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March 4, 2005

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The Honorable Bill Bradbury
Secretary of State
Elections Division
141 State Capitol
Salem, OR 97310-0722
Fax: (503) 373-7414

BILL BRADBURY
SECRETARY OF THE STATE

Re: November 2006 Initiative Petition #28 (prohibits taxes on assets that change ownership by inheritance or income therefrom) (Ballot title comments)

Dear Secretary of State Bradbury:

I am an Oregon elector, and submit these comments in response to the Secretary of State's request for comments on the draft ballot title for this proposed initiative.

The Draft Caption

The draft Caption does not reasonably identify the subject matter of the measure, as required by ORS 250.035(2)(a).

The Caption and 'Result of "Yes"' sections have one key flaw: They do not address the fact that the measure prohibits an income tax *of any kind* on money or property that changes ownership by inheritance. The measure does not restrict itself to prohibiting taxes levied *at the time* of inheritance. It prohibits any income tax "of any kind," EVER, on property that has been inherited. The concept of an "income tax on property" is rather novel, but what it must mean is that the measure prohibits any tax on income *derived* from, or *generated* by, inherited property.

For instance, if a person inherits a small business, under this measure, no tax could ever be levied on income from that business. If a person inherits \$5 million in stock, and subsequently the stock appreciates to \$15 million, and the person sells it, no taxes could be levied on those profits.

Absent references to the key phrase "of any kind," the Caption and Results section are likely to be misleading; the reader could reasonably infer that the measure only addresses taxes levied at the time of and incident to inheritance, rather than subsequently.

The undersigned suggests the following alternative:

**PROHIBITS "INHERITANCE TAX," INCOME TAX OF ANY KIND ON
ASSETS THAT CHANGE OWNERSHIP BY INHERITANCE**

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The Draft "Result of 'Yes' Vote"

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As noted above, the draft does not provide a "simple and understandable" description of the result of passage of the measure, as required by ORS 250.035(2)(b). A key "result" of the measure is to prohibit, not only taxes on inheritance, but any taxes *ever* on income *generated by* assets that have been transferred through inheritance.

BILL DRAFTED BY
SECRETARY OF THE STATE

The undersigned suggests the following alternative:

Result of "Yes" Vote: "Yes" vote prohibits state/ local "inheritance tax" (undefined) or income tax of any kind on assets transferred by inheritance or income generated from those assets.

The Draft Summary

The Summary as drafted is misleading: It implies that the only "income tax" effect of the measure will be on the specific state law imposing a tax on a trust or estate. As noted above, the measure actually prohibits any tax, ever, on income generated from property that has ever been transferred by inheritance.

The Summary should be revised to contain language equivalent to the following: "Current law allows state and local governments to tax income from property received by inheritance. Example: a person inherits stock, the stock appreciates, the person sells at a profit – that person may be taxed on the profits. This measure would prohibit any tax of any kind, ever, on income from any money or property that has been transferred by inheritance."

Thank you for your consideration of these comments.

Sincerely,

Steven Novick
1653 SE Nehalem #4
Portland OR 97202
(503) 233-1429

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March 4, 2005

VIA FACSIMILE (503) 373-7414
AND REGULAR MAIL

John Lindback
Director of Elections
Office of the Secretary of State
141 State Capitol
Salem, Oregon 97310-0722

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BILL BRADBURY
SECRETARY OF THE STATE

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Re: Initiative Petition 28 (2006) - Draft Ballot Title Comments
Our File No. 328

Dear Mr. Lindback:

This firm represents Kris Kain, an Oregon elector and President of the Oregon Education Association, and Chip Terhune, an Oregon elector and Assistant Executive Director for Public Affairs for the Oregon Education Association. We write in response to your News Release dated February 18, 2005 which invites comments to the draft ballot title for Initiative Petition 28 (2006).

1. INTRODUCTION

Initiative Petition 28 (2006) is a statutory proposal that purports to eliminate the "inheritance tax." In fact, it does a great deal more. It prohibits any public body from imposing an "inheritance tax or income tax *of any kind* on money or property that is inherited or otherwise changes ownership by inheritance." It is not limited to the transfer of ownership itself, but rather to the money that is transferred. This means that if a person inherits an estate worth \$5 million dollars, the state cannot impose any tax on the transfer of property. It also cannot tax any income produced by that estate.

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Mr. John Lindback
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The impact of the proposal would be enormous. Under current law, there are two kinds of taxes on estates. The first is called an “estate tax.” This is a tax imposed on the estate itself – i.e., on the property at the time of transfer. The second is called an “inheritance tax” and refers to a tax on the beneficiary of the estate. See, *2005 Oregon Public Finance: Basic Facts, Research Report #1-05*, Legislative Revenue Office, <http://www.leg.state.or.us/comm/lro/home.htm> (Excerpt, Ex. A). Although Oregon laws refer to an “inheritance tax,” it currently only imposes taxes on estates. ORS 118.010. The amount is tied to federal law in effect in 2001.¹ For the 2001-03 biennium, this generated \$116.6 million in revenue. According to the Legislative Revenue Office, this tax is the third largest revenue source for the general fund.

If this proposal were to pass, there would be two major sources of revenue reduction. Most obviously, current revenues from inheritance taxes would be eliminated. Less obviously but perhaps more ominously, the state would lose the ability to tax any income that is generated by the inherited property. For example, assume a daughter inherits \$500,000 in cash from her mother. That money is then invested in the stock market. Each year, the daughter earns income from the property as dividends. That income cannot be taxed under the proposal. Assume further that the daughter is particularly savvy and her \$500,000 investment is worth \$5 million in two years. The state would not be able to tax the capital gains, resulting in substantial loss of revenue.

The same analysis applies to the transfer of real property or other assets. Even if the inherited property generates income – such as rental property – the state will be unable to tax that rental income. Not only would this scheme be extraordinarily complicated and expensive to administer, it is not too farfetched to imagine foul play among family members in order to gain ownership of property that would forever be tax free. The ballot title must alert voters to this effect. As discussed below, it fails to do so.

¹ The 2001 Federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) made a number of changes in federal estate taxes. In particular, it phased out the “state death tax credit” as of 2005. Prior to 2001, Oregon collected the maximum amount allowed under federal law as the state credit. In 2003, the legislature passed HB 3072, which disconnected Oregon from the 2001 federal changes, thus making it possible for Oregon to continue to collect estate taxes.

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2. CAPTION

The draft caption fails to accurately identify the subject of the measure in simple and understandable terms. ORS 250.035(2)(a). It reads:

**PROHIBITS "INHERITANCE TAX" OR INCOME TAX ON
MONEY OR PROPERTY THAT CHANGES OWNERSHIP BY
INHERITANCE**

The draft caption is generally acceptable, except for the description of the type of taxes that are banned. The initiative provides that no public entity "shall impose an inheritance tax or income tax *of any kind* on money or property that is inherited or otherwise changes ownership by inheritance." The reference to "inheritance tax" and "income tax" in the draft caption makes it sound like some other taxes may be acceptable. That is obviously incorrect.

The other problem is that the ban on taxes follows the money. As discussed above, the initiative would prohibit any kind of tax, *ever*, on income generated by assets received through inheritance. That fact must be communicated to voters.

We propose the following alternative which tracks the language of the proposal:

**PROHIBITS INHERITANCE TAXES, INCOME TAXES OF
ANY KIND ON ASSETS THAT CHANGE OWNERSHIP BY
INHERITANCE**

3. RESULT OF "YES" VOTE

Like the draft caption, the result of "yes" vote fails to adequately identify what will happen as a result of a "yes" vote. It does not make clear that the proposal bans taxes *of any kind* on both the inherited property and income generated from that property. This point will not be at all obvious to the public, who generally view inheritance taxes as a one-time tax on an estate at the time of death. Therefore the "yes" result statement must unambiguously describe this aspect of the proposal. The use of the word "both" signals this fact in a clear but neutral manner. We propose the following:

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RESULT OF “YES” VOTE: “Yes” vote prohibits both “inheritance taxes” on assets that change ownership by inheritance and income taxes of any kind on income generated by those assets.

4. RESULT OF “NO” VOTE

The “no” vote result statement is similarly deficient. It simply puts a “rejects” in front of the draft “yes” vote result statement, thus giving the voters virtually no additional useful information. As the Supreme Court made clear in *Nesbitt v. Myers*, 335 Or 424, 432, 71 P3d 530 (2003), the “no” vote result statement should not put a “rejects” before the “yes” vote result statement. To do so deprives voters of information that would assist them in understanding the “state of affairs that will exist if the voters reject the proposed measure. It is no news to a voter that voting ‘no’ means ‘not yes.’ 335 Or at 432.

Here, voters need to understand current law relating to inherited property. While that law may have lots of complicated details, it essentially provides that, as of 2006 (when this proposal would be put to the voters, assuming it gathered sufficient signatures), only assets worth more than \$1 million would be taxed. See “*Inheritance Tax Advisory, (Revised 5-24-04)*, Oregon Department of Revenue (Ex. B). That is the essential information that voters need to have in order to cast an informed vote. Similarly, voters need to understand that currently, income generated by inherited assets is taxed the same as other income. Accordingly, we propose the following alternative.

RESULT OF “NO” VOTE: “No” vote retains current law authorizing one-time inheritance tax on estates worth more than \$1 million and income tax on income generated by inherited property.

5. SUMMARY

ORS 250.035(2)(d) requires that the ballot title contain a summary which accurately summarizes the measure and its major effects in a concise and impartial manner. The goal is to provide voters with enough information to understand what will happen if the measure is approved and the “breadth of its impact.” *Fred Meyer, Inc. v. Roberts*, 308 169, 175, 777 P2d 406 (1989).

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The draft summary fails to comply with the statutory standards. First, its description of current law is inapposite and difficult to follow. The summary leads with a statement regarding the taxation of trusts and estates, even though the proposal's ban on income tax sweeps much broader. Again, the initiative prohibits "inheritance taxes" and "income taxes" "of any kind" on "money or property" that changes ownership by inheritance. There is no reference to a trust or estate, nor any time limitation. The draft summary's reference to trust is therefore misleading.

The second sentence that purports to describe current law is so technical that it is meaningless. While tax law is often complicated, it is possible – and indeed essential – that voters be told in plain and simple language what kind of taxes to expect on inherited property. Specifically, they need to understand that: (1) current law imposes an inheritance tax, but only on estates worth over than \$1 million dollars; and (2) income that is created by inherited property is taxed the same as other income. On the first point, the summary must include the threshold amount for the inheritance tax in order to not be misleading. Stated differently, without that information, many voters would believe that all inherited property is subject to an estate tax when, in fact, only high value estates are taxed. Notably, this kind of information has been included in other ballot titles where a proposal seeks to change tax laws in a way that does not impact all taxpayers the same. For example, the ballot title for an initiative to create an unlimited deduction for federal income taxes paid identifies the specific amount of the current permissible deduction. *See e.g.* IP 11 (2004). It must be included here.

The second problem is that the explanation of what the proposal does is incomplete and not easily understood. It does not make clear that income generated by inherited assets cannot be taxed. More importantly, there is no description of the measure's major effect: to significantly reduce revenue to the general fund, revenue that would be used to fund education, public safety, human services and other programs. This information has been included in many revenue reducing measures and has been approved by the Court. *See e.g. Novick v. Meyers*, 322 Or 361, 29 P3d 1098, (2001); *Novick v. Meyers*, 332 Or 447, 30 P3d 413 (2001); *Novick v. Meyers*, 333 Or 592, 42 P3d 908 (2002) (certifying ballot titles which specified that currently, state income tax revenue is directed to the State's general fund and is used for "education, public safety, human services, and other state programs.").

To correct these deficiencies, we propose the following:

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SUMMARY: Current law authorizes one-time inheritance tax on estates worth more than \$1 million where decedent dies on or after January 1, 2006; income generated by inherited assets is taxed the same as other income. This measure prohibits state and local governments from assessing any “inheritance tax” (undefined) or income tax of any kind on money or property that “is inherited or otherwise changes ownership by inheritance.” State tax revenue from current inheritance tax and income tax is directed to state general fund, which funds education, public safety, human services and other programs. This measure eliminates revenue from the inheritance tax, reduces revenue from state income tax; provides no replacement funds. Applies to estates of decedents dying on or after January 1, 2006. Other provisions.

This alternative uses simple and understandable language to describe how the measure works and its major effects. Its description of current law gives voters essential information in order to place the proposal in context. It also clearly alerts voters the fiscal ramifications of passing the proposal. We urge that it be adopted.

Thank you for your careful consideration of these comments. Please send a copy of the certified ballot title as soon as it is available.

Sincerely,

SMITH, DIAMOND & OLNEY

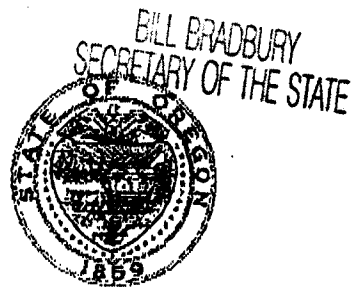
Margaret S. Olney

MSO/lck
cc: Chip Terhune
Mark Toledo

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2005 OREGON PUBLIC FINANCE: BASIC FACTS

Research Report #1-05

LEGISLATIVE REVENUE
OFFICE

<http://www.leg.state.or.us/comm/lro/home.htm>

TABLE 3. STATE TAX SYSTEMS (2003 FISCAL YEAR)

STATE TAXES	OR	CA	WA	ID	UT	AZ	NV
STATE REV. AS % OF TOTAL	56.6	54.7	56.1	58.5	64.2	53.5	49.4
TAXES AS % OF INCOME	5.6	6.9	6.5	6.9	6.9	6.1	6.2
TAX BURDEN RANK	37	17	23	18	15	33	28
SHARE- PERS. INCOME TAX	70.6	41.3	---	36.0	39.7	24.2	---
SHARE- SALES	---	31.4	61.8	35.9	37.6	49.9	53.1
SHARE- CORP	4.0	8.6	---	4.0	3.8	4.5	---
SHARE- EXCISE	13.1	8.9	16.2	13.9	13.3	13.6	31.7
SHARE- PROPERTY	---	2.4	11.6	---	---	3.5	2.7
SHARE- OTHER	11.9	7.4	10.5	10.2	5.6	4.4	12.5

Finally Table 4 shows a complete listing of all Oregon state taxes for the 2003-04 fiscal year. These data come from state sources and captures the most recent fiscal year. Table 4 also contains a listing of identifiable local tax sources. Because there is no comprehensive source listing all local taxes, Table 4 has a balancing category to match local revenue with an extrapolation of the latest Census data.

TABLE 4. SUMMARY OF OREGON TAXES

STATE	2001-02 COLLECTIONS	2002-03 COLLECTIONS	2003-04 COLLECTIONS
PERSONAL INCOME TAX	\$3,677,677,986	\$4,021,863,000	\$4,268,572,769
EMPLOYMENT INSURANCE TAXES	499,672,800	548,301,000	649,097,000
GASOLINE AND USE FUEL TAXES	387,907,000	393,692,000	401,968,000
CORPORATE INCOME TAX	195,180,047	224,892,000	317,506,034
WEIGHT MILE TAX	192,309,705	196,487,000	217,370,000
CIGARETTE TAX	154,981,173	221,962,042	240,069,022
INSURANCE TAXES	65,998,038	56,689,231	61,732,659
OTHER LABOR TAXES	90,226,066	89,684,296	87,956,364
TIMBER PRIVILEGE TAXES	18,875,225	13,272,563	3,787,065
INHERITANCE TAX	65,201,985	51,431,289	73,609,092
WORKERS' COMP INSURANCE	48,738,305	56,530,332	58,192,322
TELEPHONE EXCHANGE ACCESS	30,393,245	29,884,723	33,255,970
OTHER TOBACCO PRODUCTS TAX	20,053,176	20,933,588	25,278,884
REAL ESTATE RECORDING TAX	26,601,971	28,344,258	21,925,857
BEER & WINE TAXES	12,684,516	13,323,065	13,665,748
FOREST PRODUCTS HARVEST	9,671,710	11,416,237	11,940,279
ELECTRIC COOP TAX	4,562,691	5,663,245	4,555,367
PHONE ACCESS SURCHARGE	4,052,817	5,216,399	5,377,192
AMUSEMENT DEVICE TAX	1,911,253	1,988,399	798,200
HAZARDOUS SUBSTANCE TAXES	2,445,115	2,604,792	2,565,657
AVIATION GAS AND JET FUEL	1,957,000	2,098,000	2,379,798
PETROLEUM LOADING FEE	1,256,440	1,276,404	1,267,559
BOXING TAX	5,156	93,617	87,915
PRIVATE RAIL CAR TAX	263,251	215,508	189,168
OIL & GAS SEVERANCE TAX	127,446	138,365	109,322
DRY CLEANERS TAX	810,271	704,812	117,593
STATE LODGING TAX	0	0	1,457,243

OREGON ESTATE AND INHERITANCE TAXES

Overview of Estate and Inheritance Tax Revenues

Currently, Oregon's estate tax is based on the federal estate law and the pick-up tax. The estate tax is a tax on the right to transfer property at death and generally is measured by the value of the estate passing at the time of the decedent's death. The federal pick-up tax is a way in which states capture a portion of the federal estate tax liability but do not increase the overall tax liability of the estate. Oregon does not impose any other estate or inheritance taxes besides collecting the federal pick-up tax. From legislation in 2003, Oregon is now connected to federal tax law with the adoption of the Taxpayer Relief Act of 1997. Oregon has not adopted the 2001 federal law changes included in the Economic Growth and Tax Reconciliation Act.

Oregon collected \$116.6 million in estate tax in the 2001-03 biennium which was the third largest single tax source for the state general fund behind personal income and corporate excise taxes. This tax comprised 1.2% of the total state general fund. The estate tax is paid by a small number of taxpayers each year. Consequently, revenues from Oregon's estate tax are very volatile and one large estate tax return paying a sizeable amount of tax in a given year can result in a significant increase in estate tax revenue. In examining the percentage change each year from fiscal year 1970-71 to 2002-03, the annual percentage change had a range between a high of 103% increase in 1992-93 and a low of -60% for 1987-88 from the prior year.

Brief History of Oregon's Estate and Inheritance Tax – pre-1990s

Oregon first enacted an inheritance tax in 1903. An inheritance tax is a tax on the beneficiary of the estate rather than on the estate itself. Prior to 1977, Oregon imposed an inheritance, gift and estate tax. The Oregon inheritance tax was calculated as a variable tax rate, a certain percentage of taxable estate value. The tax rates ranged from 12% to 20% depending on who was inheriting the estate, with the closest relationships receiving the lowest tax rates. The estate tax imposed was a graduate tax rate on the gross estate value less deductions. Deductions are allowed for debts owed at the time of death. In 1977, Oregon's inheritance tax was simplified and the tax was based on the value of the property received from a decedent's estate and the tax rate was a flat 12% of the taxable value. In addition, Oregon adopted the federal pick-up estate tax instead of its own estate tax. The federal pick-up tax became a floor on Oregon's own inheritance tax. Beginning in 1978, Oregon started phasing out its inheritance tax over 10 years. As the phase-out of Oregon's inheritance tax continued, the tax revenues dropped significantly to a low of \$8.87 million in fiscal year 1988-89 when the state was only collecting the federal pick-up tax. The primary reasons why the estate tax revenues in Oregon started growing again after 1988-89 was due to the rapid growth in the elderly population, as Oregon has been a net importer of the elderly, as well as the growth in property values. Since Oregon phased-out its inheritance tax and adopted the federal pick-up tax exclusively, Oregon's estate tax revenue has been tied to federal law as in place on a specific date.

Federal Estate Tax Changes

The federal pick-up tax was created in 1926. The maximum federal credit for state taxes paid is calculated as a graduated percentage of the taxable estate value. The tax rates, used to calculate the maximum state death tax credit, range from 0% for taxable estates under \$40,000 up to 16% for estates over \$10 million. Oregon connected exclusively to the federal pick-up tax beginning in 1987. Then, Oregon's estate tax revenue was dependent on a date specific federal tax code. Oregon was not automatically connecting to federal estate tax law changes. Additional legislation was needed in Oregon to adopt federal estate tax law changes. Prior to the 1997 and 2001 federal estate tax law, Oregon's estate tax law was connected to federal law which established the federal gross estate value filing threshold at \$600,000.

1997 Taxpayer Relief Act (TRA97)

The 1997 Taxpayer Relief Act (TRA97) gradually increased the gross estate value filing threshold from \$600,000 up to \$1 million by tax year 2006. This change affected which estates would be subject to the estate tax. Generally in the past, Oregon had only assessed a tax on Oregon estates that were large enough to be subject to the federal estate tax.

Tax Year	Gross Estate Value Filing Threshold - TRA97
1998	\$ 625,000
1999	\$ 650,000
2000 and 2001	\$ 675,000
2002 and 2003	\$ 700,000
2004	\$ 850,000
2005	\$ 950,000
2006	\$ 1,000,000

2001 Economic Growth and Tax Relief Reconciliation Act (EGTRRA)

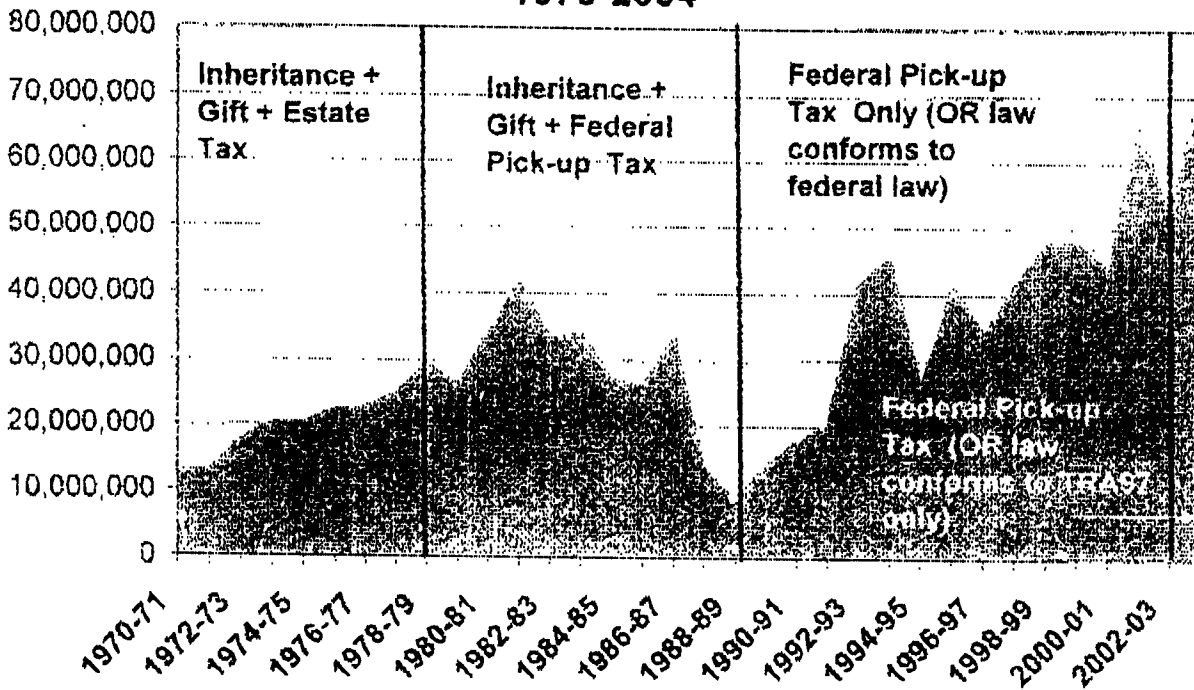
The 2001 federal Economic Growth and Tax Relief Reconciliation Act legislation - P.L. 107-16, made significant changes in a number of tax areas, including federal estate taxes. The 2001 federal estate tax law changes included a phase-out of the state death tax credit, an increase in the gross estate value filing threshold, a decrease in the federal highest estate tax rates and a complete elimination of the federal estate tax effective 2010 for one year. The phase-out of the total state death tax credit will eliminate the states' ability to capture a portion of each estate's federal tax liability by 2005. An increase in the gross estate value filing threshold will remove the tax assessment on certain smaller estates. The decrease in the federal highest estate tax rates also reduces the federal tax liability for estates. If Oregon connected to all the provisions in the 2001 estate tax law changes, Oregon's estate tax would be eliminated completely by tax year 2005.

Tax Year	% reduction	Tax Year	% reduction
Phase out of total state death tax			
2002	25%	2004	75%
2003	50%	2005	100%
Increase in gross estate value filing threshold from EGTRRA			
2002	\$ 1.0 million	2006	\$ 2.0 million
2004	\$ 1.5 million	2009	\$ 3.5 million
Decrease in federal highest estate tax rates			
2002	50%	2005	47%
2003	49%	2006	47%
2004	48%	2007-2009	45%

2003 Legislative Changes in HB 3072 - Clarification in Oregon Law

Prior to the 2003 Oregon legislation (HB 3072), legal opinions indicated that Oregon had not adopted either the Taxpayer Relief Act (TRA97) or the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) in 2001. Up until 2001, Oregon's Department of Revenue had assumed Oregon had adopted the federal law change in 1997 (TRA97). The primary purpose of HB 3072 was to codify in law the connection to the Taxpayer Relief Act of 1997 for prior tax years 1998-2001. For deaths occurring in 2002, the gross estate value filing threshold was \$1 million, the same as the federal filing threshold under EGTRRA. Another important objective of HB 3072 was to clarify that Oregon's estate tax is connection to the federal law under the Taxpayer Relief Act of 1997 for deaths occurring in 2003 and beyond. Oregon is not connected to 2001 federal estate tax law changes contained in the Economic Growth and Tax Relief Reconciliation Act.

Oregon Estate and Inheritance Tax Collections: 1970-2004



Fiscal Yr.	\$ Amount	% Change
1970-71	12,613,154	
1971-72	12,910,782	2.4%
1972-73	17,648,065	36.7%
1973-74	20,375,279	15.4%
1974-75	20,354,671	-0.1%
1975-76	22,334,831	9.7%
1976-77	22,814,203	2.1%
1977-78	24,782,221	8.6%
1978-79	29,307,501	18.3%
1979-80	26,190,894	-10.6%
1980-81	34,490,610	31.7%
1981-82	41,494,561	20.3%
1982-83	33,236,857	-19.9%
1983-84	33,855,381	1.9%
1984-85	27,084,953	-20.0%
1985-86	26,313,563	-2.8%
1986-87	33,413,595	27.0%

Fiscal Yr.	\$ Amount	% Change
1987-88	13,476,313	-59.7%
1988-89	8,875,434	-34.1%
1989-90	13,962,361	57.3%
1990-91	17,766,526	27.2%
1991-92	20,398,303	14.8%
1992-93	41,480,573	103.4%
1993-94	45,323,450	9.3%
1994-95	26,014,021	-42.6%
1995-96	41,284,996	58.6%
1996-97	33,856,234	-18.0%
1997-98	41,489,930	22.5%
1998-99	47,483,851	14.4%
1999-00	47,654,649	0.4%
2000-01	43,729,981	-8.3%
2001-02	65,201,986	49.1%
2002-03	51,431,290	-21.1%
2003-04	73,609,000	43.1%

OREGON ESTATE TAXES - FOR DEATHS IN 2000 - 2003
BREAKDOWN OF 2002 and 2003 ESTATE TAX RETURNS BY GROSS ESTATE VALUE

Tax Year	Total # of Returns	Total OR Payable Tax (\$ millions)
2000	879	44.2
2001	878	70.8
2002	736	42.8
2003	620	55.1

2002 Estate Tax Returns With Gross Estate Value				
Size of Oregon Gross Estate	# of Returns	% of total returns	OR Payable Tax	% of total OR Payable Tax
Under \$1 million	78	11%	4,935,443	11.5%
\$1 million up to \$1.5 million	285	39%	6,231,352	14.5%
\$1.5 million up to \$2 million	137	19%	4,181,559	9.8%
\$2 million up to \$3.5 million	138	19%	7,605,522	17.8%
\$3.5 million up to \$5 million	46	6%	4,337,274	10.1%
\$5 million up to \$10 million	33	4%	4,825,541	11.3%
\$10 million up to \$20 million	9	1%	2,029,612	4.7%
more than \$20 million	10	1%	8,696,072	20.3%
TOTAL	736	100%	42,842,375	100%

2003 Estate Tax Returns With Gross Estate Value				
Size of Oregon Gross Estate	# of Returns	% of total returns	OR Payable Tax	% of total OR Payable Tax
Under \$1 million	199	32%	3,912,887	7.1%
\$1 million up to \$1.5 million	192	31%	6,124,498	11.1%
\$1.5 million up to \$2 million	80	13%	3,406,865	6.2%
\$2 million up to \$3.5 million	81	13%	6,778,691	12.3%
\$3.5 million up to \$5 million	19	3%	2,538,969	4.6%
\$5 million up to \$10 million	31	5%	10,259,328	18.6%
\$10 million up to \$20 million	9	1%	6,297,600	11.4%
more than \$20 million	9	1%	15,801,462	28.7%
TOTAL	620	100%	55,120,300	100%

STATE DEATH TAXES AFTER THE PASSAGE OF THE 2001 ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT - As of October 2002

State	Type of Tax / Relationship to Federal Credit	Description
PICK-UP TAX ONLY		
Alabama	Automatic	
Alaska	Automatic	
Arizona	Automatic	
Arkansas	Automatic	
California	Automatic	
Colorado	Automatic	
Delaware	Automatic	
Dist. of Columbia	Fixed	Federal estate tax law as of 1/1/01
Florida	Automatic	
Georgia	Automatic	
Hawaii	Automatic	
Idaho	Automatic	
Illinois	Fixed	Federal estate tax law as of 12/31/00
Iowa	Fixed / Automatic	For deaths occurring from 10/1/02 - 12/31/04, the pick-up tax is computed under federal tax law as of 12/31/00. For deaths occurring after 12/31/04, the state tax is tied to federal law in effect at that time.
Massachusetts	Fixed	Federal estate tax law as of 12/31/00
Michigan	Automatic	
Minnesota	Fixed	Federal estate tax law as of 12/31/00
Mississippi	Automatic	
Missouri	Automatic	
Montana	Automatic	
Nebraska	Fixed	Converted its pick-up tax to a separate estate tax with a tax equivalent to the state death tax credit as in existence in 12/31/01. Tax applies to adjusted estates minus \$1 million.
Nevada	Automatic	
New Mexico	Automatic	
New York	Fixed	Federal estate tax law as of 07/99
North Carolina	Fixed	Federal estate tax law as of 05/1/02 except that the amount of the pick-up tax is to be computed without regard to the phase-out of the state death tax credit. For deaths occurring on or after 1/1/04, the state pick-up tax will be equal to the state death tax.
North Dakota	Automatic	
Oregon	Fixed	Federal estate tax law as of 12/31/97
Rhode Island	Fixed	State death tax credit as it existed on 12/31/01
South Carolina	Automatic	
South Dakota	Automatic	
Texas	Automatic	
Utah	Automatic	
Vermont	Fixed	State death tax credit as it existed on 1/1/01, incorporated all other estate tax changes of EGTRRA
Virginia	Fixed	Federal estate tax law as of 1/1/78
Washington	Fixed	Federal estate tax law as of 1/1/01
West Virginia	Automatic	
Wisconsin	Fixed	For deaths occurring from 10/1/02 - 12/31/07, the pick-up tax is computed under federal tax law as of 12/31/00. For deaths occurring after 12/31/07, the state tax is tied to federal law in effect at that time.
Wyoming	Automatic	
STAND-ALONE TAX		
Connecticut	Automatic	Repealed its stand-alone tax and will move to solely pick-up tax in 2008. The pick-up tax will expire for deaths occurring after 1/1/2005
Indiana	Automatic	
Iowa	Automatic	
Maine	Fixed	Has an estate and a succession tax and they are separate taxes. The estate tax is tied to federal law as in effect 12/31/97
Kentucky	Automatic	
Louisiana	Automatic	Transitioning to a pick-up tax only. State inheritance tax will expire for deaths occurring after June 30, 2004. The pick-up tax will expire for deaths after 12/31/04
Maryland	Fixed	Connection to federal estate tax law as in effect 1/1/01. Imposes an inheritance tax on non-lineal heirs
New Hampshire	Automatic	Imposes an 18% inheritance tax on non-lineal heirs. Inheritance tax will be repealed for deaths occurring after January 1, 2003
New Jersey	Fixed	Imposes both an inheritance and estate tax. Estate tax is equal to the maximum state death tax credit allowed as of 12/31/01
Ohio		Stand-alone estate tax. Where the state death tax credit exceeds the Ohio liability, the amount of the death tax credit is owed. Does not connect to the phase-out of the state death tax credit in EGTRRA.
Oklahoma	Automatic	Separate tax avoids decline in revenue from 2001 changes in federal estate tax law
Pennsylvania	Fixed	Federal estate tax law as of 6/1/01
Tennessee	Automatic	

Department of Revenue: Business Taxes

Departments Divisions Others

Inheritance Taxes**Advisory (Revised 5-24-04)**

The 2003 Oregon Legislature passed a bill that adopts the federal inheritance tax changes included in the **Taxpayer Relief Act of 1997 (TRA 97)(2003 HB 3072)**. Oregon inheritance taxes will be determined under Internal Revenue Code in effect December 31, 2000.

What does this mean for estates with deaths between January 1, 1998, and December 31, 2001?

If you filed and paid tax according to the 1998 through 2001 Oregon inheritance tax instructions, no additional tax is due.

What does this mean for estates with deaths between January 1, 2002, and December 31, 2002?

For 2002 deaths, no return is required and no tax is due if the **taxable estate** of the decedent is less than \$1,000,000. If the **taxable estate** is \$1,000,000 or more, the unified credit amount used to calculate the tax is \$192,800. The unified credit reduces tax. The computation of the tax is determined by federal law as of December 31, 2000.

What about estates with deaths that occurred on or after January 1, 2003?

For deaths on or after January 1, 2003, Oregon's **filing requirements** are different from federal requirements. Oregon has not adopted the federal inheritance tax changes in the **Economic Growth and Tax Reconciliation Act of 2001**. If the gross estate is more than Oregon's filing requirement, you must file an Oregon return even if you do not have to file a federal return.

For deaths occurring in 2003 only.

- You will be granted an automatic extension for both your **filing and paying** deadline for six months beyond the due date of your tax return or six months beyond November 26, 2003, whichever is later. The extensions prevent penalties but do not prevent interest. Check the extension box on your return.

Example: If the original due date is October 15, 2003, you have an extension until May 26, 2004. Interest is charged from November 27, 2003, until the tax is paid. If the original due date is April 1, 2004, you have an extension until October 1, 2004. Interest is charged from April 2, 2004.

- **No penalty will be imposed** if you have a valid, approved extension. File a copy of your approved federal extension request or file the federal extension form and mark it "For Oregon Only" at the top of the form. We will use federal guidelines to approve.
- No additional extension is allowed if requested after the automatic extension time.
- Interest will be charged on any payment due beginning November 27, 2003, or one day after the due date, whichever is later. Interest will be charged even if the return has a valid extension.

What is Oregon's filing requirement?

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- For 2003, an estate with a gross value of \$700,000 or more. The unified credit amount is \$229,800.
- For 2004, an estate with a gross value of \$850,000 or more. The unified credit amount is \$287,300.
- For 2005, an estate with a gross value of \$950,000 or more. The unified credit amount is \$326,300.
- For 2006, an estate with a gross value of \$1,000,000 or more. The unified credit amount is \$345,800.

Will the state death tax credit be reduced on the Oregon return?

For all years, the Oregon estate tax will be 100 percent of the available state death tax credit instead of the reduced amount allowed on the federal return.

How do I find the new Administrative Rule?

According to HB 3072, the department may adopt rules to allow a separate election for state inheritance tax purposes. The rule went into effect May 1, 2004. You may find it at www.oregon.gov/DOR/adminrules.shtml.

How do I get the Oregon Inheritance Tax Return form?

You may download from our Web site, [Form IT-1](#).

For answers to other inheritance tax questions, contact us.

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