate is determined by the savings behavior of taxpayers over their lifetimes. Thus, it is likely that death taxes (like income taxes themselves) deter saving, which in turn deters the funding of investments, with adverse effects on economic growth and job creation.

Proponents of death taxes argue that there are offsetting virtues to limiting the size of an estate that can be passed to the beneficiaries of that estate. Among the common arguments is the populist notion that death taxes inhibit the creation of family dynasties and the economic and political power alleged to be associated with such dynasties. Others argue that death taxes encourage charitable distribution of the estate before death, to the benefit of those who receive services from charitable organizations such as education institutions, foundations, and charitable service providers. Still others argue that providing government with an additional source of revenue creates offsetting benefits that follow from more robust public spending.

These arguments cannot be resolved easily without careful measurement of the net effect of death taxes on the economy. Namely, if one finds that the levy of death taxes leads over time to lower rates of economic and job growth, the case for taxing estates to encourage economic well-being through support of charitable or government program purposes is weakened. In fact, it weakens the general case that diverting private wealth to the public sector provides net benefit to the general public.

Recently, states have moved away from death taxes or raised the exemption levels:

- Indiana repealed its inheritance tax in 2013,
- Tennessee repealed its estate tax in 2016,
- New York raised its exemption level to $5.25 million this year and will match the federal exemption level by 2019,
- The District of Columbia conformed to the federal level in 2018,
- New Jersey will fully phase out its estate tax in 2018,
- Delaware repealed its estate tax in 2018.

In the Tax Cuts and Jobs Act, the federal government raised the estate tax exclusion from $5.49 million to $11.2 million per person, though this provision expires December 31, 2025.

Oregon’s estate tax applies to estates with more than $1 million. Therefore, a popular misconception about Oregon estate tax is that it is exclusively paid by the very wealthy and will not affect middle income families. This is not true.

According to the Legislative Revenue Office, *2019 Oregon Public Finance: Basic Facts*, in 2017:

- Nearly two-thirds of all estate tax filings involved estates with gross estate values of less than $1.5 million;

- More than 90 percent of all estate tax filings involved estates with gross estate values of less than $3.5 million, paying an average of $39,000 in Oregon estate taxes.

This indicates that Oregon's estate tax, as currently structured, imposes a relatively greater burden on small estates than the federal estate tax. Oregon's tax falls largely on the self-employed, small businesses, managers and professionals. This, in turn, implies that Oregon's death tax policy selectively falls on the elderly and those very households who own, operate, and invest in business that create jobs for other Oregonians. Since Oregon's estate tax can be avoided by seeking a location without a state tax, continuing to levy this tax risks deterring or losing business activity in Oregon.

Oregon generally has enjoyed positive net in-migration in recent years—even through the most recent recession. This fact encourages some casual observers to assume that there is no negative impact of tax policy. Factors such as the state's lack of a sales tax, its weather, and natural attractions likely spare Oregon from the full effect of its tax policies. But it is clear that death taxation reduces the retention and/or attraction of taxpaying migrants who anticipate being subject to the tax. Research indicates that these migration effects explain why so many states—such as those identified above—have eliminated their death taxes (Conway & Rork, State "death taxes" and elderly migration—the chicken or the egg?, *National Tax Journal*, 59(1):97-128, 2006).

This committee is considering five bills that would ease the burdens of Oregon's estate tax. The following list ranks the bills from most likely to improve state employment and incomes to least likely.

- **SB 319** and **SB 674** repeals the estate tax for deaths on or after January 1, 2019. This would bring Oregon in line with the majority of states that have no death taxes and would improve Oregon's competitiveness vis-à-vis other states.

- **SB 701** raises the estate tax exclusion to $11.4 million per person, indexed to inflation; applies to deaths on or after January 1, 2019. The bill would bring Oregon's estate tax roughly in-line with the federal estate tax. If passed, fewer than 25 estates would be subject to payment of Oregon estate taxes.

- **SB 304** excludes the value of a family-owned farm or business from a taxable estate if 75 percent or more of the business is owned by one or more family member; applies to deaths on or after January 1, 2020. This bill addresses the observation that Oregon's tax falls largely on the self-employed and small businesses.

- **SB 188** exempts up to $500,000 in value on a deceased's principal residence; applies to deaths on or after January 1, 2020.

Respectfully submitted by:

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