

CHAPTER 18. INHERITANCE TAX

The Oregon inheritance tax and the federal estate tax have undergone considerable change. Both are taxes on the transfer of wealth and, for much of recent history, Oregon's inheritance tax was tied directly to the federal estate tax in a form referred to as a "pick-up tax." That is, Oregon's inheritance tax was equal to the maximum state inheritance tax credit allowed against the federal estate tax. This was a somewhat simultaneous determination in that Oregon's tax is the maximum federal estate tax credit and the credit against federal estate tax is the Oregon inheritance tax.

In 2001, federal legislation substantially changed the estate tax, including a phase-out of the state inheritance tax credit over several years. As this maximum credit phased out, Oregon and any other state that used the "pick-up tax" faced a reduction of revenue from this source.

In 2003, Oregon made a fixed link between the federal estate tax and Oregon inheritance taxes by tying Oregon's inheritance tax determination to the Internal Revenue Code as in effect on December 31, 2000 (HB 3072). For deaths occurring on or after January 1, 2003, Oregon's filing requirement is different from the federal requirements. This means that estates may have to file an Oregon return even if no federal return is due. The tax is equal to the maximum state death tax credit allowed on the 2000 federal return.

To calculate the state inheritance tax, the taxpayer must first calculate their maximum state death tax credit from the 2000 federal inheritance tax return. The federal schedule for this credit is based on the size of the taxpayer's federal taxable estate. The credit is calculated using graduated percentages, reaching a maximum rate of 16 percent for the largest estates. The credit calculated from this schedule is the amount the taxpayer's estate owes Oregon.

Receipts for this source are very volatile, depending on the circumstances of a small number of taxpayers. There has been revenue growth in recent years reflecting, in part, Oregon's population growth as well as growth in value of assets comprising estates. Receipts from the inheritance tax are expected to be \$197.6 million in 2007-09 and \$186.1 million in 2009-11.

18.001 NATURAL RESOURCE AND FISHING PROPERTY

Oregon Statute: 118.140 as amended by Oregon Laws 2008, Chapter 28

Sunset Date: None

Year Enacted: 2007 (HB 3201), Modified in 2008 (HB 3618)

	Total
2007–09 Revenue Impact:	\$1,000,000
2009–11 Revenue Impact:	\$1,300,000

DESCRIPTION: Estates with natural resource and commercial fishing properties may claim credits when filing for estate taxes. The credit schedule is highest at \$7.5 million and lowest at \$15 million. It requires material participation, holding of the property in the same classification for five out of eight years before and following death. The natural resource property must comprise at least 50 percent of the total estate value.

Farm use property, forest use property, and farm or forest homesites qualify as natural resource property. Property used in commercial fishing operations or in the processing and marketing of those operations also qualifies.

PURPOSE: The statute that allows this expenditure does not explicitly state a purpose. According to the Staff Measure Summary describing HB3618, ‘The policy goal is to preserve small natural resource based businesses by allowing family owners to pass businesses onto future generations.’

WHO BENEFITS: Family members of decedents who owned exempted property at the time of death. There is not sufficient history to know the number of estates affected by this, but it is thought to be relatively few.

EVALUATION: *by the Department of Agriculture*

Approximately 18 people have utilized this credit according to the Oregon Farm Bureau. The intent of the credit, as explained by its proponents, is to offset all estate taxes owed on qualifying natural resources estates values up to \$7.5 million and scaled down after that to the \$15 million value. Some estates that filed in 2007 and refiled in 2008 still were assessed taxes even though the estate was valued at less than \$7.5 million.

These assets represent lifetime investment and “savings” of a family business that may be forced into selling off assets to pay estate taxes without this credit. The credit is an effective method to offset taxes owed in order to preserve working farm, forest, and other natural resource businesses across the state.