

HB 3934 -4 STAFF MEASURE SUMMARY

House Committee On Revenue

Prepared By: Jonathan Hart, Economist

Meeting Dates: 4/3, 6/13

WHAT THE MEASURE DOES:

Allows surviving spouse to elect an additional estate tax exclusion based on unused amount of prior deceased spouse's exclusion up to \$1 million. Specifies the additional amount is calculated by subtracting the Oregon taxable estate of the prior deceased spouse from \$1 million. Requires irrevocable election of additional exclusion be filed within 12 months after the death of the prior deceased spouse. Applies to estates of decedents who die on or after January 1, 2026. Takes effect on the 91st day after sine die.

ISSUES DISCUSSED:

- Portability in federal estate tax law
- Deadlines for filing tax returns
- Costs of estate planning needed to have portability without change in law
- Migration due to tax planning

EFFECT OF AMENDMENT:

-4 Replaces references to "personal representative" with "executor." Clarifies that provisions apply to estates of decedents that have a predeceased spouse that dies in 2027 or later.

BACKGROUND:

Since 2012, Oregon estate tax returns are required from resident taxpayers with gross estate value of \$1 million or more, or from nonresidents with real or tangible property in Oregon and gross estate value of \$1 million or more. After deductions including funeral expenses, debt, and bequests to a spouse or charity, \$1 million of taxable estate value is exempt from the Oregon estate tax.

This measure would establish "portability" of an estate tax exclusion up to \$1 million. Portability allows the estate of a decedent that is married at time of death to transfer an amount of unused exclusion to their surviving spouse. The amount is calculated and claimed on an estate tax return filed within 12 months of the first spouse's death.