

HOUSE REVENUE COMMITTEE
MARCH 11, 2003 8:30 AM STATE CAPITOL BUILDING

Members Present: Representative Lane Shetterly, Chair
Representative Wayne Scott, Vice Chair
Representative Joanne Verger, Vice Chair
Representative Phil Barnhart
Representative Vicki Berger
Representative Pat Farr
Representative Mark Hass
Representative Elaine Hopson
Representative Max Williams

Witness Present: Rep. Randy Miller, District 37
Rep. Tom Butler, District 60
Jeff Cheyne, Attorney, Myatt, Bell & Cheyne, P.C.
Don Schellenberg, Oregon Farm Bureau
Tom Brawley, Oregon Farm Bureau
Don Cersovski, Oregon Farm Bureau
J.L. Wilson, NFIB
Patrick Green, AFL-CIO, Oregon Revenue Coalition
Clif Kenagy, retired Albany farmer
Debra Buchanan, Oregon Revenue Department

Staff Present: Paul Warner, Legislative Revenue Officer
Lizbeth Martin-Mahar, Legislative Revenue Office
Kathy Tooley, Committee Assistant

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004 Chair Shetterly Calls meeting to order at 8:34 a.m.

PUBLIC HEARING HB 2184, 2503, 2704

022 Lizbeth Martin-Mahar Provided background of current law and recent changes in estate tax law, (Exhibit 1), described connection to federal estate tax law changes, (Exhibit 2).

100 Martin-Mahar Two components need to be a part of any change in estate tax area:

- A statement for the DOR on tax treatment of Oregon estates with deaths between 1997 and 2001.
- Tax treatment for Oregon estates for 2002 and future years.

120 Martin-Mahar Encompassed in change need to consider:

- What is Oregon's estate value, filing threshold, and should it be connected to federal law?
- What is method of imposing estate tax in the future beyond phase out in 2005?

132 Martin-Mahar Summarized intent of HB 2184, need for additional clarifying language; and potential fiscal impact, (Exhibit 3).

170 Martin-Mahar Summarized intent and provided background of HB 2704; discussed revenue

impact, (Exhibit 4).

- 203 Martin-Mahar Summarized intent of HB 2503, need for additional clarifying language; discussed possible revenue impact under different connection assumptions (Exhibit 5).
- 237 Chair Shetterly Issues that need to be discussed:
- Federal changes in capital gains step up in basis.
 - What happens January 1, 2011 when the estate tax is re-imposed, does Oregon go back to a pick-up tax?
- 237 Rep. Randy Miller Spoke to philosophy behind HB 2503. Endorsed elimination of objectionable estate tax. Stated that throughout a person's life, property and income in an estate has been taxed, making this a double tax. Estate taxes could force a family to close its business.
- 297 Rep. Tom Butler Spoke in favor of HB 2503, described family experience filing a 706 U.S. death tax return, and issues relative to filing multi-state tax returns, particularly with Oregon. Oregon's estate tax required family to choose to divide the family business in order to avoid payment of \$40,000 in Oregon taxes in limited cash situation. Further issues involved DOR with equality on estate tax exemptions going back to 1996 where modifications in the law had not actually been made. Concern is Oregon is unique in inability to make up its mind where it needs to be relative to other states, created a complex situation in settling multi-state estate taxes.
- 402 Chair Shetterly Assume it would be easier for you and your clients receiving inherited capital assets to connect with federal law changes relative to step up in basis?
- 404 Rep. Butler Correct, not just when selling the assets, also includes multiple depreciation schedules.

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- 002 Jeff Cheyne Discussed benefits and problems associated with the three bills, (Exhibit 6). Until 2002, could advise clients of certain principles:
- If no federal tax due, then no state inheritance tax due.
 - When first spouse passes away, no federal or state tax due (not addressed in today's bills).
- 073 Cheyne Issue how to ensure compliance when federal return is not required, there is possible problem with ensuring compliance.
- 083 Cheyne HB 2184 addresses procedural issues and lack of statute concerning Oregon inheritance tax. HB 2184 also addresses ORS 118.160 where Oregon tax is not owed unless federal return is required.
- 110 Cheyne Suggested remedial provisions be placed in one bill, cleaning up items that are revenue neutral. Address future revenue concerns in a separate bill.
- 122 Hass Do you approve of HB 2184?
- 126 Cheyne Not completely. Concern is with section applying to 2002 and 2003. Gave example of woman required to pay \$25,000 tax, suggested a marital deduction paid on death of surviving spouse. Another unworkable aspect of HB 2184 affects 2003 and beyond which will be addressed by Debra

Buchanan. Favors HB 2704 overall, although there is a reduction in revenue, simplifies administration and compliance by federal tax exemption alignment.

- 160 Don Schellenberg Spoke in support of the principle of eliminating of inheritance tax provided in HB 2503 and HB 2704, (Exhibit 7). Discussed elimination of death tax as critical issue for Oregon family farms. Farm Bureau supports connection to federal statutes, for ease in bookkeeping, and less expense.
- 231 Tom Brawley Spoke in support of HB 2503 and HB 2704. Discussed family business, incurred debt and burden death tax will be on heirs, estimated at 22% of estate. Revenue removed from the state would be approximately 1%.
- 315 Don Cersovski Spoke in favor of elimination of the death tax. Described tax as double taxation, (Exhibit 8). Gave example of 90 year farm that was dissolved short of receiving century farm designation to pay taxes.
- Questions and discussion regarding 90 year-old farm.
- 389 Rep. Barnhart Has Farm Bureau examined any alternatives to eliminating inheritance tax such as raising exempted amount, or exempting farm land totally?
- 446 Chellenberg No, because the Farm Bureau believes the inheritance tax issue is flawed.

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- 031 Rep. Farr Agrees with Rep. Miller, that this is not the right kind of taxation.
- 036 Cersovski What is the difference between deductions taken for interest taken on a loan to pay taxes vs. getting the money up front?
- 049 Rep. Hass You want to cap mortgage interest deductions?
- 050 Cersovski No. How close to revenue neutral would a mortgage deduction be over 30 years?
- 056 Rep. Hass The Committee has sympathy for the plight of farmers, but don't get a lot of suggestions as to how to improve system that will ensure quality of education and life so people want to be here in the first place.
- 072 Brawley Farm Bureau has tax committee here next week and would like to bring back their answer.
- 075 Rep. Barnhart Important to hear suggestions. Worth looking into interest deduction on farmland mortgages as a business expense.
- 091 Rep. Scott Sympathize with farmers, noted the revenue impact is less than half a percent on the General Fund.
- 138 J.L. Wilson Supported the three bills in concept with suggestions for additional language.
- 190 Patrick Green Spoke in opposition to the three bills, in particular HB 2503, 2504, because Oregon cannot afford now, possibly would support in the future; said these industries already get tax breaks.
- 236 Clif Kenagy Testified in opposition to statements made prior. Discussed "Three Hypothetical Tax Scenarios for the Next Generation Farmer", (Exhibit 11). Said the problem is the value of the land, not the inheritance tax.

354	Debra Buchanan	Provided history and discussed issues including the lack a specific date referenced in ORS Chapter 118. After 2001 session, DOR realized there was a problem. Discussed tax that does not work together, resulting in a tax on a benefit not received. In this session, seek to clarify what the Legislature intended prior to reconciling back taxes.
407	Buchanan	Summarized HB 2184 conforming the law to what was practice in 1998-2001, (Exhibit 12). For 2002, DOR interpreting and applying current law, using an exclusion of \$600,000, which does not tie to TRA 1997 for 2002 returns. HB 2184 ties Oregon to changes for 2002, taxpayer could amend and use \$700,000 exclusion. For deaths in 2003 and later, Oregon reflects pre-TRA 1997 law; DOR does not make presumption about legislative intent, goes back to current law; discusses issue and statute of limitations. Advised there needs to be other legislation to conform the three statutes and make them work together.
016	Verger	Additional language in HB 2184? Is that what you are referring to?

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015	Buchanan	Answered affirmatively, could be additional language to HB 2184 or another bill to address 2003 and later; at 2003 estate taxation goes back to current law which needs to be fixed. Questions and discussion about what HB 2184 does
049	Buchanan	HB 2184 does what DOR felt 1999 Legislature intended. It applies those changes through 2002, beyond that leave Oregon inheritance tax to Legislature's judgment.
054	Barnhart	How many estates are we talking about?
058	Buchanan	Fewer than 1000 returns filed each year. A couple of hundred are impacted over those 4 years that might have a potential increase in Oregon tax.
073	Vice Chair Verger	Meeting adjourned at 10:01 a.m.

Tape Log Submitted by,

Kathy Tooley, Committee Assistant Reviewed by Kim Taylor James

Exhibit Summary:

1. Martin-Mahar, "Current Law and Recent Changes in Federal Estate Tax Law", 1 page
2. Martin-Mahar, "June 2002 NCSL Survey, States Connection and Decoupling from Federal Estate Tax Law Changes", 1 page
3. Martin-Mahar, "Staff Measure Summary HB 2184", 1 page
4. Martin-Mahar, "Staff Measure Summary HB 2503", 1 page
5. Martin-Mahar, "Staff Measure Summary HB 2704", 1 page
6. Cheyne, "Testimony HB 2184", 5 pages
7. Schellenberg, "Testimony HB 2503, HB 2704", 2 pages
8. Cersovski, "Testimony HB 2503 and HB 2704", 1 page
9. Green, "Testimony HB 2503", 3 pages
10. Green, "Testimony HB 2704", 3 pages
11. Kenagy, "Three Hypothetical Tax Scenarios for the Next Generation Farmer", 1 page

12. Buchanan, "Testimony HB 2184", 1 page