

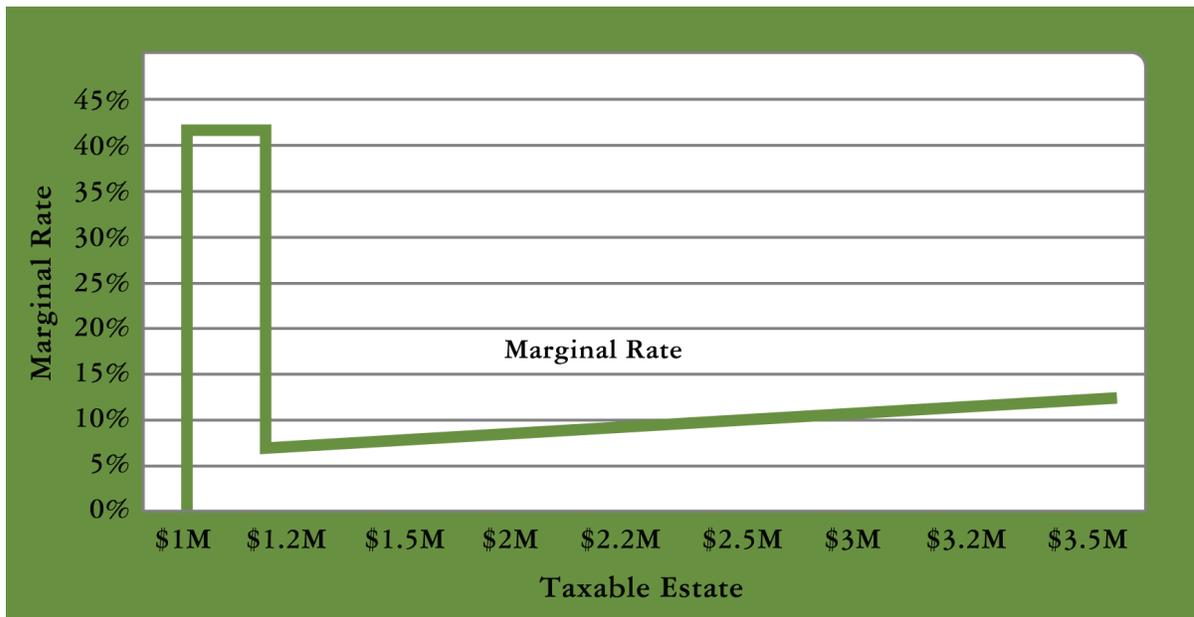


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THE UNEXPECTED OREGON INHERITANCE TAX BY THERESA M. WADE, Attorney at Law



Congress resolved the question of federal estate tax for 2011, in a last-minute adoption of a \$5,000,000 exemption amount. That exemption amount will apply for estates of decedents who pass away on or before December 31, 2011. For individuals who pass away on or after January 1, 2012, we do not yet know the federal estate tax implications, and may not know until late in 2012. The state of Oregon, on the other hand, adopted an inheritance tax threshold in 2006 which imposed Oregon inheritance tax on all estates valued in excess of \$1,000,000. On May 10, 2011, the Oregon House of Representatives passed HB2541 which, among other things, would increase the exemption amount from \$1,000,000 to \$1,500,000. At printing, the Bill was referred to the Senate Finance and Revenue Committee. This article discusses the current tax situation. Unlike the federal tax, which is a fixed rate on each dollar in excess of the exemption amount, Oregon's current tax is based on a formula which, for many, defies logic.



Under the current formula adopted by the Oregon Legislature, estates with a value ranging between \$1,000,001 and \$1,093,784 will pay Oregon inheritance tax on the excess over \$1,000,000 at a marginal rate of 41%. For estates with a value in excess of \$1,093,784, the marginal rate drops to 6.4%, and that marginal rate gradually climbs to 16% for very large estates. For example, an estate valued at \$1,100,000 would result in an Oregon inheritance tax bill of \$38,850. An estate valued at \$1,500,000 would result in an Oregon inheritance tax bill of \$64,450. The additional \$400,000 of taxable estate results in only \$25,600 of additional tax.





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THE UNEXPECTED OREGON INHERITANCE TAX (CONT.)

Oregon further complicates the tax picture when it includes the value of an estate of an individual who is not a resident of the state of Oregon, but who owns property located within the state of Oregon. Under Oregon law, Oregon inheritance tax is calculated on the entire gross estate (wherever located), and the tax is multiplied by a fraction based on the value of the Oregon property as compared to the value of the entire estate. Non-resident decedents are taxed on property located in Oregon, whether it is real property or intangible personal property (such as business entity ownership interests or an Oregon bank account), unless the state of domicile for the decedent grants reciprocity for an exemption to the tax on intangible assets. Because of the fractional method of calculating the Oregon inheritance tax, even a small amount of Oregon property owned by an out-of-state decedent will trigger a tax liability to the state of Oregon. Oregon has reciprocity with the state of Washington, but does not have reciprocity with the state of California. Thus, the estate of a deceased resident of Washington with intangible assets located in the state of Oregon will not pay Oregon inheritance tax on the value of those Oregon-located intangible assets. However, the estate of a deceased resident of California would pay Oregon inheritance tax on the same asset.

If you hold assets in the state of Oregon but are a resident of another state, you should review with your legal counsel the advisability of taking steps to minimize or eliminate the Oregon inheritance tax liability in your estates. If you are a resident of Oregon with real or intangible property located in another state, you should also review your estate plan with legal counsel to ensure that your tax situation is understood, and to minimize that liability. If you have questions regarding these issues, please contact Theresa M. Wade at (503) 581-1501.

