

**Enrolled**  
**House Bill 3138**

Sponsored by Representatives NOBLE, RESCHKE; Representative LEVY (at the request of Linda O'Hara)

CHAPTER .....

AN ACT

Relating to due date of estate tax return; creating new provisions; amending ORS 118.100; and prescribing an effective date.

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

**SECTION 1.** ORS 118.100 is amended to read:

118.100. (1) The tax provided for in ORS 118.010 shall take effect at and accrue upon the death of the decedent. A return shall be filed and the tax shall be paid to the Department of Revenue *[on the date the federal estate tax is payable or, if no federal estate tax return is required, no later than nine]* **no later than 12** months following the date of death of the decedent. If the department determines, pursuant to an amended return or refund claim, that the amount of tax imposed by ORS 118.010 is less than the amount theretofore paid, the excess tax shall be refunded by the department with interest at the rate established by ORS 305.220 for a period beginning 45 days after the due date of the return or on the date the amended return or refund claim is filed, whichever is later, and ending at the time the refund is made.

(2) If the amount of federal estate tax reported on a federal estate tax return is changed or corrected by the Internal Revenue Service or other competent authority, resulting in a change in the Oregon taxable estate, the executor shall report the change or correction in federal estate tax to the department. If the federal change or correction results in a reduction of the Oregon taxable estate, the report of the change or correction shall be treated by the department as a claim for refund pursuant to ORS 305.270 and, notwithstanding the limitations of ORS 305.270, shall be deemed timely if filed with the department within two years after the federal correction was made. If the change or correction results in an increase in the Oregon taxable estate, the department may issue a notice of deficiency within two years after the federal change or correction was made or within two years after receiving a report of the federal change or correction, whichever is the later. Any executor filing an amended federal estate tax return shall also file an amended return with the department within 90 days thereafter.

(3)(a) In the case of an estate that contains property that is valued under section 2032A of the Internal Revenue Code for federal estate tax purposes (relating to the valuation of certain farm or other property) and that ceases to qualify for valuation under section 2032A, an additional tax under ORS 118.005 to 118.540 shall be imposed in the amount attributable to the change in the value of the estate resulting from the imposition of additional federal estate tax under section 2032A.

(b) The department shall be notified of the disqualification of the property from valuation under section 2032A in the same time and manner as the federal Internal Revenue Service is notified of the disqualification.

(c) The period for assessment of the tax imposed under this subsection, including any penalty or interest, shall be two years from the date on which the department receives the notice described in paragraph (b) of this subsection.

(d) The other provisions of ORS 118.005 to 118.540 and ORS chapter 305 shall apply to the additional tax imposed under this subsection in the same manner in which those provisions apply to the tax imposed under ORS 118.010.

(4) For purposes of this section, a change or correction of a federal estate tax return is deemed to be made on the date of the federal audit report.

(5) The executor shall, upon request of the department, supply a copy of the federal estate tax return which the executor has filed or may file with the federal government, or a copy of any federal agent's report upon any audit or adjustment of the federal estate tax return.

(6) The executor shall explain, on the return, how the reported values were determined and attach copies of any appraisals.

**SECTION 2. The amendments to ORS 118.100 by section 1 of this 2021 Act apply to estates of decedents dying on or after January 1, 2022.**

**SECTION 3. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

**Passed by House May 13, 2021**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 10, 2021**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2021

**Approved:**

.....M.,....., 2021

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2021

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Shemia Fagan, Secretary of State