



ADMINISTRATIVE RULE REVIEW

	Rule No. 150-118-0150	
Amended Rule	Page Page 1 of 4	Last Revised Date October 20, 2016
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated November 2016	Hearing Scheduled November 22, 2016

PURPOSE: Amend to clearly identify when a request for an extension to pay the estate tax must be received; specify that fluctuations in the market value of property will not generally grant reasonable cause for an extension of time to pay the estate tax.

1 **150-118-0150**

2 **Extension of Time to Pay Tax**

3 (1) An executor may request an extension of time to pay the estate tax. The extension request must be in
4 writing and submitted to the department by the date the estate return is due, ~~including extensions of time~~
5 ~~to file~~, or 30 days from the date shown on a notice of deficiency. Collateral determined acceptable by the
6 department must be secured for payment of the estate tax. An extension to pay tax does not eliminate
7 penalties for late filing of a return, and interest continues to accrue on unpaid tax at the rate provided in
8 OAR 150-305-~~0140,220(1)~~. See OAR 150-118-~~0170,260~~.

9 (a) If a federal extension of time to pay has been obtained and acceptable collateral is secured for
10 payment of the Oregon estate tax, the department will grant an extension to pay the Oregon estate tax for
11 the same period of time as an approved federal extension. The executor must submit the Oregon
12 extension request in writing and the estate must secure acceptable collateral for payment of the Oregon
13 estate tax. A copy of the accepted federal extension must be submitted with the Oregon return.

14 (b) If reasonable cause exists and acceptable collateral is provided to the department, the department may
15 grant an extension of time for payment of estate tax for up to 14 years, or, in the case of an estate tax
16 deficiency, for a period of up to four years. If a federal extension of time to pay federal estate tax has
17 been granted, the department may extend additional time for the payment of Oregon estate tax for up to
18 14 years if reasonable cause exists and collateral acceptable to the department is provided.

19 (2) In general, reasonable cause exists if:

20 (a) The estate can pay the tax only by disposing of property for less than market value or by borrowing
21 money at a rate in excess of the mortgage money market (on terms that would inflict loss on the estate),
22 or

23 (b) The gross taxable estate includes a beneficial interest in one or more closely held businesses whose
24 value exceeds either 35 percent of the gross taxable estate or 50 percent of the net taxable estate. For
25 purposes of this rule:



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- 1 (A) “Interest in a closely held business” means, as determined immediately before the decedent’s death,
2 an interest that was:
- 3 (i) An interest as a proprietor in a trade or business carried on as a proprietorship;
 - 4 (ii) An interest as a partner in a partnership carrying on a trade or business, if the gross taxable estate
5 includes 20 percent or more of the total capital interest in that partnership, or the partnership had 15 or
6 fewer partners;
 - 7 (iii) Stock in a corporation carrying on a trade or business, if 20 percent or more of the voting stock of
8 such corporation is included in the gross taxable estate, or such corporation had 15 or fewer shareholders.
9 Stock, or a partnership interest, that is held by a husband and wife as community property or as joint
10 tenants, tenants by the entirety, or tenants in common, is treated as owned by one shareholder or one
11 partner, whichever is applicable.
- 12 (B) “Trade or business” does not include an investment or holding company;
- 13 (C) An extension only applies to the portion of tax attributable to the closely held business. To determine
14 the portion of tax attributable to the closely held business, divide the value of the interest in the closely
15 held business by the taxable estate amount, and multiply that ratio by the computed net tax.
- 16 **Example 1:** A’s estate assets included a retail store valued at \$900,000 that had been operated by the
17 decedent. Listed securities, cash, a family residence and miscellaneous personal effects made up the
18 balance. The taxable estate was \$1,300,000. The department may grant an extension for the payment of
19 tax on the portion attributable to the value of the store; i.e. \$900,000 divided by \$1,300,000 multiplied by
20 tax owed.
- 21 **Example 2:** B’s taxable estate of \$1,400,000 included \$950,000 of stock in a closely held corporation.
22 The balance of the property was listed securities and personal effects. The corporation was a holding
23 company with the majority of corporate assets invested in real estate. The estate could not show that
24 money could only be borrowed on terms that would inflict loss upon the estate. The department will not
25 grant an extension of time to pay the tax.

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1 **Example 3:** C's taxable estate of \$2,100,000 included farm land valued at \$1,050,000. The balance of the
 2 estate was real property, listed securities, cash and personal effects. The estate leased the farm land for
 3 cash rent, which is considered an investment in real property and not a trade or business; the department
 4 will not grant an extension for payment of tax.

5 **Example 4:** D's taxable estate of \$1,200,000 included a tree farm valued at \$800,000. The farm
 6 consisted of all pre-merchantable timber. The estate demonstrated that the farm could only be sold at a
 7 sacrifice price in a depressed market and that money could only be borrowed on terms that would inflict
 8 loss upon the estate. The department may grant an extension for payment of the tax that is attributable to
 9 the tree farm's value of \$800,000.

10 (3) For purposes of subsection (2)(a) of this rule, if a liquid market exists for property, then fluctuations
 11 in the market value of the property will not create reasonable cause for an extension of time to pay the
 12 estate tax. However, if no liquid market exists for the property and the lack of a liquid market would
 13 require the estate to sell the property for less than its market value, the department may determine that
 14 there is reasonable cause for an extension.

15 ~~(4)~~ The department generally will accept the following as collateral for purposes of extending the date
 16 for payment of tax:

17 (a) A first mortgage or trust deed on real property with a value at least double the amount of the tax paid
 18 on extension;

19 (b) A surety bond executed by a corporation licensed to do business in the State of Oregon. The bond
 20 must be at least double the amount of the tax paid on extension and must be renewed every five years.

21 ~~(5)~~ Collateral must be received within 60 days from the date the estate return is due, ~~including~~
 22 ~~extensions of time to file~~, or within 60 days from the date the estate return is filed, whichever is earlier.

23 ~~(6)~~ The executor must make payments in at least equal annual installments for the tax paid on extension,
 24 plus accrued interest. The department may cancel an extension of time to pay and collect the tax plus
 25 interest if any installment is not paid on or before its due date.



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- 1 (7~~6~~) The department may cancel an extension of time to pay and collect the tax plus interest if the value
- 2 of the interest in a closely held business is reduced by one-third or more through sale, exchange or other
- 3 disposition, or through aggregate withdrawals of money or other property.
- 4 Stat. Auth.: ORS 305.100
- 5 Stats. Implemented: ORS 118.225