



April 3, 2025

Oregon House Committee on Revenue

**Testimony on HB 3934**

I am Barbara Jo Smith, an attorney in Salem, Oregon who has been practicing almost 30 years. I support HB 3934, which will allow a surviving spouse to use the deceased spouse's unused Oregon exemption not to exceed \$1 million. This will allow families to use the exemption of each spouse without doing expensive planning with a lawyer. It will put those Oregonians who do not have access to a good estate planning lawyer in the same position as those who do have access to a good estate planning lawyer. It will put those who procrastinated doing estate planning in the same position as those who were able to plan. The following example demonstrates what this law will do.

In this example, John and Susan Smith are in their 40s with two children who are in middle school and high school. They have the following assets that would be includable in their estates:

- Residence worth \$400,000, with a \$100,000 mortgage;
- Savings/checking cash accounts with \$100,000;
- John's 401(k) worth \$300,000;
- Susan's IRA worth \$300,000;
- John's life insurance, with a face amount of \$500,000; and
- Susan's life insurance, with a face amount of \$500,000.

John dies of an aggressive, fast-moving cancer with no opportunity to see a lawyer to do fancy taxable estate planning. All of his assets pass to his wife. Susan now has a gross estate of \$2.1 million and a taxable estate of \$2 million. She goes to see an attorney as she knows she should do some planning for her children. They put together a plan so that assets will pass into a trust for the children. There is a terrible accident and she is killed. All of her assets pass into trust for her children until they are old enough to handle the funds, but the estate will first have to pay Oregon estate tax of \$101,750.

Note that if John and Susan had seen a knowledgeable attorney, they could have signed estate planning documents that were designed to use each

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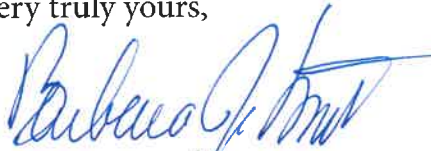
of their \$1 million exemptions. This is planning that has been around since 1987 for the federal estate tax. If they had done this, then there would have been no Oregon estate tax at Susan's death. This planning would probably have cost them between \$2,000 and \$5,000 in legal fees, another \$1,000 to \$2,000 per year in tax preparation fees, plus Susan would have needed an attorney to work through the planning after John's death costing another few thousands of dollars.

What HB 3934 does is to allow the children to use both of their parents' \$1 million exemption amounts without their parents having paid attorneys for the fancy tax planning. They will be able to use all of their inheritance to pay for their housing, food, clothing, transportation, and educational expenses, including college, plus all of those items their parents would have provided had their parents been alive to launch them into adulthood.

The US Congress put this benefit in effect for the federal estate tax several years ago. For those persons who do a lot of internet research, they may be misled by articles about the ability to use the deceased spouse's federal exemption at the survivor's death thinking that this would also apply to Oregon.

Oregonians should not have to create complicated and expensive estate plans to get the benefit of using each spouse's exemption amount against the estate tax. Therefore, I support HB 3934 (and HB3688, which has the same language).

Very truly yours,



Barbara Jo Smith