

OREGON ESTATE TAX

Overview of Oregon's Estate Tax

Estate, Inheritance, Gift, and Generation Skipping taxes are different forms of taxes on the transfer of wealth. The Estate tax is imposed when the property transfer is caused by death and is levied on the value of property left by the deceased. Inheritance tax is also imposed after death but levied on the amounts that each relative receives depending on their income and relationships to the deceased. Gift taxes are imposed when the property owner is still living and transfers property to different relatives. Generation Skipping tax can be imposed either at time of death or at time of shift in property rights by gift. Gift and generation skipping taxes are often administered as compliments to estate or inheritance taxes. House Bill 2541 (2011) replaced the federally connected tax to an Oregon specific estate tax. Oregon's estate tax currently is connected only to the definitions used in many of the tax forms as the federal estate tax that was in effect on December 31, 2010.

Estates with gross values (total estate value both inside and outside of Oregon) greater than or equal to \$1 million are required to file estate tax returns while estates valued less than \$1 million are not subject to the tax and no return is required. Calculation of Oregon's estate tax is determined by applying the rates listed at the bottom of the page to the Oregon taxable estate value.

Oregon Taxable Estate Value = Federal Taxable Estate (as in effect on 12/31/2010)
 + Federal state deduction
 ± Marital property deduction (if applicable)
 - Any other exclusions or deductions

If the Oregon taxable estate is at least the amount in column 1 below, but less than the amount in column 2, the tax is the amount in column 3, increased by the excess above the amount in column 1 multiplied by the percentage in column 4. For example, the tax imposed on an Oregon taxable estate worth \$5,000,000 would be \$425,000.¹

Estate Tax Table

Column 1	Column 2	Column 3	Column 4
Taxable estate equal to or greater than:	Taxable estate less than:	Tax on amount in column 1:	Tax rate percentage applied to taxable estate value greater than amount in column 1:
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.3%
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%

¹ Calculated as \$367,500+(\$5,000,000-\$4,500,000) x 11.5%

² https://www.oregon.gov/DOR/forms/FormsPubs/form-or-706-inst_104-001-1_2019.pdf

For estates with property inside and outside of Oregon, a ratio is applied to apportion the value of the property subject to Oregon's estate tax. The ratio is calculated in two ways depending on whether the decedent was an Oregon resident on the date of death.

Oregon Resident Ratio

$$\frac{OR \text{ Real Property} + OR \text{ Tangible Personal Property} + \text{Intangible Personal Property}^3}{\text{Total Value of Decedent's Gross Estate}}$$

Non Resident Ratio

$$\frac{OR \text{ Real Property} + OR \text{ Tangible Personal Property}}{\text{Total Value of Decedent's Gross Estate}}$$

In calculating the taxable estate value, a number of deductions are available including: funeral expenses, debts, mortgages and liens, bequests and gifts to charities, and bequests to a surviving spouse. Bequests to a surviving spouse act effectively as a deferral of tax as the property for which a marital deduction is allowed must be included in the value of the gross estate when the spouse that received the benefit of the deduction dies.

An optional natural resource credit (NRC) is available for natural resource property (NRP) which includes farm use and forestland use in addition to property used in commercial fishing business operations. The credit is unavailable to estates with a value greater than \$15 million and where the value of the natural resource property in Oregon constitutes less than 50 percent of the value of the estate in Oregon. The natural resource credit is calculated as follows:

$$\text{Tax that would be payable absent the credit} * \frac{\text{lesser of: value of NRP claimed or } \$7.5M}{\text{total adjusted gross estate value}}$$

To qualify for the NRC, the natural resource property must be transferred to a family member, and in five of the previous eight years must have been part of a farm, forestry, or fishing business. The property must also continue to be used in the operation of a farm, forestry or fishing business in at least five of the following eight calendar years following the decedent's death.

The American Taxpayer Relief Act of 2012 made several permanent changes to the federal estate tax which changed the way in which Oregon's estate tax interacts with the federal tax. The federal tax applies to estates with a gross value equal to \$12.92 million⁴ or more in 2023.

Brief History of Oregon's Inheritance and Estate Tax

Oregon first enacted an inheritance tax in 1903. The inheritance tax prior to 1978 was calculated as a variable percentage of taxable estate value. The tax varied with the amount of the transfer and the relationship of the beneficiary to the decedent. The 1977 Legislature simplified and enacted a gradual repeal of the Oregon inheritance tax. The new tax rate was fixed at a flat 12% of net taxable estate value for all beneficiaries. Beginning January 1, 1987, the statutory inheritance tax rate became zero and the portion remaining was the "pick-up tax". The pick-up tax refers to the credit against the federal estate tax that existed. Oregon's inheritance tax was equal to the maximum state inheritance tax credit allowed federally.

This simultaneous determination allowed Oregon to impose an inheritance tax without causing an overall increased tax burden.

The 2001 federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) made significant changes in a number of tax areas, including federal estate taxes. The 2001 federal estate tax law

³ Only includes intangible personal property not subject to tax in another state.

⁴ The exemption is indexed to inflation.

changes included a phase-out of the state tax credit, an increase in the gross estate value filing threshold, a decrease in the highest federal estate tax rates and a complete elimination of the federal estate tax effective 2010 for one year. The phase-out of the state tax credit eliminated states' abilities to capture a portion of each estate's federal tax liability beginning in 2005.

Partially in response to EGTRRA, Oregon passed HB 3072 (2003) which codified in law Oregon's connection to the Internal Revenue Code as in effect on December 31, 2000. For deaths that occurred between 2003 and 2011, Oregon's filing requirement differed from federal requirements. As Oregon's filing requirement was less than the federal requirement, in some cases estates were required to file with Oregon even if no federal return was required.

The 2007 session attempted to preserve family owned farm, fishing business and small forest owners by increasing the threshold for these estates to \$7.5 million. However, HB 3201 faced difficulties in the implementation phase. The February 2008 session introduced a credit schedule for the small family owned natural resource properties.

In 2012, HB 2541 changed the Oregon inheritance tax into the current Oregon estate tax. The bill contained many of the recommendations provided by an Inheritance tax work group of the Oregon Law Commission. Included in the reforms was a credit for natural resource properties.

SB 864 (2015) modified the Natural Resource Credit (NRC). Qualification for the NRC was affirmed to be calculated based upon property within the state of Oregon only, rather than the "gross estate". To qualify for the credit, 50% of the Oregon adjusted gross estate value must be natural resource property.

Exhibit F1 (Tax Year 2020)

Estate Value in OR in \$s ¹	Number of Estates	Num of Returns as % of total	Payable Tax	Tax as a % of total
Less than \$1 million	674	27%	\$ -	0%
1m - 1.5m	824	33%	\$ 13,771,869	6%
1.5m - 2.5m	543	22%	\$ 45,400,017	19%
2.5m-3.5m	202	8%	\$ 36,479,337	15%
3.5m-4.5m	79	3%	\$ 22,297,721	9%
4.5m-5.5m	48	2%	\$ 17,445,887	7%
5.5m-6.5m	27	1%	\$ 10,804,438	4%
6.5m-7.5m	15	1%	\$ 8,877,092	4%
7.5m-9.5m	23	1%	\$ 14,841,126	6%
more than 9.5m	51	2%	\$ 73,365,702	30%
Total	2,486	100%	\$243,283,189	100%

¹Includes value of estate in OR only. Tax is paid on estates in OR worth less than \$1m so long as gross estate, total value of estate inside and outside OR, is valued over \$1m.

Exhibit F2

Estate / Inheritance Tax Returns, Tax Years 2004-current				
Tax year	Returns	Payable Tax	Returns Claiming	Natural Resource
			NRC Credit	Credit (NRC) Claimed
2004	1,068	58,213,652		
2005	1,124	106,279,230		
2006	1,194	79,540,693		
2007 *	1,355	118,705,672	42	2,494,644
2008	1,292	75,950,100	31	1,676,046
2009	1,144	84,133,558	31	1,816,780
2010	1,296	80,556,556	23	1,605,202
2011	1,322	93,331,726	27	3,288,147
2012	1,385	94,219,000	25	4,321,000
2013	1,599	106,597,000	32	3,657,000
2014	1,563	113,024,000	31	3,317,000
2015	1,776	157,579,000	51	5,655,000
2016	1,857	175,417,421	44	6,078,918
2017	2,063	206,658,331	50	5,681,821
2018	2,067	188,136,988	45	5,159,940
2019	2,372	315,769,302	52	6,231,579
2020	2,486	243,283,189	59	7,943,206

*2007 total includes the Natural Resource Exclusion which was replaced by the NRC in 2008 but was applied retroactively

Exhibit F3

Inheritance / Estate Tax Collections by Fiscal Year (\$'s in Millions)		
FY	Receipts	% CH.
1982-83	\$33.2	-20%
1983-84	\$33.9	2%
1984-85	\$27.1	-20%
1985-86	\$26.3	-3%
1986-87	\$33.4	27%
1987-88	\$13.5	-60%
1988-89	\$8.9	-34%
1989-90	\$14.0	57%
1990-91	\$17.8	27%
1991-92	\$20.4	15%
1992-93	\$41.5	103%
1993-94	\$45.3	9%
1994-95	\$26.0	-43%
1995-96	\$41.3	59%
1996-97	\$33.9	-18%
1997-98	\$41.0	21%
1998-99	\$48.0	17%
1999-00	\$47.8	0%
2000-01	\$43.7	-8%
2001-02	\$65.2	49%
2002-03	\$51.4	-21%
2003-04	\$73.6	43%
2004-05	\$56.9	-23%
2005-06	\$80.2	41%
2006-07	\$81.7	2%
2007-08	\$109.5	34%
2008-09	\$87.3	-20%
2009-10	\$98.0	12%
2010-11	\$76.2	-22%
2011-12	\$101.8	33%
2012-13	\$101.9	0%
2013-14	\$85.5	-16%
2014-15	\$111.0	30%
2015-16	\$126.0	14%
2016-17	\$196.9	56%
2017-18	\$176.5	-10%
2018-19	\$204.7	16%
2019-20	\$267.3	31%
2020-21	\$256.7	-4%
2021-22	\$325.5	27%

Exhibit F4

Inheritance / Estate Tax Receipts as % of General Fund

FYs 1972 - 2022

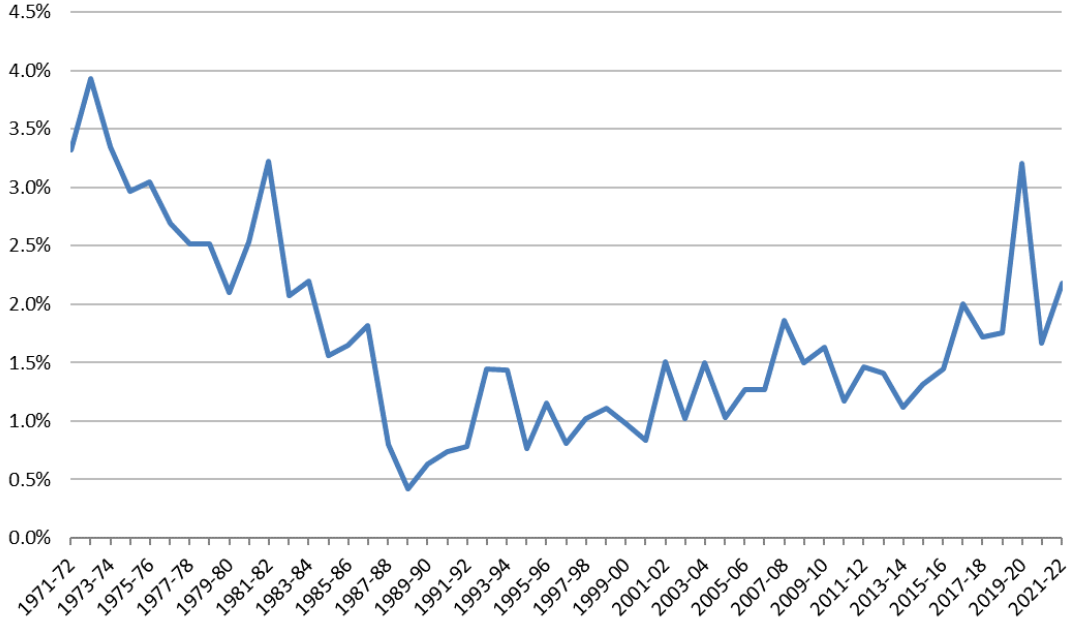
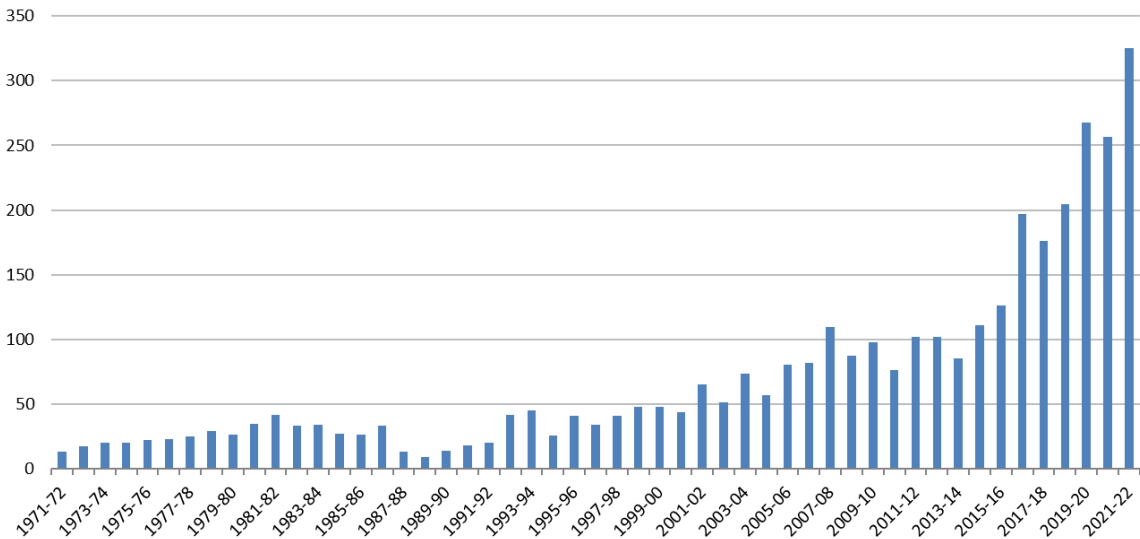


Exhibit F5⁵

Inheritance / Estate Tax Receipts (in \$ millions)

FYs 1972 - 2022



⁵ Source: Oregon Department of Revenue Comparative Balance Sheet