

SB 498 A

Background Information

House Committee on Revenue

*Revised Version -- adds some context on Page 17 and a new slide with details of revenue impact



Presentation Flow

- Background Information (briefly)
 - Oregon Estate Tax
 - Natural Resource Credit
- Comparing Current-Law Credit to SB 498 A
 - Summary Comparison
 - Detail Comparison of Policies
 - Example Calculations
- Select Natural Resource Data Sources





Historical Context for Oregon Estate Tax

- Oregon's Tax was a "Pickup Tax" (1987-2010)
 - Federal Estate Tax allowed credit for state tax, and Oregon set tax equal to maximum credit – So, state tax did not increase total tax
 - Oregon did not connect to Federal Estate Tax changes in 2000s
 - Federal exclusion increased from \$675K in 2001 to \$3.5M in 2009
 - Estate tax was repealed for 2010, but set to come back in 2011
 - State tax credit phased out, and replaced with deduction in 2005
 - 2010 Federal estate tax reinstated with \$5 million exclusion
 - Oregon tax remained calculated as Pickup Tax based on 1997 Federal Law
 - 1997 federal law phased up the estate tax exemption, to \$1 million for 2006
 - Oregon added Natural Resource Exclusion in 2007, modified and changed to credit that was a percent of the property value in 2008
 - Oregon's pickup tax was replaced in 2011 (HB 2541) with current stand-alone structure, which also changed the Natural Resource Credit to current calculation





Tax Rate

Taxable Estate Value	Marginal Tax Rate
Less than \$1 million	0%
\$1m - \$1.5m	10%
\$1.5m - \$2.5m	10.25%
\$2.5m - \$3.5m	10.50%
\$3.5m - \$4.5m	11%
\$4.5m - \$5.5m	11.50%
\$5.5m - \$6.5m	12%
\$6.5m - \$7.5m	13%
\$7.5m - \$8.5m	14%
\$8.5m - \$9.5m	15%
More than \$9.5m	16%





Current-Law Natural Resource Credit from Oregon Estate Tax Returns

Tax Year	Total Returns	Total Tax (\$ million)	Number with NRC	Total NRC (\$ million)
2017	2,063	\$206.7	50	\$5.7
2018	2,067	\$188.1	45	\$5.2
2019	2,372	\$315.8	52	\$6.2
2020	2,486	\$243.3	59	\$7.9

Natural Resource Property has recently averaged about 73% of Oregon Gross Estate for Credit Claimants
About 100 million dollars of natural resource property is claimed each year

Source: DOR, Research Section

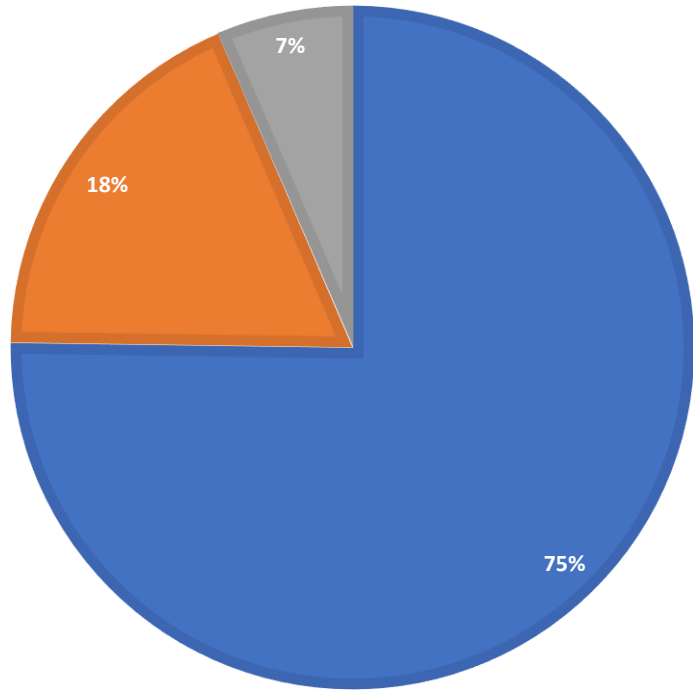




All Filers and NRC Claimants by Taxable Estate

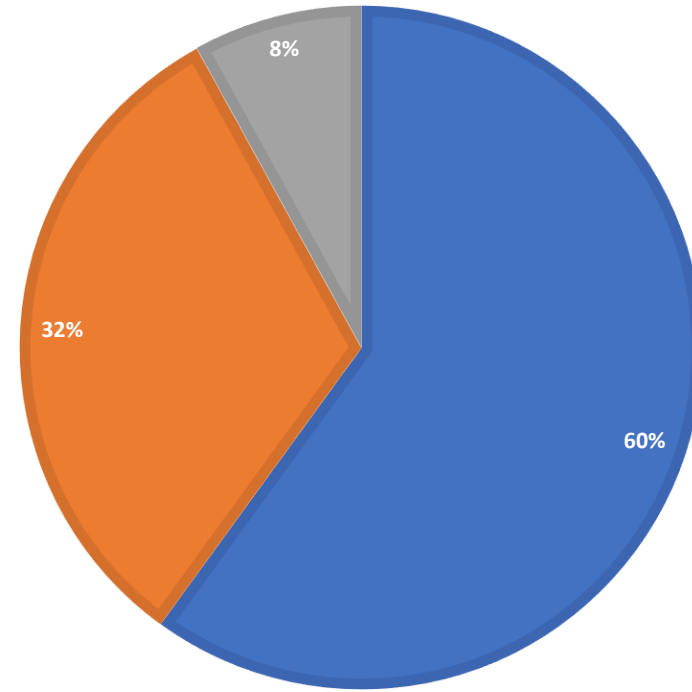
**OREGON ESTATE TAX FILERS 2016-2020
(APPROXIMATE)**

■ Under \$2.5M ■ \$2.5M-\$5.5M ■ more than \$5.5M



**NATURAL RESOURCE CREDIT CLAIMANTS 2016-2020
(APPROXIMATE)**

■ Under \$2.5M ■ \$2.5M-\$5.5M ■ more than \$5.5M





Estate Value Definitions

- **Gross Estate (from Internal Revenue Code Section 2031)**
 - Total Fair Market Value of all assets at time of death (cash, stocks, bonds, real estate, insurance, trusts, annuities, business interests, etc.)
- **Adjusted Gross Estate (ORS 118.140 for Natural Resource Credit)**
 - Gross estate minus funeral expenses, estate administration expenses, debt, loss after death due to fire/storm/shipwreck
- **Taxable Estate (IRC Section 2053)**
 - Adjusted Gross Estate minus property passing to surviving spouse, charitable gifts

• **Example:**

Same Adjusted Gross Estate and Natural Resource Credit if no spouse/charitable bequest

Gross Estate	Debt	Adjusted Gross Estate	Qualified Natural Resource Property
\$15,000,000	\$0	\$15,000,000	\$10,000,000
\$30,000,000	\$15,000,000	\$15,000,000	\$10,000,000

- This presentation is simplified in several respects, e.g. presenting info for Oregon residents without spousal or charitable bequests so Taxable and Adj. Gross Estate generally the same.





Special Valuation of Farms and other Closely Held Business incorporated into Oregon law

- Oregon Law Includes IRC 2032A in several ways
 - Oregon incorporates optional special use valuation to reduce taxable estate value (real estate used in farm or other closely held business)
 - Based on current use rather than “highest and best” use
 - Limited to reduction of \$1,230,000 for 2022.
 - Oregon credit and Federal special use valuation use same definition of qualifying family member
 - Oregon ownership and use requirements are based on federal requirements
 - Oregon value of natural resource property must be at least 50% of adjusted gross estate value, federal valuation additionally requires value of farm real estate is at least 25%
 - Oregon and Federal require the property to have been used by decedent or family member materially participating in the business for at least 5 of 8 years preceding death of decedent
 - Oregon credit requires continued material participation/active management for 5 out of 8 years after death (federal valuation requires 10 years)





Summary: Comparing Current Law Credit to SB 498 A

Natural Resource Credit (Current Law)

SB 498 A

	Natural Resource Credit (Current Law)	SB 498 A
Natural Resource Property Definition	ORS 118.140	ORS 118.140
Definition of Family Member	Internal Revenue Code Section 2032A Ancestors/descendants, descendants of parents	3rd Degree of Relation Ancestor up to Great Grandparent, Descendants down to Great Grandchild, Sibling, Niece/Nephew
Maximum Value Of Natural Resource Property	\$7.5 million	\$15 million
Maximum Value of Estates	\$15 million adjusted gross estate	No limit
Minimum portion of estate that is Natural Resource Property	50%	No limit
Ownership Requirement	5 of 8 years prior to death, and 5 of 8 years after death	5 year prior to death, and 5 years after death
Family Member Material Participation	5 of 8 years prior to death, and 5 of 8 years after death	75% of 5 year prior to death, and 75% of 5 years after death
Form of Tax Reduction	Tax is reduced in proportion to Natural Resource Property value as fraction of total estate value	Tax is calculated after subtracting Natural Resource Property value from taxable estate value
Recapture	Portion of 5 years not in use multiplied by Difference in Tax	Difference in Tax

Note that SB 498A does not replace credit. It allows a choice between current law and new exemption.





Credit Remains Available

- Exclusion in SB 498 A retains the credit
 - Estates could choose best tax outcome given ownership/use characteristics
- Examples
 - \$14 million estate, with 10 million natural resource property (NRP)
 - Prefer SB 498 A excluding \$10M, Also qualifies for Natural Resource Credit based on \$7.5M NRP
 - \$24 million estate, with \$23 million natural resource property
 - \$15 million excluded under SB 498 A, doesn't qualify for credit because value over \$15M





Natural Resource Business

- Farm Business
 - Fruits, crops, dairy, livestock, poultry, fur-bearing animals, bees, horses, fish, nursery stock, etc.
- Forestry
 - Planting, cultivating, caring for, preparing, harvesting or cutting timber/trees for market
- Fishing
 - Commercial fishing, including shellfish
- All qualified businesses must be operated for primary purpose of obtaining a profit





Natural Resource Property

- Property located in Oregon and used for farm, forest, fishing business owned by the decedent
- Real Property for farm; up to 5,000 acres forest
 - Includes homesite if used in business
- Personal Property used in business (machinery, equipment, livestock, nursery stock, crops, boats and equipment, etc.)
- Any other personal property used in the operation of farm, forest, fishing business as defined in statute
- Operating allowance – Cash/equivalents if used only for qualified business
 - Up to less or 15% of other natural resource property or \$1 million





Value Restrictions

- Natural Resource Credit (ORS 118.140(2) and ORS 118.140(3))
 - Credit based on value of eligible property up to \$7.5 million
 - Adjusted Gross Estate value up to \$15 million
 - Eligible property must be at least 50% of estate value
- SB 498 A Exclusion
 - Exclude value of eligible property up to \$15 million
 - No limit on size of estate
 - Can be any percent of estate value





Ownership and Active Participation

- Natural Resource Credit (ORS 118.140(5) – 118.140(9))
 - Ownership of property qualified business 5 out of 8 years prior to decedent's death, and 5 out of 8 years after decedent's death
 - Decedent or family member material participation in qualified business 5 out of 8 years before and after decedent's death
- SB 498 A
 - Ownership for one year prior to death of decedent, and five years after death
 - Decedent or family member material participation in qualified business 75% of time 5 years before and after decedent's death
 - The 75% restriction is intended to allow passive lease 25% of each year





Exclusion provides higher tax benefit

- Example: Tax on \$4.5 million estate with \$3 million qualified property
(for simplicity, using Taxable Estate = Adjusted Gross Estate, implying no spousal/charity bequest)
 - **Without credit or exemption, tax on \$4.5 million estate is \$367,500**
 - **Natural Resource Credit**
 - Taxable Estate = \$4.5 million
 - Credit percent based on ratio of qualified property to Adj. Gross Estate (ORS 118.140(2)(b))
 - Credit = \$245,000 = $\$367,500 \times (\$3,000,000 / \$4,500,000)$
 - **Tax = \$122,500 = $\$367,500 - \$245,000$**
 - **Exclusion (SB 498 A)**
 - Subtract qualified property value from taxable estate value
 - Taxable Estate = \$1,500,000 = $\$4,500,000 - \$3,000,000$
 - **Tax = \$50,000**





Recapture

- Natural Resource Credit
 - Value of Credit multiplied by fraction of months not in both qualified ownership and qualified use divided by required 60 months
 - Example, if used 3 of the required 5 years
 - Not in qualified use for 2 years (i.e. 24 months)
 - Recapture 40% of credit
- SB 498 A
 - Reinstates full tax if ownership of use requirements are not met for five years after decedent's death





Examples of Credit/Exclusion Calculation

See Revenue Impact Statement for Discussion of Aggregate Impact

Adjusted Gross/ Taxable Estate Value	Qualified Natural Resource Property	Tax without Credit or Exclusion	Tax with Credit	Tax w/ SB 498 A	
\$4,500,000	\$3,000,000	\$367,500	\$122,500	\$50,000	
\$8,500,000	\$4,000,000	\$872,500	\$872,500	\$367,500	Less than 50% NRP
\$10,000,000	\$8,000,000	\$1,102,500	\$275,625	\$101,250	Credit using \$7.5M NRP
\$14,000,000	\$14,000,000	\$1,742,500	\$809,018	\$0	Credit using \$7.5M NRP
\$18,500,000	\$16,000,000	\$2,462,500	\$2,462,500	\$257,500	Adj. Gross Estate >\$15M

Blue=Does Not Qualify

Examples are not representative of common situations.

- Of all 2020 Estate Tax Returns, 164 (6.6%) were \$4.5M taxable estate or over, and 51 (2.1%) were \$9.5M or over
- About 4 estates per year valued at \$5.5M or higher currently claim the Natural Resource Credit
- Just over 1 estate per year valued over \$15M would be expected to have qualifying property under SB 498A

Examples based on values only and assume ownership, and property use qualifications are met





Estimated Revenue Impact Detail

Tax Year 2024 Estimated Revenue Impact = **-\$7.5 million**

-\$1.6M -- Claim Current Natural Resource Credit, but Exclusion increases benefit (breakdown not available)

-\$5.9M -- Cannot Take Credit but Can Take Exclusion under SB 498A (breakdown below)

Estimated distribution of benefit to newly eligible estates

Taxable Estate	Number Claiming Exclusion	Average Tax Savings (\$ thousands)	Total Tax Savings (\$ million)
Under \$2.5M	136	\$8.6	\$1.2
\$2.5M-\$5.5M	28	\$45.9	\$1.3
\$more than 5.5M	6	\$560.4	\$3.4
Total	170	\$34.5	\$5.9

Note that the Estate Tax is subject to significant volatility. There can be significantly different outcomes than “average” based on characteristics of a relatively small number of estates.





Selected Natural Resource Data Sources

- US Department of Agriculture
 - [Farm Household Income and Characteristics](#)
 - [Federal Estate Tax](#) (in relation to farms)
 - [US Forest Service National Woodland Owner Survey](#)
- National Oceanic and Atmospheric Administration
 - [Fisheries Databases](#)
- Oregon Department of Fish and Wildlife
 - [Economic Impact of Oregon's Marine Fisheries](#)
 - [Commercial Landing Statistics](#)

