



**SB 498A: A Second Estate Tax break –
For multi-millionaires invested in natural resource property**

Testimony for House Revenue – Jody Wiser – 6.22.2023

We hope you will vote “no” on SB 498A, unless there is at least an amendment to remove the “75 percent of days” with material participation provision of the bill.

While working full time as a teacher in Portland and living thousands of miles away from the family farm, I qualified for “material participation” under the IRS guidance. My brother and I would talk on the phone every now and then. We discussed cropping decisions and sales of products. He made all the operational decisions. There are decades of IRS guidance and case law around current law. There is none around the 75% of the days language in SB 498A.

The bill attempts to weaken the already weak “material participation” requirement. Instead, it complicates it. The 75% provision will likely produce confusion, require rulemaking, example creation, and ultimately lead to litigation. There is no case law for the 75 % provision.

Further, having two natural resource provisions in Oregon law will only complicate the settling of estates, as CPAs and lawyers will need to look at both provisions.

The current law was designed over two years by a group that included Republicans and Democrats, lawyers, CPAs, ranchers and farmers. This bill has had none of that involvement. The key CPA in the state on the issue was unaware of the bill when I spoke with him last week. This is not the way to write good law.

Today only 4% of estates pay any estate tax, reducing the general fund by \$7 million. LRO expects this provision to cost an additional \$8 million a year, \$40 million between now and 2029, while benefiting fewer than 1% of estates.

Many Oregonian struggle to pay rent or a mortgage—yet this bill would give certain heirs extra millions. Vote NO.

Family farms already have special estate tax protections. Current law allows a tax break for an estate of up to \$15 million that has “natural resource property” (working farms, fisheries, and forests) constituting at least half its value. The purpose is to help ensure that small farms can remain in the family. Sixty percent of these estates have a value of less than \$2.5 million. About 50 estates claim the credit each year at a cost of \$7 million.

Under SB 498A, estates of any size could claim a new \$15 million exclusion from the estate tax, double the \$7.5 million in current law. That is, a \$100 million estate could exclude \$15 million in natural resource property, provided it met other requirements.

Thus, SB 498A has nothing to do with preserving small family farms. It is about a tax cut for an estate of any size if it includes any natural resource property. **It would open a loophole for billionaires to exploit an exemption in the estate tax intended for family farms.**

[Explains LRO](#), each year “about 170 Oregon estates that owe estate tax have some natural resource property but are not currently using the credit because of current value limitations or ownership and business-use requirements. Such estates are estimated to have reduced tax under the new exclusion....”

Which is to say, 170 high-value estates would get a tax cut.

The estate tax affects the heirs of about 1800 decedents annually—4% of all estates. SB 498A would give a tax cut to a certain kind of heir: one inheriting not a small natural-resource business but rather a diversified portfolio—including a farm, thousands of acres of forest land, a mountain retreat, or a horse ranch.

The bill and the concept should be rejected. **This is a bill for the rich and will increase the wealth divide. Vote No.**

| Simple Comparison - Current Law and SB498A | | |
|---|-------------------------------------|--|
| | Current Natural Resource Law | SB 498A |
| Maximum Value of Estate | \$15 million | No limit |
| Minimum Portion of Estate that is Natural Resource Property | 50% | No limit |
| Maximum Value of Natural Resource Property Not Taxed | \$7.5 million | \$15 million |
| Ownership | 5 years before and after death | 5 years before and after death |
| Family Member Material Participation | 5 of 8 years before and after death | 75% each year 5 years before and after death |
| Note: Regulations and case law have developed for material participation. Litigation would be likely under SB 498A. | | |

We read the bills and follow the money