

**HOUSE REVENUE COMMITTEE**  
**MARCH 7, 2003 9:00 AM STATE CAPITOL BUILDING**

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

Members Excused: Representative Pat Farr  
Representative Phil Barnhart  
Representative Mark Hass

Witness Present: Debra Buchanan, Oregon Revenue Department, DOR  
Doug Henne, Certified Public Accountant  
J.L. Wilson, National Federation of Independent Business  
Christina McNitt, Oregon Small Woodlands Association.  
Michael Gaudern, Oregon Small Woodlands Association  
Casey VanNatta, VanNatta Logging  
Ron Bailey, Attorney  
Chuck Sheketoff, Oregon Center for Public Policy

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

**TAPE 1, SIDE A**

004	Chair Shetterly	Calls meeting to order at 9:07 a.m.
006	Chair Shetterly	Discussed scope of meeting as policy overview and general discussion on inheritance tax issues/options and connection-disconnection with federal estate tax laws.
016	Debra Buchanan	Provided history on Oregon Inheritance Tax relationship to upcoming bills.
100	Buchanan	Discussed 2001 Economic Growth and Tax Relief Reconciliation Act, and affect on Oregon Estate Taxes
108	Buchanan	Discussed June 2001 Legislative Counsel's advice, regarding automatic rolling ties to changes in Federal Estate Tax. Oregon is tied to law as it was in effect on April 1997.
114	Buchanan	DOR reviewed finding post-session and determined there were issues in relation to timing of exclusion increases and administration of the program. The affect may be underreporting on returns from 1998 through 2001.
130	Buchanan	Discussed 3 year statute of limitations for individual income tax.
134	Buchanan	Discussed repeal of 6 year statute of limitations on estate taxes. Legislative intent was to replace it with a 3 year statute of limitations, but did not.
139	Buchanan	Discussed difference in collection and assessment procedures. May be able

to go back to 1985 and assert additional taxes against estates that have underpaid. Legal advice is to comply with statutes as written. DOR is asking the Legislature for guidance on collecting underpaid taxes on closed estates.

- 170 Buchanan Discussed current steps a CPA would be advised to follow to determine whether a return is necessary to be filed on an estate.
- 192 Rep. Verger Discussion of tax returns prepared under the assumption that the Legislature had adopted the TRA 1997 changes.
- 195 Buchanan DOR discussed possible findings with Attorney General if DOR were to assess additional tax against an estate going back to 1998. Odds of prevailing in court if sued characterized as not good.
- 210 Doug Henne Discussed uncertainty on behalf of CPAs regarding reopening estates for back taxes. Do not know if required to go back to old estates and redo returns, and how future returns should be prepared..
- 243 Rep. Verger Is there anything in a person's estate that has not had tax paid on it already?
- 261 Henne Retirement fund monies; installment sales; income in respect of a decedent; and cash sales, where money has not been received yet.
- 277 Rep. Verger What kind of business transaction would cash sales be?
- 275 Henne Where a bill is prepared and sent to a client, income is not reported until cash is received.
- 299 J.L. Wilson This is a small business issue, impression exists that this affects the rich. For small business owner, investment in business is a primary form of savings. Discussed themes:
- Notion this only affects wealthiest 2% is erroneous.
  - People who pay death tax in another form, divert resources from family business to avoid estate tax.
  - Families taxed twice, including after tax dollars.
- 390 Wilson Discussed examples of family estates worth million dollars to demystify idea of associated cash flow. Investment is tied up in buildings, land and equipment. What would have to be sold off to pay for estate tax liability?

#### **TAPE 72, SIDE A**

- 020 Wilson Because of "Death Tax", 70% of small businesses do not make it through a second generation; 90% do not make it through a third generation; 60% of Oregon estates are valued at less than \$1.5 million
- 057 Christina McNitt Provided perspective on how estate tax can affect environmental policies and "perverse incentives" provided by the tax.
- 070 Michael Gaudern Discussed environmental perspective, (Exhibit 2) and (Exhibit 3). Discussed environmental and social benefits of family small woodland ownerships and risks to second generations by estate tax. Small woodland owners cut trees earlier than preferred management practice in order to pay taxes.
- 100 Casey VanNatta Provided video presentation of Columbia County timber owner who owned 600 acres and died in 2001, leaving \$1.5 million tax liability. Family had to clear cut ahead of schedule to pay estate taxes, resulting in a loss of

environmental, wildlife values.

- 251 Ron Bailey Former Chairman of Estate Planning Division of the Oregon State Bar. The bar doesn't have a position at present.
- 273 Bailey Discussed problems of estate planners associated with disconnect between federal and state inheritance tax law.
- 300 Discussion regarding confusion and planning issues involved with estate taxation on property passing to a surviving spouse, and on second death.
- 320 Bailey Need to review other states that are disconnecting from federal law, do not want migration to states with less burdensome inheritance tax.
- 338 Chair Shetterly Do you know what Washington State has done?
- 340 Bailey Understand they have imposed \$700,000 as the level above which they will impose taxes.
- 347 Buchanan Connected pre re-repeal. It is \$700,000.
- 360 Chuck Sheketoff Presented "Taxing So Few: Why Oregon Should Reform, Not Repeal, the Progressive Estate Tax", (Exhibit 4), "Retaining a State Estate Tax: Suggested Legislative Language", (Exhibit 5), "Inheriting the Farm", (Exhibit 6). Testified that proper planning could limit estate tax payment and having to "sell the farm".

#### **TAPE 71, SIDE B**

- 055 Sheketoff HB 2184 should be amended to continue the Taxpayer Relief Act of 1997, with a \$1 million exemption as of 2005.
- 093 Rep. Verger Did you say that most Oregon taxes are paid by the lowest income?
- 094 Sheketoff No, OTIM and ITAP models show the lowest income Oregonians have the highest tax burden.
- 097 Chair Shetterly Aside from revenue impact, isn't policy issue of an estate really a federal policy, not much policy consideration at the state level?
- 105 Sheketoff Disagree, discussed book by Bill Gates, Sr, entitled "Wealth in our Common Wealth", Position is that society helps people make their wealth and this is a way of giving back to society.
- 127 Sheketoff Because of stepped up basis, not necessarily. If individual did not sell stock, taxes were not paid, it went up in value.
- 130 Questions and discussion regarding double payment of taxes.
- 180 Discussion regarding raising exemption to \$3.5 million.
- 207 Questions and discussion regarding charitable giving.
- 227 Discussion regarding Congressional resolutions.
- 270 Questions and discussion regarding stepped up basis.
- 322 Chair Shetterly Meeting adjourned at 10:22 a.m.

Tape Log Submitted by,

Kathy Tooley, Committee Assistant Reviewed by Kim Taylor James

Exhibit Summary:

1. Buchanan, "Oregon Inheritance Tax History", 5 pages
2. Gaudern, "Nov 18, 2002 Press Release: A Lifetime of Caring Brings Rewards as Oregon Family Wins National Forest Competition", 4 pages
3. McNitt, Gaudern "Sustaining Oregon's Family Forestlands", 16 pages
4. Sheketoff, "Taxing so Few: Why Oregon Should Reform, Not Repeal, the Progressive Estate Tax", 8 pages
5. Sheketoff, "Retaining a State Estate Tax: Suggested Legislative Language", 4 pages
6. Sheketoff, Capital Press Article: "Inheriting the farm, Planning key to avoiding "death tax", 1 page