

Senate Bill 631

Sponsored by Senator HANSELL (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows exclusion from taxable estate for value of interest in family-owned business. Applies to estates of decedents who die on or after January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to estate tax treatment of family-owned business; creating new provisions; amending ORS
3 118.010; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 118.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Family member" means a person within the third degree of relation, by blood, mar-**
8 **riage, civil union or domestic partnership, to another person.**

9 (b) **"Family-owned farm or business" means any farm or ranch, or other business en-**
10 **terprise operated for the primary purpose of obtaining a profit in money, if 75 percent or**
11 **more of the business enterprise is owned by one or more family members.**

12 (2) **An interest held by a decedent in a family-owned farm or business for one year or**
13 **more before the death of the decedent is exempt from the tax imposed under this chapter**
14 **if the interest is transferred, as a consequence of the decedent's death, to one or more family**
15 **members of the decedent.**

16 (3) **An estate claiming the exemption under this section may not claim the credit allowed**
17 **under ORS 118.140.**

18 **SECTION 3. ORS 118.010 is amended to read:**

19 118.010. (1) As used in this section:

20 (a) **"Nonresident decedent" means an individual who is domiciled outside of Oregon on the date**
21 **the individual dies.**

22 (b) **"Resident decedent" means an individual who is domiciled in Oregon on the date the indi-**
23 **vidual dies.**

24 (2) **A tax is imposed upon a transfer of the property of each:**

25 (a) **Resident decedent; and**

26 (b) **Nonresident decedent whose estate includes any interest in:**

27 (A) **Real property located in Oregon; or**

28 (B) **Tangible personal property located in Oregon.**

29 (3) **The Oregon taxable estate to be used for purposes of computing the tax imposed under this**
30 **section shall be the federal taxable estate:**

31 (a) **Increased by:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(A) The deduction for state estate, inheritance, legacy or succession taxes allowable under section 2058 of the Internal Revenue Code; and

(B) If the decedent is a surviving spouse owning the property at death, the value of the following property unless included in the federal taxable estate:

(i) Property for which a deduction for Oregon special marital property under ORS 118.016 was previously allowed; or

(ii) Property for which a separate Oregon election under section 2056 or 2056A of the Internal Revenue Code was previously allowed; and

(b) Reduced by:

(A) The value on the date of the decedent's death of all Oregon special marital property under ORS 118.013; *[and]*

(B) The exemption allowed under section 2 of this 2021 Act; and

~~(B)~~ **(C)** Any other applicable exclusions or deductions.

(4) The tax imposed under this section shall be calculated by applying the rates in the following table. If the Oregon taxable estate is at least the amount in column 1, but less than the amount in column 2, the tax is the amount in column 3, increased by the excess above the amount in column 1 multiplied by the percentage in column 4:

1	2	3	4
\$1,000,000	\$1,500,000	\$0	10.0%
1,500,000	2,500,000	50,000	10.25%
2,500,000	3,500,000	152,500	10.5%
3,500,000	4,500,000	257,500	11.0%
4,500,000	5,500,000	367,500	11.5%
5,500,000	6,500,000	482,500	12.0%
6,500,000	7,500,000	602,500	13.0%
7,500,000	8,500,000	732,500	14.0%
8,500,000	9,500,000	872,500	15.0%
9,500,000		1,022,500	16.0%

(5) In the case of a resident decedent owning, on the date of the decedent's death, real property located outside Oregon or tangible personal property located outside Oregon, the tax imposed under this section shall be the amount determined under subsection (4) of this section multiplied by a ratio. The numerator of the ratio shall be the sum of the value of the decedent's real property located in Oregon, tangible personal property located in Oregon and intangible personal property. The numerator may not include any intangible personal property subject to a tax imposed, as a result of the death of the decedent, by another state or country. The denominator of the ratio shall be the total value of the decedent's gross estate.

(6) In the case of a nonresident decedent owning, on the date of the decedent's death, real property located in Oregon or tangible personal property located in Oregon, the tax imposed under this section shall be the amount determined under subsection (4) of this section multiplied by a ratio. The numerator of the ratio shall be the sum of the value of the decedent's real property located in Oregon and tangible personal property located in Oregon. The denominator shall be the total value

1 of the decedent's gross estate.

2 (7) Payment, in whole or in part, of estate taxes from funds of an estate or trust on any benefit
3 subject to tax under ORS 118.005 to 118.540 is not to be considered a further taxable benefit, when
4 such payment is directed by the decedent's will or by a trust agreement.

5 (8)(a) If the federal taxable estate is determined by making an election under section 2031(c),
6 2032, 2032A, 2056 or 2056A of the Internal Revenue Code or another provision of the Internal Re-
7 venue Code, or if a federal estate tax return is not required under the Internal Revenue Code, an
8 executor may make separate elections for state estate tax purposes under that same provision.

9 (b) An executor may make elections under ORS 118.013, [*and*] 118.140 **and section 2 of this**
10 **2021 Act** and section 2056 of the Internal Revenue Code for state estate tax purposes.

11 (c) Elections described in this subsection are irrevocable.

12 **SECTION 4. The amendments to ORS 118.010 by section 3 of this 2021 Act apply to estates**
13 **of decedents who die on or after January 1, 2022.**

14 **SECTION 5. This 2021 Act takes effect on the 91st day after the date on which the 2021**
15 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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