



GARRETT HEMANN ROBERTSON PC.

OREGON INHERITANCE TAX — UPDATE

BY THERESA M. WADE, Attorney at Law



The 2011 Oregon Legislature gives, and takes away, benefits through its change to the Oregon Inheritance Tax structure.

Oregon will impose inheritance tax on all estates in excess of \$1 million for resident decedents who pass away after January 1, 2012, as well as non-resident decedents who held real property or tangible personal property located within the state of Oregon on the date of death. For purposes of this law, “tangible personal property located in Oregon” includes personal property, bank accounts, contracts receivable, the contents of safe deposit boxes in banks located within the state of Oregon and, arguably, interests in businesses (whether corporations, limited liability companies, partnerships or sole proprietorships). The inclusion of business interests is not settled. Although the Department of Revenue is arguing for the inclusion, Oregon courts have not yet ruled on the matter. For non-resident decedents, the tax is calculated on a ratio, comparing the value of the Oregon-located assets against the total value of the decedent’s estate.

The calculation of the tax liability is greatly simplified under the new Legislation. As of January 1, 2012, estates valued at more than \$1,000,000 but less than \$1,500,000 will pay a tax of 10% of the value exceeding \$1,000,000. Individuals who hold between \$1,500,000 and \$2,500,000 will pay \$50,000, plus 10.25% of the excess above \$1,500,000. For those estates valued at more than \$2,500,000 but less than \$3,500,000, the estate will pay tax of \$152,500 plus 10.5% of the excess above \$2,500,000. The rates and tax liability increase incrementally with each \$1,000,000 of additional value, until the estate reaches a value of \$9,500,000. Estates valued at \$9,500,000 or greater will pay a 16% marginal rate on the value of the estate in excess of \$9,500,000.

The Oregon inheritance tax return, and payment of any inheritance tax liability, continues to be due within nine months after the date of death.

Decedents who held interests in “natural resources” (which include farm businesses, forestry businesses and fishing businesses) have additional credits and timeframes within which tax returns and annual reports must be prepared and filed.

On the plus side, the new legislation simplifies the calculation of potential inheritance tax payable to the state of Oregon, and reduces the marginal rate imposed on “smaller” estates of \$1,000,000 to \$2,500,000. However, the legislation also increases the remaining marginal



GARRETT HEMANN ROBERTSON P.C.

THE UNEXPECTED OREGON INHERITANCE TAX (CONT.)

tax rates for estates in excess of \$2,500,000. The legislative history reflects the discussion surrounding this change to be based on public policy that wealthier estates bear higher marginal tax rates.

As has been the practice for many years, utilizing estate plans that include a credit shelter trust and take advantage of marital deductions remain a primary tool to minimize or eliminate inheritance tax, both at the death of the first spouse, as well as following the death of the surviving spouse. Lifetime gifting remains a viable option, depending on the type of assets held in an estate and the ability to do without the income stream that would otherwise be generated from retaining those assets.

Now is an ideal time to have your estate plan reviewed in light of these legislative changes. Please contact Theresa M. Wade, Garrett Hemann Robertson P.C., 1011 Commercial Street NE, P.O. Box 749, Salem, Oregon 97308, phone: (503) 581-1501 or e-mail: twade@ghrlawyers.com, to schedule a meeting.

