

Chapter 118

2011 EDITION

Estate Tax

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GENERAL PROVISIONS

Note: Section 30, chapter 526, Oregon Laws 2011, provides:

Sec. 30. (1) Sections 27 [118.540] and 28 [118.165] of this 2011 Act, the amendments to ORS 111.025, 114.075, 116.083, 116.173, 116.303, 116.343, 118.005, 118.007, 118.010, 118.013, 118.016, 118.100, 118.140, 118.160, 118.171, 118.225, 118.260, 118.280, 118.300, 118.350, 118.525, 129.250, 305.490 and 314.415 by sections 1 to 15 and 17 to 25 of this 2011 Act and the repeal of ORS 118.009, 118.019, 118.220, 118.240, 118.470, 118.810, 118.820, 118.830, 118.840, 118.855, 118.860, 118.865, 118.870, 118.875 and 118.880 and section 3, chapter 806, Oregon Laws 2003, by section 29 of this 2011 Act apply to estates of decedents who die on or after January 1, 2012.

(2) The amendments to ORS 105.645 by section 16 of this 2011 Act apply to estates of decedents who die on or after January 1, 2010. [2011 c.526 §30]

118.005 Definitions for ORS 118.005 to 118.540. As used in ORS 118.005 to 118.540, unless the context requires otherwise:

(1) “Beneficiary” means the recipient of a beneficial interest in property or the income therefrom transferred in a manner taxable under ORS 118.005 to 118.540.

(2) “Department” means the Department of Revenue.

(3) “Director” means the Director of the Department of Revenue.

(4) “Executor” means the executor, administrator, personal representative, fiduciary, or custodian of property of the decedent, or, if there is no executor, administrator, fiduciary or custodian appointed, qualified and acting, then any person who is in the actual or constructive possession of any property includable in the estate of the decedent for estate tax purposes whether or not such estate is subject to administration.

(5) “Federal taxable estate” means the taxable estate as determined under subtitle B, chapter 11 of the Internal Revenue Code.

(6) “Gross estate” has the meaning given that term in section 2031 of the Internal Revenue Code.

(7) “Oregon taxable estate” means the federal taxable estate with the adjustments provided by ORS 118.010 (3).

(8) “Passes” includes any case where for the purposes of ORS 118.005 to 118.540 a taxable transfer takes place or is deemed to take place.

(9) “Personal representative” means personal representative as defined in ORS 111.005. [1959 c.418 §7; 1969 c.520 §23; 1971 c.567 §4; 1973 c.344 §1; 1975 c.762 §1; 1977 c.666 §1; 1997 c.99 §6; 2011 c.526 §1]

118.007 Connection to federal law; meaning of terms. Any term used in ORS 118.005 to 118.540 has the same meaning as when used in a comparable context in the laws of the federal Internal Revenue Code relating to federal estate taxes, unless a dif-

ferent meaning is clearly required or the term is specifically defined in ORS 118.005 to 118.540. Any reference in ORS 118.005 to 118.540 to the Internal Revenue Code means the federal Internal Revenue Code as amended and in effect on December 31, 2010, except where the Legislative Assembly has specifically provided otherwise. [2003 c.806 §2; 2011 c.526 §2]

118.009 [2003 c.806 §1a; repealed by 2011 c.526 §29]

118.010 Imposition and amount of tax in general; Oregon taxable estate; out-of-state property; nonresident decedents; rules. (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

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

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

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

(b) Reduced by:

(A) The value on the date of the decedent’s death of all Oregon special marital property under ORS 118.013; and

(B) Any other applicable exclusions or deductions.

(4) The tax imposed under this section shall be calculated by applying the rates in the following table. If the Oregon taxable estate is at least the amount in column 1, 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:

1	2	3	4
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.25%
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%

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

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

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

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

(b) An executor may make elections under ORS 118.013 and 118.140 and section 2056 of the Internal Revenue Code for state estate tax purposes.

(c) Elections described in this subsection are irrevocable. [Amended by 1955 c.727 §1; 1959 c.418 §1; 1965 c.470 §1; 1969 c.591 §213; 1975 c.685 §3; 1977 c.666 §2; 1997 c.99 §7; 2003 c.806 §6; 2011 c.526 §3]

118.013 Taxable estate adjustment for Oregon special marital property; rules. (1) As used in this section and ORS 118.016, "permissible distributee" has the meaning given that term in ORS 130.010.

(2) Oregon special marital property consists of any trust or other property interest, or a portion of a trust or property interest:

(a) In which principal or income may be accumulated or distributed to or for the benefit of only the surviving spouse of the decedent during the lifetime of the surviving spouse;

(b) In which a person may not transfer or exercise a power to appoint any part of the trust or other property interest to a person other than the surviving spouse during the lifetime of the surviving spouse; and

(c) For which the executor of the estate of the decedent has made the election described in ORS 118.016 (1).

(3) If a trust or other property interest would qualify as Oregon special marital property under subsection (2) of this section except that the trust or other property interest allows principal or income to be distributed to other persons in addition to the surviving spouse, the executor may elect to set aside a share of the trust or other property interest as a separate share of the trust or property interest or as a separate trust, which shall qualify as Oregon special marital property if:

(a) The executor makes the election described in ORS 118.016 (1);

(b) Each permissible distributee makes the election described in ORS 118.016 (2);

(c) The surviving spouse makes the election described in ORS 118.016 (2); and

(d) All statements of election are attached to the estate tax return filed with respect to the estate of the decedent, or are filed or maintained as records as otherwise prescribed by the Department of Revenue by rule. [2005 c.124 §2; 2011 c.526 §4]

118.016 Oregon special marital property election; rules; form. (1) The executor of an estate containing property that the executor seeks to qualify as Oregon special marital property under ORS 118.013 shall make an election under this subsection in order for the property to be Oregon special marital property. The election shall be made:

(a) By attaching a statement to the estate tax return for the estate of the decedent that identifies the trust or other property interest that constitutes Oregon special marital property and that affirms that the identified property meets the requirements of Oregon special marital property under ORS 118.013 and will be administered as required under ORS 118.013; or

(b) In such other manner as the Department of Revenue prescribes by rule.

(2) For a trust or other property interest described in ORS 118.013 (3), in order for any portion of the trust or other property interest to be Oregon special marital property, in addition to the election of the executor described in subsection (1) of this section, the surviving spouse and each permissible distributee who may be eligible for a distribution from the trust or other property interest shall make an election and provide written consent that is in substantially the following form:

CONSENT TO ESTABLISHMENT OF OREGON SPECIAL MARITAL PROPERTY

(a) ELECTION TO BE SIGNED BY ALL PERMISSIBLE DISTRIBUTEES EXCEPT THE SURVIVING SPOUSE: Each of the undersigned acknowledge and consent to a portion of the _____ (name of trust or other property interest) being set aside as a separate share or trust in order to qualify for the Oregon special marital property election in accordance with ORS 118.013, for the primary purpose of reducing or eliminating the Oregon estate tax due on the estate of _____ (name of decedent). The undersigned together with the surviving spouse constitute all of the persons living on the date of this election who may be entitled to a distribution during the lifetime of the surviving spouse from the _____ (name of trust or other property interest). Each of the undersigned, both on behalf of the undersigned and on behalf of the unborn lineal descendants of the undersigned, irrevocably agrees to release all rights to any current interest in the Oregon special marital property during the lifetime of the surviving spouse. Each of the undersigned agrees that all other provisions of the _____ (name of trust or other property interest) shall remain in effect and that, upon the death of the surviving spouse, any remaining Oregon special marital property shall be distributed as otherwise provided in the trust or other property interest.

Signature of: _____

(permissible distributee)
Signature of: _____
(permissible distributee)

(b) ELECTION TO BE SIGNED BY THE SURVIVING SPOUSE: I am the surviving spouse of _____ (name of decedent). I acknowledge and consent to a portion of the _____ (name of trust or other property interest) being set aside as a separate share or trust in order to qualify as Oregon special marital property under ORS 118.013, for the primary purpose of reducing or eliminating the Oregon estate tax due on the estate of _____ (name of decedent). I, together with all of the other individuals executing the election in accordance with ORS 118.013, constitute all of the persons living on the date of this election who are permissible distributees or who may be entitled to a distribution from the Oregon special marital property to which this election applies. I agree that all other terms, conditions and provisions that apply to the _____ (name of trust or other property interest) shall apply to the Oregon special marital property to which this election applies, and that upon my death, any remaining Oregon special marital property shall be distributed as otherwise provided in the trust or other property interest.

Signature of: _____
(surviving spouse)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2____.

Notary Public of Oregon
My commission expires: _____

(3) Elections made under this section are irrevocable.

(4) The custodial parent or court appointed guardian of a permissible distributee who is a minor, or any person who is authorized under ORS 130.110, may sign the election on behalf of the permissible distributee and the unborn lineal descendants of the permissible distributee. [2005 c.124 §3; 2011 c.526 §5]

118.019 [2005 c.124 §4; repealed by 2011 c.526 §29]

118.020 [Amended by 1961 c.455 §1; 1963 c.135 §1; 1971 c.652 §1; 1973 c.793 §1; 1977 c.666 §3; 1987 c.293 §67; repealed by 1997 c.99 §24]

118.025 [1987 c.646 §12; 1989 c.625 §80; repealed by 1997 c.99 §24]

118.030 [Repealed by 1997 c.99 §24]

118.035 [1973 c.759 §2; 1975 c.685 §4; 1977 c.666 §4; 1989 c.224 §8; repealed by 1997 c.99 §24]

118.037 [1975 c.685 §2; repealed by 1977 c.666 §36]

118.040 [Amended by 1959 c.418 §2; 1977 c.666 §5; repealed by 1997 c.99 §24]

118.050 [Amended by 1955 c.727 §2; 1963 c.392 §1; 1967 c.485 §1; 1975 c.687 §1; 1977 c.666 §6; repealed by 1997 c.99 §24]

118.060 [Repealed by 1997 c.99 §24]

118.070 [Amended by 1955 c.727 §3; 1959 c.418 §3; 1961 c.455 §2; 1963 c.283 §1; 1965 c.470 §2; 1969 c.493 §74; 1973 c.132 §1; 1973 c.299 §1; 1973 c.703 §1; 1975 c.762 §2; 1977 c.666 §7; 1983 c.632 §1; repealed by 1997 c.99 §24]

118.075 [1963 c.435 §6; 1969 c.493 §75; repealed by 1977 c.666 §36]

118.080 [Amended by 1959 c.418 §4; 1961 c.455 §3; 1973 c.703 §2; 1975 c.762 §3; 1977 c.666 §8; repealed by 1997 c.99 §24]

118.085 [1971 c.593 §2; repealed by 1997 c.99 §24]

118.090 [Amended by 1963 c.68 §1; 1977 c.666 §16; repealed by 1997 c.99 §24]

118.095 [1969 c.112 §1; repealed by 1977 c.666 §36]

118.100 Time for filing return and paying tax; refunds; effects of change in federal estate tax return or special valuation disqualification. (1) The tax provided for in ORS 118.010 shall take effect at and accrue upon the death of the decedent. A return shall be filed and the tax shall be paid to the Department of Revenue on the date the federal estate tax is payable or, if no federal estate tax return is required, no later than nine months following the date of death of the decedent. If the department determines, pursuant to an amended return or refund claim, that the amount of tax imposed by ORS 118.010 is less than the amount theretofore paid, the excess tax shall be refunded by the department with interest at the rate established by ORS 305.220 for each month or fraction thereof during a period beginning 45 days after the due date of the return or on the date the amended return or refund claim is filed, whichever is later, and ending at the time the refund is made.

(2) If the amount of federal estate tax reported on a federal estate tax return is changed or corrected by the Internal Revenue Service or other competent authority, resulting in a change in the Oregon taxable estate, the executor shall report the change or correction in federal estate tax to the department. If the federal change or correction results in a reduction of the Oregon taxable estate, the report of the change or correction shall be treated by the department as a claim for refund pursuant to ORS 305.270 and, notwithstanding the limitations of ORS 305.270, shall be deemed timely if filed with the department within two years after the federal correction was made. If the change or correction results in an increase in the Oregon taxable estate, the department may issue a notice of deficiency within two years after the federal change or correction was made or within two years after receiving a report of the federal change or correction, which-

ever is the later. Any executor filing an amended federal estate tax return shall also file an amended return with the department within 90 days thereafter.

(3)(a) In the case of an estate that contains property that is valued under section 2032A of the Internal Revenue Code for federal estate tax purposes (relating to the valuation of certain farm or other property) and that ceases to qualify for valuation under section 2032A, an additional tax under ORS 118.005 to 118.540 shall be imposed in the amount attributable to the change in the value of the estate resulting from the imposition of additional federal estate tax under section 2032A.

(b) The department shall be notified of the disqualification of the property from valuation under section 2032A in the same time and manner as the federal Internal Revenue Service is notified of the disqualification.

(c) The period for assessment of the tax imposed under this subsection, including any penalty or interest, shall be two years from the date on which the department receives the notice described in paragraph (b) of this subsection.

(d) The other provisions of ORS 118.005 to 118.540 and ORS chapter 305 shall apply to the additional tax imposed under this subsection in the same manner in which those provisions apply to the tax imposed under ORS 118.010.

(4) For purposes of this section, a change or correction of a federal estate tax return is deemed to be made on the date of the federal audit report.

(5) The executor shall, upon request of the department, supply a copy of the federal estate tax return which the executor has filed or may file with the federal government, or a copy of any federal agent's report upon any audit or adjustment of the federal estate tax return.

(6) The executor shall explain, on the return, how the reported values were determined and attach copies of any appraisals. [Amended by 1959 c.418 §5; 1971 c.732 §1; 1973 c.703 §3; 1975 c.685 §6; 1977 c.666 §9; 1979 c.582 §1; 1987 c.646 §4; 1989 c.626 §1; 1997 c.99 §8; 2011 c.526 §6]

118.110 [Amended by 1953 c.704 §1; 1961 c.455 §4; 1973 c.268 §1; 1975 c.685 §5; 1977 c.666 §10; 1979 c.582 §2; repealed by 1997 c.99 §24]

118.120 Qualified family-owned business interests; additional tax. (1) In the case of an estate that contains a qualified family-owned business interest, an additional tax shall be imposed under ORS 118.005 to 118.540 if:

(a) The value of the interest was originally taken as a deduction under section 2057(a) of the Internal Revenue Code in

computing the value of the taxable estate for federal estate tax purposes; and

(b) An additional federal estate tax is imposed with respect to the qualified family-owned business interest for the reasons stated in section 2057(f) of the Internal Revenue Code.

(2)(a) The additional tax imposed under this section shall equal the amount of any allowable increase in the state death tax credit under section 2011 of the Internal Revenue Code if the applicable percentage of the family-owned business interest that is being disqualified under section 2057(f) of the Internal Revenue Code were added to the taxable estate for federal estate tax purposes.

(b) The applicable percentage to be used in calculating the additional tax under this subsection shall equal the applicable percentage used in calculating the additional federal estate tax under section 2057(f)(2)(B) of the Internal Revenue Code.

(3) The Department of Revenue must be notified of the qualified family-owned business interest being made subject to additional federal estate tax under section 2057(f) of the Internal Revenue Code at the same time and in the same manner as the Internal Revenue Service is notified of the additional federal tax.

(4) The period for assessment of the additional tax imposed under this section, including any penalty or interest, shall be two years from the date on which the department receives the notice described in subsection (3) of this section.

(5) The other provisions of ORS 118.005 to 118.540 and ORS chapter 305 shall apply to the additional tax imposed under this section in the same manner in which those provisions apply to the tax imposed under ORS 118.010. [1999 c.90 §27]

118.140 Credit based upon value of natural resource or commercial fishing property; rules. (1) As used in this section:

(a) "Adjusted gross estate" means the value of the gross estate reduced by the sum of the amounts allowable under sections 2053 and 2054 of the Internal Revenue Code.

(b) "Family member" means a member of the family, as defined in section 2032A of the Internal Revenue Code, of the decedent.

(c) "Farm business" means a business operated for the primary purpose of obtaining a profit in money by:

(A) Raising, harvesting or selling fruit or crops;

(B) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or bees, or the produce thereof;

(C) Dairying and selling dairy products;

(D) Breeding, stabling or training equines;

(E) Propagating, cultivating, maintaining or harvesting aquatic species, birds or animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

(F) Raising nursery stock;

(G) Practicing animal husbandry; or

(H) Raising other agricultural or horticultural products.

(d) "Farm use" has the meaning given that term in ORS 308A.056.

(e) "Fishing business" has the meaning given that term in section 1301(b)(4) of the Internal Revenue Code.

(f) "Forestland" has the meaning given that term in ORS 321.201.

(g) "Forestry business" means a business operated for the primary purpose of obtaining a profit in money by the planting, cultivating, caring for, preparing, harvesting or cutting of timber or trees for market.

(h) "Homesite" has the meaning given that term in ORS 308A.250.

(i) "Natural resource property" means the following property, if on the date of the decedent's death the property is owned by the decedent and used in the operation of a farm business, forestry business or fishing business owned by the decedent:

(A) Real property used as forestland or as forestland homesites, not to exceed 5,000 acres, or that is in farm use.

(B) Timber or trees.

(C) Crops, fruit or other horticultural products, both growing and stored.

(D) Forestry business or farm business equipment.

(E) Livestock, poultry, fur-bearing animals, bees, dairying animals, equines, aquatic species, birds or other animal species, including stored products or by-products.

(F) Nursery stock as defined in ORS 571.005.

(G) Boats, gear, equipment, vessel licenses or permits, commercial fishing licenses or permits and other real or personal property used in the operation of a fishing business.

(H) Real or personal property used to process and sell the catch of a fishing business in fresh, canned or smoked form directly to consumers, including a restaurant with seating capacity of fewer than 15 seats at which catch from the fishing business is prepared and sold.

(I) An operating allowance.

(J) Any other tangible and intangible personal property used in the operation of a farm business, forestry business or fishing business.

(j) "Operating allowance" means cash or a cash equivalent that is spent, maintained, used or available for the operation of a farm business, forestry business or fishing business and not spent or used for any other purpose.

(k) "Qualified beneficiary" has the meaning given that term in ORS 130.010.

(L) "Real property" means real property, as defined in ORS 307.010, that is in this state.

(2)(a) An estate shall be allowed a credit for the value of natural resource property claimed. Any operating allowance claimed under this section may not exceed the lesser of \$1 million or 15 percent of the total value of natural resource property claimed, not including the operating allowance.

(b) The credit allowed under this section shall be computed by multiplying the tax that would be payable under this chapter absent the credit by a ratio, the numerator of which is an amount equal to the lesser of the amount of natural resource property claimed under this section or \$7.5 million, and the denominator of which is an amount equal to the total adjusted gross estate.

(c) An executor may:

(A) Elect not to claim the credit allowed under this section;

(B) Elect to claim less than the full amount of the credit allowed under this section; or

(C) Elect to claim the credit only for the value of certain assets.

(3) Except as provided in subsections (4), (7) and (8) of this section, a credit is allowed under this section only if:

(a) The total adjusted gross estate does not exceed \$15 million;

(b) The total value of natural resource property in the estate is at least 50 percent of the total adjusted gross estate;

(c) The natural resource property is transferred to a family member; and

(d) During an aggregate period of five out of the eight years ending on the date of the decedent's death, the decedent or a family member operated a farm business, forestry business or fishing business and the property for which a credit is claimed under this section is part of the business.

(4) Property that otherwise meets the requirements of this section shall be allowed a credit under this section if:

(a) The property is the subject of a net cash lease to or from the decedent or a qualified beneficiary who is a family member;

(b) The property is held in trust for a qualified beneficiary who is a family member; or

(c) The property replaces natural resource property, and the replacement property would otherwise meet the definition of natural resource property except that it was acquired after the date of the decedent's death but before the estate tax return is filed. In order to qualify under this paragraph, real property must be replaced with real property.

(5) A credit is allowed under this section for the following real property only if the real property was owned by the decedent or a family member during an aggregate period of five out of the eight years ending on the date of the decedent's death and used in a business described in subsection (3)(d) of this section:

(a) Real property used as forestland or as forestland homesites, not to exceed 5,000 acres.

(b) Real property used in farm use.

(6) A credit is allowed under this section for property used in the operation of a fishing business only if the decedent or a family member, during an aggregate period of five out of the eight years ending on the date of the decedent's death:

(a) Owned a vessel used in taking food fish or shellfish for commercial purposes as defined in ORS 506.006;

(b) Held a boat license as provided in ORS 508.260;

(c) Held a commercial fishing license under ORS 508.235; and

(d) Held one or more restricted fisheries permits as provided in ORS chapter 508 or an equivalent restricted vessel permit system under the laws of another state.

(7) For the purpose of meeting the requirements of subsection (5) of this section, in determining the period of time during which the decedent or a family member owned real property received in exchange under section 1031 of the Internal Revenue Code or acquired in an involuntary conversion under section 1033 of the Internal Revenue Code, the period during which the decedent or a family member owned the exchanged or acquired real property, if the exchanged or acquired real property was used in the farm business or forestry business, may be included.

(8) Property that otherwise meets the requirements of this section and that is owned indirectly by the decedent or a family member qualifies for a credit under this section if the property is owned through an interest in a limited liability company or in a corporation, partnership or trust as the terms corporation, partnership or trust are used in section 2032A(g) of the Internal Revenue Code. In order to qualify under this subsection, at least one family member must materially participate in the business after the transfer. For purposes of this subsection, “materially participate” means to engage in active management, as defined in section 2032A of the Internal Revenue Code, of the farm business, forestry business or fishing business. The Department of Revenue may adopt rules to administer this subsection consistent with this definition.

(9)(a) A disposition shall occur and an additional tax under ORS 118.005 to 118.540 shall be imposed if the natural resource property for which a credit is allowed under this section is not used in the operation of a farm business, forestry business or fishing business for at least five out of the eight calendar years following the decedent’s death or is transferred to a person other than a family member or another entity eligible for the credit allowed under this section.

(b) The use of cash or other assets for which a credit is claimed under this section for the payment of federal estate taxes or state inheritance or estate taxes shall be a disposition and an additional tax shall be imposed under this subsection.

(c) The conveyance after the decedent’s death of property that otherwise meets the requirements of this section and is conveyed as a qualified conservation contribution, as defined in section 170(h) of the Internal Revenue Code, is not a disposition requiring payment of additional tax under this subsection.

(d) Natural resource property may be replaced with real property or personal property after the credit is claimed and not result in a disposition subject to an additional tax if the replacement property is used in the operation of the farm business, forestry business or fishing business. Real property for which a credit is claimed under this section may be replaced only with real property that would otherwise qualify as natural resource property and that replacement must be made within one year to avoid a disposition and additional tax, except that a replacement of property that is involuntarily converted under section 1033 of the Internal Revenue Code must occur within two years.

(e) The additional tax liability shall be the amount of additional tax that would have

been imposed, had the disqualified property not been included in the numerator of the ratio in subsection (2)(b) of this section, multiplied by ((five minus the number of years the property was used as natural resource property) divided by five). The additional tax liability is the responsibility of the owner of the property at the time of the disposition or disqualifying event and is due within six months after the date on which the disposition or event occurs. The Department of Revenue may establish by rule procedures for reporting the additional tax due, consistent with ORS chapter 305.

(f) Prior to the executor’s identification of property for which a credit under this section is claimed, the executor shall notify the transferee of the potential for tax consequences to the transferee if the transferee fails to meet the conditions of paragraph (a) of this subsection. The transferee’s written acknowledgment of this notice shall be attached to the estate tax return.

(10) The executor shall identify property for which a credit under this section is claimed, by asset, on a form prescribed by the department and filed with the estate tax return. Transferees of property for which a credit under this section has been claimed shall file a report with the department on a form prescribed by the department. This report shall be filed annually until the requirements of subsection (9)(a) of this section are met and shall require tracking of each asset for which the credit has been claimed, with confirmation that each asset falls into one of the following categories:

(a) The asset is still used in the operation of a farm business, forestry business or fishing business;

(b) The asset has been replaced with property that meets the requirements of subsection (9)(d) of this section; or

(c) The asset has been subject to a disposition under subsection (9) of this section, resulting in additional tax. [2007 c.843 §68; 2008 c.28 §1; 2011 c.526 §7]

Note: Section 69, chapter 843, Oregon Laws 2007, provides:

Sec. 69. Section 68 of this 2007 Act [118.140] applies only to decedents who die on or after January 1, 2007. [2007 c.843 §69]

118.150 [Formerly 118.640; 1971 c.652 §2; 1973 c.498 §1; 1975 c.762 §4; 1977 c.666 §11; 1985 c.761 §1; repealed by 1997 c.99 §24]

118.155 [1973 c.503 §13; 1975 c.762 §5; 1977 c.666 §11a; 1979 c.553 §12; 1981 c.804 §70; 1991 c.459 §341; repealed by 1997 c.99 §24]

118.160 When tax return is required; lists of property transfers and other data.

(1) Except as provided in subsection (2) of this section:

(a) An inheritance tax return is not required with respect to the estates of decedents who die on or after January 1, 1987, and before January 1, 2003, unless a federal estate tax return is required to be filed;

(b) An inheritance tax return is not required with respect to the estates of decedents who die on or after:

(A) January 1, 2003, and before January 1, 2004, unless the value of the gross estate is \$700,000 or more;

(B) January 1, 2004, and before January 1, 2005, unless the value of the gross estate is \$850,000 or more;

(C) January 1, 2005, and before January 1, 2006, unless the value of the gross estate is \$950,000 or more; or

(D) January 1, 2006, and before January 1, 2012, unless the value of the gross estate is \$1 million or more; and

(c) An estate tax return is not required with respect to the estates of decedents who die on or after January 1, 2012, unless the value of the gross estate is \$1 million or more.

(2) In every estate, whether or not subject to administration and whether or not a federal estate tax return is required to be filed, the executor shall at such times and in such manner as required by rules of the Department of Revenue, file with the department a return in a form provided by the department setting forth a list and description of all transfers of property, in trust or otherwise, made by the decedent in the lifetime of the decedent as a division or distribution of the estate of the decedent and any further data that the department requires to determine estate tax under this chapter. [Formerly 118.660; 1971 c.567 §5; 1977 c.666 §12; 1985 c.565 §10a; 1987 c.646 §5; 2003 c.806 §7; 2011 c.526 §8]

Note: Section 33, chapter 7, Oregon Laws 2011, provides:

Sec. 33. For decedents dying after December 31, 2009, and before December 17, 2010:

(1) If the filing of a federal estate tax return is required, a return is not due under ORS 118.005 to 118.840 [series became 118.005 to 118.540] until the date provided in section 301(d)(1) of Public Law 111-312 for filing of the federal estate tax return.

(2) Notwithstanding ORS 118.100 (1) and 118.220, taxes imposed by ORS 118.005 to 118.840 are due and payable within nine months after the decedent's death.

(3) Penalties and interest under ORS 118.260 shall be determined without regard to the extension of time to file under subsection (1) of this section. [2011 c.7 §33]

Note: 118.220 was repealed by section 29, chapter 526, Oregon Laws 2011. The text of section 33, chapter 7, Oregon Laws 2011, was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of section 33, chapter 7, Oregon Laws 2011, for the repeal of 118.220 has not been made.

118.165 Notice of deficiency. (1) At any time within three years after the date that an estate tax return is filed, the Department of Revenue may give notice of deficiency as prescribed in ORS 305.265.

(2) If the department finds that the value of the gross estate has been undervalued on the estate tax return by an amount greater than 25 percent, notice of deficiency may given at any time within five years after the date that the return is filed.

(3) The limitations to the giving of notice of a deficiency provided in this section do not apply to a deficiency resulting from a false or fraudulent estate tax return or in a case where no return has been filed. [2011 c.526 §28]

118.170 [1969 c.591 §221; 1971 c.567 §6; repealed by 1977 c.870 §16 (118.171 enacted in lieu of 118.170)]

118.171 Application of ORS chapter 305. The provisions of ORS chapter 305 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refund, conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of estate taxes under this chapter, except where the context requires otherwise. [1977 c.870 §17 (enacted in lieu of 118.170, 118.180 and 118.360); 1995 c.650 §50; 2011 c.526 §9]

118.180 [Formerly 118.700; 1971 c.567 §7; 1973 c.100 §1; 1975 c.762 §6; repealed by 1977 c.870 §16 (118.171 enacted in lieu of 118.180)]

118.190 [1973 c.100 §2; repealed by 1977 c.870 §59]

LIEN; PAYMENT; COMPROMISE OF TAX

118.210 Liability for tax. All heirs, legatees, devisees, administrators, executors and trustees, and any grantee or donee under a conveyance or gift made during the grantor's or donor's life if the conveyance or gift is subject to tax under ORS 118.010, are, respectively, liable for any and all taxes mentioned in ORS 118.010, with interest thereon, until the same have been paid as in ORS 118.005 to 118.540 provided.

118.220 [Amended by 1973 c.254 §1; 1975 c.762 §7; 1977 c.666 §13; 1997 c.99 §9; repealed by 2011 c.526 §29]

118.225 Extension of time for payment. (1) Upon application of the executor and the securing of all taxes that are payable by bond, deposit or other good collateral acceptable to the Department of Revenue, the department may extend the time for payment of any part of the amount imposed by ORS 118.005 to 118.540.

(2) The extension under this section shall be for a period not in excess of 14 years from the date prescribed by ORS 118.100 for payment of the tax.

(3) Under rules prescribed by the department, the department may extend the time for the payment of any deficiency of a tax imposed by ORS 118.005 to 118.540 for a reasonable period not to exceed four years from the date otherwise fixed for the payment of the deficiency. [1977 c.666 §13d; 1997 c.99 §10; 2011 c.526 §10]

118.227 Time period for refund. The period prescribed for the Department of Revenue to allow or make a refund of any tax, or portion of tax, paid under this chapter shall be as provided in ORS 314.415. [2009 c.358 §3]

Note: 118.227 was added to and made a part of ORS chapter 118 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

118.230 Lien of tax; liability for payment; assessment and collection of taxes.

(1) Every tax imposed by ORS 118.005 to 118.540 is a lien upon the property embraced in any inheritance, devise, bequest, legacy or gift until paid, and the person to whom such property is transferred, and the personal representatives and trustees of every estate embracing such property are personally liable for such tax until its payment, to the extent of the value of such property.

(2) Taxes imposed under ORS 118.005 to 118.540 may be assessed and collected by the Department of Revenue in the same manner as income taxes are assessed and collected under ORS chapter 314. The department may issue a warrant as provided in ORS 314.430 and record the warrant in the County Clerk Lien Record maintained under ORS 205.130. A warrant issued under this section has the same force and effect as a warrant issued under ORS 314.430. [Amended by 1969 c.591 §214; 1975 c.762 §8; 1977 c.870 §26; 1985 c.85 §4; 1987 c.758 §5; 2003 c.806 §8]

118.240 [Amended by 1973 c.254 §2; 1997 c.99 §11; repealed by 2011 c.526 §29]

118.250 To whom tax payable; issuing receipts. (1) The taxes imposed by ORS 118.005 to 118.540 are payable to the Department of Revenue.

(2) The department shall give the personal representative, trustee or other person paying such tax, a receipt.

(3) The department shall issue to any interested person demanding the same a copy of a receipt that may have been given by such department for the payment of tax under ORS 118.005 to 118.540. [Amended by 1965 c.727 §4; 1971 c.652 §3; 1973 c.254 §3; 1975 c.593 §1; 1975 c.762 §9; 1977 c.666 §13a; 1985 c.565 §10b; 1987 c.646 §6]

118.260 Penalties for delinquency, failure to file and fraud; interest; deposit where tax not determined. (1) If no return has been filed as required by this chapter, there shall be added to the amount of tax

required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(2) If the failure to file a return continues for a period in excess of three months after the due date, there shall be added to the amount of tax required to be shown as tax on the return a failure to file penalty of 20 percent of the amount of such tax. This penalty is in addition to the delinquency penalty imposed by subsection (1) of this section.

(3) If any part of any deficiency is due to fraud with intent to evade tax, then 100 percent of the total amount of the deficiency shall be assessed and collected.

(4) Except for a deferral of payment pursuant to an extension granted under ORS 118.225 or a timely election made under ORS 118.300, if the taxes imposed by ORS 118.005 to 118.540 are not paid on or before the date on which payment of the tax is required to be made under ORS 118.100, there shall be added to the amount of tax required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(5)(a) Except as provided in subsection (6) of this section and paragraph (b) of this subsection, if the tax imposed by ORS 118.005 to 118.540 is not paid on or before the date on which payment of the tax is required to be made under ORS 118.100, interest shall be charged and collected thereon at the rate established under ORS 305.220 for each month or fraction thereof from the time when the tax became due and payable.

(b) If payment of the tax or deficiency is extended under ORS 118.225, interest shall be charged and collected on any amount for which extension is granted from the date the tax or deficiency is otherwise due and payable to the date of payment at the rate established under ORS 305.220, without regard to ORS 305.222, for each month or fraction thereof.

(6) In all cases in which a bond is given, under the provisions of ORS 118.300, interest shall be charged at the rate established under ORS 305.220, without regard to ORS 305.222, for each month or fraction thereof from the time when the tax became due and payable, until the date of payment.

(7) If the tax has not been determined, a deposit may be made to avoid interest. Should the amount of such payment exceed the sum subsequently determined to be due, the Department of Revenue shall refund the excess with interest at the rate established under ORS 305.220, for each month or fraction of a month during a period beginning 45 days after the due date of the return or the date that the return is filed, whichever is

later, and ending at the time the refund is made.

(8) Payments made on the tax shall be applied first to penalty and interest and then to the principal.

(9) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be lawfully claimed upon the return. [Amended by 1971 c.732 §2; 1973 c.332 §1; 1975 c.593 §2; 1977 c.666 §13b; 1982 s.s.1 c.16 §3; 1993 c.726 §1; 1997 c.99 §12; 2011 c.526 §11]

118.265 Application for determination of tax due; discharge from personal liability; rules. (1) If the executor or trustee of an estate makes a written application to the Department of Revenue for a determination of the tax due under this chapter and discharge from personal liability therefor, the department shall notify the executor or trustee of the amount of tax due under this chapter. The department shall give this notice:

(a) As soon as possible, and in any event within 18 months of the application; or

(b) If the application is made before the return is filed, by the earliest of the following:

(A) Eighteen months after the return is filed.

(B) The expiration of the period prescribed for the assessment of the tax under ORS 305.265.

(C) The expiration of the period prescribed for the issuance of a notice of deficiency under ORS 314.410.

(2) After payment of the amount in the notice, other than any amount for which the time for payment is extended by the department, the executor or trustee shall be discharged from personal liability for any deficiency in tax. The department shall furnish to the executor or trustee a receipt or writing showing the discharge.

(3) The department shall adopt by rule policies and procedures for administration of applications under this section.

(4) The expiration of the period prescribed for the issuance of a notice of deficiency concerning any tax due under this chapter shall be as provided under ORS 314.410. [2009 c.358 §2]

Note: 118.265 was added to and made a part of ORS chapter 118 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

118.270 Property from which tax is collectible. Except as to real property located outside of the state passing in fee from the decedent owner, the tax imposed under ORS 118.010 shall be assessed against and be collected from property of every kind, which, at the death of the decedent owner is subject to, or thereafter, for the purpose of distribution, is brought into this state and becomes subject to the jurisdiction of the courts of this state for distributive purposes, or which was owned by any decedent domiciled within the state at the time of the death of the decedent even though the property was situated outside of the state. [Amended by 1997 c.99 §13]

118.280 Power to sell for payment of tax; tax lien transferred to proceeds when property of estate sold or mortgaged. (1) Every executor, administrator or trustee has power to sell as much of the property embraced in any inheritance, devise, bequest or legacy, as will enable the executor, administrator or trustee to pay the tax imposed by ORS 118.005 to 118.540, in the same manner as the executor, administrator or trustee is authorized to do for the payment of the debts of a decedent.

(2) Any part of the gross estate sold for the payment of claims against the estate and expenses of administration, for the payment of the tax imposed by ORS 118.005 to 118.540, or for purposes of distribution, shall be divested of the lien of such tax, and such lien shall be transferred to the proceeds of such sale. A mortgage on property executed for payment of claims against the estate and expenses of administration and for payment of the tax imposed by ORS 118.005 to 118.540 shall constitute a lien upon said property prior and superior to the estate tax lien, which estate tax lien shall attach to the proceeds of such mortgage. [Amended by 1957 c.362 §1; 1969 c.591 §215; 2011 c.526 §12]

118.290 Duty of recipient when legacy payable out of property; legacy for limited period. (1) If any bequest or legacy is charged upon or payable out of any property, the heir or devisee shall deduct from the property the tax imposed by ORS 118.005 to 118.540 and pay the tax to the administrator, executor or trustee, and the tax shall remain a lien or charge on the property until paid. The payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the bequest or legacy is enforced, or by the Department of Revenue in the same manner as income taxes are collected under ORS chapter 314.

(2) If any bequest or legacy is given in money for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount. If any bequest or

legacy is not given in money, the administrator, executor or trustee shall make application to the court having jurisdiction of an accounting by the administrator, executor or trustee to make an apportionment, if the case requires, of the sum to be paid by such legatee or beneficiary, and for such further order relative thereto as the case may require. [Amended by 1961 c.455 §5; 1985 c.85 §5; 2009 c.33 §2]

118.300 Deferred payment election; bond or letter of credit. Any beneficiary of any property chargeable with a tax under this chapter and personal representatives and trustees, may elect, on or before the date on which the estate tax is due and payable under ORS 118.100, not to pay the tax until the person or persons beneficially interested therein shall come into actual possession or enjoyment thereof. If it is personal property, the person or persons so electing shall give a bond or irrevocable letter of credit to the state in double the amount of the tax, with such sureties or issued by such insured institution as defined in ORS 706.008 as the Director of the Department of Revenue may approve, conditioned for the payment of the tax and interest thereon, at such time and period as the person or persons beneficially interested therein may come into actual possession or enjoyment of the property, which bond shall be executed and filed, and a full return of the property made to the Director of the Department of Revenue within six months from the date of transfer thereof, as in this section provided. The bond or letter of credit must be renewed every five years. [Amended by 1969 c.591 §216; 1975 c.762 §10; 1977 c.666 §14; 1991 c.331 §34; 1997 c.99 §14; 1997 c.631 §406; 2011 c.526 §13]

118.310 Transfer of stock or obligations by foreign representative or trustee; payment of tax prior to transfer. If a foreign executor, administrator or trustee assigns or transfers any stock or obligations in this state standing in the name of the decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the Department of Revenue on or before the transfer thereof, and no such assignment or transfer is valid unless such tax is paid.

118.320 [Amended by 1969 c.178 §1; 1973 c.254 §4; 1975 c.762 §11; 1985 c.85 §6; repealed by 1987 c.646 §9]

118.330 [Amended by 1969 c.178 §2; repealed by 1975 c.762 §19]

118.340 [Amended by 1973 c.254 §5; repealed by 1975 c.762 §19]

118.350 Compromise and compounding tax; approval by court; proceedings in case of actions or suits involving title to real property. (1) Whenever an estate, de-

vised, legacy or beneficial interest therein, charged or sought to be charged with the estate tax is of such nature or is so disposed that the liability of the same is doubtful, or the value thereof cannot with reasonable certainty be ascertained under the provisions of law, the Department of Revenue may compromise with the beneficiaries or representatives of such estate, and determine the tax. The payment of the amount of the taxes so agreed upon shall discharge the lien against the property of the estate.

(2) In any suit or action involving the title to real property, in which it appears, by the pleadings or otherwise, that an estate tax is or might be payable to the State of Oregon by reason of the death of any person whose estate has not been administered in Oregon, a copy of the pleadings shall be served upon the Department of Revenue, such service to be made as summons is served in any cause in the circuit court of this state. Thereupon further proceedings in the cause shall be suspended until the department has had an opportunity to appear therein, such appearance to be made within the time that is required by the service of summons upon a private person or corporation. The department shall appear in the cause and present the claims of the state, if any, to an estate tax, and it is the duty of the Attorney General of the state to represent the state and the department in such proceedings, and the department may compromise and compound the tax claimed to be due upon the passing of such real property. Such settlement and compromise shall be entered of record in the register of such court. Thereafter the payment of the amount of taxes so agreed upon shall discharge the estate tax lien against the property. If a compromise is not effected, the amount of tax, if any, due upon the passing of the real property shall be determined by the court as are other questions involved in such litigation, and subject to the same right of appeal to the Court of Appeals. The judgment of the court or of the Court of Appeals, if there is an appeal, is conclusive as to the amount of taxes due upon the passing of the real property and payment thereof shall discharge the lien against the property. [Amended by 1969 c.591 §217; 1971 c.567 §8; 1979 c.562 §6; 1985 c.540 §29; 1987 c.758 §8; 2003 c.576 §381; 2011 c.526 §14]

118.360 [Amended by 1959 c.273 §2; repealed by 1977 c.870 §16 (118.171 enacted in lieu of 118.360)]

118.370 [Amended by 1955 c.727 §5; 1959 c.273 §3; 1971 c.567 §9; repealed by 1985 c.85 §13]

118.380 [Amended by 1959 c.273 §4; 1967 c.162 §1; repealed by 1971 c.652 §4]

118.390 [Amended by 1971 c.296 §1; 1971 c.621 §24; repealed by 1973 c.254 §6]

**ADMINISTRATION OF
ESTATE TAX ACT**

118.410 Jurisdiction of tax cases. The Oregon Tax Court has sole jurisdiction to hear and determine all questions arising under the provisions of ORS 118.005 to 118.540, and to any act in relation thereto authorized by law to be done by such court in other matters or proceedings coming within its jurisdiction. [Amended by 1971 c.567 §10]

118.420 [Amended by 1963 c.68 §2; 1967 c.132 §1; repealed by 1969 c.591 §305]

118.440 [Amended by 1961 c.455 §6; 1973 c.338 §1; 1979 c.516 §1; repealed by 1985 c.565 §10c]

118.450 [1967 c.161 §1; 1973 c.254 §7; 1975 c.593 §3; repealed by 1997 c.99 §24]

118.460 [Amended by 1975 c.762 §12; repealed by 1979 c.516 §6]

118.470 [Amended by 1955 c.727 §6; 1973 c.254 §8; repealed by 2011 c.526 §29]

118.480 [Repealed by 1975 c.762 §19]

118.490 [Repealed by 1981 c.705 §8]

118.500 [Repealed by 1969 c.591 §305]

118.510 Disposition of revenues. The net revenue from the taxes imposed by ORS 118.005 to 118.540 (including temporary payments under ORS 118.260 and fees, taxes, interest and penalties), after deduction of refunds, shall be credited to the General Fund to be available to meet any expense or obligation of this state lawfully incurred. [Amended by 1959 c.273 §1; 1969 c.479 §4; 1997 c.99 §15]

118.520 [Repealed by 1959 c.273 §8]

118.525 Disclosure of return information. (1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for estate taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer,

employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

(3) Notwithstanding subsection (1) of this section, the department may permit, for tax purposes only, the Commissioner of Internal Revenue or authorized representatives, or an officer or employee of any state or the District of Columbia which has a provision of law which meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality to inspect any return or supporting data referred to in subsection (1) of this section. The department may disclose to the executor or beneficiary of any estate, or an authorized representative thereof, any information or particulars otherwise made confidential by this section, if the department determines that the executor or beneficiary has a material interest which will be affected by such information or particulars.

(4) The department may disclose a taxpayer's name, address, telephone number, Social Security number, refund amount or tax due to the extent necessary in connection with collection activities or the processing or mailing of returns, correspondence or forms with respect to the tax imposed under this chapter.

(5) The department also may disclose and give access to information described in subsection (1) of this section to those persons, agencies or entities, described in ORS 314.840 (2)(e), (f), (g) and (h) to the extent authorized by said paragraphs; and to any agency of the State of Oregon or any person, or any officer or employee of such agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State and the officers and employees thereof, for the uses and purposes described in ORS 297.060.

(6) Each officer or employee of the department and each person described or referred to in subsection (5) of this section to whom disclosure or access to tax information is given, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of subsection (1) of this section and ORS 118.990 (3), and shall as a condition of employment or performance of duties execute a certificate for the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the

person is aware of the penalties for the violation of subsection (1) of this section. [1979 c.690 §4; 1983 c.633 §1; 1985 c.565 §10d; 1987 c.158 §18; 1987 c.646 §6a; 1993 c.726 §51; 2011 c.526 §15]

118.535 Appraisal by department; costs. (1) If the Department of Revenue determines that the executor has not made an appraisal that is needed in order to comply with the provisions of ORS 118.005 to 118.540, the department may cause an appraisal to be made by a fee appraiser to so ensure compliance.

(2) The cost of the appraisal including the appraiser's fee as a witness in the event of an appeal shall be paid out of the taxes collected under this chapter before the net revenue is credited to the General Fund as provided in ORS 118.510. [1979 c.516 §3; 1997 c.99 §16]

Note: 118.535 was added to and made a part of ORS chapter 118 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

118.540 Department agreements with taxing officials of other states. When the Department of Revenue and the taxing official of one or more other states each claims that the state of that official respectively was the domicile of the decedent for the purpose of estate taxes or claims taxing authority over the same property in an estate, the department may negotiate, and enter into an agreement, with the taxing official of the other state and with the executor to accept payment of estate tax, together with any interest and penalties. The department may enter into binding arbitration or into a compromise agreement with respect to disputed liability for estate taxes with each taxing official and with the executor. [2011 c.526 §27]

118.610 [Amended by 1967 c.131 §1; repealed by 1969 c.591 §305]

118.620 [Repealed by 1969 c.591 §305]

118.630 [Amended by 1963 c.68 §3; repealed by 1969 c.591 §305]

118.640 [Amended by 1961 c.455 §7; 1969 c.591 §218; renumbered 118.150]

118.650 [Amended by 1959 c.273 §5; 1963 c.68 §4; 1967 c.133 §1; repealed by 1969 c.591 §305]

118.660 [Amended by 1955 c.727 §7; 1963 c.68 §5; 1969 c.111 §1; 1969 c.591 §219; renumbered 118.160]

118.670 [Repealed by 1969 c.591 §305]

118.680 [Amended by 1963 c.68 §6; repealed by 1969 c.591 §305]

118.690 [Repealed by 1969 c.591 §305]

118.700 [Amended by 1963 c.68 §7; 1969 c.198 §58; 1969 c.591 §222; renumbered 118.180]

118.810 [Repealed by 2011 c.526 §29]

118.820 [Repealed by 2011 c.526 §29]

118.830 [Amended by 2003 c.576 §382; 2009 c.33 §3; repealed by 2011 c.526 §29]

118.840 [Repealed by 2011 c.526 §29]

118.855 [1959 c.573 §1; repealed by 2011 c.526 §29]

118.860 [1959 c.573 §2; 1991 c.249 §16; repealed by 2011 c.526 §29]

118.865 [1959 c.573 §§3,5; 1987 c.758 §9; repealed by 2011 c.526 §29]

118.870 [1959 c.573 §4; 2009 c.33 §4; repealed by 2011 c.526 §29]

118.875 [1959 c.573 §6; 1975 c.593 §4; repealed by 2011 c.526 §29]

118.880 [1959 c.573 §7; repealed by 2011 c.526 §29]

PENALTIES

118.990 Penalties. (1) Failure, neglect or refusal by any person in possession or control of any record, file or paper containing information relating to the estate of a deceased person or any interest therein to exhibit the same upon the written request of the department specifying and describing such instrument is a misdemeanor.

(2) Any person who willfully makes a false statement in a report required by ORS 118.160 shall be guilty of false swearing and upon conviction, shall be punished as provided by law.

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter. [Amended by 1961 c.455 §8; subsection (2) enacted as 1969 c.210 §1; 1969 c.591 §223; 1973 c.254 §9; 1975 c.762 §13; 1979 c.690 §5; 1981 c.724 §6]

