

# House Bill 2219

Sponsored by Representative WILDE (Pre-session filed.)

## 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**.

Requires person receiving property from decedent to use decedent's basis in property, not "stepped up" basis, for purposes of estate tax. Allows exclusion from taxable estate for certain family-owned businesses.

Applies to estates of decedents dying on or after January 1, 2022.

Transfers to Higher Education Coordinating Commission, for funding of Oregon Opportunity Grants, amount equal to estimated increase in revenue attributable to amendments to statutes.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to funding of higher education through estate tax revenue; creating new provisions;  
3 amending ORS 118.010; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 118.**

6 **SECTION 2. (1) As used in this section, "family business" means a business:**

7 (a) **That is owned through an interest in a limited liability company, an S corporation, a**  
8 **partnership or a trust;**

9 (b) **In which 75 percent or more of the voting stock is held by immediate family members**  
10 **of the decedent; and**

11 (c) **In which all owners of 10 percent or more of the voting stock are actively partic-**  
12 **ipating in the operation of the business as their primary source of livelihood.**

13 (2) **An exclusion from the federal taxable estate is allowed for the value of a family**  
14 **business. The exclusion under this section may not exceed \$2 million.**

15 **SECTION 3. ORS 118.010 is amended to read:**

16 118.010. (1) As used in this section:

17 (a) "Nonresident decedent" means an individual who is domiciled outside of Oregon on the date  
18 the individual dies.

19 (b) "Resident decedent" means an individual who is domiciled in Oregon on the date the indi-  
20 vidual dies.

21 (2) A tax is imposed upon a transfer of the property of each:

22 (a) Resident decedent; and

23 (b) Nonresident decedent whose estate includes any interest in:

24 (A) Real property located in Oregon; or

25 (B) Tangible personal property located in Oregon.

26 (3) The Oregon taxable estate to be used for purposes of computing the tax imposed under this  
27 section shall be the federal taxable estate:

28 (a) Increased by:

**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 (A) The deduction for state estate, inheritance, legacy or succession taxes allowable under sec-  
 2 tion 2058 of the Internal Revenue Code; and

3 (B) If the decedent is a surviving spouse owning the property at death, the value of the following  
 4 property unless included in the federal taxable estate:

5 (i) Property for which a deduction for Oregon special marital property under ORS 118.016 was  
 6 previously allowed; or

7 (ii) Property for which a separate Oregon election under section 2056 or 2056A of the Internal  
 8 Revenue Code was previously allowed; and

9 (b) Reduced by:

10 (A) The value on the date of the decedent's death of all Oregon special marital property under  
 11 ORS 118.013; *[and]*

12 **(B) The value on the date of the decedent's death of the exclusion allowed under section**  
 13 **2 of this 2021 Act; and**

14 *[(B)]* (C) Any other applicable exclusions or deductions.

15 (4) The tax imposed under this section shall be calculated by applying the rates in the following  
 16 table. If the Oregon taxable estate is at least the amount in column 1, but less than the amount in  
 17 column 2, the tax is the amount in column 3, increased by the excess above the amount in column  
 18 1 multiplied by the percentage in column 4:

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1	2	3	4
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.25%
2,500,000	3,500,000	152,500	10.5%
3,500,000	4,500,000	257,500	11.0%
4,500,000	5,500,000	367,500	11.5%
5,500,000	6,500,000	482,500	12.0%
6,500,000	7,500,000	602,500	13.0%
7,500,000	8,500,000	732,500	14.0%
8,500,000	9,500,000	872,500	15.0%
9,500,000		1,022,500	16.0%

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34 (5) In the case of a resident decedent owning, on the date of the decedent's death, real property  
 35 located outside Oregon or tangible personal property located outside Oregon, the tax imposed under  
 36 this section shall be the amount determined under subsection (4) of this section multiplied by a ratio.  
 37 The numerator of the ratio shall be the sum of the value of the decedent's real property located in  
 38 Oregon, tangible personal property located in Oregon and intangible personal property. The numer-  
 39 ator may not include any intangible personal property subject to a tax imposed, as a result of the  
 40 death of the decedent, by another state or country. The denominator of the ratio shall be the total  
 41 value of the decedent's gross estate.

42 (6) In the case of a nonresident decedent owning, on the date of the decedent's death, real  
 43 property located in Oregon or tangible personal property located in Oregon, the tax imposed under  
 44 this section shall be the amount determined under subsection (4) of this section multiplied by a ratio.  
 45 The numerator of the ratio shall be the sum of the value of the decedent's real property located in

1 Oregon and tangible personal property located in Oregon. The denominator shall be the total value  
 2 of the decedent's gross estate.

3 (7) Payment, in whole or in part, of estate taxes from funds of an estate or trust on any benefit  
 4 subject to tax under ORS 118.005 to 118.540 is not to be considered a further taxable benefit, when  
 5 such payment is directed by the decedent's will or by a trust agreement.

6 (8)(a) If the federal taxable estate is determined by making an election under section 2031(c),  
 7 2032, 2032A, 2056 or 2056A of the Internal Revenue Code or another provision of the Internal Re-  
 8 venue Code, or if a federal estate tax return is not required under the Internal Revenue Code, an  
 9 executor may make separate elections for state estate tax purposes under that same provision.

10 (b) An executor may make elections under ORS 118.013 and 118.140 and section 2056 of the  
 11 Internal Revenue Code for state estate tax purposes.

12 (c) Elections described in this subsection are irrevocable.

13 **(9) Notwithstanding subsection (8) of this section and section 1014 of the Internal Re-**  
 14 **venue Code, for purposes of this section, the basis in property in the hands of a person ac-**  
 15 **quiring property from a decedent shall equal the basis of the property in the hands of the**  
 16 **decedent.**

17 **SECTION 4. Section 2 of this 2021 Act and the amendments to ORS 118.010 by section 3**  
 18 **of this 2021 Act apply to estates of decedents dying on or after January 1, 2022.**

19 **SECTION 5. (1) On or before October 1 of each year, beginning with October 1, 2023, the**  
 20 **Department of Revenue shall:**

21 **(a) For estates of decedents dying on or after January 1 of the preceding year and ending**  
 22 **before January 1 of the current year, estimate the increase, if any, in the amount of estate**  
 23 **tax revenue received by the department that is attributable to the amendments to ORS**  
 24 **118.010 by section 3 of this 2021 Act, less the amount of decrease, if any, attributable to the**  
 25 **operation of section 2 of this 2021 Act; and**

26 **(b) Transfer an amount equal to the estimate required under paragraph (a) of this sub-**  
 27 **section to the Higher Education Coordinating Commission to be used to provide Oregon Op-**  
 28 **portunity Grants as provided in ORS 348.205.**

29 **(2) Notwithstanding subsection (1) of this section, amounts transferred under this section**  
 30 **may supplant moneys otherwise available for use in the Oregon Opportunity Grant program,**  
 31 **but the amount replaced by transferred funds may not exceed the sum of the amount**  
 32 **awarded as grants in the immediately preceding biennium, plus \$100 million.**

33 **SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021**  
 34 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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