

74th OREGON LEGISLATIVE ASSEMBLY – 2008 Special Session
STAFF MEASURE SUMMARY
HOUSE REVENUE COMMITTEE

MEASURE: HB 3618-A
CARRIER: Rep. Barnhart

REVENUE: Revenue statement issued
FISCAL: Minimal fiscal impact

Action: Do pass as amended and be printed engrossed
Vote: 9-0-0
 Yea: Bentz, Berger, Bruun, Gelser, Olson, Read, Rosenbaum, Witt, Barnhart
 Nay:
 Exc.:
Prepared By: Mazen Malik, Economist
Meeting Dates: 02/06, 02/07, 02/10, 02/11, 2/12

WHAT THE BILL DOES: Allows for the natural resource and commercial fishing properties to claim credits when filing for estate taxes. The credit schedule is highest at seven and a half million and lowest at fifteen million. It requires material participation, holding of the property in the same classification for five out of the following eight years, and requires that the natural resource property comprise at least fifty percent of the total estate value. Defines other eligibility, legal requirements, and adds domestic partner. Becomes effective 91 days following adjournment. The policy goal is to preserve small natural resource based businesses by allowing family owners to pass businesses onto future generations.

ISSUES DISCUSSED:

- Exclusion vs. exemptions and the credit choice. Gross estate and its definitions.
- Policy choices, Family Farmers or very large farms. The original intent of policy in 2007.
- Non workable issues that need to be fixed. Indexing. Recapture, the role of DOR.
- What makes for viable farming. Resource lands and businesses owned by entities.
- How the relations to the Federal Tax code make the interaction in Oregon tax work.
- Issues raised by the Oregon State Bar, and The Oregon CPA group. \$7.5 relation to existing \$1 million.
- Small woodland, fishing industry, natural resource definitions.
- Time to file and pay. Penalties and interest.
- Level of the recourse property composition of the estate. 75%, 50%, Federal requirements and definitions in 2032A. Amount of assets needed to pay taxes. 75% being difficult to achieve.
- Example of different tax due under different methods, and the different tables and amendments.

EFFECT OF COMMITTEE AMENDMENTS: “-4” adopted into the bill to become A version.

BACKGROUND:

The 2007 session passed HB 3201 with a number of tax issues. Section 68 of that bill included changes in the estate tax provisions. The main issue that section 68 (previously HB 3479) attempted to accomplish, was to increase the exemption to \$7.5 million of farm, forest and commercial fishing property. The bill directed the Department of Revenue (DOR) to establish rules that will guide the implementation of the new provisions. However, several issues arose as unforeseen consequences of the new law as it interacts with the federal connections and to the peculiar intricacies of the estate tax.

Some of the issues that were encountered are:

- Is the \$7.5 million an exclusion or an exemption. Cliff vs. gradual.
- Moreover, does the \$1 million exemption still applies?
- What is the primary policy purpose of the legislation?

Farm and forest land preservation. Small business ownership. Family owned Farm, Forest and Commercial fishing.

- Should entities be included in the definitions?
- Which type of property is included (land, trees, personal properties, etc)
- Level of participation requirements.
- Income tax implications.
- Percentage the natural resource property composes of the gross value.
- What is material participation (direct involvement, lease, hire?)

The resolution of these issues are introduced in this legislation with the mechanism of relief being done through a credit schedule that starts at \$1 million, tops at \$5 millions and then declines till it reaches \$0 at \$15 million.