

D R A F T

SUMMARY

Allows exclusion from taxable estate for value of decedent's principal residence. Applies to estates of decedents dying on or after January 1, 2020. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to threshold for estate tax liability; creating new provisions; amending ORS 118.010; and prescribing an effective date.

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

SECTION 1. ORS 118.010 is amended to read:

118.010. (1) As used in this section:

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

(b) "Resident decedent" means an individual who is domiciled in Oregon on the date the individual dies.

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

(a) Resident decedent; and

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

(A) Real property located in Oregon; or

(B) Tangible personal property located in Oregon.

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

(a) Increased by:

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

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

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

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

8 (b) Reduced by:

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

11 **(B) Unless the executor has made an election to administer the**
 12 **principal residence as special marital property under ORS 118.013, an**
 13 **amount not to exceed the lesser of \$500,000 or the value on the date**
 14 **of the decedent's death of the decedent's principal residence; and**

15 ~~[(B)]~~ (C) Any other applicable exclusions or deductions.

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

21 _____

22	1	2	3	4
23	\$1,000,000	\$1,500,000	\$0	10.0%
24	1,500,000	2,500,000	50,000	10.25%
25	2,500,000	3,500,000	152,500	10.5%
26	3,500,000	4,500,000	257,500	11.0%
27	4,500,000	5,500,000	367,500	11.5%
28	5,500,000	6,500,000	482,500	12.0%
29	6,500,000	7,500,000	602,500	13.0%
30	7,500,000	8,500,000	732,500	14.0%
31	8,500,000	9,500,000	872,500	15.0%

1 9,500,000 1,022,500 16.0%

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3 (5) In the case of a resident decedent owning, on the date of the
4 decedent's death, real property located outside Oregon or tangible personal
5 property located outside Oregon, the tax imposed under this section shall be
6 the amount determined under subsection (4) of this section multiplied by a
7 ratio. The numerator of the ratio shall be the sum of the value of the
8 decedent's real property located in Oregon, tangible personal property lo-
9 cated in Oregon and intangible personal property. The numerator may not
10 include any intangible personal property subject to a tax imposed, as a result
11 of the death of the decedent, by another state or country. The denominator
12 of the ratio shall be the total value of the decedent's gross estate.

13 (6) In the case of a nonresident decedent owning, on the date of the
14 decedent's death, real property located in Oregon or tangible personal prop-
15 erty located in Oregon, the tax imposed under this section shall be the
16 amount determined under subsection (4) of this section multiplied by a ratio.
17 The numerator of the ratio shall be the sum of the value of the decedent's
18 real property located in Oregon and tangible personal property located in
19 Oregon. The denominator shall be the total value of the decedent's gross
20 estate.

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

25 (8)(a) If the federal taxable estate is determined by making an election
26 under section 2031(c), 2032, 2032A, 2056 or 2056A of the Internal Revenue
27 Code or another provision of the Internal Revenue Code, or if a federal es-
28 tate tax return is not required under the Internal Revenue Code, an executor
29 may make separate elections for state estate tax purposes under that same
30 provision.

31 (b) An executor may make elections under ORS 118.013 and 118.140 and

1 section 2056 of the Internal Revenue Code for state estate tax purposes.

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

3 **SECTION 2. The amendments to ORS 118.010 by section 1 of this**
4 **2019 Act apply to estates of decedents dying on or after January 1, 2020.**

5 **SECTION 3. This 2019 Act takes effect on the 91st day after the date**
6 **on which the 2019 regular session of the Eightieth Legislative Assem-**
7 **bly adjourns sine die.**

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