Chapter 119

1963 REPLACEMENT PART

Gift Tax

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DEFINITIONS

119.005 Definitions and interpretation. (1) As used in this chapter:

(a) "Net gifts to each donee" or "net gifts to such donee" means the total amount of gifts made during the calendar year to the particular donee, less the annual exclusions applicable with respect to the particular donee under ORS 119.031.

(b) "Son-in-law" includes the widower of a deceased daughter of the donor, and "daughter-in-law" includes the widow of a deceased son of the donor.

(c) "Total net gifts" means the total amount of gifts made during the calendar year, less the following:

(A) A specific exemption of $15,000, less the aggregate of the amounts claimed and allowed as specific exemption for preceding calendar years beginning with the calendar year 1933.

(B) The annual exclusions applicable with respect to the particular donees under ORS 119.031.

(C) The gifts excluded and exempted by ORS 119.035.

(2) Any donee related to the donor by chain of relationship, any step or steps of which are created by legal adoption, shall, for the purposes of this chapter, be considered as related in the same degree as though all steps in the relationship were by natural blood.

[1959 c.419 §§3, 4]

COMPUTATION OF TAX; RETURNS

119.010 Taxable transfers. (1) Each calendar year a tax shall be imposed upon the transfer during such calendar year by any individual resident or nonresident of property by gift.

(2) The tax applies to the transfer by gift of all property within the jurisdiction of the state, whether real or personal, tangible or intangible, and whether owned by inhabitants of this state or not and whether the gift is direct or indirect in trust or otherwise.

(3) If property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeded the value of the consideration is deemed a gift and shall be included in computing the amount of gifts made during the calendar year.

(4) The tax shall not apply to any transfer of property which is subject to an inheritance tax imposed by ORS 118.010; but the relinquishment or termination, other than by the donor's death, of any life estate or power to revest in the donor property heretofore transferred by the donor, is deemed a transfer by the donor by gift of the entire property subject to such life estate or power; and any payment of the income therefrom to a beneficiary other than the donor, shall be deemed a transfer by the donor of such income by gift.

(5) No election by husband and wife to come under and avail themselves of the provisions of chapter 440, Oregon Laws 1943, heretofore made, and no revocation of any such election, heretofore or hereafter made, shall be deemed a transfer of property by gift within the meaning of this chapter.

[Amended by 1961 c.456 §1]

119.020 Evaluating gift. (1) If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

(2) The value of every limited 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 incomes, interests or annuities shall be four percent per year. The value of the interest remaining after such limited income, interest or annuity shall be determined by deducting the amount found to be the value of such limited income, interest or annuity from the value of the entire property in which such limited income, interest or annuity exists.

(3) Notwithstanding subsection (2) of this section, if real property held by the entirety is conveyed by a husband and wife, or real property is conveyed to a husband and wife to hold as tenants by the entirety, and the transfer is subject to tax under this chapter, the tax thereon shall be determined in the same manner as though each of such tenants by the entirety gave or received an undivided one-half interest as tenants in common.

[Amended by 1961 c.456 §2]

119.025 ORS 119.005 and 119.031 to 119.065 apply to gift taxes for calendar year 1959 and thereafter. The provisions of ORS 119.005 and 119.031 to 119.065 apply to gift

taxes for the calendar year 1959 and for each calendar year thereafter.
[1959 c.419 §2]

119.030 [Repealed by 1959 c.419 §13]

119.031 Annual exclusions. Except as to gifts of future interest in property, the donor is entitled in determining his total net gifts, and his net gifts to each donee, to deduct the following annual exclusions:

(1) The first $5,000 of gifts made during each calendar year to each donee who bears to the donor the relationship of grandparent, parent, spouse, child or stepchild, or any lineal descendant of the donor.

(2) The first $3,000 of gifts made during each calendar year to each donee who bears to the donor the relationship of brother, sister, uncle, aunt, niece or nephew, or any lineal descendant of the same, or son-in-law or daughter-in-law.

(3) The first $1,000 of gifts made during each calendar year to each donee not referred to in subsection (1) or (2) of this section.
[1959 c.419 §5]

119.035 Exempt gifts. There shall be excluded and exempted from the tax imposed by this chapter the amount of all gifts made during any calendar year to or for the use of:

(1) Institutions, fraternal societies, associations, funds, trusts or corporations which are organized and existing and actually engaged in carrying out benevolent, charitable, educational, scientific or religious purposes.

(2) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized and existing in this state and if no part of their net earnings inure to the benefit of any private shareholder or individual.
[1959 c.419 §6; 1961 c.456 §3]

119.040 [Repealed by 1959 c.419 §13]

119.041 Amount of tax. The tax under this chapter for each calendar year is the sum of:

(1) The tax for the calendar year on the total net gifts; and

(2) The tax for the calendar year on the net gifts to each donee.
[1959 c.419 §7]

119.045 Tax on total net gifts. The tax for each calendar year on the total net gifts is an amount equal to the excess of:

(1) A tax computed in accordance with the rate schedule set forth in ORS 119.051 on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years; over

(2) The tax computed in accordance with the rate schedule set forth in ORS 119.051 on the aggregate sum of the net gifts for each of the preceding calendar years.

(3) The provisions contained in this section shall be effective with respect to gifts for the calendar year 1959 and subsequent years.
[1959 c.419 §8; 1961 c.456 §4]

119.050 [Repealed by 1959 c.419 §13]

119.051 Tax rates on total net gifts. For the calendar year 1959, and for each calendar year thereafter, the rate schedule to be applied in ascertaining the tax on total net gifts is as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 0	$ 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

[1959 c.419 §9]

119.055 Tax on net gifts to each donee. The tax for each calendar year on the net gifts to each donee is an amount equal to the excess of:

(1) A tax computed in accordance with the rate set forth in the applicable schedule in ORS 119.061 on the aggregate sum of the net gifts to such donee for such calendar year and for each of the preceding calendar years beginning with the calendar year 1959; over

(2) The tax paid and computed in accordance with the applicable rate schedule set forth in ORS 119.061 on the aggregate sum of the net gifts to such donee for each of the preceding calendar years beginning with the calendar year 1959.
[1959 c.419 §10]

119.060 [Amended by 1957 c.158 §1; repealed by 1959 c.419 §13]

119.061 Tax rates on net gifts to each donee. (1) For the calendar year 1959, and for each calendar year thereafter, the rate to be applied in ascertaining the additional tax on the net gifts to each donee is as set out in this section.

(2) In the case of any gift to a donee who bears the relationship to the donor of grandparent, parent, spouse, child or stepchild, or any lineal descendant of the donor, no additional tax is payable on the net gifts to any such donee.

(3) In the case of any gift to a donee who bears the relationship to the donor of brother, sister, uncle, aunt, niece or nephew, or any lineal descendant of the same, or son-in-law or daughter-in-law, the additional tax on the net gifts to each donee is as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 0	$ 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

(4) In the case of any gift to a donee not referred to in subsection (2) or (3) of this section, the additional tax on the net gifts to each donee is as follows:

On any amount exceeding	But not exceeding	Rate (in percent)
$ 0	$ 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

[1959 c.419 §11]

119.065 Returns; contents. (1) Any individual who within the calendar year 1959, or any subsequent calendar year, makes any transfers by gift, except (a) those which are not in excess of the amount of the annual exclusion available for each particular donee under ORS 119.031 and (b) those which under ORS 119.035 are not to be included in the amount of taxable gifts for such calendar year, shall make a return under oath in duplicate and file such return with the State Treasurer on or before April 15 following the close of the calendar year.

(2) The return required by subsection (1) of this section shall set forth:

(a) Each gift made during the calendar year which is to be included in computing the total net gifts or the net gifts to each donee.

(b) Any exemption or exclusion allowable.

(c) The total net gifts for each of the preceding calendar years, and the net gifts to each donee for each of the preceding calendar years.

(d) Such further information as may be required by regulations prescribed by the State Treasurer pursuant to this chapter. [1959 c.419 §12]

119.070 Records and special returns. (1) Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the State Treasurer may prescribe.

(2) Whenever in the judgment of the State Treasurer it is deemed necessary, he may require any person, by notice served upon him by mail, to make a return, render under oath such statements or keep such records, as the State Treasurer deems sufficient to show whether or not such person is liable for a tax under this chapter.

119.080 Addition to tax for failure to file a return. In case of any failure to make and file a return required by this chapter, within the time prescribed by law or prescribed by the State Treasurer in pursuance of law, five percent of the tax shall be added to the tax for each month or part of a month after such time but the amount so added shall in no case exceed 25 percent of the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to wilful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.
[Amended by 1959 c.75 §1]

119.090 [Reserved for expansion]

119.100 Reporting transfers taxable under inheritance tax law. (1) Notwithstanding subsection (4) of ORS 119.010, the donor shall make a return reporting a transfer by gift which is not subject to tax under

this chapter because of the provisions of subsection (4) of ORS 119.010 if:

(a) The donor expressly or impliedly reserves for his life an income or interest in the property transferred; and

(b) The total property transferred in one year, if to any one grandparent, parent, spouse, child or stepchild or any lineal descendant of the donor or grantor, has a value exceeding $5,000 or if to any other donee, the value exceeds $1,000; except that, no such transfer is required to be reported where the donee qualifies as an exempt beneficiary under the inheritance tax law.

(2) The return required by subsection (1) of this section shall be made as a part of the return required by ORS 119.065 or, if no return is required under that section, the return required by subsection (1) of this section shall be made and filed in the same manner as a return under ORS 119.065.

(3) In case of a failure to report the information required by this section within the time prescribed by ORS 119.065, a penalty equal to five percent of the inheritance tax liability resulting from such transfer shall be imposed and shall become due and payable upon the death of the donor, and if not paid within eight months following death, such penalty shall accrue interest at the rate of eight percent per year; except that, when such information is reported after such time and it is shown the failure to report it within the time prescribed was due to reasonable cause and not due to wilful neglect, no such penalty shall be imposed.

(4) This section applies only to transfers made on or after January 1, 1960.

[1959 c.285 §2; 1963 c.67 §1]

PAYMENT OF TAX

119.110 Payment and disposition of tax. The tax shall be paid to the State Treasurer for the use of the state. All money received by the State Treasurer under this chapter shall be disposed of as provided in ORS 118.510.

[Amended by 1959 c.273 §6]

119.120 Time of payment; extension; receipts. (1) In respect to transfers made during the calendar year 1957 or any subsequent calendar year, the tax shall be paid by the donor on or before April 15 following the close of the calendar year.

(2) At the request of the donor, the State Treasurer may extend the time for filing the return or payment of the amount determined as the tax by the donor, for a period not to exceed six months from the date prescribed under ORS 119.065 and this section. In such case regarding payment, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of extension.

(3) The State Treasurer, upon the payment of any gift tax, or additions thereto, as in this chapter provided, shall give to the person making such payment a receipt therefor.

[Amended by 1957 c.159 §1; 1961 c.456 §5]

119.130 Interest on extended payments. If the time for payment of the amount determined as the tax by the donor is extended under the authority of ORS 119.120, there shall be collected as a part of such amount, interest thereon at the rate of six percent per year from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

119.140 Additions to tax in case of nonpayment; application of payments thereafter. (1) When the amount determined by the donor as the tax, or any part of such amount, is not paid on the due date, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of eight percent per year from the due date until it is paid.

(2) When an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount, the time for payment of which has been extended, and the interest thereon determined under ORS 119.130, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in subsection (1) of this section, interest at the rate of one percent a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(3) Any payment made after accrual of interest on the tax shall be applied in the following order: First, to any penalty due; second, to the interest due; and third, to the principal amount of the tax due.

[Amended by 1961 c.456 §6]

119.150 Overpayment; refund and credits; judicial determination. (1) When there has been an overpayment of any tax imposed by this chapter, the amount of such

overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer. The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund. No such credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) If the State Treasurer has mailed to the taxpayer a notice of deficiency under ORS 119.250 and if the taxpayer files a petition in the circuit court within the time prescribed in subsection (1) of ORS 119.270 no credit or refund in respect of the tax for the calendar year in respect of which the State Treasurer has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except:

(a) As to overpayments determined by a decision of the circuit court which has become final;

(b) As to any amount collected in excess of an amount computed in accordance with the decision of the circuit court which has become final; and

(c) As to any amount collected after the period of limitation upon the beginning of a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the circuit court which has become final, as to whether such period has expired before the notice of deficiency was mailed shall be conclusive.

(3) If the circuit court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year of which the State Treasurer determined the deficiency, the circuit court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the circuit court has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is earlier.

119.160 Refunds and credits where gift taxable under inheritance tax law. If a tax has been paid on any gift under this chapter and thereafter upon the death of the donor an inheritance tax is imposed upon the same gift by this state, there shall be credited against the inheritance tax resulting from the inclusion of such gift in the computation of such inheritance tax an amount equal to the gift tax paid under this chapter for the year in which the gift was made resulting from the inclusion of such gift in the computation of the gift tax on gifts from such donor to the donee who received such gift. If the amount to be so credited exceeds the amount of the inheritance tax resulting from the inclusion of such gift in the computation of such inheritance tax, the amount of the excess shall be refunded, without interest, to the estate of the donor.
[1959 c.198 §2]

119.170 to 119.200 [Reserved for expansion]

ASSESSMENT AND COLLECTION OF TAX AND DEFICIENCIES

119.210 Determination of tax. As soon as practicable after the return is filed, the State Treasurer shall examine it and shall determine the correct amount of the tax.

119.220 Period of limitation upon assessment and collection. (1) Except as provided in subsection (2) of this section, the amount of taxes imposed by this chapter shall be assessed within three years after the return is filed, and no proceedings in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return is filed.

(2) If no return of a gift is filed with the State Treasurer, or in case of a false or fraudulent return with intent to evade tax, the State Treasurer may determine and assess the correct amount of tax at any time after the facts are discovered, but in no event after the lapse of six years from the time the facts are discovered.

(3) Whenever the assessment of any tax imposed by this chapter has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by a proceeding in court, but only if begun within six years after the assessment of the tax.
[Amended by 1959 c.306 §1]

119.230 Suspension of running of statute of limitation. The running of the statute of limitations provided in ORS 119.220 shall, after the mailing of a notice under subsection (3) of ORS 119.250, be suspended for the period during which the State Treasurer is prohibited from making the assessment or beginning a proceeding in court (and in any event, if a proceeding in respect of the deficiency becomes final), and for 60 days thereafter.

119.240 Definition of deficiency. As used in this chapter in respect of the tax imposed by this chapter, the term "deficiency" means:

(1) The amount by which the tax imposed by this chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed, or collected without assessments, as a deficiency, and decreased by the amounts previously refunded or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed, or collected without assessment, as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously refunded or otherwise repaid in respect of such tax.

119.250 Determination and notice of deficiency. (1) If the State Treasurer determines that there is a deficiency in respect of the tax imposed by this chapter, he shall send notice of such deficiency to the donor by mail.

(2) The donor shall at any time have the right, by a signed notice filed with the State Treasurer, to waive the restrictions provided in subsection (1) of this section on the assessment and collection of the whole or any part of the deficiency.

(3) In the absence of notice to the State Treasurer under subsection (1) of ORS 119.340 of the existence of a fiduciary relationship, notice of a deficiency, if mailed to the donor at his last known address, shall be sufficient for the purposes of this chapter even if such donor is deceased, or is under a legal disability.

119.260 Abatement of assessment. No assessment of any deficiency in respect of the tax imposed by this chapter and no suit for its collection shall be made, begun or prosecuted until the notice required by ORS 119.250 has been mailed to the donor, nor until the expiration of the 60 day period prescribed in subsection (1) of ORS 119.270, nor, if a complaint for review of the deficiency has been filed, until the decision of such review has become final.

119.270 Judicial determination of deficiency; collection. (1) The determination of any deficiency by the State Treasurer may be reviewed in the circuit court by a complaint filed by the donor, or any one interested therein, in the county in which the donor resides, or, in the case of a nonresident donor in the county in which the property comprising the gift is located, within 60 days after notice of the determination of the deficiency has been given as provided in ORS 119.250. The circuit court has jurisdiction to determine the correct amount of the deficiency, even if the amount so determined is greater or less than the amount of the deficiency of which notice has been mailed by the State Treasurer, and even if determined upon grounds other or different from those asserted in the notice, provided that claim for such additional tax on other or different grounds is asserted by the State Treasurer at or before the hearing or any rehearing of the case. In the event such other or different grounds are asserted by the State Treasurer, the opposing party shall be allowed additional time, not less than 10 days, within which to amend or otherwise plead thereto, which additional time, however, may be waived by stipulation of the parties.

(2) If the donor files a complaint in the circuit court, the entire amount redetermined as a deficiency by the decision of the court which has become final shall be assessed and shall be paid upon notice and demand from the State Treasurer.

(3) If the donor does not file a complaint in the circuit court within the time prescribed in subsection (1) of this section the deficiency, notice of which has been mailed to the donor, shall be assessed, and shall be paid upon notice and demand from the State Treasurer.

119.280 Enforcement of tax generally. The provisions of this chapter shall be enforced by the State Treasurer by suit in the

circuit court in accordance with the procedural statutes applicable to suits and in accordance with the rules of the circuit court of the county in which such suit is instituted. The State Treasurer and any other parties to any such suit or review of any deficiency may appeal to the Supreme Court in the manner that appeals are taken in suits.

119.290 Additions for negligent or fraudulent deficiency. (1) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to such deficiency, shall be assessed, collected and paid in the same manner as if it were a deficiency, except that ORS 119.300, relating to interest on deficiencies, shall not be applicable.

(2) If any part of any deficiency is due to fraud with intent to evade tax, then 50 percent of the total amount of the deficiency, in addition to such deficiency, shall be so assessed, collected and paid.

119.300 Interest on deficiencies. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the State Treasurer, and shall be collected as a part of the tax, at the rate of six percent per year from the due date of the tax to the date the deficiency is assessed.

119.310 Extension of time for payment of deficiencies. Except when deficiency is due to negligence, to intentional disregard of rules and regulations, or to defraud with intent to evade tax, where it is shown to the satisfaction of the State Treasurer that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the donor, the State Treasurer may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of 18 months, and in exceptional cases for a further period not in excess of 12 months. If an extension is granted, the donor shall furnish a bond in such amount, not less than double the amount of the deficiency, and with such sureties, as the State Treasurer deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

119.320 Interest on extended deficiency payments. In case an extension for the payment of a deficiency is granted as provided in ORS 119.310, there shall be collected as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of six percent per year for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

119.330 Additions to the tax in case of nonpayment of deficiency. (1) When a deficiency, or any interest assessed in connection therewith under ORS 119.320, is not paid in full within 10 days from the date of notice and demand from the State Treasurer, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one percent a month from the date of such notice and demand until it is paid.

(2) If the part of the deficiency, the time for payment of which is extended as provided in ORS 119.310, is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of one percent a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

119.340 Effect of fiduciary relationship. (1) Upon notice to the State Treasurer that any person is acting in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties and privileges of the donor in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated.

(2) Upon notice to the State Treasurer that any person is acting in a fiduciary capacity for a person subject to the liability specified in ORS 119.350 the fiduciary shall assume, on behalf of such person, the powers, rights, duties and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(3) Notice under subsection (1) or (2) of this section shall be given in accordance with regulations prescribed by the State Treasurer. In the absence of notice to the State Treasurer under subsection (2) of this

section of the existence of a fiduciary relationship, notice of liability enforceable under ORS 119.350, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

119.350 Assessment and collection of the liability of a transferee of property of the donor or a fiduciary; definition of transferee. (1) "Transferee", as used in this section and ORS 119.360, includes donee, heir, legatee, devisee and distributee.

(2) Except as provided in ORS 119.360, the amounts of the following liabilities shall be assessed, collected and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this chapter:

(a) The liability, at law or in equity, of a transferee of property of a donor, in respect of the tax imposed by this chapter, including interest, additional amounts and additions to the tax provided by law.

(b) The liability of a fiduciary in respect of the payment of any such tax or deficiency from the estate of the donor.

119.360 Period of limitation for assessment of liability of transferee or fiduciary; prohibition against suit to restrain collection of assessment. (1) The period of limitation for assessment of the liability mentioned in ORS 119.350 of a transferee or fiduciary shall be as follows:

(a) Within one year after the expiration of the period of limitation for assessment against the donor. If the donor is deceased, the period of limitation for assessment against the donor is the period that would be in effect had the death not occurred.

(b) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (a) of this subsection then within one year after return of execution in such proceeding.

(2) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under ORS 119.250 to the transferee or fiduciary, be suspended for the period during which the State Treasurer is prohibited from making the assessment in respect of the liability of the transferee or fiduciary and for 60 days thereafter.

(3) No suit shall be maintained in any court for the purpose of restraining the assessment or collection of the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax or the amount of the liability of a fiduciary in respect of any such tax.

119.370 Compromise of tax liability. Whenever the transfer or gift is of such a nature that the value thereof cannot, with reasonable certainty, be ascertained, or the liability for gift tax thereon is doubtful, the State Treasurer may, with the written approval of the Attorney General, compromise with the donor, donees or their representatives, and compound the tax thereon.

119.380 Lien for tax; personal liability of donee. (1) The tax imposed by this chapter is a lien upon all gifts made during the calendar year, for six years from the time the gifts are made.

(2) If the tax is not paid when due, the donee of any gift is personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien therein imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee, including after-acquired property, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

(3) If the State Treasurer is satisfied that the tax liability has been fully discharged or provided for, he may, under regulations prescribed by him, issue his certificate releasing any or all of the property from the lien herein imposed.

119.390 to 119.500 [Reserved for expansion]

RULES AND REGULATIONS

119.510 Rules and regulations. The State Treasurer shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

119.520 [Repealed by 1959 c.273 §8]

119.530 to 119.980 [Reserved for expansion]

PENALTIES

119.990 Penalties. (1) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records or supply any information, for the purposes of the computation, assessment or collection of any tax imposed by this chapter, who wilfully fails to pay such tax, make such return, keep such records or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(2) Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, upon conviction thereof be guilty of a felony and be fined not more than $10,000 or imprisoned for not more than five years, or both, together with the costs of prosecution.

(3) Any person who wilfully aids or assists in, or procures, counsels or advises the preparation or presentation under, or in connection with any matter arising under, this chapter of a false or fraudulent return, affidavit, claim or other document shall, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such document, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

[Amended by 1953 c.703 §1]

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