

# Schedule OSMP

For deaths on or after January 1, 2012

Use this schedule for estates making an Oregon Special Marital Property (OSMP) election under Oregon Revised Statutes (ORS) 118.013 and 118.016.

**Do not** file this schedule if the marital trust document states that no one other than the surviving spouse will benefit from the marital property.

The Oregon Special Marital Property (OSMP) election is an election made by the estate executor.

This election is irrevocable.

Complete this schedule if there is a difference between your federal and state marital deduction and you want to reduce the Oregon estate transfer tax debt.

Does the trust or other property interest allow distributions to persons other than the surviving spouse? If yes, the executor may choose a share of the trust or other property interest for the benefit of the surviving spouse as OSMP.

The surviving spouse and each permissible distributee must have their signatures notarized. A **permissible distributee** is a beneficiary who's currently eligible to receive distributions of trust income or principal, whether the distribution is mandatory or discretionary (ORS 130.010). The election and consent form, *Consent to Establishment of Oregon Special Marital Property*, is provided below.

Unless the executor identifies a fractional portion or percentage of the trust or other property for this election, the executor is deemed to have made an OSMP election on the entire trust or other property.

## Line instructions

**Line 2.** The total funeral and administrative expenses from federal Schedule J claimed on Form OR706, part 5, Recapitulation, line 513.

**Line 3.** The total debts, mortgages, and liens from federal Schedule K claimed on Form OR706, part 5, Recapitulation, lines 514 and 515.

**Line 4.** The total net losses during administration and expenses incurred administering property not subject to claims from federal Schedule L claimed on Form OR706, part 5, Recapitulation, lines 518 and 519.

**Line 5.** The total marital bequests from federal Schedule M claimed on Form OR706, part 5, Recapitulation, line 520.

**Line 6.** The total charitable bequests from federal Schedule O claimed on Form OR706, part 5, Recapitulation, line 521.

**Line 9.** Oregon estate transfer tax filing threshold for a 2012 date of death is \$1,000,000.

**Line 10.** This is the minimum OSMP amount needed to reduce your Oregon estate transfer tax debt to zero.

**Specific assets for OSMP election:** Identify the specific property for the OSMP election.

**Column A.** Show the schedule and item number where the OSMP asset is identified for gross estate.

**Column B.** Show the fractional portion or percentage, if 100 percent is not OSMP property.

**Column C.** Describe the property.

**Column D.** Show the value of the property for the election.

If more space is needed, attach a continuation schedule.

**Line 13.** This is your OSMP election amount. Enter this amount on your Oregon-only Schedule M and add this amount to your federal Schedule M amount on Form OR706, Recapitulation, part 5, line 520.

**Example:** Federal Schedule M is \$2,400,000 plus your OSMP of \$1,000,000 equals a total of \$3,400,000 on Form OR706, part 5, line 520.

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# Oregon Special Marital Property

Calculation for Form OR706

Estate of: \_\_\_\_\_

Decedent's Social Security number \_\_\_\_\_ Date of Death \_\_\_\_\_

1. Gross estate, Form OR706, part 2, line 1..... 1.

LESS:

2. Schedule J.....2.

3. Schedule K.....3.

4. Schedule L.....4.

5. Schedule M (federal only).....5.

6. Schedule O.....6.

7. Total deductions (add lines 2-6)..... 7.

8. Net distributable estate (line 1 minus line 7)..... 8.

9. LESS: Oregon filing threshold..... 9.

10. Minimum OSMP deduction needed to reduce Oregon tax to zero (line 8 minus line 9)..... 10.

**Specific assets for OSMP election.** You may make an OSMP election for all or part of a trust or other property. *If you make a partial election of any item, enter the fractional portion or percentage in column B.*

A. Schedule & item number	B. Portion	C. Property description	D. Amount
			<b>D. Total</b>

11. Total property interests listed (from column D above)..... 11.

12. Total from attached continuation schedules (if needed)..... 12.

**13. Total OSMP** (add lines 11 and 12). Enter on the Schedule M for Oregon only and add this amount to Form OR706, Recapitulation, part 5, line 520..... 13.

**Attach to Form OR706, with Oregon only Schedule M, and notarized OSMP election consents**

# Schedule OSMP

For use with Form OR706

## Consent to Establishment of Oregon Special Marital Property

**Election to be signed by all permissible distributees except the surviving spouse:** Each of the undersigned acknowledge and consent to a portion of the \_\_\_\_\_ (name of trust or other property interest) being set aside as a separate share or trust in order to qualify for the Oregon special marital property election in accordance with ORS 118.013, for the primary purpose of reducing or eliminating the Oregon estate tax due on the estate of \_\_\_\_\_ (name of decedent). The undersigned together with the surviving spouse constitute all of the persons living on the date of this election who may be entitled to a distribution during the lifetime of the surviving spouse from the \_\_\_\_\_ (name of trust or other property interest). Each of the undersigned, both on behalf of the undersigned and on behalf of the unborn lineal descendants of the undersigned, irrevocably agrees to release all rights to any current interest in the Oregon special marital property during the lifetime of the surviving spouse. Each of the undersigned agrees that all other provisions of the \_\_\_\_\_ (name of trust or other property interest) shall remain in effect and that, upon the death of the surviving spouse, any remaining Oregon special marital property shall be distributed as otherwise provided in the trust or other property interest.

Signature of: \_\_\_\_\_ (permissible distributee)  
Signature of: \_\_\_\_\_ (permissible distributee)  
Signature of: \_\_\_\_\_ (permissible distributee)  
Signature of: \_\_\_\_\_ (permissible distributee)

*If more signature lines are needed, attach a continuation schedule.*

**Subscribed and sworn to** before me this \_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_.

\_\_\_\_\_  
Notary Public of Oregon

My commission expires: \_\_\_\_\_

**Election to be signed by the surviving spouse:** I am the surviving spouse of \_\_\_\_\_ (name of decedent). I acknowledge and consent to a portion of the \_\_\_\_\_ (name of trust or other property interest) being set aside as a separate share or trust in order to qualify as Oregon special marital property under ORS 118.013, for the primary purpose of reducing or eliminating the Oregon estate tax due on the estate of \_\_\_\_\_ (name of decedent). I, together with all of the other individuals executing the election in accordance with ORS 118.013, constitute all of the persons living on the date of this election who are permissible distributees or who may be entitled to a distribution from the Oregon special marital property to which this election applies. I agree that all other terms, conditions and provisions that apply to the \_\_\_\_\_ (name of trust or other property interest) shall apply to the Oregon special marital property to which this election applies, and that upon my death, any remaining Oregon special marital property shall be distributed as otherwise provided in the trust or other property interest.

Signature of: \_\_\_\_\_ (surviving spouse)

**Subscribed and sworn to** before me this \_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_.

\_\_\_\_\_  
Notary Public of Oregon

My commission expires: \_\_\_\_\_

**Attach to Form OR706, with Oregon only Schedule M, and Schedule OSMP calculation**