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THE OREGON INHERITANCE TAX:
Can $1 Really Make A Difference?

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After Congress passed substantial changes to the federal estate tax laws in 2001, Oregon was one of a number of states that "disconnected" its inheritance tax system from the federal estate tax system. The Oregon tax and the federal tax must now be calculated separately after a person dies. This disconnect gives rise to both an excellent planning opportunity and a dangerous tax trap, such that $1 can make a $33,200 difference in Oregon inheritance taxes.

The opportunity arises from two unusual aspects of Oregon law. First, property which is given away during a person's lifetime—even shortly before death—is completely outside the Oregon inheritance tax system. Unlike the federal system, such gifts are not subject to the Oregon inheritance tax and do not affect the person's Oregon inheritance exemption (the amount that can pass at death without tax). Second, the obligation to file an Oregon inheritance tax return is currently tied solely to the cash value of all property the taxpayer owned at death (the "gross estate").

Careful lifetime gifting could save thousands of dollars of tax

Thus, if a taxpayer's gross estate is $1,000,000 or more, a state inheritance tax return must be filed. On the other hand, if the gross estate is $999,999 or less, no filing requirement exists *and, therefore, no tax is arguably due*.

Thus, the planning opportunity for Oregon taxpayers with gross estates over $1,000,000 is to give away sufficient assets before their deaths to reduce their estates below that threshold. The danger is that a taxpayer will miss the mark, with potentially dire consequences. Thus, if an Oregon taxpayer makes lifetime gifts but nevertheless dies with a gross estate of more than $999,999—*even one dollar more*—the estate will owe Oregon inheritance tax, which could amount to as much as $33,200 additional for a $1 mistake, depending on the size of the gifts.

A well thought-out estate plan will take into account the value of the gross estate, the applicable tax rules and lifetime gifting opportunities. If the estate is over $999,999 and lifetime gifting is implemented, it is very important to closely monitor the size of the estate with accurate valuation figures from year to year so that an inadvertent mistake (of even $1) does not cause thousands of dollars in tax liability. For larger estates, the impact of federal estate and gift taxes must also be considered. However, if implemented properly, some basic planning can yield excellent results and may even prevent the filing of an inheritance tax return with the State of Oregon.

A $1 error could cause $33,200 in additional inheritance tax

To safely benefit from such planning opportunities and avoid the pitfalls, these concepts should be combined with thorough

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analysis and a carefully crafted will or trust, which the estate planning attorneys at Kell, Alterman & Runstein, LLP can provide. With the proper advice and counsel, lifetime gifting could save thousands of dollars of federal estate and state inheritance tax.

Proper allocation of assets is a vital part of an estate plan

It is important to remember that tax laws are continually changing. Further, simply signing your will or trust may not be enough. Proper allocation of asset ownership (whether between spouses or titled in trust) is a vital part of making your estate plan work as intended. Beneficiary designations on retirement plans and life insurance policies must also be coordinated with your estate plan.

If you have not had your estate planning reviewed in the last three years, you should consider making an appointment for an update to confirm that your plan still works as intended.

If you have a question about your estate planning, please contact us.

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