Chapter 118

1963 REPLACEMENT PART

Inheritance Tax

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TAXABLE PROPERTY; DEDUCTIONS; RATES

118.005 Definitions for ORS 118.005 to 118.840. (1) Any person related to the decedent by a chain of relationship, any step or steps of which are created by legal adoption, shall, for the purposes of ORS 118.005 to 118.840, be considered as related in the same degree as though all steps in the relationship were by natural blood.

(2) As used in ORS 118.005 to 118.840:

(a) "Daughter-in-law" includes the widow of a deceased son of the decedent.

(b) "Son-in-law" includes the widower of a deceased daughter of the decedent.

(c) "Stepchild" means the child of a spouse or deceased spouse by a former marriage to a person other than the decedent. [1959 c.418 §7]

118.010 Property, transfers and interests subject to tax. (1) All property, tangible or intangible, and any interest therein, within the jurisdiction of the state, whether belonging to the inhabitants of this state or not, which passes or vests by dower, curtesy, survivorship, will or by statutes of inheritance of this, or any other state, or by revesting, repayment or settlement of any previously escheated estate or part thereof, or by the exercise of a general power of appointment as provided in subsection (5) of this section, or by deed, grant, bargain, sale or gift, or as an advancement or division of his or her estate, made in contemplation of the death of the grantor or bargainor or intended to take effect in possession or enjoyment after the death of the grantor, bargainor or donor to any person or persons, or to any body or bodies, politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled, in possession or expectation, to any property or income thereof, is subject to tax at the rate specified in ORS 118.100, to be paid to the State Treasurer for the use of the state.

(2) (a) Whenever property, other than real property held by the entirety, is held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving joint tenant or tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a taxable transfer in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or depositor and had been devised or bequeathed to the surviving joint tenant or tenants, person or persons, excepting therefrom such parts thereof as may be shown to have originally belonged to such surviving joint tenant or person, and never to have been acquired from the decedent for less than a fair consideration in money or money's worth, and if the property has been acquired from decedent for less than such fair consideration, there shall be excepted from the value of the property a portion equal to the amount of the consideration so furnished.

(b) Upon the death of one of the tenants of real property held by the entirety, the right of the surviving tenant to the immediate ownership or possession and enjoyment of such property shall be deemed a taxable transfer in the same manner as though one-half of the whole property to which such transfer relates belonged absolutely to the deceased tenant and had been devised or bequeathed to the surviving tenant.

(3) Any transfer of property made by a decedent by deed, grant, bargain, sale or gift, within three years prior to the decedent's death without a valuable and adequate consideration therefor, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of ORS 118.005 to 118.840; but no such transfer made before such three-year period shall be treated as having been made in contemplation of death if:

(a) No gift taxes were payable under ORS chapter 119 on such transfer; or

(b) All gift taxes payable under ORS chapter 119 on such transfer were paid when due.

(4) In the event of death of one of the tenants of property held by the entirety, after sale thereof upon an executory or instalment contract, the transfer of the decedent's interest in the unpaid balance owing upon such contract at the time of death shall be deemed a taxable transfer in the same manner as under paragraph (b) of subsection (2) of this section.

(5) When, after August 3, 1955, property passes or vests subject to a general power of appointment, for the purposes of

the taxes imposed by ORS 118.005 to 118.840 by reason of the death of the donor, the donee is deemed to have acquired the full taxable interest from the donor. For the purposes of the taxes imposed by ORS 118.005 to 118.840 by reason of the death of the donee of such a general power, an appointee is deemed to have acquired from the donee the full taxable interest of such of the property which passes or vests only by reason of the exercise of the power by the donee. A general power of appointment is one where the donee has substantial beneficial enjoyment of the property, including one which the donee may exercise in favor of himself, his estate, his creditors or the creditors of the estate, during lifetime or at death, and including one under which the donee may convey or transfer ownership of the property to whomever he may choose.

[Amended by 1955 c.727 §1; 1959 c 418 §1]

118.020 Taxability of transfers to governmental units and certain private institutions. (1) Devises, bequests, legacies and gifts are exempt from taxation under the provisions of ORS 118.005 to 118.840, if made:

(a) To any benevolent, charitable, religious, scientific or educational institution, society, association or corporation organized and existing within this state and actually engaged in carrying out the objects and purposes for which so organized or existing; or

(b) To a corporation, association or society to be organized for such purposes under the laws of this state pursuant to the terms of the instrument providing such devise, bequest, legacy or gift; or

(c) To a person or persons or association of persons in trust for benevolent, charitable, religious, scientific or educational uses within this state; or

(d) To the State of Oregon or any political subdivision thereof.

(2) Devises, bequests, legacies or gifts to any corporation, society, institution, person or persons or association of persons for benevolent, charitable, religious, scientific or educational purposes, organized, existing or operating under the laws of or within a state or territory of the United States (other than Oregon), are exempt from taxation under the provisions of ORS 118.005 to 118.840.

(a) If at the date of decedent's death the laws of such state or territory did not impose a death tax of any character in respect to property transferred to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of or within this state; or

(b) If at the date of decedent's death the laws of such state or territory contained a reciprocal provision under which devises, bequests, legacies or gifts to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of or within another state or territory were exempted from death taxes of every character providing such other state or territory allowed a similar exemption to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of other states or territories.

[Amended by 1961 c.455 §1; 1963 c.135 §1]

118.030 Taxes upon devises and bequests in lieu of commissions. Whenever a decedent appoints one or more executors or trustees, and in lieu of their allowance or commission, makes a bequest or devise of property to them, which would otherwise be liable to inheritance tax, or appoints them his residuary legatees, and such bequests, devises or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to such tax, and the court having jurisdiction of their accounts upon its own motion, or on the application of the State Treasurer, shall fix such compensation.

118.040 Insurance included or exempt from taxation, when. (1) Subject to subsections (2) and (3) of this section, the gross value of the taxable estate shall include the value of:

(a) The amounts receivable by the estate or the executor or administrator of the estate of the decedent as insurance under policies on the life of the decedent.

(b) The amounts receivable by all other beneficiaries as insurance under policies on the life of the decedent with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person. For the purposes of the preceding sentence, "incident of ownership" includes a reversionary interest (whether arising by the express terms of the policy or other instrument or by operation of law) only if the

value of such reversionary interest exceeded five percent of the value of the policy immediately before the death of the decedent. As used in this paragraph, "reversionary interest" includes a possibility that the policy, or the proceeds of the policy, may return to the decedent or his estate, or may be subject to a power of disposition by him. The value of a reversionary interest at any time shall be determined (without regard to the fact of the decedent's death) by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations determined by the State Treasurer. In determining the value of a possibility that the policy or proceeds thereof may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such policy or proceeds may return to the decedent or his estate.

(2) There is exempted from taxation under ORS 118.005 to 118.840 all proceeds of policies and contracts of life insurance issued at any time before January 1, 1960, on the life of the decedent and payable to a beneficiary or beneficiaries other than the estate or the executor or administrator of the estate of the deceased insured, whether payable directly or to or through a trustee, immediately or at future dates. Such exemptions do not include any investment policy issued by a life insurance company which does not include in the policy the element of life insurance.

(3) There is exempted from taxation under ORS 118.005 to 118.840 the proceeds not exceeding $75,000 in the aggregate of policies and contracts of life insurance issued at any time after December 31, 1959, on the life of the decedent and payable to any beneficiary or beneficiaries other than the estate or the executor or administrator of the estate of the deceased insured, whether payable directly or to or through a trustee, immediately or at future dates. Such exemptions do not include any investment policy issued by a life insurance company which does not include in the policy the element of life insurance. The exemption of $75,000 shall be prorated among the beneficiaries of such policies to or for whose use they are payable in proportion to the benefits accruing to them respectively.

[Amended by 1959 c.418 §2]

118.050 Pension, retirement and social security benefits exempt from taxation. The value of all benefits not exceeding the sum of $10,000 payable to each beneficiary, other than to the estate or to the executor or administrator of the estate, of a deceased person under the provisions of The National Social Security Act, The National Railroad Retirement Act, or under any pension or retirement plan established by the federal or state government or any municipality or any political subdivision of the state or under any pension or retirement plan or trust established by an employer which qualifies for income tax exemptions under the Federal Internal Revenue Code, shall be exempt from taxation under the provisions of ORS 118.005 to 118.840.

[Amended by 1955 c.727 §2; 1963 c.392 §1]

118.060 Reciprocal exemption of intangible personal property of nonresident decedent. Intangible personal property of a nonresident decedent upon which an inheritance tax is imposed by ORS 118.005 to 118.840, is not subject to the tax so imposed if a like exemption is made by the laws of the state or country of decedent's residence in favor of residents of this state.

118.070 Deductions from gross value of taxable estate. In ascertaining the net value of estates for the purpose of computing inheritance tax the following deductions, and no others, may be made from the gross value of the taxable estate:

(1) In probated estates:

(a) Claims allowed against the estate owing at the time of death.

(b) Mortgages or other liens owing at the time of death upon property, the value of which is included in the taxable estate, but not the proportionate part of mortgages or liens on entirety held property which is exempt from tax liability or deductible from the gross taxable estate.

(c) Expenses of funeral, and any amount not exceeding $500 actually expended or to be expended for a monument or memorial.

(d) All state, county and municipal property taxes which were a lien against the property of the estate at the date of death, but not the proportionate part of taxes on entirety held property which is exempt from tax liability or deductible from the gross taxable estate.

(e) Income or gift taxes of the United States or the State of Oregon owing at the date of death, but not United States estate taxes.

(f) Ordinary expenses of administration, including fees allowed executors or administrators under the provisions of ORS 117.680 and reasonable fees for their attorneys, except to the extent that any portion of such expenses has been claimed as deductions under subsection (4) of ORS 316.305.

(g) The value of decedent's taxable interest in decedent's homestead when such interest passes to any grandparent, parent, spouse, child, stepchild or any lineal descendant of the decedent; provided that upon the death of such decedent, such homestead is the domicile of such grandparent, parent, spouse, child, stepchild or any other lineal descendant of the decedent. As used in this paragraph:

(A) "Homestead" means the homestead and abode of the decedent; but, where a portion of such property is used as the residence of the decedent and his family and a portion is used for business purposes or in the production of income, an allocation shall be made in accordance with regulations of the State Treasurer; and only that portion of such property used by the decedent and his family as their residence shall be considered as the homestead of the decedent for the purposes of this paragraph.

(B) "Passes" includes any case where, for the purposes of ORS 118.005 to 118.840, a taxable transfer takes place or is deemed to take place.

(2) In unprobated estates:

(a) The deductions specified in paragraphs (b), (c), (d), (e) and (g) of subsection (1) of this section, and also debts of the decedent properly paid by a trustee pursuant to a trust instrument.

(b) Expenses of last illness.

(c) Reasonable attorney's fees, reasonable appraisers' fees, and reasonable trustee's fees properly paid pursuant to a trust instrument, if paid in connection with the settlement of the estate.

[Amended by 1955 c.727 §3; 1959 c.418 §3; 1961 c.455 §2; 1963 c.283 §1]

Note: The 1963 amendment to ORS 118.070 applies to taxes which, under ORS 118.220, accrue after September 2, 1963. [1963 c.283 §3]

118.075 Cooperative housing unit as "homestead" under ORS 118.070. (1) As used in paragraph (g) of subsection (1) of ORS 118.070, "homestead," in addition to any other property considered or defined as a homestead, shall include stock in a cooperative housing corporation that is held by a tenant-stockholder on the date of his death, if:

(a) At the date of the death of the tenant-stockholder the house or apartment was used as the abode of the tenant-stockholder; and

(b) At the date of the death of the tenant-stockholder such house or apartment is the domicile of the grandparent, parent, spouse, child, stepchild or any other lineal descendant of the tenant-stockholder to whom the stock passes.

(2) The definitions of "tenant-stockholder" and "cooperative housing corporation" in ORS 316.390 shall apply to this section.

[1963 c.435 §6]

Note: Section 7 of chapter 435, Oregon Laws 1963, provides that ORS 118.075, 316.257, 316.385 and 316.390 shall be applicable to tax years ending after December 31, 1963.

118.080 Exemption of property previously taxed within five years. There shall be exempt from taxation under the provisions of ORS 118.005 to 118.840 the value of any property, as in this section limited, received by the decedent within five years prior to his death by inheritance, devise, bequest or gift where such property has been received from a grandparent, parent, spouse, child or stepchild, or any lineal descendant of the decedent, and passes to any person or persons within the foregoing relationships to the decedent, where such property can be identified as having been so received, and where the tax on such property shall, within such five years, have been imposed and accrued in this state under ORS 118.100 and 118.220, and the tax subsequently paid. This exemption shall be limited to the value of the property in the estate of the prior decedent or in the estate of the present decedent, whichever is the lower, and only as to taxes paid to the State of Oregon.

[Amended by 1959 c.418 §4; 1961 c.455 §3]

118.090 Deductions in case of foreign estate liable to pay tax. In case of any property belonging to a foreign estate, which estate in whole or in part is liable to pay an inheritance tax in this state, the tax shall be assessed upon the full and true value of the property remaining after the payment of such debts and expenses as are chargeable to the property under the laws of this state. In the event that the executor, administrator or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction and with the State Treasurer, duly certified statements exhibiting the full and true

value of the entire estate of the decedent owner, and the indebtedness for which the estate has been adjudged liable, which statements shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of the estate shall then be entitled to have deducted such proportion of the indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate.

[Amended by 1963 c.68 §1]

118.100 Rates of tax. (1) The rates of tax on all estates shall be as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 15,000	$ 25,000	1
25,000	50,000	1½
50,000	75,000	2
75,000	100,000	3
100,000	300,000	5
300,000	500,000	7
500,000		10

The above tax on the estate shall be in full for all inheritance tax on any devise, bequest, legacy, gift or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any grandparent, parent, spouse, child or stepchild or any lineal descendant of the deceased.

(2) When any inheritance, devise, bequest, legacy, gift or the beneficial interest to any property or income therefrom shall pass to or for the use or benefit of any brother, sister, uncle, aunt, niece, nephew or any lineal descendant of the same, or to a son-in-law or daughter-in-law, in every such case, in addition to the tax levied on such estate, such person shall pay an inheritance tax as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 1,000	$ 3,000	1
3,000	5,000	2
5,000	10,000	4
10,000	30,000	7
30,000	50,000	10
50,000		15

(3) In all other cases, in addition to the tax levied on such estate, such person, body politic or corporate shall pay an inheritance tax as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 500	$ 1,000	4
1,000	2,000	6
2,000	4,000	8
4,000	10,000	10
10,000	25,000	15
25,000		20

[Amended by 1959 c.418 §5]

118.110 Tax rate applicable to net estate after allowing deductions; apportionment. The rates of tax prescribed in subsection (1) of ORS 118.100 shall be applied to the entire net estate remaining after allowance of the deductions specified in ORS 118.070 and the tax thus computed shall be apportioned to each distributive share of the estate in the ratio which each distributive share bears to the net estate. However the proportion of such tax found to be apportionable to devises, bequests, legacies or gifts which are exempt under ORS 118.020 and to property previously taxed which is exempt under ORS 118.080, shall not be collected.

[Amended by 1953 c.704 §1; 1961 c.455 §4]

118.120 to 118.200 [Reserved for expansion]

LIEN; PAYMENT; COMPROMISE OF TAX

118.210 Liability for tax. All heirs, legatees, devisees, administrators, executors and trustees, and any grantee or donee under a conveyance or gift made during the grantor's or donor's life if the conveyance or gift is subject to tax under ORS 118.010, are, respectively, liable for any and all taxes mentioned in ORS 118.010, with interest thereon, until the same have been paid as in ORS 118.005 to 118.840 provided.

118.220 When tax accrues and is payable. All taxes imposed by ORS 118.005 to 118.840 take effect at and accrue upon the death of the decedent, and are due and payable at the expiration of eight months from such death, except as otherwise provided in ORS 118.005 to 118.840, and except that taxes upon any devise, bequest, legacy or gift, limited, conditioned, dependent or determinable upon the happening of any contingency or future event, by reason of which the full and true value thereof cannot be ascertained at or before the

time when the taxes become due and payable, accrue and are due and payable when the person or corporation beneficially entitled thereto comes into actual possession or enjoyment thereof.

118.230 Lien of tax; liability for payment; limitation. (1) Every tax imposed by ORS 118.005 to 118.840 is a lien upon the property embraced in any inheritance, devise, bequest, legacy or gift until paid, and the person to whom such property is transferred, and the administrators, executors and trustees of every estate embracing such property are personally liable for such tax until its payment, to the extent of the value of such property.

(2) However, in all estates, excepting those of nonresident deceased, if all inheritance taxes are not sued for within six years after the amount of such taxes is determined by the probate court and the notice of such determination has been served upon the State Treasurer, as provided in ORS 118.690, they are conclusively presumed to be paid and cease to be a lien against the estate, or any part thereof, except that as to property not previously reported to the State Treasurer, the time limitation shall run only from the time of the reporting thereof. In estates of nonresident deceased, such limitation period shall not apply until one year has elapsed after official notice of the death of the nonresident deceased, with description and probable value of the estate, has been filed with the State Treasurer.

118.240 Delivery of property prior to collection of tax by personal representative prohibited. Any administrator, executor or trustee having in charge, or in trust, any property for distribution, embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to inheritance tax shall deduct the tax therefrom, and within 30 days thereafter pay the same to the State Treasurer, as provided in ORS 118.005 to 118.840. If such property is not in money, he shall collect the tax on such inheritance, devise, bequest, legacy or gift upon the appraised value thereof from the person entitled thereto. He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under ORS 118.005 to 118.840, to any person until he has collected the tax thereon.

118.250 To whom tax payable; final accounting of representative prohibited without production of receipt or bond. (1) The taxes imposed by ORS 118.005 to 118.840 are payable to the State Treasurer.

(2) The treasurer shall give the executor, administrator, trustee or other person paying such tax, a receipt as provided by ORS 293.290, whereupon it shall be a proper voucher in the settlement of his accounts, or, if no tax is found by the treasurer to be due, a certificate to that effect.

(3) No executor, administrator or trustee is entitled to a final accounting of an estate unless he produces such a receipt or certificate, or a copy thereof certified by the treasurer, or unless a bond has been filed, as prescribed by ORS 118.300. [Amended by 1955 c.727 §4]

118.260 Discount; interest; payment where tax not determined. (1) If the tax imposed by ORS 118.005 to 118.840 is paid within eight months from the accruing thereof, a discount of five percent shall be allowed and deducted therefrom. If the tax is not paid within eight months from the accruing thereof, interest shall be charged and collected thereon at the rate of eight percent per year from the time when the tax became due and payable, unless by reason of claims upon the estate, necessary litigation or other unavoidable delay, such tax could not be determined and paid as in ORS 118.005 to 118.840 provided, in which case interest at the rate of six percent per year shall be charged upon such tax from the time when the tax became due and payable, until the cause of such delay is removed, after which eight percent shall be charged.

(2) In all cases in which a bond is given, under the provisions of ORS 118.300, interest shall be charged at the rate of six percent per year from the time when the tax became due and payable, until the date of payment thereof.

(3) If the tax has not been determined, a temporary payment may be made to obtain the discount or to avoid interest. Should the amount of such payment exceed the sum subsequently determined to be due, the State Treasurer shall refund the excess.

(4) Payments made after accrual of interest on the tax shall be applied first thereto, and then to the principal thereof.

118.270 From what property tax is collectible. Except as to real property located

outside of the state passing in fee from the decedent owner, the tax imposed under ORS 118.100 shall be assessed against and be collected from property of every kind, which, at the death of the decedent owner is subject to, or thereafter, for the purpose of distribution, is brought into this state and becomes subject to the jurisdiction of the courts of this state for distributive purposes, or which was owned by any decedent domiciled within the state at the time of the death of such decedent even though such property was situated outside of the state.

118.280 Power to sell for payment of tax; tax lien transferred to proceeds when property of estate sold or mortgaged. (1) Every executor, administrator or trustee has power to sell as much of the property embraced in any inheritance, devise, bequest or legacy, as will enable him to pay the tax imposed by ORS 118.005 to 118.840, in the same manner as he is authorized to do for the payment of the debts of a decedent.

(2) Any part of the gross estate sold pursuant to an order of the court or by virtue of a power conferred by will for the payment of claims against the estate and expenses of administration, for the payment of the tax imposed by ORS 118.005 to 118.840, or for purposes of distribution, shall be divested of the lien of such tax, and such lien shall be transferred to the proceeds of such sale. A mortgage on property executed pursuant to an order of court or by virtue of a power conferred by will for payment of claims against the estate and expenses of administration and for payment of the tax imposed by ORS 118.005 to 118.840 shall constitute a lien upon said property prior and superior to the inheritance tax lien, which inheritance tax lien shall attach to the proceeds of such mortgage.

[Amended by 1957 c.362 §1]

118.290 Duty of recipient when legacy payable out of property; legacy for limited period. (1) If any bequest or legacy is charged upon or payable out of any property, the heir or devisee shall deduct such tax therefrom and pay such tax to the administrator, executor or trustee, and the tax shall remain a lien or charge on such property until paid. The payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the bequest or legacy is enforced, or by the Attorney General under ORS 118.370.

(2) If any bequest or legacy is given in money for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount; but, if it is not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires, of the sum to be paid into his hands by such legatee or beneficiary, and for such further order relative thereto as the case may require.

[Amended by 1961 c.455 §5]

118.300 Deferred payment; bond. Any person or corporation beneficially interested in any property chargeable with a tax under ORS 118.010, and executors, administrators and trustees thereof, may elect, within six months from the death of the decedent, not to pay such tax until the person or persons beneficially interested therein shall come into actual possession or enjoyment thereof. If it is personal property, the person or persons so electing shall give a bond to the state in the penalty of three times the amount of such tax, with such sureties as the probate judge of the proper county may approve, conditioned for the payment of such tax and interest thereon, at such time and period as the person or persons beneficially interested therein may come into actual possession or enjoyment of such property, which bond shall be executed and filed, and a full return of such property upon oath made to the probate court within six months from the date of transfer thereof, as in this section provided. Such bond must be renewed every five years.

118.310 Transfer of stock or obligations by foreign representative; payment of tax prior to transfer. If a foreign executor, administrator or trustee assigns or transfers any stock or obligations in this state standing in the name of the decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the State Treasurer on or before the transfer thereof, and no such assignment or transfer is valid unless such tax is paid.

118.320 Transfer of stock by representative; consent of State Treasurer to transfer prior to payment. No executor, administrator or trustee of any decedent, resident or nonresident, shall assign or transfer any stock of any corporation of this

state or of any national banking association located in this state, standing in the name of a decedent, or in the joint names of a decedent and one or more other persons, or in trust for a decedent, subject to the inheritance tax imposed by law, until such tax has been paid, unless the State Treasurer consents to such transfer prior to such payment in the manner provided by ORS 118.340.

118.330 Corporation executing transfer; examination of transfer books by treasurer; liability for unauthorized transfer. (1) No corporation of this state or national banking association located in this state shall transfer any stock of such corporation or association, standing in the name of a decedent, whether resident or nonresident, or in the joint names of a decedent and one or more persons, or in trust for such decedent, unless the State Treasurer has filed with the corporation or association a certificate that the inheritance tax on the transfer of such stock has been fully paid, or otherwise consents thereto in writing. The State Treasurer, either personally or by representative, may examine the shares of stock of such decedent at the time of such transfer and also the transfer books of the corporation or association showing such transfer.

(2) Any such corporation or association making any transfer of stock in violation of the provisions of this section, is liable for the payment of the amount of the taxes to which the property so transferred is subject, which liability for such tax and interest shall be enforced in an action of debt in the name of the state, brought by the State Treasurer thereof, and the same when recovered shall be paid into the treasury of the state for the use of the state.

(3) However, nothing in ORS 118.320 to 118.340 shall affect stock properly assigned and held as collateral security.

118.340 Consent of State Treasurer to transfer; certificate of payment of tax. Whenever the inheritance tax imposed upon the transfer of the stock of any corporation of this state, or national banking association located in this state, standing in the name of a decedent, resident or nonresident, or in the joint names of the decedent and one or more persons, or in trust for such decedent, has been paid, the State Treasurer shall, upon the request of any interested party or of the corporation or association or upon his own motion, file with the corporation or association a certificate of such payment. The State Treasurer is empowered to consent to the transfer of such stock prior to the payment of the taxes whenever he deems such transfer may be so made without prejudice or peril to the rights of the state.

118.350 Compromise and compounding tax; approval by court; proceedings in case of actions or suits involving title to real property. (1) Whenever an estate, devise, legacy or beneficial interest therein, charged or sought to be charged with the inheritance tax is of such nature or is so disposed that the liability of the same is doubtful, or the value thereof cannot with reasonable certainty be ascertained under the provisions of law, the State Treasurer may, with the written approval of the Attorney General setting forth the reasons therefor, compromise with the beneficiaries or representatives of such estates, and compound the tax thereon; but the settlement must be approved by the court having jurisdiction of the estate, and after such approval the payment of the amount of the taxes so agreed upon shall discharge the lien against the property of the estate.

(2) In any suit or action in the circuit court of the state involving the title to real property only, in which it appears, by the pleadings or otherwise, that an inheritance tax is or might be payable to the State of Oregon by reason of the death of any person whose estate has not been administered in Oregon, such circuit court shall direct that a copy of the pleadings in such cause be served upon the State Treasurer, such service to be made as summons is served in any cause in the circuit court of this state. Thereupon further proceedings in the cause shall be suspended until the State Treasurer has had an opportunity to appear therein, such appearance to be made within the time that is required by the service of summons upon a private person or corporation. The State Treasurer shall appear in the cause and present the claims of the state, if any, to an inheritance tax, and it is the duty of the Attorney General of the state to represent the state and the State Treasurer in such proceedings, and the State Treasurer may, with written approval of the Attorney General setting forth the reasons therefor, compromise and compound the tax claimed to be due upon the passing of such real property. Such settlement and compromise shall

be entered of record in the journal of the proceedings of such court. Thereafter the payment of the amount of taxes so agreed upon shall discharge the inheritance tax lien against the property. If a compromise is not effected, the amount of tax, if any, due upon the passing of the real property shall be determined by the circuit court as are other questions involved in such litigation, and subject to the same right of appeal to the Supreme Court. The decree of the circuit court or of the Supreme Court, if there is an appeal, is conclusive as to the amount of taxes due upon the passing of the real property and payment thereof shall discharge the lien against the property.

118.360 Refund of tax erroneously paid; limitations. When any tax imposed by ORS 118.005 to 118.840 is erroneously paid, wholly or in part, the person paying the same is entitled to a refund of that amount. However, all applications for such refunding shall be made within three years from the payment of the tax.
[Amended by 1959 c.273 §2]

118.370 Duty of treasurer to apply for citation to collect unpaid taxes; action for tax. (1) If the State Treasurer has reason to believe that any tax is due and unpaid under ORS 118.005 to 118.840, after the refusal or neglect of the persons liable therefor to pay the same, he shall apply to the court having probate jurisdiction for a citation citing the persons liable to pay such tax to appear before the court on the day specified, not more than 30 days from the date of such citation, unless the court, for good cause shown, grants a longer time, and show cause why the tax should not be paid. The court, upon such application, and whenever it appears that any such tax accruing under ORS 118.005 to 118.840 has not been paid as required by law, shall issue such citation. The service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon, shall conform as nearly as may be to the provisions of the probate practice; provided, that where no provision is made for manner of such service or proof of same, the court or judge, at the time such order or citation is issued, shall direct the manner of giving notice and proof of the same.

(2) Whenever it appears from a determination of the probate court that any tax is due and payable under the provisions of ORS 118.005 to 118.840, in addition to any other remedy, the treasurer may sue for, in the name of the state, and enforce the collection of such tax. All taxes so collected shall be forthwith disposed of as provided in ORS 118.510.

(3) The Attorney General shall appear for and represent the State Treasurer in connection with such citation, hearing, action or suit.
[Amended by 1955 c.727 §5; 1959 c.273 §3]

118.380 Duplicate receipts to be furnished by State Treasurer; recordation. The State Treasurer shall, upon the payment of 25 cents, issue to any person demanding the same, a copy of a receipt that may have been given by such treasurer for the payment of any tax under ORS 118.005 to 118.840. This receipt shall designate by whom the tax was paid and whether payment in full of the tax was made. Should the payment include a tax upon the transfer of real property situated in a county other than that of the administration of the estate, the receipt shall contain an identifying reference to such property. If the estate of the decedent will not be administered or probated, the receipt shall indicate upon what real property transfers the tax was paid. Such receipts may be recorded in the office of the recorder of deeds of the county in which such property is situated, in a book to be kept by him for that purpose, which shall be labeled "Transfer Tax." No additional charge for copies of a receipt shall be made by the State Treasurer if issued at the time of issuance of the original thereof. The sum paid to the State Treasurer for copies of receipts shall be disposed of as provided in ORS 118.510.
[Amended by 1959 c.273 §4]

118.390 Recording receipts by county officer. The county commissioners of each county shall provide a book for the recording of the receipts mentioned in ORS 118.380. The recorder of deeds of each county shall charge and collect, at the time the receipt is presented for record, for the use of the county, the sum of 25 cents for recording each receipt.

118.400 [Reserved for expansion]

ADMINISTRATION OF INHERITANCE TAX ACT

118.410 Jurisdiction of tax cases. The court in each county in this state having jurisdiction to grant letters testamentary or

of administration upon the estate of a decedent whose property is chargeable with any tax under ORS 118.005 to 118.840, or to give ancillary letters thereon, or to appoint a trustee of any part of such estate, has jurisdiction to hear and determine all questions arising under the provisions of ORS 118.005 to 118.840, and to any act in relation thereto authorized by law to be done by such court in other matters or proceedings coming within his jurisdiction. If two or more courts are entitled to exercise such jurisdiction, the court first acquiring jurisdiction under ORS 118.005 to 118.840 shall retain the same to the exclusion of every other court.

118.420 Notice to State Treasurer of administration of estate; determination of value; application by treasurer for letters. The judge of the court having jurisdiction of the estate of any decedent shall, within 10 days after the filing of a will, the application for letters of administration or the granting of letters testamentary or of administration, if in his opinion the estate is subject to a tax under any of the provisions of ORS 118.005 to 118.840, cause the county clerk to send to the State Treasurer a certificate of the filing of such will or application, or the granting of such letters of administration. The court shall thereupon, and as soon as practicable after the granting of any such letters, proceed to ascertain and determine the full and true value of every inheritance, devise, bequest or legacy embraced in or payable out of the estate in which such letters are granted, and the tax due thereon. The State Treasurer shall have the same right to apply for letters of administration as that conferred by law upon creditors.
[Amended by 1963 c.68 §2]

118.430 [Reserved for expansion]

118.440 Notice to State Treasurer by depositories before permitting access to receptacle; notice by any person before delivering or transferring any securities or other property. (1) No person, safe deposit company, trust company, corporation, bank or other institution engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such receptacle without first requiring all persons given access thereto to agree in writing to notify the depositary from whom such receptacle is rented of the death of any person having the right of access thereto, before securing access to the receptacle after the death of such person. All persons having the right of access to any such receptacle, upon the death of any other person having access thereto, before securing access to the receptacle must notify the depositary from whom the receptacle is rented of the death of such person.

(2) No person, safe deposit company, trust company, bank, corporation or other institution having in possession or under control, custody or partial custody any safe deposit box or similar receptacle, shall permit access thereto by any one after knowledge or notice of the death of any person who at the time of his death had the right or privilege of access thereto either as a principal, deputy, agent or cotenant, or deputy or agent of a deceased principal unless notice in writing of the time and place when such access is to be given is served on the State Treasurer at least five days prior to the time such access is permitted.

(3) No person, safe deposit company, trust company, bank, corporation or other institution, or corporation in which the decedent at the time of his death owned any stock, having in possession or under control or custody or under partial control or partial custody, securities, deposits, assets or property belonging to or standing in the name of the decedent, who was a resident or nonresident, or belonging to or standing in the joint names of such decedent and one or more other persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer provided in this section shall, after notice of death of the deceased, deliver or transfer the same to the executors, administrators, legal representatives or to any other persons, or to the survivors when held in the joint names of a decedent and one or more other persons, or upon their order or request, unless notice of the time and place of such intended transfer is served upon the State Treasurer in writing at least 10 days prior to the transfer. The State Treasurer, personally or by representative, may examine the securities, deposits or assets prior to the time of such delivery or transfer. If upon such examination the State Treasurer or his representative deems it necessary in the enforcement of the inheritance tax laws that delivery or transfer of such securities or assets be deferred, he may forthwith notify, in writing,

such person, company, bank or institution to defer delivery or transfer thereof for a period not to exceed 60 days from the date of such notice, or until a release in writing of such securities or assets is given by the State Treasurer. Thereupon the party notified shall defer such delivery until the time stated in such notice, or until the revocation thereof within such 60 days or until such release is granted.

(4) Failure to serve the notices provided for in this section or to allow such examination or to defer the delivery of such securities or assets as required, shall render such person, safe deposit company, trust company, corporation, bank or other institution liable to the payment of the tax imposed by ORS 118.005 to 118.840 on any securities or assets contained in such receptacle or so transferred; however, this section does not apply to deposits in banks or shares, accounts and certificates in savings and loan associations standing in the joint names of such decedent and one or more other persons where the balance of such deposit does not exceed the sum of $1,000.

[Amended by 1961 c.455 §6]

118.450 [Reserved for expansion]

118.460 Reports by county clerks and custodians of deeds. (1) Each county clerk shall, on the first day of January, April, July and October of each year, make a report to the State Treasurer upon forms furnished by the treasurer, containing the name, residence and date of death of the decedent upon whose estate an application has been made for the issue of letters of administration, letters testamentary or ancillary letters; the estimated value of the property of such decedent; the amount of the property of any such decedent as shown by the inventory and appraisal thereof; the names and places of residence and relationship to the decedent of the heirs at law; the names and places of residence of the legatees, devisees and other beneficiaries in any will of such decedent; the amount of each legacy; and the name and address of the administrator or executor and of his attorney.

(2) The county officer having custody of records of deeds shall, at the same time, make a report to the State Treasurer containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with name and place of residence of the vendor and vendee, and a description of the property transferred, as shown by such instrument.

118.470 Representative to furnish additional reports on demand. Administrators, executors or trustees of the estates subject to the inheritance tax, whether or not any such tax may be payable, shall, when demanded by the State Treasurer, send to such treasurer certified copies of such parts of their reports as may be demanded by him, and, upon refusal of such persons to comply with the treasurer's demand, the clerk of the court shall comply with such demand, and the expense of making such copies and transcripts shall be charged against the estate, as are other expenses in probate.

[Amended by 1955 c.727 §6]

118.480 Representative to notify State Treasurer of passage of real estate in trust. Whenever any of the real estate of which any decedent died seised passes to any body politic or corporate, or to any person or persons, or in trust for them, or some of them, the executor, administrator or trustee of such decedent shall give information thereof in writing to the State Treasurer within three months after they undertake the execution of their expected duties, or, if the fact is not known to them within that period, then within one month after the same comes to their knowledge.

118.490 Compensation of officers. Except as otherwise provided in ORS 118.005 to 118.840, no officer, by reason of any duties imposed by ORS 118.005 to 118.840, shall receive any additional compensation to that allowed him by law.

118.500 Appeals. Appeals may be taken to the circuit court from all final orders, judgments and decrees, entered under the provisions of ORS 118.005 to 118.840, in the same manner and with the same effect as other appeals are taken from final orders and judgments made or rendered by the county court. All such appeals shall be had and tried in the same manner and with like effects as appeals in suits of equity are heard and tried.

118.510 Disposition of revenues. The net revenue from the taxes imposed by ORS

118.005 to 118.840 and ORS chapter 119 (including temporary payments under ORS 118.260 and fees, taxes, interest and penalties), after deduction of refunds, shall be credited to the General Fund as miscellaneous receipts available generally to meet any expense or obligation of this state lawfully incurred. A working balance of unreceipted revenue from these taxes may be retained for the payment of refunds under ORS 118.005 to 118.840 and ORS chapter 119. However, this working balance shall not at the end of any fiscal year exceed $250,000. [Amended by 1959 c.273 §1]

118.520 [Repealed by 1959 c.273 §8]

118.530 to 118.600 [Reserved for expansion]

APPRAISAL AND JUDICIAL APPROVAL

118.610 Duty of representative; filing inventory and appraisement. The executor, administrator or trustee of every estate, within one month from the date of his appointment, or, if a trustee, from the acceptance of this trust, or, if necessary, such further time as the county clerk or judge may allow, shall make an inventory, verified by his own oath, of all the real and personal property of the deceased which comes to his possession or knowledge, any will or directions of the decedent to the contrary notwithstanding, and cause the same to be appraised, as by law required, and filed with the clerk of the court having jurisdiction of the estate.

118.620 Extension of time to file appraisement. Whenever, by reason of the complicated nature of an estate, or by reason of the confused condition of the decedent's affairs, it is impracticable for the executor, administrator, trustee or beneficiary of the estate to file with the clerk of the court a full, complete and itemized inventory of the personal assets belonging to the estate within the time required by statute for filing inventories of estates of decedents, the court may, upon the application of such representative or parties in interest, extend the time for filing the appraisement for a period not to exceed three months beyond the time fixed by law, or such further time as may be necessary upon good cause shown.

118.630 Appointment of appraisers. The court having probate jurisdiction of the estate may, in any matter mentioned in ORS 118.420, 118.610 and 118.620, or if no inventory or appraisement has been made, or if it deems it for any cause insufficient or inadequate, either upon its own motion or upon the application of any interested party, including the State Treasurer, and as often as and when occasion requires, appoint one or more persons as appraisers to appraise the full and true value of the property embraced in any inheritance, devise, bequest or legacy subject to the payment of any tax imposed by ORS 118.005 to 118.840. [Amended by 1963 c.68 §3]

118.640 Immediate appraisal; evaluating particular interests. (1) Every inheritance, devise, bequest, legacy or gift, upon which a tax is imposed under ORS 118.005 to 118.840, shall be appraised at its full and true value immediately upon the death of the decedent, or as soon thereafter as may be practicable; provided, that when such interest is contingent, defeasible or of such a nature that its full and true value cannot be ascertained at the date of decedent's death it shall be appraised at the time when such value first becomes ascertainable, at its full and true value as of the date of decedent's death and without diminution for or on account of any valuation made or tax paid theretofore upon the particular estates upon which the devise, bequest, legacy or gift may have been limited.

(2) Whenever a gift or devise of real property which is subject to inheritance tax passes to or vests in a husband and wife as tenants by the entirety, the inheritance tax thereon shall be determined in the same manner as though each of such tenants by the entirety took an undivided one-half of the property as tenants in common.

(3) Whenever any estate or interest is so limited that it may be divested by the act or omission of the devisee or legatee, such estate or interest shall be taxed as if there were no possibility of such divesting.

(4) The value of every limited estate, income, interest or annuity dependent upon any life or lives in being shall be determined by the rules or standards of mortality and of value used by the "Actuaries' or Combined Experience Tables," except that the rate of interest on computing the present value of all such limited estates, incomes, interests or annuities shall be four percent per year. The value of the interest or estate remaining after such limited estate, income, interest or annuity shall be determined by deducting the amount found to be the value

of such limited estate, income, interest or annuity from the value of the entire property in which such limited estate, income, interest or annuity exists.
[Amended by 1961 c.455 §7]

118.650 Fixing time and place of appraisement; notice; attendance of witnesses; report of appraisers; limitation on fees. (1) The appointing court shall by order fix the time and place when the appraisers appointed under the provisions of ORS 118.630 shall make the appraisement. The county clerk shall forthwith give notice to the State Treasurer, and to all persons known to have a claim or interest in the property, inheritance, devise, bequest, legacy or gift to be appraised, and to such persons as the probate court may by order direct, of the time and place when the appraisers will make such appraisal. Such notice shall be given by mail. They shall, at such time and place, appraise the same as prescribed in ORS 118.005 to 118.840, and for that purpose the appraisers are authorized to issue subpenas and to compel the attendance of witnesses before them, and to take evidence of such witnesses under oath concerning such property and the full and true value thereof. They shall make report thereof and of such full and true value in writing to the appointing court, together with the testimony of the witnesses examined, and such other facts in relation thereto as such court may order or require.

(2) No appraiser appointed under ORS 118.005 to 118.840 shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person liable to pay the tax or any portion thereof.
[Amended by 1959 c.273 §5; 1963 c.68 §4]

118.660 Delivery to State Treasurer of copy of inventory and appraisement and other information. (1) Every executor, administrator or trustee of any estate subject to an inheritance tax under the laws of this state, whether or not any such tax may be payable, as soon as practicable after the appraisement or reappraisement of the estate and before the court authorizes any payment or distribution to the legatees or to any parties entitled to a beneficiary interest therein, shall deliver to the State Treasurer a copy of each inventory and appraisement duly certified to be such by the clerk of the court, or by the executor, administrator or trustee personally or by his attorney of record, and shall file with the clerk proof of such delivery.

(2) Every such executor, administrator or trustee shall, as soon as practicable, make and file with the State Treasurer a schedule, list or statement, verified by his oath and in a form to be prescribed by the State Treasurer, which schedule shall include a statement of the name, age and relationship to the deceased of each person entitled to any beneficiary interest in the estate, together with the full and true value of such interest, a list and description of all transfers of property, in trust or otherwise, made by the decedent in his lifetime as a division or distribution of his estate in contemplation of death or intended to take effect at or after his death and such other data as the State Treasurer deems appropriate in the determination of inheritance taxes. If the estate of the decedent is subject to a tax, whether or not any such tax may be payable, but the estate will not be probated or administered, an heir of decedent, acceptable to the State Treasurer, shall file with the State Treasurer a like schedule, list or statement, containing also therein a description of the assets and the properties of the estate, the full and true values thereof, and the items that may properly be deducted in the determination of inheritance taxes due therefrom as provided in ORS 118.070.
[Amended by 1955 c.727 §7; 1963 c.68 §5]

118.670 Court's duty to determine tax. (1) From the appraiser's report mentioned in ORS 118.650, and other proof relating to any such estate before the court, the court shall forthwith, as of course, determine the full and true value of all such estates and the amount of the tax to which the same are liable; or

(2) The court may so determine the full and true value of all such estates, and the amount of tax to which the same are liable, without appointing appraisers, as provided in ORS 118.630.

118.680 Court may act on first inventory. In ascertaining and determining the value of any inheritance, devise, bequest or legacy embraced in or payable out of any estate or trust, and the tax due thereon, the court may act upon the inventory and appraisement of such estate as prepared and filed by the executor, administrator or trustee thereof, pursuant to law, or it may require an appraisement or reappraisement, as

provided in ORS 118.005 to 118.840, of the full and true value of the property embraced in any inheritance, devise, bequest or legacy, subject to the payment of any tax imposed by ORS 118.005 to 118.840.
[Amended by 1963 c.68 §6]

118.690 Court to give notice on determination of value. The probate court shall immediately give notice upon the determination of the value of any inheritance, devise, bequest, legacy or gift which is taxable under ORS 118.005 to 118.840, and of the tax to which it is liable, to the State Treasurer and to all other parties known to be interested therein. Such notices shall be given by mail.

118.700 Reappraisement; appeal. (1) Within 60 days after the assessment and determination by the probate court of any tax imposed by ORS 118.005 to 118.840, or within such additional time thereafter as may be fixed by written stipulation of the parties or as may be allowed by the court, the State Treasurer, or any person interested therein, may file with the court objections thereto in writing, and pray for a reassessment and redetermination of such tax.

(2) Upon any objection being so filed, the probate court shall appoint a time for the hearing thereof, and cause notice of such hearing to be given by mail to the State Treasurer, and all parties interested, at least 10 days before the hearing thereof. At the time appointed in such notice, the court shall proceed to hear such objection, and any evidence which may be offered in support thereof or opposition thereto. All evidence heard on such reappraisement shall be reduced to writing and filed with the clerk of court. If, after such hearing, the court finds the amount at which the property is appraised is its full and true value, and the appraisement was made fairly and in good faith, it shall approve such appraisement; but if it finds that the appraisement was made at a greater or smaller sum than the full and true value of the property, or that the same was not made fairly or in good faith, it shall, by order, set aside the appraisement and determine such value.

(3) The State Treasurer, or anyone interested in the property appraised, may appeal to the circuit court from the judgment, order, and decree of the county court in the premises, and may appeal to the Supreme Court from the order, judgment, or decree of the circuit court in the same manner as is provided by law for appeals from the county and circuit courts. All appeals taken from the judgment or decree of the court shall be had and tried on appeal in the same manner and with like effect as appeals in suits in equity are heard and tried.
[Amended by 1963 c.68 §7]

118.710 to 118.800 [Reserved for expansion]

ENFORCEMENT OF FOREIGN DEATH TAXES

118.810 Application, construction and definition. (1) The provisions of ORS 118.810 to 118.840 apply to the estate of any nonresident decedent if the laws of the state of his domicile contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance of the collection of its inheritance or death taxes, interest and penalties, from the estates of decedents dying domiciled in this state in cases where the estates of such decedents are being administered by the probate court of such other state, or if the state of his domicile does not grant letters in nonresident estates until after letters have been issued by the state of domicile.

(2) The provisions of ORS 118.810 to 118.840 shall be construed liberally in order to insure that the state of domicile of any decedent shall receive any death taxes, together with interest and penalties thereon, due to it.

(3) For the purpose of ORS 118.810 to 118.840, the words, "state of domicile" or "domiciliary state" include any territory of the United States, the District of Columbia and any foreign country.

118.820 Duty to file proof of death taxes due domiciliary state of nonresident decedent. At any time before the expiration of 18 months after the qualification in any probate court of this state of any executor of the will of, or administrator of the estate of, any nonresident decedent, such executor or administrator shall file with the clerk of the court in which he qualified proof that all death taxes, together with interest or penalties thereon, which are due to the state of domicile of such decedent, or to any political subdivision thereof, have been paid or secured, or that no such taxes, interest or penalties are due, as the case may be, unless it appears that letters of administration or

letters testamentary have been issued in the state of domicile.

118.830 Form and requisites of proof; petition for accounting by tax officials of domiciliary state. The proof required by ORS 118.820 may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state but if such proof is not filed within the time limit set out in ORS 118.820, the clerk of the court forthwith shall notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws thereof with respect to such estate, and shall state in such notice as far as is known to him, the name, date of death and last domicile of such decedent; the name and address of each executor or administrator; a summary of the values of the real estate, tangible personalty and intangible personalty, wherever situated, belonging to such decedent at the time of his death; and the fact that such executor or administrator has not filed theretofore the proof required in ORS 118.820. The clerk shall attach to such notice a plain copy of the will and codicils of such decedent, if he died testate, or if he died intestate, a list of his heirs and next of kin, so far as is known to such clerk. Within 60 days after the mailing of such notice, the official or body charged with the administration of the death tax laws of the domiciliary state may file with the court in this state a petition for an accounting in such estate. Such official or body of the domiciliary state shall be deemed a party interested for the purpose of petitioning the court for such accounting. If such petition is filed within the period of 60 days, the court shall decree such accounting, and upon the accounting being filed and approved shall decree the remission to the fiduciary appointed by the domiciliary probate court of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

118.840 Final accounting or discharge of executor or administrator. Unless the provisions of either ORS 118.820 or 118.830 have been complied with, no such executor or administrator shall be entitled to a final accounting or discharge in any court in this state.

118.850 [Reserved for expansion]

DISPUTES RESPECTING DOMICILE OF DECEDENT

118.855 Definitions for ORS 118.855 to 118.880. For the purposes of ORS 118.855 to 118.880:

(1) "Board" means board of arbitration.

(2) "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

(3) "Executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(4) "Interested person" means any person who may be entitled to receive or who has received any property or interest which may be required to be considered in computing the death taxes of any state involved in the dispute.

(5) "State" means the District of Columbia and any state, territory or possession of the United States.

(6) "Taxing official" means the State Treasurer of the State of Oregon and the designated authority of a reciprocal state charged with the duty of collecting its death taxes.

(7) "This state" means the State of Oregon.

[1959 c.573 §1]

118.860 Election to invoke provisions of ORS 118.855 to 118.880 where dispute exists as to domicile of decedent for purpose of death taxes. When the taxing official of this state and the taxing official of one or more other states each claims that his state respectively was the domicile of the decedent for the purpose of death taxes, at any time prior to the commencement within this state of suit or action for determination of the decedent's domicile for death tax purposes, or within 60 days thereafter, the executor or the taxing official of any such state may elect to invoke the provisions of ORS 118.855 to 118.880. Such executor or taxing official shall send a notice of such election by registered mail, receipt requested, to the taxing

official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of such notice of election the executor may reject such election by sending a notice of rejection by registered mail, receipt requested, to all persons to whom the notice of election is required to be sent. When an election has been rejected by the executor no further proceedings shall be had under ORS 118.855 to 118.880. If such election is not rejected within the 40-day period, the dispute in respect of the domicile of the decedent for death tax purposes shall be settled solely as provided in ORS 118.865 to 118.880 and no other or additional proceedings to determine or redetermine the domicile of the decedent for death tax purposes shall thereafter be instituted in any court of this state or otherwise.
[1959 c.573 §2]

118.865 Settlement agreement fixing amount of taxes due each state involved in dispute. (1) In any case in which an election is made and not rejected, as provided in ORS 118.860, the State Treasurer may enter into a written agreement with the other taxing officials involved and with the executor to accept a sum certain in full payment of any death taxes, together with interest and penalties, which may be due this state, provided the agreement fixes the amount of death taxes with interest and penalties to be paid to the other states involved in the dispute.

(2) Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding as provided in ORS 118.870, the State Treasurer, at any time prior to the conclusion of such action or proceeding, may in any case enter into a written agreement with the other taxing officials involved and with the executor to accept a sum certain in full payment of any death tax, together with interest and penalties, which may be due this state, provided the agreement fixes the amount of death taxes with interest and penalties to be paid the other states involved in the dispute. Upon the filing of the agreement with the authority which would have jurisdiction to assess the death taxes of this state if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and such assessment shall finally and conclusively fix the amount of death taxes due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of subsection (1) of this section to the states involved in the dispute is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the State Treasurer of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to the State Treasurer under such agreement bears to such aggregate amount.
[1959 c.573 §§3, 5]

118.870 Arbitration procedure. When it appears by the written admission of the executor and the tax official of each state involved in the dispute that an agreement contemplated in subsection (1) of ORS 118.865 cannot be reached or, in all events, if one year has elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(1) When this state and one other state only are involved in the dispute, the State Treasurer and the taxing official of the other state shall each appoint a member of a board of arbitration and those members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint one member of the board of arbitration. The board shall select one of its members as chairman.

(2) The board shall hold hearings at such places as it deems necessary, upon reasonable notice to the executor, ancillary administrators, all interested persons and the taxing officials of the states involved, all of whom are entitled to be heard.

(3) The board may administer oaths, take testimony, subpena witnesses and require their attendance; require the production of books, papers and documents and issue commissions to take testimony. Subpenas may be issued by any member of the board. Failure to obey a subpena of the board may be punished by any court of record in the same manner as if the subpena had been issued by such court.

(4) Whenever practicable the board shall apply the rules of evidence then prevailing

in the federal courts under the federal rules of civil procedure.

(5) The board, by the decision of its majority, shall determine the domicile of the decedent at the time of his death. The decision of the board is final and conclusive and binds this state and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purposes. If the board does not render a decision within one year from the time that it is fully constituted, all authority of the board shall cease and the bar to court proceedings set forth in ORS 118.860 shall no longer exist.

(6) The decision of the board and the record of its proceeding shall be filed with the authority having jurisdiction to assess death taxes in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess death taxes in each of the other states involved if the decedent had been found to be domiciled therein.

(7) The reasonable compensation and expenses of the members of the board and its employes shall be agreed upon among such members, the taxing officials involved, and the executor. If such an agreement cannot be reached, the compensation and expenses shall be determined by such taxing officials and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile of the decedent. Such amount so determined shall be borne by the decedent's estate and shall be deemed an administration expense thereof.
[1959 c.573 §4]

118.875 Limit on amount of interest and penalties. When the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax during the period commencing with the date of the election and ending with the date of the final determination of the board shall not exceed six percent per annum of the amount of the death taxes found to be due.
[1959 c.573 §6]

118.880 Reciprocal statutes required in other states; resolving conflicts between statutes. (1) ORS 118.855 to 118.880 shall be applicable only to cases in which each of the states involved in the dispute has in effect therein a statute substantially similar to ORS 118.855 to 118.880, or has in effect therein a statute empowering one or more of its officials to voluntarily enter into a binding arbitration or compromise agreement respecting disputed liability for death taxes and such an agreement with each of the other states involved in the dispute and the executor is entered into prior to the appointment of the board of arbitration as provided in ORS 118.870.

(2) Any procedural conflict between ORS 118.855 to 118.880 and the statute of a reciprocal state involved in the dispute shall be resolved by the decision of the majority of the board. If there is a statutory conflict relating to the number of board members to be selected or the manner of their selection, the appropriate provision of whichever of the conflicting statutes is designated by the executor shall govern and control.
[1959 c.573 §7]

118.885 to 118.985 [Reserved for expansion]

PENALTIES

118.990 Penalties. (1) Any person in possession or control of any record, file or paper containing information relating to the estate of a deceased person or any interest therein and who fails, neglects or refuses to exhibit the same upon the written request of the State Treasurer or his representative, specifying and describing such instrument, shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding $500.

(2) Violation of subsection (2) of ORS 118.650 is punishable, upon conviction in any court having jurisdiction of misdemeanors, by a fine of not more than $500, and imprisonment in the county jail not exceeding 90 days. In addition thereto, the probate judge shall dismiss the appraiser from service.
[Amended by 1961 c.455 §8]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel