

Oregon Natural resource and commercial fishing business credit Schedule NRC for Form OR706

This publication is a guide, not a complete statement, of Oregon Revised Statutes (ORS) and Oregon Department of Revenue Administrative Rules (OAR). For more information, refer to the laws and rules on our website, www.oregon.gov/dor.

Please refer to ORS 118.140 and OAR 150-118.140 for additional information regarding this credit.

ORS 118.140 provides a natural resource or commercial fishing business credit applying to deaths on or after January 1, 2007. You may take all, part, or none of this credit for which you qualify. Natural resource property is farm use and forestland (ORS 308A.056, 308A.250, 312.201). Qualified property also includes property used in a commercial fishing business [ORS 508.1301(b)(4)].

To claim this credit, complete all parts of this schedule and attach to Form OR706, *Oregon Estate Transfer Tax Return*, 150-104-001. The executor shall notify the family members who inherit natural resource or commercial fishing property of the tax consequences if they fail to meet the conditions of the credit (ORS 118.140). Every family member inheriting all or part of the Natural Resource property or commercial fishing property must be identified in Part 3 and sign Part 4. The executor must provide each inheriting family member with a copy of Schedule NRC for their permanent tax records.

This credit is only allowed if you meet the following requirements:

- The total adjusted gross estate doesn't exceed \$15 million.
- The total value of the natural resource property in the estate is at least 50 percent of the total adjusted gross estate.
- Adjusted gross estate is the gross estate minus Schedules J, K, and L.
- The natural resource property is transferred to, or held in, trust for a qualified beneficiary, who is a family member.
- During an aggregate period of five out of eight years ending on the date of the decedent's death, the decedent or a family member operated a farm business, forestry business or fishing business and the property for which a credit is claimed is part of the business.
- A credit is allowed for the following real property only if the real property was owned by the decedent or a family member during an aggregate period of five out of the eight years ending on the date of the decedent's death and used in a business described in ORS 118.140(3)(d):
 - a. Real property used as forestland or as forestland homesites, not to exceed 5,000 acres.
 - b. Real property used in farm use.
- A credit is allowed for property used in the operation of a fishing business only if the decedent or a family member,

during an aggregate period of five out of the eight years ending on the date of the decedent's death:

- a. Owned a vessel used in taking food fish or shellfish for commercial purposes (ORS 506.006);
- b. Held a boat license (ORS 508.260);
- c. Held a commercial fishing license (ORS 508.235); and
- d. Held one or more restricted fisheries permits (ORS 508) or an equivalent restricted vessel permit system under the laws of another state

Oregon will allow a credit for property that meets the above requirements if:

- The property is the subject of a net cash lease to or from the decedent or qualified beneficiary who's a family member.
- The property is held in trust for a qualified beneficiary who's a family member.
- The property replaces natural resource property and the replacement property would otherwise meet the definition of natural resource property, except that it was acquired after the date of the decedent's death, but before the estate tax return is filed. Real property must be replaced with real property.
- For determining the period of time in which the decedent or a family member owned real property, received in exchange [Internal Revenue Code (IRC) 1031], or acquired in an involuntary conversion (IRC 1033), the period during which the decedent or a family member owned the exchanged or acquired real property, may be included, if the exchanged or acquired real property was used in the farm business or forestry business.
- Property that otherwise meets the requirements of this section and that is owned indirectly by the decedent or a family member qualifies for a credit under this section, if the property is owned through an interest in a limited liability company, corporation, partnership, or trust [IRC 2032A(g)]. In order to qualify under this subsection, at least one family member must materially participate in the business after the transfer. For purposes of this subsection, "materially participate" means to engage in active management (IRC 2032A), of the farm business, forestry business or fishing business. We may adopt rules to administer this subsection consistent with this definition.

Credit Computation

The natural resource credit is computed by multiplying the tax that would be payable (ORS 118.005 to ORS 118.840), absent the credit by a ratio, the numerator of which is an amount equal to the lesser of the amount of natural resource property or \$7.5 million, and the denominator of which is an amount equal to the total adjusted gross estate.

Example: If an estate had a adjusted gross estate of \$2,000,000, natural resource property of \$1,200,000, and tax payable to Oregon of \$101,250, the credit would be \$60,750, computed as follows:

$$101,250 * (1,200,000 / 2,000,000) = 60,750$$

Annual Certification for Natural Resource Credit [ORS 118.140(10)]

The heir who inherits the natural resource property will need to file the *Annual Certification for Natural Resource Credit Property or Commercial Fishing Business Credit Property* form, 150-104-008, with us. This form certifies the heir's continued qualified use of the property, this form is due April 15th.

Disposition of natural resource property and additional tax due [ORS 118.140(9)(a)]

An additional tax may be imposed per ORS 118.005 to 118.540 if the natural resource property or commercial fishing business property is disposed of or is transferred to a person other than a family member or another eligible entity, before the property is used for five out of eight years after the date of death.

The additional tax liability is the amount of the additional tax that would have been imposed, had the disqualified property not been included in the numerator of the ratio

used to calculate the natural resource credit, multiplied by [(five minus the number of years the property was used as natural resource property) divided by five]. The property owner will pay the additional tax at the time of the disposition of the property or the disqualifying event. Each property owner will need to file Form OR706-A, *Additional Oregon Estate Transfer Tax Return*, 150-104-007. This return and the additional tax are due six months after the date of disposition of the property. For examples of the additional tax due, see Form OR706-A and instructions.

- The payment of federal estate taxes, state inheritance, or estate taxes from cash or other assets for which a natural resource credit was claimed, shall be a disposition and an additional tax shall be imposed.
- The conveyance after the decedent's death of property that otherwise meets the requirements of this section and is conveyed as a qualified conservation contribution [IRC 170(h)], is not a disposition requiring payment of additional tax under this subsection.
- Natural resource property may be replaced with real property or personal property after the credit is claimed and does not result in a disposition subject to an additional tax if the replacement property is used in the operation of the farm business, forestry business or fishing business. Real property for which a credit is claimed under this section may be replaced only with real property that would otherwise qualify as natural resource property. The replacement must be made within one year to avoid a disposition and additional tax, with the exception that involuntarily converted replacement property must occur within two years (IRC 1033).

Schedule NRC

For deaths on or after January 1, 2012

Oregon Natural Resource or Commercial Fishing Business Property Credit for Form OR706

Estate of: _____ Decedent's Social Security number _____

Part 1. Qualifying natural resource or commercial fishing business property, is 50 percent or more of the adjusted gross estate, which does not exceed \$15 million (ORS 118.140). To determine your Adjusted Gross Estate, go to Part 5 of this schedule. Check all boxes below which apply to this estate:

- Farm use defined in ORS 308A.056.
- Farm use defined in ORS 308A.250.
- Forestland defined in ORS 321.201.
- Forestland defined in ORS 308A.250.
- Property used in commercial fishing business, as defined by IRC 1301(b)(4), and licensed under ORS 508.
- Property of a commercial fishing business licensed under ORS chapter 508, that is used to process and sell the catch to consumers, including a restaurant with seating capacity of less than 15.

The credit is not valid unless Parts 1-5 are completed:

- a. Part 4 must be signed by each qualified heir with an interest in the natural resource or commercial fishing business property; and
- b. The completed Schedule NRC is attached to Form OR706, *Oregon Estate Transfer Tax Return*, 150-104-001, when it is filed.

Part 2. Description of property. List all natural resource and commercial fishing business property owned by the estate, even if you're not claiming the natural resource credit for all natural resource properties. All properties listed below must also be listed on the applicable schedules filed with Form OR706. Complete all columns.

- If you claim operating allowance it may not exceed the lesser of \$1 million or 15 percent of the total value of natural resource property claimed for this credit, not including the operating allowance.
- Attach a legal description of all property described in column B.
- Attach copies of fee appraisals used to determine date of death property values listed in Column C and any other documents used to establish date of death value.

A. Schedule and item number from Form OR706	B. Description of the qualified natural resource property or commercial fishing business property and date when property was acquired.	C. Fair market value as reported on Form OR706 schedules.	D. Value of natural resource property on which the credit is calculated.
Column Totals		C.	D.

Part 3. Qualified heir(s). Identify each qualified heir receiving an interest in property upon which the credit is calculated. "Qualified heir" is a member of a decedent's family as defined in Section 2032A and/or the decedent's registered domestic partner, defined in Chapter 106. Attach additional pages if more lines are needed. The Executor/Administrator of this estate will provide a complete copy of this Schedule NRC to each of the qualified heir identified below.

	Full name	Street address, city, state, ZIP code
A		
B		
C		
D		
E		
F		
G		

	Identifying number (e.g., SSN, FEIN)	Relationship to decedent	FMV or heirs' portion of qualified property
A			
B			
C			
D			
E			
F			
G			

Estate of: _____ Decedent's Social Security number _____

Part 4. Valid election. Natural resource or commercial fishing business property credit.

We (list the qualified heirs having an interest in the natural resource or commercial fishing business property) _____

are the qualified heirs having interest in the natural resource or commercial fishing business property. We approve of the election made by

Executor/Administrator of the estate of _____

We, the qualified heirs, understand ORS 118.140, requires the following conditions be met:

1. The qualified heir must use the property as a natural resource property or commercial fishing business property for which a credit is elected for at least five out of eight calendar years following the decedent's death to qualify for the credit.
2. The heir who inherits the natural resource property will file the *Annual Certification for Natural Resource Credit Property or Commercial Fishing Business Credit Property* form, 150-104-008, with us each year, due on April 15th. With the annual certification form the heir certifies continued qualified use of the property according to ORS 118.140.
3. During the five out of eight calendar years required use period, described in number 1 above, the qualified heir may transfer the natural resource or commercial fishing business property to another qualified heir who is eligible for the credit. Upon transfer of property to a qualified heir, file Form OR706-A, *Oregon Additional Estate Transfer Tax Return*; transfer to a qualified heir generally results in no additional tax.
4. If the heir does not use the property as a natural resource or commercial fishing business property for five out of eight calendar years following the decedent's death, or the heir disposes of the property, an additional tax under ORS 118.005 to 118.840 may be due from the heir.
 - a. The additional tax liability will be the amount of additional tax that would have been imposed had the disqualified property value not been included in the natural resource credit calculation multiplied by [(five minus the number of years the property was used as natural resource property) divided by five].
 - b. Form OR706-A, *Oregon Additional Estate Transfer Tax Return*, 150-104-007, will be required from the heir and the additional estate transfer tax paid within six months after the disqualifying event occurs.

Signature of each qualified heir is required for a valid election:

_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)
_____ (Signature of qualified heir)	_____ Date (MM/DD/YYYY)

Attach additional pages if more signature lines are needed. If all of the qualified heirs cannot sign the same page, it is acceptable to have a separate signature page for each heir.

Estate of: _____ Decedent's Social Security number _____

Part 5. Adjusted gross estate and credit computation

Adjusted gross estate:

1. Gross estate (Form OR706, Part 2, line 1).....	1.	\$	<input type="text"/>
2. Less:			
a. Schedules J and K (Form OR706, Part 5, line 516).....	2a.		<input type="text"/>
b. Schedule L (Form OR706, Part 5, line 518).....	2b.		<input type="text"/>
3. Adjusted gross estate (subtract the result of 2a plus 2b from line 1).....	3.		<input type="text"/>
<i>Stop if this amount is more than \$15 million; you do not qualify for the credit.</i>			
4. Value of all eligible natural resource or fishing property (Schedule NRC, Part 2, column C total).....	4.		<input type="text"/>
5. Divide line 4 by line 3. This is your natural resource property percentage.....	5.		<input type="text"/> %
<i>Stop if your percentage is less than 50 percent; you do not qualify for the credit.</i>			
6. Value of natural resource property on which the credit is calculated (Schedule NRC, Part 2, column D total, do not enter more than \$7.5 million).....	6.		<input type="text"/>
7. Divide line 6 by line 3 (round to two decimal places).....	7.		<input type="text"/>
8. Estate tax payable to Oregon (Form OR706, Part 2, Line 7).....	8.	\$	<input type="text"/>
9. Multiply line 8 by line 7. This is your natural resource credit. Enter on Form OR706, Part 2, line 8.....	9.		<input type="text"/>

Example:

The John Doe Estate has a gross estate of \$4,225,000, Schedule J and K expenses of \$135,000, Schedule L expenses of \$90,000, and adjusted gross estate of \$4,000,000. The value of natural resource property (Schedule NRC, Part 2, column D) is \$2,500,000 and the Estate tax payable (Form OR706, Part 2, Line 7) is \$312,500. Here is the computation of the credit:

Line 1.....	\$ 4,225,000
Line 2a.....	\$ 135,000
Line 2b.....	\$ 90,000
Line 3.....	\$ 4,000,000
Line 4.....	\$ 2,500,000
Line 5.....	0.63
Line 6.....	\$ 2,500,000
Line 7.....	0.63
Line 8.....	\$ 312,500
Line 9.....	\$ 196,875

Attach pages 1, 2 and 3 of this schedule to Form OR706 and provide a complete copy of Schedule NRC to each qualified heir identified in Part 3.