

ESTATE AND GIFT TAXES

(Updated for the 2010 Tax Act)

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(Federal, Washington, and Oregon)

(Updated for the 2010 Tax Act)

A. INTRODUCTION

The 2010 Tax Act

The Economic Growth and Tax Reconciliation Act of 2001 (EGTRRA), passed by Congress in 2001, provided for the repeal of the federal estate and generation-skipping transfer (GST) taxes effective January 1, 2010, and for the taxes to be restored to their pre-EGTRRA status on January 1, 2011. EGTRRA left the federal gift tax in effect for 2010 with an exemption amount of \$1,000,000 and a top tax rate of 35%. EGTRRA was scheduled to “sunset” on December 31, 2010.

Since the passage of EGTRRA, estate planners have been waiting for Congress to pass legislation to end the uncertainty concerning the estate and GST taxes going into 2010 and 2011. Finally, in December of 2010, Congress cleared up the uncertainty, at least for two years, with the enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Act). The 2010 Tax Act retroactively reinstated the estate and GST taxes with a top tax rate of 35% and set the exemption amount for these taxes at \$5.0 million. The 2010 Tax Act “reunified” the estate and gift tax exemptions after 2010. This means that, for gifts made in 2010, the gift tax lifetime exemption was \$1.0 million, but for gifts made in 2011 and 2012, it is \$5.0 million.

Currently, the 2010 Tax Act and EGTRRA are both scheduled to “sunset” on December 31, 2012. If this happens, the estate, gift and GST tax laws that were in effect prior to the passage of EGTRRA will go back into effect in 2013. Thus Congress has again postponed enacting more permanent federal transfer tax legislation.

Federal Transfer Taxes (Sections B through D)

The federal transfer tax system consists of three separate taxes: (1) the estate tax; (2) the gift tax; and (3) the generation-skipping transfer tax (GST tax). All three taxes are excise taxes imposed on the transfers of wealth by individuals. Accordingly, they are generally imposed on the donor (lifetime gifts) or on a decedent’s estate (transfers at death).

Section B of this article summarizes the federal estate tax under the 2010 Tax Act, which applies retroactively to estates of decedents who die after December 31, 2009. **Section C** summarizes the federal gift tax and **Section D** summarizes the GST tax.

Oregon and Washington Estate Taxes (Sections E and F)

Oregon and Washington also impose a tax on the transfer of assets by a decedent's estate. **Section E** summarizes the Washington estate tax, and **Section F** summarizes the Oregon inheritance tax. Neither state has a gift tax or a generation-skipping transfer tax.

B. THE FEDERAL ESTATE TAX

The Law Explained

The federal estate tax applies to transfers that occur, or are considered to occur, at death. It is an excise tax imposed on the transfer of the entire taxable estate of a decedent. A decedent's gross estate includes all property in which the decedent had an interest at the time of his or her death. The gross estate includes the decedent's interest in jointly held properties, the decedent's retirement plans and IRA accounts, and assets held in the decedent's revocable living trust. The gross estate also includes the proceeds of a life insurance policy payable to the decedent's estate or over which the decedent retained any ownership interest.

Generally, all assets in the decedent's gross estate are valued at their fair market value as of the decedent's date of death. The term "fair market value" is defined in the federal tax regulations as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." Although not required in all cases, professional appraisals are often used to establish the fair market value of business assets and real estate in a decedent's estate.

The federal estate tax law provides an exception to the general rule that the decedent's assets must be valued at their fair market value for certain farm and closely held business real property. If the decedent's estate meets the qualification requirements, the law allows such property to be valued at its farm or business use value rather than at its fair market value. To qualify for this special valuation provision, the value of the farm or business property must be at least 50% of the total value of all the property in the estate after certain adjustments. Another requirement is that the farm or business property must pass to certain family members of the decedent and that they continue the farm or business use of the property for 10 years after the decedent's death.

The federal estate tax law also provides an exception to the general rule that the decedent's assets must be valued as of the date of the decedent's death. The law allows the executor to make an election to value the decedent's estate as of the date six months after the decedent's date of death, or the date the asset is disposed of if earlier, if making the election decreases the decedent's gross estate and the estate tax liability of the decedent's estate. As a result of the decline in value of many types of investments in the last couple of years, this election has been used by many estates to reduce the estate tax liability of the estate.

The federal estate tax exemption amount (Column A on the Transfer Tax Chart on page 10) is the amount that can pass free of any federal estate tax. If the decedent's gross estate is less than the exemption amount, the estate is not subject to estate taxes and is not required to file a federal estate tax return (Form 706).

In 2009, the estate tax exemption amount was \$3.5 million and the top tax rate was 45%. Under EGTRRA, there was no federal estate tax for deaths in 2010. The 2010 Tax Act reinstated the federal estate tax for 2011 and 2012 with an exemption amount (now called the basic exclusion amount) of \$5.0 million (indexed for inflation after 2011) and a top tax rate of 35%. Unless Congress acts, the 2010 Tax Act will “sunset” on December 31, 2012, in which case the estate tax exemption amount will drop to \$1.0 million and the top tax rate will increase to 55% (with a 5% surcharge for very large estates).

The taxable estate is the gross estate less all allowable deductions. Some of the more typical allowable deductions include the marital deduction for gifts to a surviving spouse, the charitable deduction for gifts to charity, the decedent’s liabilities, funeral expenses, and the expenses of administering the decedent’s estate. If the decedent’s gross estate is equal to or exceeds the estate tax exemption amount, the executor for the estate must file a Form 706. If the decedent’s gross estate is equal to or exceeds the exemption amount, but the taxable estate (gross estate less allowable deductions) is under the exemption amount, the executor will still need to file Form 706 even though there will be no tax due.

The federal estate tax liability is determined by applying the estate tax rate to the decedent’s taxable estate after adjustments for the decedent’s lifetime taxable gifts. For decedents who die in 2011 and 2012, the top estate tax rate of 35% applies to all estates that exceed the estate tax exemption amount of \$5.0 million.

The due date for filing the federal estate tax return (Form 706) for decedents who died between January 1, 2010, and December 16, 2010, is extended to nine months after the effective date of the Tax Act of 2010, which is September 17, 2011. However, since September 17, 2011 falls on a Saturday, the Form 706 due date for these estates is September 19, 2011. The due date for filing Form 706 for decedents who die after December 16, 2010, is nine months after the decedent’s date of death. If the decedent’s estate owes federal estate tax, it must be paid by the due date of the return. The IRS will allow an automatic six month extension to file Form 706; however, the extension to file does not extend the time to pay the tax.

Election Out of Estate Tax for 2010 Estates

Although enacted in December of 2010, the 2010 Tax Act applies retroactively to estates of decedents who die after December 31, 2009. However, the executor of the estate of a decedent who died in 2010 may elect to apply the federal estate tax law as if the 2010 Tax Act had not been enacted. If the executor makes the election to “elect out” of the 2010 Tax Act, the estate will have no estate tax liability, but the carryover basis rules will apply to determine the income tax basis of the assets of the estate. If the executor does not make this election, the stepped-up basis rules will apply to determine the income tax basis of the assets of the estate.

The “income tax basis” of property is generally the purchase price of the property and is used to calculate taxable gain or loss when the property is sold. For example, the purchase price of shares in a corporation is the purchaser’s initial basis in the stock. If the stock is later sold for a price that exceeds the purchase price, the difference between the basis and the sale price is the gain that is subject to the federal capital gains tax.

As mentioned above, if the executor of the estate does not elect out of the 2010 Tax Act, the “stepped-up basis rules” will apply to determine the income tax basis of the property of the estate. Under the stepped-up basis rules, the property in the decedent’s estate is generally entitled to receive a basis equal to the fair market value of the property on the date of the decedent’s death. For example, if during his or her lifetime a decedent purchased shares of a corporation at \$10 per share and the shares are valued at \$100 per share in the decedent’s estate, the beneficiary who inherits the shares will be entitled to a basis (a “stepped-up basis”) of \$100 per share. The beneficiary could then sell the shares at \$100 per share and would not have to pay any capital gains tax on the sale.

If, however, the executor elects out of the 2010 Tax Act, the “carry-over basis rules” will apply to determine the income tax basis of the property of the estate. Under the carry-over basis rules, the basis of inherited property generally remains the same as the decedent’s basis in the property. Under these rules, the decedent’s estate will be entitled to a basis step-up of up to \$1.3 million for any of the assets of the estate and an additional \$3.0 million of basis step-up for assets left to a surviving spouse. The recipients of the remaining assets of the estate will receive a basis equal to the lesser of the decedent’s basis or the date-of-death market value of the property.

The executor of the estate will have to determine how to allocate the \$1.3 million general basis step-up and the \$3.0 million spousal property step-up to the assets of the estate. The executor will make the allocation on IRS Form 8939. As of the writing of this article (April 8, 2011), the IRS had not yet issued the final version of Form 8939. The IRS has stated that taxpayers will be given at least 90 days after the final Form 8939 is posted on the IRS website to file the return.

For most estates of \$5.0 million or less, it will not be to the estate’s advantage to elect out of the 2010 Tax Act. Such estates will not have an estate tax liability because of the \$5.0 million estate tax exemption, and by not electing out, the estate can use the stepped-up basis rules to eliminate the potential capital gains in the decedent’s appreciated assets.

However, for estates larger than \$5.0 million, the choice will not be so easy. Such estates will not have to pay any estate tax, but the carry-over basis rules will limit the step-up in basis for the inherited assets. The decision will depend on what types of assets are in the estate and how soon the beneficiaries plan to sell them. For larger estates, this decision will involve complicated tax calculations and assumptions about the future.

Additionally, in some estates the decision will involve conflicts of interest among the different beneficiaries of the estate. This can present a real problem for the estate’s executor who is also a beneficiary of the estate since the executor owes a duty of fairness and impartiality to all of the beneficiaries of the estate. For example, making the election to have the estate tax apply to the estate may favor the beneficiary who is the executor, particularly if he or she is a surviving spouse on whose share no estate taxes will be charged. Although the other beneficiaries of the estate might benefit from the application of the stepped-up basis rules as a result of this decision, the estate tax cost to them of getting the stepped-up basis in many cases could exceed any potential capital gains savings.

As of the writing of this article, the IRS has not issued any rules on how to make the election to elect out of the 2010 Tax Act. The IRS has stated that it will provide guidance on making the election with the final version of Form 8939 and its instructions. The IRS has indicated that it is likely to require that the election out of the estate tax be made on or by the filing of Form 8939.

Portability under the 2010 Tax Act

Prior to 2011, the estate tax exemption of the first spouse to die was lost if the estate was left entirely to the surviving spouse. The unlimited marital deduction would eliminate the estate tax liability in the first estate, but the surviving spouse's estate was not entitled to use any portion of the first spouse's unused exemption amount.

The traditional estate plan for married couples with substantial net worth divides the estate of the first spouse to die into two shares: the Marital Share and the Nonmarital Share. Such planning, usually referred to as A/B planning, is designed to eliminate any estate tax in the estate of the first spouse to die and to avoid wasting the exemption of the first spouse to die.

The 2010 Tax Act introduced "portability" of the estate tax exemption between spouses. This provision allows the executor of a decedent's estate to elect to allow the decedent's surviving spouse (but no other beneficiary) to take advantage of the "deceased spousal unused exclusion amount" for the surviving spouse's estate and gift tax purposes. This election must be made on a timely filed estate tax return. The election, once made, is irrevocable. The portability provision is scheduled to sunset after 2012. Thus, unless Congress acts, the portability provision will only be available if both spouses die on or after January 1, 2011 and before January 1, 2013.

Only the unused exclusion amount of "the last such deceased spouse of such surviving spouse" can be utilized. Thus, a surviving spouse cannot take advantage of the unused exclusion amount from more than one predeceasing spouse.

Portability, if made permanent, might convince many married couples that they do not need significant estate tax planning, such as the traditional A/B estate plan described above. However, due to the uncertainty about the estate tax laws after 2012 and other tax and non-tax reasons, many married couples with substantial net worth will likely continue to use the A/B estate plan or similar estate tax planning in 2011 and 2012.

C. THE FEDERAL GIFT TAX

The Law Explained

The federal gift tax is a transfer tax on lifetime gifts. The federal gift tax applies to "taxable gifts." Gifts that do not exceed the gift tax annual exclusion amount are not taxable gifts and are not subject to the federal gift tax. The "annual exclusion amount" is an annual per donee amount. For gifts made in 2011, the annual exclusion amount is \$13,000. The annual exclusion amount is indexed for inflation and increases by increments of \$1,000 every few years. Generally, gifts are valued based on the fair market value of the transferred property at the time of the gift.

The gift tax exemption amount (Column B on the Transfer Tax Chart) is the amount of taxable gifts an individual can make during his or her life without incurring any gift tax liability.

2010 Tax Act Changes

EGTRRA did not repeal the federal gift tax in 2010 like it did the federal estate tax. In 2010, the federal gift tax exemption was \$1.0 million and the top gift tax rate was 35%. The 2010 Tax Act increased the exemption to \$5.0 million for gifts in 2011 and 2012 (indexed for inflation after 2011), but left the top gift tax rate at 35%. If the 2010 Tax Act sunsets on December 31, 2012, the gift tax exemption will drop to \$1.0 million and the gift tax rate will change from the 2012 top rate of 35% to a rate that starts at 41% and tops out at 55% (with a 5% surcharge for very large gifts).

Lifetime taxable gifts reduce the estate tax exemption available for use in the donor's estate upon the donor's death. For example, if the donor died in 2011 after using \$1.0 million of his or her gift tax exemption of \$5.0 million, the estate tax exemption amount available to the donor's estate would be \$4.0 million (\$5.0 million less \$1.0 million.)

With some limited exceptions for certain types of gifts (such as gifts that qualify for the marital or charitable deductions), a gift tax return must be filed if a donor makes any taxable gifts (gifts that exceed the gift tax annual exclusion amount). The due date for filing the gift tax return, and for paying any gift tax liability, is generally April 15th following the calendar year in which the taxable gift is made.

D. THE FEDERAL GENERATION-SKIPPING TRANSFER TAX

The Law Explained

The GST tax is imposed on transfers of wealth that skip a generation. For example, grandparent A's gift to grandchild C is a generation-skipping transfer. Since A's child B will never own the gifted asset, the asset will not be taxable in B's estate when B dies. In the absence of the GST tax, affluent families could easily avoid multiple layers of transfer taxes by transferring their wealth to trusts designed to last for generations.

The GST tax is imposed in addition to any estate tax or gift tax imposed on the same transfer. Each individual is entitled to a GST tax exemption (Column E on the Transfer Tax Chart), which is the amount that can be transferred free of the GST tax.

2010 Tax Act Changes

Like the federal estate tax, the GST tax was repealed by EGTRRA for one year effective as of January 1, 2010. The 2010 Tax Act reinstated the GST tax for 2011 and 2012 with an exemption of \$5.0 million and a tax rate of 35%. The 2010 Tax Act also reinstated the GST tax for 2010, but with a tax rate of 0%, which means that GST transfers of any amount in 2010 will not incur a GST tax liability. If the Tax Relief Act of 2010 sunsets on December 31, 2012, beginning in

2013, the GST tax exemption will drop to \$1.0 million and the top tax rate will increase to 55% (with a 5% surcharge for very large transfers).

E. THE WASHINGTON ESTATE TAX

The Law Explained

Washington's estate tax applies to decedents dying on or after May 17, 2005. A Washington estate tax return must be filed if the decedent's gross estate exceeds \$2.0 million.

The Washington estate tax is calculated with reference to the decedent's "Washington taxable estate," which is defined as the decedent's taxable estate for federal estate tax purposes with three adjustments. First, the deduction for state death taxes is added back. Second, if the estate qualifies for the farm property deduction, the amount of certain real or tangible personal property used primarily for farming purposes is subtracted. Third, the filing threshold amount (\$2.0 million) is subtracted.

After the Washington taxable estate is determined, the tax liability is determined by applying a tax table with incremental tax rates starting at 10% (for taxable estates up to \$1.0 million) and ending at 19% (for taxable estates that exceed \$9.0 million). The Washington estate tax return must be filed, and any tax liability paid, within nine months after the decedent's death, unless an extension is granted. Like the federal estate tax, Washington law also allows an executor to make an election to value the decedent's estate as of the date six months after the decedent's date of death, or as of the date the asset is disposed of, whichever date is earlier.

Column H on the Transfer Tax Chart shows the Washington estate tax liability when the decedent's federal taxable estate equals the federal estate tax exemption amount.

Since the Washington estate tax law applies independently of the federal estate tax, the Tax Act of 2010 does not affect the Washington estate tax. Thus, Washington law does not provide for any special extension to file the Washington estate tax return for estates of 2010 decedents.

Washington law allows a deduction against the Washington estate tax for certain real and tangible personal property that is used for farming purposes, including certain timberland and related tangible personal property. To qualify for this deduction, the value of the qualified farm property must be 50% or more of the total value of all the property in the estate after certain adjustments. Another requirement is that the farm property must pass to certain family members of the decedent.

Prior to May 17, 2005, Washington imposed its own generation-skipping transfer tax; however, the Washington legislature repealed Washington's generation-skipping transfer tax effective for estates of decedent's dying after May 17, 2005.

Washington does not have a gift tax.

F. THE OREGON INHERITANCE TAX

The Law Explained

In 2003, the Oregon Legislature passed legislation that tied the Oregon inheritance tax to the Internal Revenue Code as it existed on December 31, 2000. Like the federal estate tax, the Oregon inheritance tax is an excise tax on the transfer of a decedent's entire estate at death. The amount of the tax is equal to the maximum amount of the state death tax credit allowable against the federal estate tax under Section 2011 of the Internal Revenue Code (as it existed on December 31, 2000).

Prior to the 2003 legislation, the Oregon inheritance tax was the type of state death tax commonly referred to as a "pick-up tax." Under the pick-up tax system, a decedent's estate was not subject to a state death tax if the decedent's estate did not owe a federal estate tax. If the decedent's estate owed a federal estate tax, the state death tax was an amount equal to the state death tax credit allowed under the federal law. As a result of the state's imposition of the pick-up tax, the state received an amount equal to the state death tax credit and the federal estate tax owing to the federal government was reduced by the same amount. Under the pick-up tax system, the total death tax liability of the decedent's estate was not increased by imposition of the state pick-up tax, and the state received a share of the tax that otherwise would have been paid to the federal government.

By tying the Oregon inheritance tax to the federal estate tax as it existed on December 31, 2000, the 2003 legislation in effect "decoupled" the Oregon inheritance tax from the federal estate tax. Since this "decoupling," there has been a disparity between the federal estate tax exemption (Column A on the Transfer Tax Chart), and the Oregon exemption (Column G on the Transfer Tax Chart).

For deaths in 2011 (and until the Oregon Legislature changes it), the Oregon exemption is \$1.0 million. A 2011 decedent's taxable estate of \$5.0 million would not owe any federal estate tax, however, the estate would incur an Oregon inheritance tax liability of \$391,600 (Column I on the Transfer Tax Chart).

The Oregon inheritance tax rate is 41% on taxable estates between \$1.0 million and \$1,093,785.31. Thus, a taxable estate of \$1,093,785.31 results in a tax liability of \$38,451.98. The top tax rate on taxable estates that exceed \$1,093,785.31 starts at 5.6% and caps out at 16% for taxable estates that equal or exceed \$10.1 million.

Column I on the Transfer Tax Chart shows the Oregon inheritance tax liability when the decedent's taxable estate equals the federal estate tax exemption amount.

Except for some 2010 decedents, the Oregon inheritance tax return (Form IT-1) is due, and any tax liability must be paid, within nine months after the decedent's death, unless an extension is granted. Like the federal estate tax, Oregon law also allows an executor to make an election to value the decedent's estate as of the date six months after the decedent's date of death, or as of the date the asset is disposed of, whichever date is earlier.

The 2011 Oregon legislature recently passed legislation that changes the filing requirements for the Oregon inheritance tax return to track with the federal filing requirements. Thus, if a decedent died after December 31, 2009 and before December 17, 2010 with a gross estate valued over \$5.0 million, the due date for Form IT-1 is extended to September 19, 2011. However, the Oregon Legislature did not extend the Oregon inheritance tax return tax payment due date.

Oregon does not have either a gift tax or a generation-skipping transfer tax.

The Oregon QTIP Election

Oregon allows a separate Oregon QTIP election (marital deduction) for property that passes to a trust for the benefit of a surviving spouse and that otherwise qualifies for the federal estate tax marital deduction. The separate Oregon QTIP election does not have to be the same amount as the federal QTIP election and is available even if no federal QTIP election is made for the estate. For example, if a 2011 married decedent's estate plan leaves an amount equal to the federal estate tax exemption (\$5.0 million) to a credit shelter trust (or bypass trust), the executor of the estate would not need to make a QTIP election for any portion of the trust in order to eliminate the federal estate tax for the estate. If, in this example, the provisions of the credit shelter trust qualify the trust for the federal estate tax marital deduction, the executor could make a separate Oregon QTIP election in the amount of \$4.0 million on the Oregon return and thereby eliminate the Oregon inheritance tax liability.

The Oregon OSMP Election

The Oregon Special Marital Property Election (OSMP Election) provides a solution to a potential tax problem for a commonly used version of the traditional tax plan for married couples. This plan establishes a credit shelter trust (or bypass trust) upon the death of the first spouse to die that does not require all of the trust's income to be distributed to the decedent's surviving spouse or that allows distributions to be made to the decedent's children as well as to his or her surviving spouse. Such a trust can be funded with assets with a value equal to the federal estate tax exemption without creating a federal estate tax liability for the estate. If the credit shelter trust is funded with an amount that exceeds the Oregon exemption amount, the decedent's estate will incur an Oregon inheritance tax liability. However, by making an OSMP Election and otherwise complying with the requirements of Oregon law, the estate's executor can eliminate the Oregon inheritance tax in the decedent's estate.

The Oregon Natural Resource Property Credit

Oregon allows a credit against the Oregon inheritance tax for natural resource property and fishing business property. "Natural resource property" is defined to include farm use land and forestland. The amount of the credit is determined by applying a specified percentage to the value of the natural resource property included in the decedent's estate. The percentage starts at 0.8% for credit eligible amounts that are between \$100,000 and \$150,000 and reaches a maximum rate of 13.6% for credit eligible amounts between \$7,100,000 and \$7,500,000. The maximum credit is \$705,200 for an estate that contains credit eligible property with a value of \$7,499,999.49. If the value of the credit eligible property is \$7.5 million or more, the credit

quickly decreases, reaching zero when the value of the credit eligible property reaches \$15 million. If the decedent's adjusted gross estate exceeds \$15 million, no credit is allowed. No credit is allowed unless the value of credit eligible property is at least 50% of the decedent's total adjusted gross estate. In addition, the credit eligible property must be transferred to a member of the decedent's family. The natural resource property or the fishing business property must be used for five out of eight years following the decedent's death by a member of the family, or the registered domestic partner of the decedent.

2011 Pending Oregon Legislation

There is currently legislation pending in the 2011 Oregon Legislature (HB 2541) that would result in a number of changes to the Oregon inheritance tax. One of the most significant changes is a provision that would increase the Oregon inheritance tax exemption to \$1.5 million. If this law is enacted as proposed, it will be effective for decedents who die on or after January 1, 2011.

TRANSFER TAX CHART

Year of Death	Federal Estate Tax Exemption Amount (A)	Federal Gift Tax Exemption Amount (B)	Federal Estate & Gift Tax Starting Rate ¹ (C)	Federal Top Marginal Tax Rate (D)	Federal GST Tax Exemption Amount (E)	Washington Estate Tax Exemption Amount (F)	Oregon Inheritance Tax Exemption Amount (G)	Washington Tax ² (H)	Oregon Tax ³ (I)
2001	675,000	675,000	37%	55%	1,060,000	No Tax	675,000	No Tax	-0-
2002	1,000,000	1,000,000	41%	50%	1,100,000	No Tax	700,000	No Tax	33,200
2003	1,000,000	1,000,000	41%	49%	1,120,000	No Tax	700,000	No Tax	33,200
2004	1,500,000	1,000,000	45%	48%	1,500,000	No Tax	850,000	No Tax	64,400
2005	1,500,000	1,000,000	45%	47%	1,500,000	2,000,000	950,000	-0-	64,400
2006	2,000,000	1,000,000	46%	46%	2,000,000	2,000,000	1,000,000	-0-	99,600
2007	2,000,000	1,000,000	45%	45%	2,000,000	2,000,000	1,000,000	-0-	99,600
2008	2,000,000	1,000,000	45%	45%	2,000,000	2,000,000	1,000,000	-0-	99,600
2009	3,500,000	1,000,000	45%	45%	3,500,000	2,000,000	1,000,000	170,000	229,200
2010 ⁴	5,000,000	1,000,000	35%	35%	5,000,000	2,000,000	1,000,000	390,000	391,600
2011	5,000,000	5,000,000	35%	35%	5,000,000	2,000,000	1,000,000	390,000	391,600
2012	5,000,000	5,000,000	35%	35%	5,000,000	2,000,000	1,000,000	390,000	391,600
2013 ⁵	1,000,000	1,000,000	41%	55%	1,340,000 ⁶	2,000,000	1,000,000	-0-	-0-

¹ When the taxable estate exceeds the exemption amount

² If the decedent's federal taxable estate equals the federal estate tax exemption amount

³ If the Oregon taxable estate equals the federal estate tax exemption amount

⁴ Assuming the executor does not elect out of the Tax Relief Act of 2010

⁵ If the Tax Relief Act of 2010 sunsets at the end of 2012

⁶ Estimate of inflation indexed amount