Schedule OR-NRC Instructions

Oregon Natural Resource Credit

2021

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.

Refer to ORS 118.140 and supporting rules for additional information regarding this credit.

Schedule OR-NRC instructions

ORS 118.140 provides a natural resource or commercial fishing business credit, for qualified property, applying to a return of decedents dying 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, 321.201). Real property must be in Oregon [ORS 118.140(1)(L)]. Qualified property also includes property used in a commercial fishing business [ORS Chapter 508 and Internal Revenue Code (IRC) Section 1301(b)(4)].

To claim this credit:
Complete all parts of this schedule and file with Form OR-706, *Oregon Estate Transfer Tax Return*, 150-104-001. The executor shall notify the family members who inherit qualifying 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 property must be identified in part 3 and sign part 4. The executor must provide each inheriting family member with a copy of Schedule OR-NRC, *Oregon Natural Resource Credit*, 150-104-003, for their permanent tax records.

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

- The natural resource property is located in this state.
- The total adjusted gross estate doesn't exceed $15 million.
- The total value of the Oregon natural resource property in the estate is at least 50 percent of the Oregon adjusted gross estate.
- Total adjusted gross estate is the total gross estate minus Schedules J, K, and L deductions.
- Oregon adjusted total gross estate is the gross estate minus real and personal property outside of Oregon, minus Schedules J, K, and L deductions as these deductions relate to Oregon assets.
- The natural resource property is transferred to, or held in, trust for a qualified beneficiary, who is a family member.
- 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.
- When determining the period of time in which the decedent or a family member owned real property that was received in exchange (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.

Credit computation

The natural resource credit is computed by multiplying the tax that would be payable under ORS 118.005 to ORS 118.540, absent the credit by a ratio, the numerator of which is an amount equal to the lesser of the amount of Oregon natural resource property claimed 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 total adjusted gross estate of $6 million, an Oregon adjusted gross estate of $2 million, Oregon natural resource property of $1.2 million and tax payable to Oregon of $179,025, the credit would be $35,805, computed as follows:

$179,025 x (1,200,000 ÷ 6,000,000) = $35,805

Annual certification for natural resource credit [ORS 118.140(10)]

The heir(s) who inherits the qualifying property will need to file the Form OR-NRC-CERT, *Annual Certification for Natural Resource Credit*, 150-104-008, with us. This form certifies the property remains in qualified use for the natural resource credit. This form is due annually, by April 15th.

Disposition of qualifying 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 qualifying 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 [(60 months minus the number of months the property was used as natural resource property) divided by 60 months]. 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 OR-706-R, *Repayment of Oregon Natural Resource Credit,* 150-104-007.

This return and the additional tax are due within six months after the date of disposition of the property or the disqualifying event. For examples of the additional tax due, see Form OR-706-R 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)], isn't a disposition subject to an of additional tax under this subsection.
- Qualifying property may be replaced with real property or personal property after the credit is claimed and doesn't 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).

Do you have questions or need help?

Internet

www.oregon.gov/dor

- Download forms, instructions, and publications.
- Search FAQ.

Email

estate.help.dor@oregon.gov

This email address isn't secure and confidentiality can't be ensured. General tax and policy questions only. We ask that professional tax preparers and attorneys research questions before contacting us.

Correspondence

Estate Tax Unit, Business Division
Oregon Department of Revenue
PO Box 14110
Salem OR 97309-0910

Fax: 503-945-8787, Estate Tax Unit

Phone

503-378-4988 or 800-356-4222

Monday–Friday, 7:30 a.m.–5 p.m.
Closed Thursdays from 9–11 a.m. Closed holidays.
Wait times may vary.

Contact us for ADA accommodations or assistance in other languages.

In person

Find directions and hours on our website.