



Online CLE

Oregon Department of Revenue OR-706 Filings

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Chapter 2

Oregon Estate Transfer Tax Overview and Filing Issues—Presentation Slides

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Oregon Estate Transfer Tax Overview & Filing Issues

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Topics of Discussion

- System Update – GenTax
- Common OR706 Return Errors
- Extension of Time to File / Pay
- Residency
- LLC Property
- QTIP and OSMP
- Oregon Natural Resource Credit
- Filing & Tax Statistics – Tax Years 2012-2016

Processing System Update

- Oregon Estate Transfer Tax Receipt Letter
 - System generated letter
 - Issued when return has been processed and the tax, plus any applicable penalty and interest has been paid in full
 - If the OR-706 is amended, the system will generate a new receipt letter when the amended has been processed and the tax, plus any applicable interest has been paid in full.
 - If the amended OR-706 is requesting a refund, the system will still generate a new receipt letter showing the amended tax amount after return has been processed.
 - Copy of receipt letter will be issued if authorized representative box is checked on the return or we have a valid POA on file.

Processing System Update

- Request for Discharge from Personal Liability
 - DOR has 18 months from the date the discharge was received, or if the discharge was received before the return, 18 months from the date the return was filed.
 - We try to get the discharge requests signed off on as quickly as possible, however DOR may take up to the full 18 months before issuing.
 - Discharge will be issued to the executor or trustee.
 - Copy of discharge request will be issued if DOR has a valid POA on file, or the authorized representative box is checked on the return.
 - Please fax your POA forms to our section's fax.

Common Return Errors – Oregon Property Value

Include a copy of all required schedules and supporting documents.

Part 2—Tax computation *Round all amounts to the nearest whole dollar.*

1. Total gross estate (from page 3, part 5, line 512)	● 1.	1,624,272
2. Total allowable deductions (from page 3, part 5, line 522)	● 2.	72,150
3. Taxable estate (line 1 minus line 2)	● 3.	1,552,122
4. Oregon estate tax (see page 3, part 6)	● 4.	55,342
5. Gross value of property located in Oregon (see instructions)	● 5.	1,552,122
6. Oregon percentage (line 5 divided by line 1, round to four decimal places, no more than 100%) ● 6.		100.0000
7. Tax payable to Oregon (line 4 multiplied by line 6)	● 7.	55,342
8. Natural Resource Credit (from Schedule NRC, line 9)	● 8.	
9. Net estate tax (line 7 minus line 8)	● 9.	55,342
10. Amount paid by original due date of return (see instructions)	● 10.	
11. Tax due (line 9 minus line 10)	● 11.	55,342

- Line 5 – Left blank or Taxable estate value is entered instead of gross estate value
- Processing system will correct the Oregon percentage on line 6.
- Net tax will get reduced by processing system.
- Return will have to be manually corrected.
- Delay in return processing.

Common Return Errors – Total Deductions

Deductions	Amount
513. Schedule J—Funeral expenses and expense incurred in administering property subject to claims	● 513. 12,750
514. Schedule K—Debts of the decedent	● 514. 22,500
515. Schedule K—Mortgages and liens	● 515. 102,000
516. Total of lines 513 through 515	● 516. 137,250
517. Allowable amount of deductions from line 516 (see instructions)	● 517.
518. Schedule L—Net losses during administration	● 518.
519. Schedule L—Expenses incurred in administering property not subject to claims	● 519.
520. Schedule M—Bequests, etc., to surviving spouse (see instructions) or Oregon Schedule OSMP	● 520.
521. Schedule O—Charitable, public, and similar gifts and bequests	● 521.
522. Total deductions (add lines 517 through 521) (Enter here and on part 2, line 2)	● 522. 137,250

- Total deductions amount on line 516 is not carried down to allowable amount on line 517
- Processing system corrects total deductions to zero.
- Total tax due will be greater than amount claimed on return
- Deficiency notice may be issued.
- Return will need to be manually corrected.

Common Return Errors – Alternate Valuation

Part 5—Recapitulation *Round all amounts to the nearest whole dollar.*

Gross Estate		(a) Alternate value	(b) Value at date of death
501. Schedule A—Real estate.....	• 501.	350,000	
502. Schedule B—Stocks and bonds.....	• 502.	221,150	
503. Schedule C—Mortgages, notes, and cash.....	• 503.	75,000	
504. Schedule D—Insurance on the decedent's life [include Form(s) 712].....	• 504.	150,000	
505. Schedule E—Jointly owned property [include Form(s) 712].....	• 505.	42,500	
506. Schedule F—Other miscellaneous property [include Form(s) 712].....	• 506.	600,000	
507. Schedule G—Transfers during decedent's life [include Form(s) 712].....	• 507.		
508. Schedule H—Powers of appointment.....	• 508.		
509. Schedule I—Annuities.....	• 509.		
510. Total gross estate (add lines 501 through 509).....	• 510.	1,438,650	
511. Schedule U—Qualified conservation easement exclusion.....	• 511.		
512. Total gross estate less exclusion (line 510 minus line 511).			
Enter here and on part 2, line 1.....	• 512.	1,438,650	

- Alternate valuation elected, no date of death value listed.
- Date of death value needs listed to determine if the alternate valuation decreases gross estate. (IRC 2032).
- Return will suspend.
- Delay in return processing.

Common Return Errors – Penalty

- 5% late filing penalty.
 - Assessed on returns filed after due date of return (including extensions).
- 5% late payment penalty.
 - Assessed on amount of unpaid tax after original due date.
 - Extension of time to file does not extend time to pay.
- 20% additional late filing penalty.
 - Assessed on returns filed more than 3 months after due date of return (including extensions).
- OAR 150-118.260(1)(b) – If return is filed late and tax is paid late, only one 5% delinquency penalty will be added.
- OAR 150-314-0195 – “90 percent rule” does not apply to the estate transfer tax program.

Extension to File

Oregon Estate Transfer Tax Payment Voucher Form **OR706-V**

• **Date of death:** _____

• **Payment type** (check only one):

- ☐ Original OR706.
- ☒ Extension payment.
- ☐ Prepayment.
- ☐ Amended OR706.

Department of Revenue use only: **Clear form**

Decedent's first name and initial: _____ Last name: _____ SSN: _____

Name of executor: _____

Executor's address: _____

City: _____ State: _____ ZIP code: _____ Contact phone: _____

Enter payment amount: \$ _____ .00

10-10-11/2 Rev. 07-10

Note: Don't use this voucher as an extension to file. Use IRS Form 4768, *Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes*, and mail to us by the original due date of your Form OR706. Include a copy of the extension with your return.

- The estate must file a federal form 4768 to apply for an Oregon extension of time to file/time to pay by the original due date of the return.
- Oregon grants an automatic 6 month extension of time.
- The tax payment voucher is not an application for extension.

Extension of time to file/pay

- The federal form 4768 (request for extension to file / pay) must be filed by the original due date of the return to make a timely request for extension of time to file or pay.
- If the federal form 4768 is not filed before the due date to the return then your extension will be denied and penalties will be assessed.
- The department will allow up to one year from the due date of the return to pay the amount due (with an approved extension to pay) without penalty. The department will also allow this amount of time to pay without providing collateral.
- If the estate needs more than one year from the due date of the return to pay the amount due and meets the criteria under ORS 118.225 they can request a payment plan of up to 14 years with collateral of at least 2 times the amount of tax still owing.

Residency

- ORS 118.010(1)(b) "Resident Decedent" means an individual who is domiciled in Oregon on the date the individual dies.
- If the decedent is temporarily living in another state on the date of their death but they did not intend to abandon their Oregon domicile then they are considered to be domiciled in Oregon.
- ORS 118.010(1)(a) "Nonresident decedent" means an individual who is domiciled outside of Oregon on the date the individual dies.

LLC Interest – Nonresident

- Nonresident decedent - Property taxable by Oregon include all real property located in Oregon and tangible personal property located in Oregon.
- ORS 63.239 provides "A membership interest is personal property. A member is not a co-owner of and has no interest in specific limited liability company property."
- Membership interest in an LLC is considered intangible personal property.
- Since LLC interest is considered intangible, a nonresident decedent will not include any LLC interest that holds Oregon real property in the Oregon numerator.

LLC Interest – OR Resident

- Oregon resident – Property taxable by Oregon includes all real property located in Oregon, tangible personal property located in Oregon, and intangible personal property.
- Since interest in a LLC is considered intangible personal property, all LLC interest will be included in the Oregon numerator.
 - ***Exception*** If the LLC interest is taxed by another state or another country due to the decedent's death it will not be included in the Oregon numerator. (ORS 118.010(5))
 - If Oregon resident holds real property located in another state through an LLC interest, that property would be included in the Oregon numerator.

Oregon QTIP and OSMP

- New core system at DOR allows for easier tracking of QTIP and OSMP elections.
- Any return that claims a QTIP or OSMP election is flagged until the surviving spouse files a return.
- Important to identify each asset that is being claimed as an OSMP or QTIP election.
 - Schedule listing "20% of trust A" is not sufficient.
- Important we receive signed copy of Consent to Establishment of Oregon Special Marital Property with Schedule OR-OSMP.
 - If surviving spouse is the only beneficiary entitled to a distribution of the property during their lifetime, the OSMP consent form (page 2 of Schedule OR-OSMP) is not required to be filled out.

Oregon QTIP and OSMP continued

- Estimated values of assets / deductible assets subject to the special rule of Reg. section 20.2010-2(a)(7)(ii), claimed on Part 5, lines 10 and 23 of the federal 706.
- The estate needs to provide a separate schedule for Oregon listing the schedule, item number, and estimated value of the asset(s) that are deductible under section 2056 or 2056A (marital deduction property) or under section 2055(a) (charitable deduction property).
- The estate will add up the estimated values for each schedule, and add that to the total value of the corresponding schedule as reported on the federal 706 recapitulation.
 - Example: Federal schedule B reports total assets of \$600,000 but also includes an asset that is deductible under section 2056 or 2056A (marital deduction property) or under section 2055(a) (charitable deduction property) which is reported on line 10 of the federal 706 recapitulation. The estimated value of the asset is \$250,000. For Oregon purposes, the estate would provide the federal schedule B with the Oregon 706, and provide a separate schedule listing the estimated value of the asset listed on schedule B. The estate would then add the estimated value of \$250,000 to the amount listed on the federal 706 recapitulation, line 2 (\$600,000), and report the total on the Oregon 706 recapitulation, line 502 (\$850,000).

Natural Resource Credit Legislative Changes

- SB 864 passed in 2015 modified the natural resource credit.
- Old rule – Oregon NRC property had to make up at least 50% of the gross estate.
- New rule – Oregon NRC property has to make up at least 50% of Oregon adjusted gross estate.
- Oregon adjusted gross estate is the Oregon gross estate less allowable deductions as they relate to the Oregon assets.
- Allows eligibility for nonresident decedents to own Oregon NRC property.
- Past processing issues occurred due to Schedule NRC not being keyed. New system edits should prevent this in the future.

Federal Legislation impacts

- ▶ New federal filing threshold for 2018 is \$10 million.
- ▶ Oregon's filing threshold is still \$1 million.
- ▶ Less federal returns will be required to be filed.
- ▶ More people may think they do not need to file for Oregon due to the change in the federal threshold.

2012-2016 Filing Statistics

Total taxes owed by estate size 2012-2016

category	total # of estates	payable tax
Less than \$1 million	2,206	0
1m – 1.5m	3,054	46,426,000
1.5m – 2m	1,007	67,316,000
2m – 3.5m	924	128,186,000
3.5m – 5m	292	79,538,000
5m – 10m	204	103,958,000
More than \$10 million	76	201,103,000
total	7,763	626,527,000

percent of taxes owed by estate size 2012-

category	total # of estates	payable tax
Less than \$1 million	2,206	0%
1m – 1.5m	3,054	7%
1.5m – 2m	1,007	11%
2m – 3.5m	924	20%
3.5m – 5m	292	13%
5m – 10m	204	17%
More than \$10 million	76	32%
total	7,763	100%

average taxes owed by estate size 2012-2016

category	total # of estates	avg payable tax
Less than \$1 million	2,206	0
1m – 1.5m	3,054	15,202
1.5m – 2m	1,007	66,848
2m – 3.5m	924	138,729
3.5m – 5m	292	272,390
5m – 10m	204	509,598
More than \$10 million	76	2,646,092
total	7,763	80,707

percent of filers by estate size 2012-2016

category	total # of estates	payable tax
Less than \$1 million	2,206	28%
1m – 1.5m	3,054	39%
1.5m – 2m	1,007	13%
2m – 3.5m	924	12%
3.5m – 5m	292	4%
5m – 10m	204	3%
More than \$10 million	76	1%
total	7,763	100%

2012 – 2016 Filing Statistics

Payable Tax (in 000's) by Oregon Taxable Estate Size - Tax years 2012-2016

Tax Year	<\$1 million Payable		1m-1.5m Payable		1.5m-2m Payable		2m-3.5m Payable		3.5m-5m Payable		5m-10m Payable		10m+ Payable		Total Payable	
	#	Tax	#	Tax	#	Tax	#	Tax	#	Tax	#	Tax	#	Tax	#	Tax
2012	370	0	556	\$7,855	152	\$9,683	147	\$19,207	50	\$13,151	39	\$19,831	10	\$24,544	1,324	\$94,271
2013	400	0	538	\$7,969	191	\$12,768	166	\$22,823	57	\$16,085	29	\$16,652	13	\$30,566	1,394	\$106,863
2014	488	0	603	\$8,916	215	\$14,853	199	\$27,382	50	\$14,288	42	\$18,383	16	\$29,872	1,613	\$113,694
2015	500	0	711	\$11,298	229	\$15,217	198	\$28,465	76	\$19,228	43	\$21,136	20	\$62,247	1,777	\$157,591
2016	442	0	642	\$10,362	218	\$14,663	213	\$30,171	57	\$16,298	51	\$27,956	17	\$53,874	1,640	\$153,324

*Oregon Taxable Estate is the entire estate determined taxable by Oregon, not necessarily estate property in Oregon

Statistics are from the 2018 Oregon Public Finance: Basic Facts report, from the Legislative Revenue office.

Contact Information

- Email – estate.help.dor@oregon.gov
- Phone – Salem area or outside Oregon – (503) 378-4988
Toll-free from Oregon prefix – 1 (800) 356-4222
- Fax – (503) 945-8787. Attention: Estate Unit
- Mail – Estate Audit, Business Division, Oregon Department of Revenue.
PO Box 14110
Salem, OR 97309-0910

*** Please allow 3-5 business days for response.

