Death taxes in a nutshell

They say the only things certain in life are death and taxes, but it's especially cruel when they happen at the same time. I asked a friend one day what she thought of death taxes. "Well, let me get this straight," she answered. "First they tax you when you make money, ... then they tax you when your money makes money, ... and then they tax you when you die. Right"? I told her that was right. "Well, that doesn't seem fair," she said.

Fair or not, you need to be aware of potential tax liabilities that may arise upon your death. The gift and death tax exemption for federal estate tax is getting up there, $5 million per person, and a combined $10 million for married couples (under new law, if the first spouse doesn't use the full $5 million, what's left can be used by the survivor). In addition, transfers to spouses and charities are non-taxable. Last, certain smaller "annual exclusion" gifts are exempt as well.

If the value of your non-spouse and non-charitable lifetime and death transfers exceed these exempt amounts, then the excess is taxed for federal purposes at a flat 35% rate.

More worrisome to you may be the Oregon and Washington death taxes, with a filing limit of $1 million in Oregon and a $2 million exemption in Washington. The tax rates are significant – 5.6%-16% in Oregon and 10%-19% in Washington. Like federal law, transfers to spouses and charities are exempt from state death taxation. Payment of federal and state death taxes are due nine months after the date of death, although installment payments at very low interest rates are allowed if the estate meets certain qualifications.

Before dismissing the Oregon and Washington exemptions as much too high to affect you, remember that the taxing authorities want to know about everything you own —house, land, cash accounts, stocks, bonds, livestock, business interests, annuities, retirement plans and insurance, to name a few items – and they want to know its fair market value on the date of death.

When you add it all up, you may be worth more than you think.

You should pay particularly close attention to how you own life insurance, because it could be a large part of your estate.

If *you* own insurance on your own life, or if it is payable to your estate, then the full face value of the policy will be added to your estate. Nothing is included in your estate, however, if your spouse instead owns the same policy.

Keep one more thing in mind. Death tax laws have changed often in recent years. The current federal law is set to expire in 2013, and there is currently a bill in the Oregon legislature to change its death tax exemption and tax rates.

[Rich Miller practices law in Bend, Oregon, in the areas of business, estate planning and taxation. He can be reached at rmiller@cvk-law.com or (541) 585-1035. This is the third article of a six-part series: (Next: Being land rich and cash poor)].