2013
Forestland Manual

OREGON
DEPARTMENT
OF REVENUE

www.oregon.gov/dor

150-303-424 (Rev. 05-13)

Table of contents

Introduction 1-1

Qualification chapter 2-1
- Forestland 2-3
- Designated forestland 2-5
- Small tract forestland 2-13
- Valuation of certain forestland at farm use value 2-17
- Farm wood lot 2-17
- Notation of assessment and tax roll 2-17

Valuation chapter 3-1
- Background information 3-3
- Values on specially assessed properties 3-3
- Forest use mass appraisal procedures 3-7
- Appeals 3-8

Disqualification chapter 4-1
- Before you disqualify 4-3
- Declassification of 'highest and best use' forestland 4-3
- Specially assessed forestland disqualification 4-3
- Other forest related disqualifications 4-6
- Notification of disqualification 4-6
- Appeals 4-6

Additional tax chapter 5-1
- General information 5-3
- Additional tax upon disqualification 5-3
- Additional tax deferred 5-5
- No additional tax 5-8

Special provisions 6-1
- Governmental exchanges 6-3
- Properties with timber under short rotation 6-3
- Land supporting juniper trees 6-3
- Conservation easements 6-3
- Specially assessed homesites 6-5
- Non-forest related homesites 6-9
- Non-farm dwellings in an exclusive farm use (EFU) zone 6-10
- Land supporting Christmas trees 6-11
- Forested land that may be assessed in other ways 6-11

Glossary 7-1

Appendices

Appendix A—Sample reforestation plan 8-1
Appendix B—ODF land use planning notes 8-3
Appendix C—ODF notification of operations (permit) 8-19
Appendix D—DOR sales questionnaire 8-23
Appendix E—Resource contact list 8-25
Appendix F—Court cases 8-31
a. Smith v. Department of Revenue 8-33
b. Meeks v. Department of Revenue 8-42
c. Hout v. Department of Revenue 8-46
d. Tollefson v. Department of Revenue 8-54
e. Department of Revenue v. David D. Rankin 8-60
f. Lane County v. Richard A. Briggs 8-64
Appendix G—Counter questions 8-69
Appendix H—Disqualification notification procedures 8-75
Appendix I—Special assessment diagram 8-139

Chapter 308A

Laws 9-1
Rules 9-37

Chapter 321

Laws 10-1
Rules 10-35

Introduction

Forestlands are important to Oregon's economic and environmental health. The Oregon Legislature established several special assessment programs that reduce taxes for forestland owners in order to recognize and encourage timber growth and harvest.

This manual is intended to serve as a comprehensive technical reference manual for those who appraise forestland in Oregon for property taxation. The manual is designed to help county tax assessors and appraisers interpret forest use statutes and administrative rules. Owners of forested properties may find information in this booklet helpful in decisions related to their forestland holdings.

This manual is not intended to be the definitive legal reference for all laws and regulations applying to forestland in Oregon. Management and harvests on private forestland are regulated by several state and federal agencies. County assessors and appraisers should seek advice on questions that are outside the range of their expertise. This booklet is also not intended to serve as a guide on management of forested properties or advise owners on the tax consequences of every action they may take on their property. Owners of forested properties are encouraged to seek expertise from their county assessors, extension agents, forest consultants, or others on matters specific to their properties.

Roles of county and state government in program administration

County government, through the county assessment offices, is the primary decision-maker and authority of forestland special assessments. The county is responsible for accepting and processing applications for the special assessments, including disqualifying lands that no longer qualify and collecting the appropriate property taxes.

State government, through the Oregon Department of Revenue (DOR), oversees the administration of forestland special assessments by interpreting statutes and administrative rules, producing forms and publications, and acting as a resource for county questions. This serves to maintain consistent interpretation and application of statutes and rules related to the administration of tax programs. DOR also provides valuation functions in support of the forestland programs and administers the tax imposed on harvested timber. The Oregon Department of Forestry has statutory authority to monitor stocking levels and to recommend both reforestation plans and disqualification proceedings.

Forested land versus forestland

"Forested land" is land that supports natural vegetation that includes tree species.

"Forestland" is land that meets the criteria detailed in Oregon Revised Statute (ORS) 321.257(2) for western Oregon or ORS 321.805(4) for eastern Oregon. It also includes land that is designated as forestland and meets the species, stocking and acreage criteria in Oregon Administrative Rule (OAR) 150-321.358(4) for western Oregon, and OAR 150-321.839(4) in eastern Oregon.

Programs that cover assessment of property taxes on forested land

Forestland

Highest and best use—Lands where the best, most economically productive use is to grow timber and other forest products. This determination is based on appraisal judgment and determined by the county assessor. The landowner does not apply for this assessment.

Designated—Land that has a higher and better use than forestland that has been designated as forestland at the request of the landowner with the approval of the county assessor. The land must be held or used for the predominant purpose of growing and harvesting trees of a marketable species. The landowner must apply for this assessment.

In western Oregon: Designated forestland valued as farm use—Forestland in western Oregon may be assessed at farm use values when certain conditions are met. The landowner must apply for this assessment.

Small tract forestland (STF) option

This program serves as an alternative option to the forestland special assessment program. The land must meet the criteria of forestland special assessment. Owners are eligible if they own at least 10 acres, but less than 5,000 acres of qualified forestland in Oregon. The benefit to the owner is that the land is taxed at 20 percent of the value assessed on forestland properties. A severance tax is then applied to timber harvested from STF land to recover the revenue loss from the reduced assessment on the land.

Farm woodlot

This is a farm use special assessment. The program is explained in the *Farm Use Assessment Procedures* (DOR publication 150-303-422). Generally, an owner of farm property may elect to place up to 20 acres of forested land in this farm use assessment.

This manual is organized in five main sections that cover the qualification, valuation, disqualification, additional tax, and special provisions of forestland.

The **Qualification** section will describe the owner requirements, application criteria, review process, and the ongoing process the county uses to check compliance with program requirements.

The **Valuation** section addresses the process of appraisal, certification of values, and value appeal process. The terms real market value (RMV), specially assessed value (SAV), maximum assessed value (MAV), and maximum specially assessed value (MSAV) are defined. The valuation of the different forest productivity classes found within the state will be discussed.

The **Disqualification** section will address the reasons for all or part of a forest property to be disqualified from special assessment. The conditions that constitute "change of use" from forest to other uses will be described.

The **Additional tax** portion covers the details of when and how to compute the additional tax that is assessed when properties are disqualified from forestland special assessment.

The last section covers **Special provisions** related to forestland special assessment. This includes topics such as exchanges, properties under short rotation for hardwood production, land growing juniper trees, conservation easements, non-farm use dwellings, and specially assessed forest homesites.

The **Appendix** includes reference material that is useful in administering the special assessment of forestland properties. Information includes: sample letters, administrative rules, statutes, court cases, guidelines for checking stocking, and site class data. Also included is a list of resources for forestland owners on topics such as forest management, tax advice, small tract forestland decision-making, and tree propagation.

Qualification chapter

1. Forestland **2-3**
- A. Western Oregon forestland (defined) **2-3**
- B. Eastern Oregon forestland (defined) **2-3**
- C. Isolated openings **2-3**
- D. Highest and best use **2-4**
  - 1) Definition **2-4**
  - 2) Appraisal method **2-4**

2. Designated forestland **2-5**
- A. Definition **2-5**
- B. Predominant purpose **2-5**
- C. Lands that don't qualify for special assessment **2-6**
- D. Application for designated forestland **2-6**
  - 1) Due date **2-6**
  - 2) Size (number of acres) **2-6**
  - 3) Required elements of application **2-6**
  - 4) Marketable species **2-7**
  - 5) Stocking standards **2-8**
    - a) DOF standards **2-8**
    - b) Standards on existing stands **2-8**
    - c) Plans to meet stocking standards **2-8**
    - d) Determining forestland productivity **2-9**
    - e) Free to grow **2-9**
  - 6) Application review **2-10**
- E. Western Oregon specific qualification factors **2-11**
- F. Eastern Oregon specific qualification factors **2-12**
- G. Denial of application **2-12**
  - 1) Appeal process (for applicant) **2-12**
- H. County monitoring and maintenance **2-12**
- I. State forester responsibility **2-12**
- J. Landowner responsibility **2-13**

3. Small tract forestland program **2-13**
- A. Definitions **2-13**
- B. Qualification criteria **2-14**
  - 1) Applicant **2-14**
  - 2) Land **2-14**
- C. Application for STF **2-14**
  - 1) Due date **2-14**
  - 2) Required elements of the application **2-14**
  - 3) Required signatures **2-15**
  - 4) Application after sale or transfer **2-15**
  - 5) Application review/processing **2-16**
- D. Appeal process **2-16**

E. Applicant/owner responsibilities **2-16**
F. County monitoring and maintenance **2-16**

4. Valuation of certain forestland at farm use value **2-17**
A. Qualification criteria **2-17**

5. Farm woodlot **2-17**

6. Notation of assessment and tax roll **2-17**

Qualification for forestland special assessment

Private land in Oregon that is used, or could be used, for forest production may be assessed as:

- Highest and best use forestland.
- Designated forestland.
- Small tract forestland.
- A farm use value for certain forestland or farm woodlot.

1. Forestland

1A. Western Oregon forestland

Forestland in Oregon is defined by statute according to its geographic location within the state. Forestland in the 19 counties located primarily west of the Cascade Mountain Range is considered to be western Oregon forestland. The counties that fall under this definition include Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill.

The western Oregon forestland definition is found in ORS 321.257(2). "Forestland" means land in western Oregon that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forestland; or land in western Oregon, the highest and best use of which is the growing and harvesting of such trees. Forestland is the land only and does not include improvements or the trees growing on the land.

Trees of a marketable species may vary in different areas in western Oregon and may change as the utilization of forest trees changes. The size, age, location, quality, and condition of trees do not necessarily determine marketable species. Western Oregon is dominated by douglas fir, but also contains western hemlock, sitka spruce, red cedar, grand fir, red alder, and big leaf maple.

1B. Eastern Oregon forestland

Forestland in the 17 counties primarily east of the Cascade Mountain Range is considered to be eastern Oregon forestland. The counties that fall under this definition include Baker, Crook, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler. This area is dominated primarily by ponderosa pine, but also contains large components of lodgepole pine, douglas fir, engleman spruce, white fir, sugar pine, larch, and incense cedar.

Eastern Oregon forestland definition is found in ORS 321.805(4). "Forestland" means land in eastern Oregon that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forestland under ORS 321.805 to 321.855; or land in eastern Oregon, the highest and best use of which is the growing and harvesting of such trees. Forestland is the land alone and does not include improvements or trees growing on the land.

1C. Isolated openings

According to ORS 321.257(2) for western Oregon and ORS 321.805(2) for eastern Oregon, "...Forestland often contains isolated openings that, due to rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other conditions, prevent adequate stocking of such openings for the production of trees of a marketable species. If the openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, the openings are deemed forestland..."

Isolated openings are naturally occurring areas on forestland. In western Oregon these openings are classified as the same productivity class as the surrounding forestland. The forestland productivity classes are described in detail in the Valuation chapter.

See Section 2F of this chapter for "Qualification details of forestland for eastern Oregon." In eastern Oregon, 80 percent of the acreage on the application must meet minimum stocking requirements to qualify for special assessment as forestland. The isolated openings would be included in any acreage that represents 20 percent of the land area that is understocked or non-stocked described on the forestland application.

In order for land to be considered an isolated opening and assessed the same as the surrounding forestland, the area must be in support of the surrounding forestland. (See Appendix F, "Department of Revenue v. Rankin.") It was found that the isolated openings defined in statute must provide benefits to sustain the surrounding forestland in forest use and that the opening needs to be surrounded by the forestland rather than lying on the edge of it.

As a general guideline, isolated openings are 2 acres or less. If the opening is larger than 2 acres due to the above described conditions, then an FX forestland classification [see Section 2D1(a), "Western Oregon

forestland classes" in the "Valuation" chapter] may be considered. Appraisers should consult with the Department of Revenue for assigning or changing any forestland classification for valuation purposes.

An example of isolated openings on a specially assessed forestland property would be the existence of a beaver dam and the associated pond and wetlands created by the dam. The saturated condition of the soil may prevent the establishment and growth of trees. Normal forest management practices often do not consider it cost effective to undertake control measures. The land area impacted by the beaver activity would be assessed the same as the forestland around it.

An example of a chemical condition of the soil that would prevent adequate stocking of forest tree species would be the presence of a serpentine soil. This type of soil exists in areas in southern Oregon. Minerals that contain high levels of nickel and chromium are common in serpentine soils and can cause toxicity in plants. Most serpentine soils are shallow, restricting water holding capacity and rooting depths. If this type of soil exists throughout a forestland parcel, then it would be defined as forestland. As long as the areas of this soil condition were small, the land would be assessed as the same forestland surrounding it.

Another example of isolated openings on forestland would be rock outcrops or bedrock near the surface of the soil that prevents trees to survive and thrive at the level of the surrounding forestland. Rock pits may be established in some of these openings and the rock mined could be used on roads in surrounding forests. This area would be defined as forestland and be assessed at the same forestland classification as the surrounding forestland.

1D. Highest and best use

The county assessor has the authority and responsibility to annually review private forestland to determine if the land meets the criteria of being assessed for property taxes as highest and best use (H&BU) classification. This function applies to:

- Forested properties that are currently assessed as H&BU forestland.
- Forested properties that could be assessed as H&BU forestland.

1D1. Definition

The concept of highest and best use is addressed in both definitions stated on the previous pages. Highest and best use may be defined as "the reasonably probable and legal use of vacant land or improved property, which is physically possible, appropriately supported, financially feasible, and results in the highest value." (*The Appraisal of Real Estate*, Appraisal Institute, Eleventh Edition.)

A highest and best use analysis involves the consideration of all the legal, financially feasible, and appropriately supported uses of the land. Among the qualified uses, the one that results in the highest value will be the "highest and best use." Central to the definition of highest and best use is the idea that the property can be used in such a way that its productivity, or profit, is maximized. Uses that achieve maximum production will realize the highest prices.

A highest and best use appraisal is market-driven. The property competes with other uses, so the market will display and support a value that helps an appraiser make the conclusion of its highest and best use. The concepts of real market value and highest and best use are closely related.

Real market value is defined in ORS 308.205(1):

"Real market value of all property, real and personal, means the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year."

Real market value addresses the exchange aspect of value while highest and best use addresses the analysis in support of the value exchange. These two concepts are fundamental to making a reasonable decision regarding a property's value. These concepts form the basis of valuation and can be viewed as two parts of the same process.

1D2. Appraisal method

The appraisal method for highest and best use applies four criteria in a specific order. The criteria, when applied in order, will eliminate inappropriate uses.

The criteria in sequence:

1. Physically possible.
2. Legally permissible.
3. Financially feasible.
4. Maximally productive.

Physically possible: Consider how all of the property's characteristics will affect its usefulness. Review the property's shape, topography, soil conditions, road frontage, depth, accessibility, and availability of utilities.

Legally permissible: Identify uses that are permitted through zoning, building codes, private restrictions, comprehensive plans, and environmental

regulations. Consider whether a zoning change is possible. Deed restrictions and easements could impact the use of the property.

Financially feasible: Investors are concerned with the cost-benefit relationship in fulfilling their objectives. Uses that are expected to produce a positive return are regarded as financially feasible. When considering income producing uses, consider the gross income that can be expected. Determine the use that is most likely to create value or result in a profit when reviewing uses that do not produce income.

Maximally productive: H&BU analysis looks to find the use that produces the greatest profit.

Most of the statutes and administrative rules are silent on the highest and best use analysis of forestland. However, for eastern Oregon, sound forestland management practices have many goals that meet the highest and best use test for forestland. In addition to growing trees, other activities include range management, fire protection, soil erosion control, stream protection, cooperative wildlife management and other similar forest related activities. In addition, buffer or fringe areas, road access control and other forest-related activities may be classified as forestland.

Highest and best use decision making for tax purposes is the authority of the county assessor and the staff of that office. The county can qualify the assessment as H&BU forestland, and no application is required.

The analysis of H&BU forestland is not a static process. Because this is a market-driven analysis, market forces could change the status of H&BU forestland at any time. The county assessor and the appraisal staff should examine properties annually to determine if current market forces still warrant the assessment as H&BU forestland. H&BU forestland decisions also involve when to remove a property from this tax assessment. The analysis is the same. It is a determination of market forces that demonstrate that the H&BU decision no longer applies to the subject property.

Examples of when a property would no longer be H&BU forestland:

- When a zoning change has occurred.
- Utilities have become available.
- Comprehensive plans have been altered to allow a different use.
- Market forces are demonstrating a transition to other uses .

Only after a thorough review and analysis should the decision be made for the use of a highest and best use classification. The decision requires good judgment and analytical skills of the appraiser to create a well-supported appraisal opinion.

2. Designated forestland

If forested property does not meet the appraisal criteria for a highest and best use classification as forestland, then the land should be assessed at a market value based on the highest and best use of the property. A landowner does have the option to apply for a special assessment as "designated forestland" if certain criteria are met.

2A. Definition

Designated forestland is land, "which is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forestland..." [ORS 321.257(2) and ORS 321.805(4).]

2B. Predominant purpose

According to the definition of designated forestland, the land must be "held or used for the **predominant purpose** of growing and harvesting trees of a marketable species." This means that the primary purpose of the land is to grow and harvest trees, even if the land has other concurrent uses. It also means, by the term "held or used," that the predominant purpose is a long-term purpose. Land that is not currently used to grow and harvest timber may be converted to forest use by following a written plan to properly stock the land with trees of sufficient number within a five-year period. Concurrent uses may be allowed as long as a second use does not interfere with the most important purpose of growing and harvesting timber. Once a secondary concurrent use interferes with the ability to grow or harvest, then the primary use of the land has changed.

Land with trees growing on it does not make the primary purpose of the land as "growing and harvesting" trees. Lands that have written documentation of prohibitions to harvesting or conversion to another purpose may be disqualified from forestland or will not be initially qualified. Written prohibitions to harvesting can take the form of conservation easements, zoning, local area covenants, or management plans that preclude or severely restrict harvesting.

The unsupported statement by an owner that the land is being held or used for the predominant purpose of growing and harvesting trees is not sufficient basis for determining such land is forestland. Owners need to demonstrate both the capacity and the intent to manage their land as forestland. All of the

evidence combined should be considered in making the determination to designate land as forestland.

Lands that have the growing or harvesting of trees permanently restricted would not qualify as designated forestland.

2C. Lands that don't qualify for special assessment

Lands not eligible for special assessment as forestland in western Oregon are listed in ORS 321.267. Lands not eligible for special assessment in eastern Oregon are listed in ORS 321.824.

Lands that are assessed by the Department of Revenue, commonly referred to as "centrally assessed" properties per ORS 308.505 to 308.665, 308.805 to 308.820, and 308.990, may not be assessed as designated forestland.

Land that is used exclusively for the purpose of growing Christmas trees is not eligible to be assessed as forestland.

Land that is used for growing hardwood timber including, but not limited to hybrid poplar, is not eligible to be assessed as forestland provided four criteria are met.

- The land is intensively cultivated and competing vegetation is removed for at least three years after planting,
- The species is marketable as fiber for manufacturing paper products,
- The intention is to harvest on a rotation cycle of 12 years or less, and
- The land and timber are subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation, and irrigation.

See "Special provisions" chapter for more information.

2D. Application for Designated Forestland

2D1. Due date [ORS 321.358(1)]

A landowner must submit applications to the county assessor's office on or before April 1 of the assessment year. The owner may also submit an application within 30 days of receipt of a notice of assessment as omitted property. Also, an application to designate the land as forestland for the assessment year may be submitted by December 15 if:

- For the prior assessment year, the land had been forestland by reason of the land being highest and best use forestland; and
- For the current assessment year, the land is being assessed at a value reflecting a use other than highest and best use forestland.

2D2. Size (number of acres)

The land that is subject to an application must be held or used predominantly to grow and harvest trees of a marketable species. Land may qualify if the area to be designated is *at least 2 contiguous acres* in one ownership; OAR 150-321.358(4), paragraph 3 and OAR 150-321.839(4), paragraph 5.

2D3. Required elements of the application

The law requires that the applications be on forms provided by the Department of Revenue. ORS 321.358 also requires that the following information (shown in italics) be included on the application:

1. *A description of all land the applicant desires to be designated as forestland*.
2. *Date of acquisition*.
3. *Whether or not the land is being held or used for the predominant purpose (see 2B, page 7) of growing and harvesting trees of a marketable species*. **If the applicant answers "no" to this question, the application must be denied.**
4. *Whether or not there is a forest management plan for the property. If there is a management plan, state if the plan is being implemented and the nature and extent of the implementation.* A management plan is a written plan that lays out the landowner's long-term objectives for managing the property. Examples of items the plan could include: tree species being managed, protection of trees, long-term harvest plans, control of competing vegetation, and stocking adjustments such as thinning. A management plan is different than the written plan for meeting stocking standards discussed in number 5 below.

   The fact that an applicant does not have a forest management plan does not, by itself, indicate that the application should be denied. A forest management plan may indicate the landowner's intent/ability to manage the land as forestland. This is just one of the factors to be considered in determining if the land is best classified as forestland.
5. *How many acres of the land to be designated currently meet the stocking standards as required by the state forester*? See Table 2 (page 10) for stocking standards on existing stands. A plan must be submitted with the application if the land does not currently meet the standards. The plan must meet the criteria listed in OAR 150-321.358(4) for

western Oregon, or OAR 150-321.839(4) for eastern Oregon. It is recommended that the plan have a detailed description showing the physical area to be planted each year. See a sample plan in Appendix A.

6. *Whether or not the land is being used for grazing.* The answer to this question should be considered when determining "predominant purpose." The concern is about the extent of negative impact on seedlings by the grazing. Grazing cannot interfere with the growing and harvesting of trees.

7. *Whether or not the land has been platted under ORS Chapter 92.* After platting and subsequent disqualification, the new parcels may re-qualify for designation by application. This information is to alert the assessor to verify that additional taxes have been paid prior to re-qualifying the land as designated forestland.

8. *Whether or not the land is timberland subject to ORS Chapter 477.* ORS Chapter 477 is the Department of Forestry fire patrol assessment chapter. All "timberland" is subject to fire patrol assessments under this chapter and may assist in determining whether the land should be classified as forestland for property tax purposes. The assessor's office should have this information if the landowner is unsure of the status of the land regarding Chapter 477.

9. *Whether or not the land (or any of it) is subject to a lease or option that permits uses other than growing or harvesting of trees.* The answer to this question will help in determining the "predominant purpose." The assessor may want to look at the lease to see if there are restrictions on harvesting, or if the lease interferes with the predominant purpose of growing and harvesting trees.

10. *State the applicant's past experience in growing and harvesting trees.* It is not required that the landowner have experience in growing and harvesting trees in order to qualify for special assessment, but knowing this information can help the assessor in understanding the landowner's ability/intent to manage the land as forestland. It can alert the assessor to inexperienced landowners who may need direction on forest-related resources.

11. *State the applicant's current and continuing activity in growing and harvesting trees.* See number 10 above.

12. *A statement that the applicant is aware of the potential tax liability when the land ceases to be designated as forestland.*

13. *An affirmation that the statements contained in the application are true.*

2D4. Marketable species

In order to qualify for designation as forestland, or the small tract forestland program, acceptable species must be present on the land. The rule references are:

- Western Oregon OAR 150-321.358(4).
- Eastern Oregon OAR 150-321.839(4).
- Small tract forestland OAR 150-321.709(1)(c).
- Oregon Department of Forestry, Forest practice administrative rule, OAR 629-610-0050.

Tree species that are acceptable for artificial reforestation, natural reforestation, and as residual tree stocking are based on all of the following criteria:

- The species must be ecologically suited to the planting site;
- The species must be capable of producing logs, fiber, or other wood products suitable in size and quality for the production of lumber, sheeting, pulp, or other commercial forest products; and
- The species must be marketable in the foreseeable future.

In nearly all cases, native species will be considered "ecologically suited" and are the preferred reforestation species. If there is no past evidence that a species can attain a "free to grow" condition and achieve merchantable size on the site, then landowners should not be able to use it as an acceptable species. A conifer or hardwood species that has commercial value as a forest product will meet the requirement of OAR 629-610-0050. This includes products such as commercial firewood and pacific yew bark. The fact that such products may not be the most profitable for a given site is not relevant. Tree species that are not currently marketable or marketable in the foreseeable future cannot be used to meet the tree stocking standards. A market for juniper develops from time to time. However, current information indicates this species is not continuously marketable and would not be considered an acceptable reforestation species.

Landowners are encouraged to reforest with a mixture of acceptable tree species. This reduces the risk of insect and disease losses and it promotes stand diversity. Seedlings or seeds used for artificial reforestation should be from seed sources that are genetically adapted to the growing site. If a tree species is not present on the property, but is found on similar properties, then it can be considered native. Landowners wanting to reforest with non-native species should

check with the state forester and get written approval before planting. If the stocking requirements are met with native species, then landowners may plant any non-native species without an approval plan for an alternate practice.

The local stewardship forester can provide information and advice regarding appropriate species and practices for reforestation. However, the forester may not have a standard list of species and practices to hand out to landowners. Each reforestation site can be very unique and most stewardship foresters will likely provide generic information, unless they are familiar with a specific site.

2D5. Stocking standards

2D5a. DOF standards

In order to qualify for designation as forestland, or the small tract forestland program, there must be at least a minimum number of trees per acre as described in OAR 629-610-0020.

The Oregon Forest Practices Act establishes stocking and species standards. If these standards are not met at the time of application, the landowner must submit a written plan to the assessor, along with the application that states the activities to be done, in order to meet the requirements. The criteria of these plans are explained in DOR administrative rules 150-321.358(4) for western Oregon and 150-321.839(4) for eastern Oregon.

2D5b. Standards on existing stands

The following table could be used in assisting the landowner and appraiser in determining whether minimum stocking standards are currently met on existing stands.

Table 1

Spacing for minimum stocking requirements

Site	*Size in diameter	Stocking requirement	Average spacing
I, II, & III	<1"	200 per acre	15'
IV & V	<1"	125 per acre	19'
VI		100 per acre	21'
I, II, & III	1" to 10"	120 per acre	19'
IV & V	1" to 10"	75 per acre	24'
VI	1" to 10"	60 per acre	27'
I, II, & III	11"	80 sf BA**/acre	19'
IV & V	11"	50 sf BA/acre	23'
VI	11"	40 sf BA/acre	26'
I, II, & III	14"	80 sf BA**/acre	24'
IV & V	14"	50 sf BA/acre	31'
VI	14"	40 sf BA/acre	34'
I, II, & III	18"	80 sf BA**/acre	31'
IV & V	18"	50 sf BA/acre	39'
VI	18"	40 sf BA/acre	44'
I, II, & III	24"	80 sf BA**/acre	41'
IV & V	24"	50 sf BA/acre	52'
VI	24	40 sf BA/acre	58'

*Size is diameter outside bark at breast height.
**sf BA means square feet of basal area.

Per OAR 629-610-0020(9), "For the purpose of determining compliance with the tree stocking requirements of the reforestation rules, tree stocking in riparian management areas within an operation area will be considered separately from stocking in the rest of the area."

2D5c. Plans to meet stocking standards

If land does not meet the minimum stocking requirements of DOF rule 629-010-0020 (see 2D5a, b above), the landowner must submit a written plan to the assessor at the time of application. Reforestation plan requirements are listed in OAR 150-321.358(4) for western Oregon, and OAR 150-321.839(4) for eastern Oregon. See Appendix A for a sample plan.

The plan must indicate the location of the area to be treated. It will show the acres involved, ground cover, present stocking, steepness of the slope, and the direction the slope faces (aspect). The plan should also indicate the site preparation requirements planned for the site, for example, brush or grass removal, rodent control, disease and insect control, slash disposal, protection from grazing animals, and soil tillage. The plan needs to name the species to be planted, the time of year the planting will occur, number of trees per acre to be planted, and the method of planting. Alternative methods of reforestation, such as seed tree retention or hardwood coppicing (sprouting from the stump), need to be detailed in a written plan to the state forester before implementation.

It is required that at least one-fifth (20 percent), but not less than 2 acres, of the area in the plan be planted by December 31 of the first assessment year that the land is designated as forestland. Each year after, a minimum of one-fifth (20 percent) of the area must be planted, in addition to the previous year's requirements. At the end of the fifth year after the assessor approves designation, 100 percent of the area in the plan must be planted. The assessor may grant extensions to planting requirements if a loss of planted stock occurs due to conditions beyond the control of the landowner.

The land area to be designated must be at least 2 contiguous acres in one ownership to qualify as designated forestland. For example, if you have a parcel with four non-contiguous 1-acre areas of forested land under application for designation as forestland, the application would not be approved. At least one of the areas would need to be 2 acres in size. If it had one 2-acre area, then the remaining three areas would also qualify. A prime detail is that all areas under application are in one ownership.

2D5d. Determining forestland productivity

Forestland productivity is classed by the U.S. Department of Agriculture's cubic foot productivity class system for purposes of establishing stocking standards. Forestland productivities are estimated based upon the parcel's potential for producing wood over a biological rotation. The biological rotation is the age where average annual growth of wood is maximized. The maximized production is measured in cubic feet per acre per year and is divided into classes that rank the relative productivity of soil types. Productivity classes I, II, and III are primarily found in northwest Oregon and represent ranges common on sites dominated by douglas fir and western hemlock. Productivity classes IV, V, and VI are found in eastern Oregon and parts of southwest Oregon and Hood River County. They are more representative of sites on which ponderosa pine is the predominant species.

Determining the productivity of sites to determine required stocking for forestland applications can be complicated and often involves the reliance on several sources of information. The USDA Natural Resource Conservation Service (NRCS) has completed extensive soil surveys of both eastern and western Oregon and developed estimates of productivity for major forest species by soil type that can serve as a guide to establish the productivity class of a specific property. Appraisers should first identify the major soil type(s) on a property and determine the forestland productivity of the major tree species for the soil type.

The Oregon Department of Revenue's forestland maps that measure the productivity of forestland sites for the purpose of valuation are another source of information appraisers may use to determine forestland site productivity in western Oregon. These maps reflect measurements of forestland site index and are divided into forestland (F) class categories that reflect a balanced distribution of the acreage for the property tax system. Table 2 below shows how the three main stocking classes are matched to the productivity class and DOR F-classes. DOR's FE class falls in both the high and medium group productivity classes indicating that more evaluation (NRCS soil typing or onsite tree measurements) will be needed to establish the required stocking levels.

Note: A detailed relationship between DOR F-class and site index is found in the valuation section of this manual. The 50- and 100-year indexes on Table 2 relate the cubic foot productivity to the forestland productivity.

There will be properties that do not have an NRCS soil map or Department of Revenue F class coverage, or there may be reason to believe that the existing information is inaccurate. In some cases, the soils on a property that is the subject of application for forestland designation may have been previously used for agriculture and will not have forestland ratings. However, this does not mean that the soils are incapable of growing trees. The Oregon Department of Forestry (ODF) has developed a methodology for establishing forestland site productivity to determine minimum stocking requirements. This methodology requires a qualified forester to take measurements of trees on or near the parcel in question and estimate the cubic foot site class. **The Oregon Department of Forestry or the county appraisers do not take measurements to establish productivity class for landowners**. The landowner is responsible for having a qualified person take the measurements and calculate the cubic foot site class. ODF's land use planning notes number 3 (see Appendix B) details the procedures for establishing productivity class. County appraisers are responsible for insuring that stocking standards are met or will be met with a reforestation plan before approving an application for designated forestland. Appraisers should be able to confirm the landowners' assessment of productivity and come to an agreement with the landowner prior to approval of a reforestation plan.

It is important to note that the productivity classes that establish stocking standards are not the same as those that determine the Department of Revenue's F class for valuation. DOR is responsible by statute for determining forestland productivity of newly designated forestlands. Determining DOR F classes will be discussed in the valuation section.

2D5e. Free to grow

Forested areas can support trees of many ages and sizes. The stocking of "free-to-grow" seedlings, saplings and poles, and larger trees will be weighted to determine stand stocking. The term "free to grow" means that a tree has a high probability of surviving, becoming vigorous, healthy, and dominant over competing vegetation. The larger the trees are in size, the fewer trees are needed to satisfy the reforestation rules.

In general, the state forester considers a tree "free to grow" if:

1. It is not severely damaged by insects, disease, fire, wildlife, weather, or logging;
2. It exhibits the potential for continued height growth, consistent with the normal growth for the species on similar sites;
3. It has at least one-third of the tree height in full, live crown; and
4. It is taller than and out-competing any grass, shrubs, or undesired trees.

2D6. Application review

The county assessor has the authority to approve or deny the application for designated forestland.

Required elements. The first step in processing the application is to make sure that the applicant has supplied all the required details per ORS 321.358(3) or ORS 321.839(3). If there are details missing, the assessor should contact the applicant to acquire the necessary information. If the applicant fails to cooperate in providing the missing information, the application may be denied.

Stocking standards. The assessor needs to determine if the land under application meets the stocking and species criteria of OAR 321.358(4) or OAR 321.839(4). This determination could be verified by a stocking survey supplied by the applicant, a field inspection by the county staff, or qualified assistance assigned by county staff. If it is determined that inadequate stocking exists on the land under application, the county staff should contact the applicant to request a written plan to meet the requirements of OAR 150-321.358(4) paragraph two or OAR 150-321.839(4) paragraph two. With an approved written reforestation plan, the application could be approved for the first tax year of a timely filed application.

A guideline to use when reviewing a specially assessed forestland parcel for compliance with stocking standards is whether or not the parcel has 80 percent of the acreage meeting the tree stocking minimums. The parcel must:

1. Contain at least the minimum stocking required for the site on 80 percent or more of the area, and
2. Not have more than 10 percent of the area containing less than one-half of the minimum stocking, up to a maximum of 10 acres.

This language is in line with a forest practices rule OAR 629-600-0100 (27) defining "free to grow." Within the definition, "well distributed trees" are defined. Each forestland acre can be considered a sub-unit in stocking surveys. It is an appraisal decision depending on the subject property under review as to the compliance of stocking standards. It may not be practical to expect 100 percent of the property subject to a forestland application to be in full compliance with stocking standards throughout the course of a stand rotation.

Brush exists in stands of timber on forestland throughout Oregon. Sometimes, the only vegetation that exists on small areas within timber covered areas is brush. These are considered isolated openings and

Table 2
Tree stocking requirements for designated forestland by productivity class, site index, and Department of Revenue forestland class

Productivity class	Cubic foot productivity at M.A.I.* (cubic feet)	Designated forestland stocking requirements			Western Oregon DOR forestland classes	Western Oregon douglas fir 50 year site index** (feet)	Eastern Oregon ponderosa pine 100 year site index** (feet)
		Seedling stocking (trees/ acre)	Sapling stocking (trees/ acre)	Trees > 11" DBH basal area (sq. ft/ acre)			
I	> 224	200	120	80	FA	>145	> 156
II	165–224	200	120	80	FB, FC	116 to 145	130 to 155
III	120–164	200	120	80	FC, FD, FE	92 to 115	109 to 129
IV	85–119	125	75	50	FE, FF	74 to 91	90 to 108
V	50–84	125	75	50	FG	< 73	65 to 89
VI	20–49	100	60	40			<64
VII	0–19	Not considered forestland					

*Culmination of the mean annual increment (M.A.I.) of wood production for the predominant tree species on the site.

**Site index is the height that a dominant or co-dominant tree will achieve in 50 years for douglas fir in western Oregon and 100 years for ponderosa pine in eastern Oregon.

would qualify as forestland with the surrounding area. Generally, if the isolated areas are less than 2 acres, then stocking standards would not be enforced to continue to be considered forestland.

For land that is already specially assessed as forestland in western Oregon, use the timeline described in ORS 321.367 for meeting the stocking requirements for the forestland program. The time to meet the standards is also referenced in Oregon Department of Forestry rules 629-023-0310 and 629-023-0320. These rules are written in support of ORS 321.367.

Assessor judgment. ORS 321.358(4) and ORS 321.839(4) state that the county assessor shall approve the application for forestland designation if the assessor finds that the land is properly classifiable as forestland. Examples of items that are primary to the land being classified as forestland are listed below:

- The land meets the minimum acreage requirement.
- The land meets the minimum stocking requirement.
- The land supports the acceptable, marketable species.
- There are no conditions, covenants, or restrictions that prevent harvesting.
- The soil is capable of producing forest crops.

This list is not all-inclusive. Other information could contribute to the decision of determining whether or not land is properly classifiable as forestland.

The determination of the land being properly classifiable as forestland is to be made with regard to **all relevant evidence** and without any one or more items of evidence necessarily being determinative. The assessor must exercise appraisal judgment in reaching decisions during the qualification process.

The county assessor shall not classify the land as forestland if the application states the land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species.

Forestland classification. In western Oregon, during the qualification process, the county staff needs to check the forestland classification maps that are provided by the Oregon Department of Revenue. These maps are sometimes referred to as "forties," because they display the classifications by 40-acre grid by township and range. Some forties display a split in forestland classification. Check the geographic description of the land under application and determine the forestland classification from these maps. If no forestland classification exists on the map grid for the subject property, contact the Oregon Department of Revenue for a decision on the assignment for the property. The statute reference is ORS 321.348.

2E. Western Oregon specific qualification factors

OAR 150-321.358(4)(b) (Acceptable uses of western Oregon forestland) states, "Certain lands do not support sufficient minimum stocking of trees to qualify for designation as forestland. However, when use of these lands supports desirable forestry management practices on surrounding lands to promote the state policy of encouraging forestry, they may be designated as forestland."

Rock pits and adjacent rock storage areas can be deemed forestland as long as certain conditions are met. The conditions are:

1. The rock pit comprises less than 5 percent of the total forestland of the owner in the area served by the pit.
2. The rock from the pit is used on land defined as forestland under ORS 321.257(2).
3. The rock produced from the pit is not commercially sold. It is to be used on the forestland of the owner of the pit. The rock is not to be traded to other forestland owners in the area for 'in-kind' products to be used at economically distant locations.
4. The forestland owner maintains appropriate records to substantiate the use of the rock pit.

Forest roads are recognized as forestland under ORS 308.236. The definition of forest road includes fills, ballast, bridges, culverts, drains, and surfacing.

Under-stocked road and transmission line rights-of-way or easements qualify as forestland when the following conditions are met:

1. Application for designation as forestland has been submitted.
2. The easement or right-of-way area is adjacent to, and an integral part of, the forest property of the owner.
3. The lands would otherwise qualify for designation if sufficient stocking of trees were permitted.
4. Not more than 20 percent of the forestland of the owner is encumbered by easements.

ORS 321.257(2) says, "Forestland often contains isolated openings which because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If the openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, the openings are deemed forestland." When isolated

openings, as described in ORS 321.257(2) are classified as forestland, use a forestland classification of FX. Forestland classification is explained in detail in the valuation section of this booklet.

2F. Eastern Oregon specific qualification factors

The criteria for granting forestland status to certain lands in eastern Oregon that do not support sufficient stocking requirements is slightly different than western Oregon. Under OAR 150-321.839(4), roads, landings, and rock pits used for forest roads may be designated as forestland. Power line and gas line easements that are not centrally assessed under ORS 308.505-308.665 or 308.805-308.820 may be designated as forestland.

A detail that is unique to eastern Oregon is described in paragraph 4 of OAR 150-321.839(4). "To qualify for designation, the land must meet the minimum stocking requirements of sections (1) or (2) of this rule. However, when circumstances listed in section (3) of this rule are present (under-stocked land), and at least 80 percent of the total area applied for meets the minimum stocking requirements, the total area of the application will be assessed as designated forestland." Section 3 says, "Certain lands do not support sufficient stocking requirements; however, when the use of these lands supports sound management practices and the harvest of forest crops on surrounding lands, these lands may be designated as forestland;" examples are the roads, landings, rock pits, and easements described earlier.

Reference: OAR 150-321.805(4) "Definition of sound management practices."

This administrative rule defines "sound management practices" of forestland in eastern Oregon. Sound management practices, in addition to growing trees, may include, but are not limited to: range management, fire protection, soil erosion control, stream protection, cooperative wildlife management, and road access control. These practices may be present along with growing and harvesting timber, but they cannot restrict the number of trees to below the minimum stocking levels.

2G. Denial of application

The application for designation of land as forestland shall be considered approved unless the assessor notifies the applicant in writing that the application is denied, within three months of when the application was delivered to the assessor or prior to August 15, whichever is later. The denial may be for the total application or for a portion of it. The denial for designation of forestland must be in writing and shall be sent by the assessor to the applicant by certified mail. [ORS 321.358(5), OAR 150-321.358(5), ORS 321.839(5) & OAR 150-321.839(5)].

2G1. Appeal process (for applicant)

An applicant, whose application has been denied in whole or in part, may appeal to the Magistrate Division of the Oregon Tax Court, within 90 days after he or she knows of the action. [ORS 321.359(2) and ORS 321.842(2)]

The Oregon Tax Court is governed by ORS 305.404 to 305.560. See ORS 305.275 and 305.280 for more information on who may file and appeal and when they may file.

2H. County monitoring and maintenance

The county is responsible for monitoring lands that have been approved as designated forestland.

It is recommended that the assessor set up a routine schedule of contacting landowners or site inspection to determine if the land continues to meet the minimum stocking and species requirements. The assessor should also monitor deeds and other documents as they are recorded in the county to assist in monitoring these properties.

ORS 321.359 directs the assessor to remove the special assessment of designated forestland when certain events occur [See ORS 321.359(1)(b)]. See "Disqualification" chapter of this manual for detailed information.

2I. State forester responsibility

Upon qualification, ORS 321.367 places responsibility upon the state forester to identify all of the forestlands that fail to meet the minimum stocking requirements. Typically, stewardship foresters provide assistance to county assessors on these issues as requested when workload permits. Stewardship foresters will assist assessors when possible, but are usually not available "on demand."

Once a property is designated as forestland, the state forester may review an owner's management plan, if any, and inspect the property if there is reason to believe the land is not being managed as forestland. The state forester shall notify the owner of failure to comply with a plan if the state forester determines the land is not being managed in accordance with a plan that provides for:

- Regeneration of all suitable non-stocked land;
- Maintenance of free-to-grow condition;

- Protection from fire, insects, disease, animal damage, and undesirable vegetative competition; and
- Final harvest.

These provisions apply to the state forester. A plan must be developed and activated that meets the criteria within one year after notification of failure to comply.

After one year has elapsed, the state forester shall view the land to determine if the land is being managed in accordance with the plan. If the state forester finds that the land is not being managed, the owner and the assessor shall be notified. Upon receiving the notice, the assessor shall cease to treat the land as forestland. The assessor is not required to wait a year; if the land no longer qualifies for forest use special assessment, the assessor may disqualify it upon discovery. There is no provision as described here for the state forester's involvement in eastern Oregon.

The designation of land as forestland is transferable from owner to owner. As a parcel of land is sold, the special assessment of the land remains on the property.

2J. Landowner responsibility

Lands designated as forestland become subject to the Forest Practices Act rules and regulations. Landowners should become acquainted with the forest practice rules related to management of their property and the location of the nearest state forestry office. Landowners are required to apply for a notification of operations (permit) from the Department of Forestry prior to conducting certain operations on the property (e.g., harvesting timber, pesticide applications, new road construction). Landowners should be encouraged to check with the local ODF forester prior to operations. See Appendix C for a copy of the ODF permit.

3. Small tract forestland program

The small tract forestland (STF) program became available July 1, 2004. Beginning on this date, all specially assessed forestland was assessed at 100 percent of the statutory values established under ORS 321.257 to ORS 321.390 (western Oregon) or ORS 321.805 to ORS 321.855 (eastern Oregon). The STF program is a special assessment option for small woodland owners.

3A. Definitions

The STF program has some definitions that are specific to the administration of the program. Some of these definitions are listed in ORS 321.700.

Common ownership means one or more individuals have direct ownership **or** ownership by a corporation, partnership, association, or other entity in which an individual owns a majority interest. OAR 150-321.700 (1) defines majority interest as an interest greater than 50 percent. Note: Majority interest does not apply to individuals when determining common ownership. Any ownership by an individual constitutes a common ownership. Husband and wife own land as individuals, because each owns all of the land.

Contiguous means having a common boundary that is greater than a single point.

Contiguous parcels means land that has a common boundary that is greater than a single point. The land includes parcels separated by public or county roads, state highways, non-navigable streams, or non-navigable rivers. (Contiguous parcels do not include parcels that are separated by an interstate highway, a navigable stream or a navigable river, unless there is an underpass, a bridge or another direct access between the separated parcels.)

Land class means a forestland land classification based on productivity in western Oregon as described in ORS 321.210.

Parcel means a quantity of land that is capable of being described in a single description by a closed traverse as one or more subsections or sections of a township, as one or more lots, blocks r tracts in a subdivision, or as one or more tax lots.

Person is defined under OAR 321.719 (1) as an individual, a public or private corporation, a partnership, a government, or a governmental instrumentality.

Transfer of ownership, Webster's Dictionary defines transfer as conveyance of right, title, or interest in real or personal property from one person to another.

For the purpose of defining a sale or transfer under ORS 321.716(1)(a), a sale or transfer occurs when an instrument of conveyance such as a deed, a will, an irrevocable trust, contract of sale, etc., is present. It is any change in ownership interest. The following will provide further information in decision making while administering this program:

- A revocable trust is considered to be a transfer when the trustor dies. An irrevocable trust is considered to be a transfer when the trust is created.
- The satisfaction of a contract of sale is not considered a transfer under ORS 321.716(1)(a). However, default on a contract of sale is a transfer when the equitable interest reverts back to the title holder.
- Husband and wife each own all of the land as individuals.

- Husband and wife own property together. One of them dies; the remaining spouse owns the property. This is not a transfer.
- Husband and wife own property together and they prepare a will, in which upon the death of one spouse, the interest in the land under the STF program is left to a third party. This is a transfer.
- If a son, daughter, or anyone else is in a will, but is also on the deed at the time of death, this is not a transfer.

3B. Qualification criteria

3B1. Applicant

The owner of the land that is the subject of the application for the STF program must own or hold in common ownership interest in **at least 10 acres of Oregon forestland, but less than 5,000 acres** of Oregon forestland.

An owner may submit a designated forestland **and** a STF application after the disqualification from forestland special assessment following the recording of a subdivision plat after meeting all of the criteria of ORS 321.716(2).

An owner may submit an application for designated forestland and an application for STF following a "change in special assessment" under ORS 308A.706(1)(d).

An owner may submit an application for designated forestland and an application for STF following a government exchange per ORS 308A.730(1).

- If the government exchange takes place prior to July 1, the owner shall file the application(s) on or before August 1 of the current year.
- If the government exchange takes place on or after July 1, the owner shall file the application(s) on or before April 1 of the following year.

3B2. Land

The land that is the subject of the application must constitute all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner {per ORS 321.709(1)(b)].

An owner may have specially assessed forestland acres that are in the STF program and specially assessed acres that are not STF as long as the acres are not contiguous.

The forestland that is the subject of an application must meet minimal stocking and species requirements applicable to forestland per OAR 150-321.358(4), (western Oregon) or OAR 150-321.839(4), (eastern Oregon).

The land that is subject to an application must not have been disqualified from STF assessment for any of the five preceding tax years [per ORS 321.709(2)(d)].

Forested land, other than highest and best use forestland, must have an application for designation of land as forestland before the STF option can be approved.

3C. Application for STF

The Department of Revenue provides the application form, *Application for Small Tract Forestland* (#150-309-001), as required by ORS 321.709(2). The application contents are set by ORS 321.706(2).

3C1. Due date

The application deadline is **April 1** of the first assessment year for which forestland is to be qualified as STF. [ORS 321.706(3)(a)]

An owner may submit an application within **30 days** of the date of a notice of assessment of property as omitted property. [ORS 321.706(3)(b)]

An owner may submit an application by **December 15** for designated forestland under ORS 321.358(2) in western Oregon or ORS 321.815(2) in eastern Oregon **and** an application for STF under ORS 321.706(3)(c) if the land is changed from highest and best use forestland directly to STF.

3C2. Required elements of the application

The law requires that applications be on forms provided by the Department of Revenue. The following information (in italics) must be included on the application per ORS 321.706(2):

1. *Name and address of the forestland owner.*
2. *The taxpayer identification number (Social Security number, or federal identification number) of the forestland owner.* The Department of Revenue needs this number to identify landowners who will be subject to the severance tax upon harvest from STF lands. If the applicant will not submit a taxpayer identification number, this in itself is not a reason to deny the application. The DOR will determine the needed identification number when a copy of the application is received for processing.
3. *Name of the county in which the property is located.* An application must be received in each county that the landowner wishes to have land classified as STF.

4. *A description of the property sufficient to identify the location of the property*. This could be done using the property tax account number, or map/tax lot or parcel number.

5. *A statement describing the uses of the land*.

6. *Whether or not any portion of the property has been platted under ORS chapter 92.* After platting and subsequent disqualification, the new parcels may re-qualify for designation by application. This information is just to alert the assessor to verify that additional taxes have been paid prior to re-qualifying the land as designated forestland.

7. *The total acreage of Oregon forestland owned or held in common ownership by the owner.* This information is used to verify that the landowner meets the criteria of owning between 10 and 4,999 acres of forestland statewide.

8. *A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.707 upon disqualification of small tract forestland*.

9. *An affirmation that the statements contained in the application are tru*e.

3C3. Required signatures

It is important to emphasize that **all** individuals who have an ownership interest in the forestland must sign the application. Under constitutional principles, all interest holders affected by a STF application must be informed and agree to the details of the special assessment. This includes all owners of contiguous parcels involved in the application. It is the responsibility of the assessor to assure the applicant obtains the required signatures. Per OAR 150-321.706(2), the following signatures are acceptable by entity type:

- For an individual: That person or a person with the power of attorney to represent the individual. Every person who has an interest in the property must sign.
- For a partnership: A general partner designated by the partnership as authorized to represent the partnership.
- For an S corporation: A shareholder designated by the S corporation as authorized to represent the S corporation.
- For an estate or trust: The trustee, executor, or other authorized representative.
- For a C corporation: An officer of the corporation authorized to represent the C corporation.
- For an LLC or LLP: A member designated by the LLC or LLP as authorized to represent the LLC or LLP.
- A contract purchaser may sign if they have authority to make the application under the terms of the contract purchase.

3C4. Application after sale or transfer

The assessor shall issue a notice of intent to disqualify within 15 months after the date of the sale or transfer. [ORS 321.716(3)(a) and 321.719(1)]

If the sale or transfer of small tract forestland is to a person who owns at least 10, but less than 5,000 acres or more of forestland in Oregon, the sold or transferred forestland may remain small tract forestland if:

1. Within 30 days after the date the county assessor issues a notice of intent to disqualify under ORS 321.716, the purchaser or transferee has applied for continued qualification of STF;
2. The purchaser or transferee is otherwise eligible to be an owner of STF; **and**
3. Any forestland owned or held in common ownership by the purchaser or transferee that is a contiguous parcel to the purchased or transferred forestland should be STF, or is subject to an application for STF.

ORS 321.719(8) allows a purchaser or transferee of small tract forestland to file an application for continued qualification after the 30-day period detailed in the county notice if:

1. The application is filed on or before December 15 of the first tax year for which the forestland would otherwise be disqualified from STF; and
2. The applicant pays a $200 late filing fee at the time the application is filed.

The application for continued qualification must include all of the details required on an original application form. (See Section 3C2.)

The land shall automatically qualify for special assessment as designated forestland unless the assessor determines that the land does not constitute forestland. [ORS 321.716(3)(b)]

If the application for continued qualification is filed prior to July 1 of the assessment year, the assessor will process the application for the tax year beginning that July 1. [ORS 321.719(4)(a)]

If the notice of intent to disqualify is issued on or after June 1 of the assessment year, the assessor may not disqualify the land as small tract forestland for the tax year beginning July 1. The assessor shall process the application for continued qualification for the tax year beginning the next succeeding July 1. [ORS 321.719(4)(b)]

3C5. Application review/processing

The application should be marked with the received date.

The application is reviewed to verify that all required sections of the form have been completed. If any details are missing, the applicant is contacted to supply the needed information. The information needs to be reviewed to verify that both the land and owner qualify for the small tract forestland program per the qualification criteria.

An owner may submit one application for all non-contiguous parcels within the same county that they wish to include in the STF program. All parcels with contiguous common ownership to each separate parcel must be listed on the application. If an owner has forestland in different counties and wishes to apply for the STF program on all of it, then an application would be filed in each county that the forestland exists.

An STF application is deemed approved unless, within three months of the date the application was made or before August 15 of the year the application was filed, whichever is later, the county assessor notifies the applicant in writing that the application was wholly or partially denied. ORS 321.706(6)

When an application is approved for the STF program, the county assessor shall send a written notice of the qualification and a copy of the application to the Department of Revenue per ORS 321.706(8). Do not send denied applications or applications that have not been processed to the point of approval. The Department of Revenue recommends that application copies and notices be grouped together along with a county letterhead cover letter to assure that the information from the county is not misdirected. All April 1 application copies are to be forwarded to the Department of Revenue no later than September 1 of the same year.

Send all copies to:

Oregon Department of Revenue
Property Tax Division, Timber Unit
PO Box 14380
Salem OR 97309

ORS 321.719(4)(c) addresses the timing of approval with the same language that applies to an original application. The application will be deemed approved unless, within three months of the date of the application or before August 15 of the year of the application, whichever is later, the county assessor notifies the purchaser or transferee in writing the application has been wholly or partially denied.

3D. Appeal process

An applicant may appeal an application that has been wholly or partially denied to the Oregon Tax Court, Magistrate Division. It must be done within 90 days of the knowledge of the denial. More information is found in ORS 305.404 to ORS 305.560.

To appeal a denial of a small tract forestland application, use the form on the Oregon Judicial Department website: www.ojd.state.or.us/courts/tax/documents/propcomplform.pdf. This is a one-page complaint form with one page of instructions. There is a $240 filing fee due at the time of filing.

3E. Applicant/ owner responsibilities

A forestland owner applying for the special assessment as small tract forestland must accurately complete the application form. The "declaration" portion of the application holds the owner responsible for the accuracy of all of the information on the form. It also acknowledges the responsibility explained under ORS 321.712, which requires any owner or interest holder in qualified STF to send written notice to the assessor:

- When the owner acquires, either directly or through common ownership, one or more tax lots that are contiguous to STF owned or held in common ownership by the owner;
- When the owner acquires additional forestland that results in owning more than 5,000 acres of Oregon forestland;
- When the owner sells STF that results in owning less than 10 acres of Oregon forestland; or
- When there is a change in use of any portion of STF that is not a forest use.

3F. County monitoring and maintenance

ORS 321.709(1) sets the authority and responsibility of property tax administrators to review specially assessed small tract forestland each tax year. This point is also made in ORS 321.709(2)(a) which states, "Whether land qualifies for small tract forestland assessment shall be determined as of January 1 of each assessment year." See the "Qualification criteria for the owner and the land for small tract forestland" in this section and referenced with ORS 321.709.

Another area that addresses the importance of monitoring and maintaining the STF program is ORS 321.712(3). It is the owners' responsibility to notify the county of acquisitions or sale of parcels that are contiguous to STF land, acquisitions, or sales that affect the owners' qualification in the program and a change of use of any portion of STF property to a

non-forest use. If the owner fails to do so, the assessor may disqualify the property from STF special assessment.

The following need to be sent to the Department of Revenue: copies of written notices of qualification or continued qualification to the owner, certain notices submitted by the owner, and copies of approved applications of STF property.

This allows DOR to maintain a database of STF properties, which is necessary for the administration of the severance tax associated with the STF program. This severance tax is intended to recover the deferred tax on the land when the assessed value is reduced from 100 percent of the specially assessed forestland values to 20 percent of that value. [Note: the base value for the 20 percent maximum specially assessed value (MSAV) was set by statute. More details are described in the valuation section of this manual.]

4. Valuation of certain forestland at farm use value

This special assessment applies to land that meets a very specific list of criteria. ORS 321.349 applies to land that is changed from a farm use special assessment under ORS 308A.050 to ORS 308A.128 to western Oregon forestland under ORS 321.257 to ORS 321.390. This is done at the election of the owner. The valuation will not be at the western Oregon forestland value. It will be valued under ORS 308A.050 to ORS 308A.128.

4A. Qualification criteria

1. For forestland to qualify for special farm use assessment valuation under ORS 308A.092, **all** of the following conditions must be met:
    a. The owner must request that the land be changed from a farm use to forestland designation by filing a timely application with the county assessor;
    b. Trees must have been planted after October 15, 1983;
    c. The owner must state the average age of timber upon the land involved the application;
    d. The average age of the timber on the land must be less than 40 years;
    e. The land must have been specially assessed under ORS 308A.092 for at least 10 consecutive years before the request for special assessment as forestland;
    f. The owner of land applying for this special assessment may not own more than 2,000 acres of forestland in western Oregon.
2. The Department of Revenue will design the application forms for this program and distribute a copy of the form to each county assessor for duplication as needed.

5. Farm woodlot

Farm woodlot is forested land in an area that supports natural vegetation and includes tree species. There are no minimum stocking or species requirements associated with forested land under the farm woodlot special assessment.

This is a farm use special assessment. The program is explained in detail in *Farm Use Assessment Procedures* (DOR publication #150-303-422). An owner of farm property may elect to place up to 20 acres of forested land in this farm use assessment. ORS 308A.056 (3)(h) states "For the purposes of this section, land is currently employed for farm use if the land is any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use."

Farm woodlots that would otherwise meet the qualification for forestland special assessment are not required to be assessed as forestland.

6. Notation of assessment and tax roll

ORS 321.362 for western Oregon

OAR 150-321.839 (5)-(A) for eastern Oregon

ORS 321.709(3) for small tract forestland

The assessment and tax roll shall show the notation "Forestland—potential additional tax liability" for each parcel of land designated as forestland or STF by the county assessor. This notation shall not be made on the assessment and tax roll for parcels of highest and best use forestland.

Valuation chapter

1. Background information **3-3**
- A. 2001 Legislative declaration **3-3**
- B. Forestland valuation process beginning 2003 ..... **3-3**
- C. Forestland appraisal now **3-3**

2. Values on specially assessed properties **3-3**
- A. Real market value (RMV) **3-3**
- B. Assessed value (AV) **3-3**
- C. Maximum assessed value (MAV) **3-4**
- D. Specially assessed value (SAV) **3-4**
  - 1) Special assessment of western Oregon forestland **3-4**
    - a) Western Oregon forestland classes **3-4**
    - b) Re-determination of forestland land classes **3-5**
    - c) Producing western Oregon forestland values **3-5**
  - 2) Special assessment of eastern Oregon forestland **3-6**
  - 3) Small tract forestland (STF) **3-6**
  - 4) Valuation of certain forested land at a farm use value **3-7**
  - 5) Farm woodlot **3-7**
- E. Maximum specially assessed value (MSAV) **3-7**

3. Forest use mass appraisal procedures **3-7**

4. Appeals **3-8**
- A. Specially assessed forestland **3-8**
- B. Jurisdiction of board of property tax appeals **3-8**

Valuation

1. Background information

1A. 2001 Legislative declaration

The 2001 Legislature declared that the best way to achieve an accurate assessment of forestland is to determine forestland values annually. It also initiated the use of valuation models for western and eastern Oregon. The models consider forestland sales, stumpage values, immediate harvest values, log prices, and other reasonable factors that promote real market analysis for forestland.

1B. Forestland valuation process beginning 2003

Legislation changed the forestland valuation process beginning in 2003. This legislation incorporated the constitutional protections of Measure 50 to forestland. Measure 50 set a "maximum assessed value" (MAV) on properties. The base for the 1997–98 tax year was set by reducing the 1995–96 values by 10 percent. Future taxable values were limited to 3 percent annual growth with some exceptions. Taxes are paid on the lesser of the real market value (RMV) or the MAV.

1C. Forestland appraisal now

Each year the Department of Revenue gathers, verifies, and analyzes forestland sales. This information is used to set the value of forestland. Values are produced for western Oregon forestland classes FA, FB, FC, FD, FE, FF, FG and FX. A value is also produced for forestland in eastern Oregon (eastern Oregon does not have forestland classes).

On or before April 1, the department must give notice of the proposed specially assessed values of forestland to county assessors and associations, trade organizations, people that represent forestland owners, and any person that makes a written request for a notice. The notice must include:

a. The proposed values,

b. A description of the valuation model used in determining the values,

c. A summary of the market data used, and

d. The date, time, and location of the public hearing on the proposed values.

The public hearing is usually set during the week following April 15. In accordance with public meeting law, any member of the public may provide written comments or testify at the hearing. Written comments must be submitted on or before May 1. The department will consider testimony and comments prior to certifying the specially assessed values to the county assessors.

Certified values are sent to county assessors on or before June 1 of each year. These values represent the real market value, as of the assessment date for each tax year, of 'highest and best use' forestland in each land class and the specially assessed value of designated forestland.

2. Values on specially assessed properties

The counties must maintain an array of values on specially assessed properties. These values include:

- Real market value.
- Assessed value.
- Maximum assessed value.
- Specially assessed value.
- Maximum specially assessed value.
- The homesite real market value and the homesite specially assessed value.
- The improvement real market value.
- The maximum assessed value for the property account.
- The assessed value for the account.

2A. Real market value (RMV)

For all property, the assessor develops RMV based on the property's highest and best use. ORS 308.205 defines RMV of a property as the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year as established by law.

2B. Assessed value (AV)

Assessed value is the value used to multiply by the tax rate to calculate the taxes owing on property. Measure 50 (1997) requires that a property be assessed at the lesser of the property's RMV or maximum assessed value (MAV) unless the property is specially assessed. Under special assessment, the value used is the lesser of the specially assessed value (SAV) or the maximum specially assessed value (MSAV).

2C. Maximum assessed value (MAV)

Measure 50 established MAV in 1997. The initial calculation of the MAV was done for the 1997–98 tax year. The purpose was to set a base for future tax limitations. The first MAV calculation used 90 percent of the 1995–96 assessed value as the assessed value for the 1997–98 tax year. In addition to lowering value, Measure 50 also set a limitation on how much the assessed value can increase for a property each year. The maximum is 3 percent per year.

The MAV is equal to the prior year assessed value times 103 percent **or** the prior year MAV, **whichever is greater**. There are exceptions to this limitation. Exceptions include new construction, major additions, subdivisions, and disqualification from special assessment.

2D. Specially assessed value (SAV) (ORS 321.216)

SAV is the real market value of highest and best use forestland as determined by the Department of Revenue. Forested land may qualify for special assessment as forestland under four programs: western Oregon forestland, eastern Oregon forestland, designated forestland, and small tract forestland. SAV is also applied to farm woodlot and certain forestland under farm use using an income approach. Each program has specific conditions and characteristics that make them unique. Appraisers should become familiar with the types of forested land within their county and apply the correct assessment value for each program.

2D1. Special assessment of western Oregon forestland (ORS 321.257 to ORS 321.390)

Western Oregon includes 19 counties: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill.

ORS 321.201 to 321.222 specifies the valuation procedures for this program (see Section 1C, "Forestland appraisal now"). ORS 321.348 directs the Oregon Department of Revenue to assign land classes to forestland. Land classes are defined in ORS 321.257. There are eight classes of forestland in western Oregon: FA, FB, FC, FD, FE, FF, FG, and FX. The class with the highest value is FA and the lowest value is FX. Department of Revenue foresters have assigned the productive capacity of most forestland and labeled the land class by 40-acre grid within each section.

2D1(a). Western Oregon forestland classes

Foresters and the timber industry use site classes I, II, III, IV, and V as a standard for labeling site productivity. The site index relationships are based on tree heights and age. The 100-year index is based on Technical Bulletin No. 201, a USDA publication entitled *The Yield of Douglas-Fir in the Pacific Northwest* first published in October 1930. The 50-year index is based on a timber industry publication in July of 1966 titled *Site Index Curves for Douglas-fir in the Pacific Northwest* by James E. King. These references are included in OAR 150-321.257(3). The department also considers topographical features, vegetation, and soil types to help determine the productivity of the land and assign the land classes.

The FX classification on western Oregon forestland applies when conditions are present on land that causes the site classification to be at a level below site 5 productivity. FX is the lowest value per acre of 8 forestland productivity levels in western Oregon [see OAR 150-321.257(3)]. There are conditions of land that are described in the definition of isolated openings such as rock outcrops, river wash, swamps and chemical conditions of the soil, that will also qualify the land to be classified as FX. The FX classification is also applied to sites that would normally allow forest growth but restrict trees from reaching maturity because of a power line or other utility right-of-way passing though the ownership. The width of the right-of-way would need to be wide enough to prevent typical forest tree growth from occurring before using the FX class.

The determination to use the FX classification or "isolated openings" for these conditions is based on the size of the area. There is no upper limit to the acreage for which the FX classification may apply. The factor that limits using this classification on an area is the appraisal decision that the area is not in support of the surrounding forestland. A guideline has been used that sets a minimum of 2 acres to separate FX land from the surrounding forestland. If the low productivity area is less than 2 acres it is considered an isolated opening and is classified as forestland at the same productivity as the surrounding area.

Table 3 shows four measurements of site quality and the relationship between the measurements. Professional foresters have used the 100-year and the 50-year site index as industry standards to evaluate productivity in the Douglas-fir region of the Pacific Northwest.

The table is intended to show the relationship between the forestland classification and site indices as specified under OAR 150-321.257(3). It is the responsibility of the Oregon Department of Revenue to determine the site index from sample data in the field for determination of forestland class.

Table 3
Relationship between 100-year/50-year douglas fir site index table and DOR forestland classes

100-year site index (McArdle 1949)		50-year site index (King 1966)		Site class	(DOR) forestland class
From	*To*	*From*	*To*		
205	& above	152	& above	I+	FA
195	204	145	151	I	
186	194	139	144	I-	
175	185	131	138	II+	FB
165	174	124	130	II	
156	164	118	123	II-	FC
145	155	110	117	III+	
135	144	102	109	III	FD
126	134	96	101	III-	FE
115	125	89	95	IV+	
105	114	81	88	IV	FF
96	104	74	80	IV-	
85	95	67	73	V+	FG
75	84	59	66	V	
65	74	50	58	V-	
below 65		below 50			FX

2D1(b). Redetermination of forestland land classes

Land class assigned to forestland may be reviewed upon request of the landowner. The landowner must submit a request in writing to the Department of Revenue. Detailed information must be submitted with the request as described in OAR 150-321.348(2). This information includes, but is not limited to:

- Third party evaluation.
- Soil survey details.
- Aerial photo and/or a contour map.
- A narrative that describes geographic characteristics that influence site.
- Identify the property:
  1. County name.
  2. Tax account number.
  3. Legal description.
  4. Total forestland acres owned.
  5. Describe the physical location and number of forestland acres that are to be reviewed.

The Department of Revenue must receive the request by April 1 for any change in land class to reflect on the tax roll for the tax year beginning the following July 1. If the department receives the request after April 1, any resulting change will take effect in the tax year beginning July 1 of the following year. The department will send a written notice of the decision to the owner. Any change of the land class will be certified to the county assessor for processing prior to July 15 of the tax year for which the review decision first applies. Decisions may be appealed to the Magistrate Division of the Oregon Tax Court per ORS 305.275.

2D1(c). Producing western Oregon forestland values

The Oregon Department of Revenue computes and produces the forestland values for western Oregon counties annually. Forestland sales are collected each year from county assessors' sales databases and other sources that become available. Any sales that have occurred since the previous year's collection can be included in the analysis. The information gathered is used to allocate values to the components of the sale. The goal is to determine the bare land value for each forestland productivity class.

Forestland sales used in the valuation process must meet a specific set of criteria for inclusion in the valuation study. These sales must be:

- Of "highest and best use" forestland.
- Within the appraisal time period.
- An arm's-length transaction.
- Of monetary consideration, (cash or a financing method standard to the real estate market).

Data is collected on sales that meet the criteria and appear to represent a market value of forestland. This data includes:

- A copy of the deed.
- A map of the property.
- An aerial photo of the property.
- Zoning information.
- A copy of a completed county sales questionnaire, if available.
- A copy of the county assessment information on all accounts.
- A DOR questionnaire detailing specific information of the sale.

DOR sends a questionnaire to the purchaser to verify details about the transaction. DOR questionnaires for forestland sales ask the buyer to detail the monetary allocation that they assigned to each component involved in the sale. These components typically consist of the land, immature timber, mature timber, improvements, and other allocations. The DOR questionnaire also asks the buyer to verify that the property was purchased strictly for forestland use and if there were other considerations involved in the transaction. If a completed questionnaire is not submitted, it will be followed-up with a telephone call. If the needed information is unavailable from the purchaser, then the seller is contacted. All information individual purchasers or sellers of forestland provide is considered confidential and is covered by disclosure statutes and rules. A field inspection of the property may be necessary to clarify details of the sale.

A copy of the DOR questionnaire is included in Appendix D.

Details of this data gathering may determine that the sale does not meet the criteria of a usable sale. Examples of forestland sales that may be excluded from the analysis include properties with mixed uses or properties where a homesite and improvements dominate the sale value. For the sale to be included in the analysis, purchasers of forestland properties must affirm in the DOR questionnaire that their intent is to grow and harvest trees on the recently purchased property.

The results from the market study are placed in a database that is analyzed to determine average market values for forestland classes in western Oregon for a given fiscal year. Economic and time series modeling is used to forecast forestland values for the coming tax year. Language that specifically addresses the economic modeling process and the role of the model can be found in OAR 150-321.207(1).

The western Oregon forestland values are reviewed to apply Measure 50 limitations. This determines the preliminary values as of April 1 of each year.

Proposed forestland values are sent to the county assessors on or before April 1 or each year. Public testimony and comments are considered prior to the adoption of final values. The final values are produced on or before June 1 of each year to be used for the next tax year beginning July 1.

2D2. Special assessment of eastern Oregon forestland (ORS 321.805 to ORS 321.855)

Eastern Oregon includes 17 counties: Baker, Crook, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler.

Unlike western Oregon, there is no forestland site classification and all forestland is assessed at the same value in eastern Oregon. The exception to this is those properties assessed as small tract forestland (STF).

The process of determining eastern Oregon forestland values is the same as the market analysis described for western Oregon above. See OAR 150-321.207(1) for language that specifically addresses the economic modeling process and the role of the model.

2D3. Small tract forestland (STF) (ORS 321.700 to ORS 321.754)

The valuation of land in the STF program is based on 20 percent of the results of the forestland programs, specific to western and eastern Oregon (ORS 321.722).

ORS 321.722 (2003 version) provided the assessed value per acre of small tract forestland for tax year beginning July 1, 2004. This was the lesser of 20 percent of the specially assessed value (SAV) of forestland or the value as follows:

Land class	Value per acre
FA	$92
FB	$73
FC	$61
FD	$52
FE	$34
FF	$25
FG	$10
FX	$ 1
Eastern Oregon	$10

These values are the "maximum specially assessed value (MSAV). This term is explained later in this chapter. The MSAV is limited to increasing a maximum of 3 percent per year [ORS 321.722(2)].

County appraisers should be aware that the MSAV for forestland and the small tract forestland option are adjusted independently of each other from the Measure 50 limitations. The MSAV for STF properties is not exactly 20 percent of the MSAV for forestland properties in a given year. The MSAV for both programs is adjusted separately from the base value using a formula that does not increase the value by **more** than 3 percent in a given year. This requirement leads to a practice of "rounding down" the MSAV each year so as not to exceed this 3 percent limitation. Assessors should not try to "calculate" the MSAV for STF properties, but use the MSAV values the DOR produces.

2D4. Valuation of certain forested land at a farm use value (ORS 321.349)

This applies only to forestland in western Oregon.

The farm use value for agricultural land qualified for this special assessment must be based on land class irrespective of any vegetation cover. (OAR 150-321.349)

The process for this farm use valuation of these forest lands is described under ORS 308A.092. The value determined is based on an income approach. The Department of Revenue annually determines and certifies a capitalization rate to the county assessor. It is based on the rate of interest charged in Oregon by the Federal Farm Credit Bank system at the time of closing for farm properties. This certified rate will include a component for local taxes. The county assessors develop per-acre tables for each assessment year for each class and area for farm use valuation.

Values for farm use are determined on the basis of highest and best agricultural use, regardless of how the land is currently used and employed in agriculture. [OAR 150-308A.092(2)]

Refer to DOR publication #150-303-422, *Farm Use Assessment Procedures*. The information can be found in the valuation section of the publication.

2D5. Farm woodlot [ORS 308A.056 (3)(h)]

Under ORS 308A.056(3) woodlots are treated as if the land is currently employed for farm use. Farm use is defined under ORS 308A.056(1). The values for farm use of farmland land shall be determined utilizing an income approach per acre, by agricultural land class and area (ORS 308A.092). To determine farm use value, look to the highest and best qualifying farmland uses defined under ORS 308A.056(1). Farm woodlot has a requirement that a maximum of 20 acres be allowed to receive farm use special assessment. The woodlot must be contiguous to and owned by the owner of the land specially valued for farm use.

See *Farm Use Assessment Procedures* for more information.

2E. Maximum specially assessed value (MSAV)

MSAV is defined as a constitutional limitation on the taxable value of specially assessed property such as farm land or forestland. This value only relates to the specially assessed portion of a tax lot. It was first calculated for the 1997–98 tax year. It was calculated by using 90 percent of the 1995–96 specially assessed value. The specially assessed value is limited to a 3 percent increase for subsequent tax years.

The owners of 5,000 acres or more of forestland had the MSAV set in statute beginning 2003–04 tax year in the notes section of the 2001 edition of ORS 321.354. The owners of less than 5,000 acres of forestland had the MSAV set in statute beginning 2004–05 tax year in the notes section of the 2003 edition of ORS 321.722.

It is possible that a market study determines that the SAV of highest and best use forestland is below last year's MSAV. In that event, the MSAV would not drop, but the SAV derived from the market study becomes the assessed value. If, in the following year, the market study shows values that return to a level in excess of 3 percent from the previous year, then the values are limited to the MSAV established two years previous. The MSAV would again be limited by 3 percent for future value increases. The assessed value from one year to the next could possibly change more than 3 percent in this example.

3. Forest use mass appraisal procedures

The basic steps in the mass appraisal of properties that qualify for forest use special assessment include:

1. Classify the land.
2. Apply certified values by land class.
3. Compute values of the homesite and on-site improvements.
4. Complete the valuation land card.
5. Record the dwelling information on a "residential appraisal" card in the same way for any residential appraisal.

On all specially assessed forest land accounts, the value of on-site developments (OSD) are included as part of the land value and will be listed as a separate item on the land record. [OAR 150-307.010(1) (2)(a)(B)]

4. Appeals

4A. Specially assessed forestland, ORS 321.219

Each year the Department of Revenue determines and certifies the per acre specially assessed values of forestland. The certified values are set on or before June 1 of the assessment year. Following certification, but before July 1 of the tax year, five or more owners owning in aggregate not less than 5 percent of the total forestland in a land market area may appeal any or all of the certified specially assessed values. For forestland valuation, eastern Oregon is a market area and western Oregon is a market area. Appeals are made to the Oregon Tax Court. Public notice of the appeal shall be made in each county having specially assessed values affected by the appeal. See ORS 321.219.

4B. Jurisdiction of the board of property tax appeals (BOPTA), ORS 321.222

Any appeal of forestland value that does not involve an appeal of a specially assessed value certified under ORS 321.216 shall be made to the board of property tax appeals. The action will be done as prescribed under ORS 309.100 (appeals of value by the county boards of property tax appeals).

BOPTA has the authority to:

- Hear appeals on the real market values (RMV) and maximum assessed values (MAV) the counties develop for all specially assessed lands.
- Hear appeals on the SAV of a specially assessed forest homesite.
- Hear appeals for designated and highest and best use forestland involving inaccurate acreage. (Note: the board cannot qualify new acres for special assessment.)

BOPTA does not have the authority to:

- Hear appeals of the special assessment qualification.
- Reduce the certified per acre specially assessed value (SAV) or the maximum specially assessed values (MSAV).

Disqualification chapter

1. Before you disqualify **4-3**

2. Declassification of "highest and best use" forestland **4-3**

3. Specially assessed forestland disqualification **4-3**

A. Disqualification of designated forestland **4-3**

1) Reasons for disqualification **4-3**

2) Timing of disqualification **4-5**

B. Disqualification of small tract forestland (STF) **4-5**

1) Reasons for disqualification **4-5**

2) Timing of disqualification **4-5**

4. Other forest related disqualifications **4-6**

A. Exchanges of specially assessed forestland with governmental entities **4-6**

5. Notification of disqualification **4-6**

6. Appeals **4-6**

Disqualification chapter

1. Before you disqualify

Process each disqualification with the understanding that the action can be appealed. It is very important to select the correct statutory reason and to follow the appropriate procedures for disqualification. You will need to be prepared to defend the action in court. Failure to cite the correct statute for disqualification could render the disqualification invalid (See Appendix F, "Smith v. Department of Revenue and Marion County.") The objective is to provide accurate administration of the special assessment programs.

2. Declassification of "highest and best use" forestland

Land in eastern and western Oregon that is assessed as "highest and best use" (H&BU) forestland will be declassified from that assessment when:

1. The "highest and best use" is no longer forestland, **or**
2. The owner is granted a tentative approval for a non-farm dwelling and requests the assessor to declassify the land under ORS 215.236.

Lack of acceptable forest use or intent does not cause declassification of "highest and best use" forestland. Market studies of the trends of like properties in the area will guide an appraiser to a decision on the proper property classification to use on a property. Stocking standards do not apply to "highest and best use" forestland. If the stocking level of H&BU forestland is less than the minimum level used on designated forestland, this does not cause a declassification action to occur. A court case that addresses H&BU forestland is Tollefson v. Department of Revenue 1979. (See Appendix F.)

Once the appraisal decision has been made that land no longer meets the criteria of "highest and best use" forestland, then a declassification action must happen on the property. OAR 150-308.215(1)-(A) directs the appraiser to the definitions for the property classification system. This lists the options an appraiser can use to place the property into another classification. The classifications are intended to be used on a statewide basis and not vary from county to county. All classifications must be based upon the "highest and best use" of the land.

ORS 215.236 specifically speaks to removing the special assessment on "...the lot or parcel upon which the dwelling is proposed..." upon declassification of highest and best use (H&BU) forestland due to establishing a non-farm dwelling. Some planning departments create a partition prior to the establishment of the homesite. If this is done, declassify only the H&BU forestland that is on that parcel. *Example:* if a 40-acre parcel is to have a homesite and the process of creating the homesite does not partition the homesite area, declassify all of the H&BU forestland on the entire 40 acres. If a partition of the homesite occurs, declassify all of the H&BU forestland on the homesite parcel. It could be 1 acre, 2 acres, 5 acres, or whatever the size of the partition when determining the number of acres to declassify.

There is no additional tax calculated or posted when highest and best use forestland is declassified. The specially assessed value (SAV) for the property is the real market value for "highest and best use" forestland.

A notification is required for declassification of "highest and best use" forestland per ORS 308A.718(2). If the change in assessment results in a value other than "highest and best use" forestland, the taxpayer may submit an application for designated forestland under ORS 321.358(2) (western Oregon) or ORS 321.839(2) (eastern Oregon) no later than December 15 for the assessment year.

3. Specially assessed forestland disqualification

3A. Disqualification of designated forestland

References: Designated Forestland, ORS 321.359 (western Oregon), ORS 321.842 (eastern Oregon).

The primary reason for disqualification of designated forestland involves the land no longer being held or used for the predominant purpose of growing and harvesting trees. It does not matter who manages the land as long as the predominant purpose of growing and harvesting trees is maintained. An owner of land can choose to allow another entity to use or lease the land. The land will still qualify for the special assessment. An owner can engage in incidental non-forest uses as long as the predominant purpose and forest use is not compromised.

A portion of a qualified designated forestland property may remain qualified if the balance of the property meets the criteria for disqualification.

3A1. Reasons for disqualification

Designated forestland becomes disqualified if:

1. **The assessor discovers that the land is no longer forestland:**

   A. **Change to a non-forestland use.** This occurs when the predominant purpose of the land is no longer the growing and harvesting trees (See 2B, "Predominant purpose" in the "Qualification" chapter).

   Designated forestland is disqualified if the use is changed to a use other than a forest use as defined by ORS 321.257 and ORS 321.805. Removing stumps after a harvest of forestland acreage is an indication that a change of use may soon occur. The land may qualify for another special assessment. This qualification to another special assessment (referred to as a "rollover") is supported by ORS 308A.706(1)(d) and ORS 308A.724(2). See Appendix G for "Counter questions" about "rollover" discussions with landowners.

   B. **The land no longer meets stocking and species requirements.** By the end of the sixth full calendar year after harvesting, the landowner must have established "free-to-grow" trees that meet or exceed the minimum stocking level established by OAR 629-610-0020 (Oregon forest practice rules). The reference for this time period is OAR 629-610-0040. For lands that have not had a recent harvest, there is specific language that addresses how to handle properties identified with stocking levels below minimum. In western Oregon, the statute reference is ORS 321.367. The time allowed for advising a landowner of their responsibility and expecting implementation of a reforestation plan is one year. If there is no compliance after that time, the statute states that upon receiving written notice from the State Forestry Department, the county assessor should proceed with a disqualification action. Because the statutes lack this specific language for eastern Oregon, it is recommended to use the same time frame to expect the landowner to implement a reforestation plan upon discovery of under-stocked designated forestland. See OAR 150-321.358(4) for western Oregon and OAR 150-321.839(4) for eastern Oregon.

   If forestland acreage qualified for the designated forestland program due to a reforestation plan, it is important to monitor the activity on the land for compliance with the administrative rules stated above. A minimum of 20 percent of the area, but not less than 2 acres, must be planted by December 31 of the first assessment year. Each additional year after the first year, at least 20 percent of the area must be planted. At the end of the fifth year, 100 percent of the area must be planted. If the county assessor discovers that the landowner did not complete the plan to plant as scheduled, the assessor may disqualify all of the acres that are below stocking minimums. The rule does state that the assessor may grant extensions to fulfill planting requirements if the loss of planted stock occurs due to conditions beyond the control of the landowner.

2. **The owner notifies the assessor to remove the special assessment.** An owner may request to remove the designated forestland special assessment even if the land continues to qualify for the program. An example is when an owner is refinancing their property and the lender requires removal of the special assessment. Another example is when the owner applies for a nonfarm dwelling under ORS 215.236. It is required under this statute that the special assessment not be in place before approval would be granted for the home site. See ORS 321.359(1)(b)(A) (western Oregon) and ORS 321.842(1)(b)(A) (eastern Oregon) for the disqualification action due to owner request regarding designated forestland.

3. **The land is sold or transferred to an owner making it exempt from property taxes.** The reference for designated forestland is ORS 321.359(1)(b)(B) (western Oregon) and ORS 321.842(1)(b)(B) (eastern Oregon). Examples of owners that are exempt from property taxes are United States, state, counties, cities, school districts, ports, and other municipal corporations. A state highway right-of-way may expand and acquire forestland for a road improvement project. A county may acquire forestland adjacent to an existing county forest to improve management efficiency or access.

4. **A subdivision plat is recorded under ORS chapter 92.** This disqualification action is supported by ORS 321.359(1)(b)(D) for western Oregon and ORS 321.842(1)(b)(D) for eastern Oregon. This action divides the land into four or more parcels within a calendar year, and the plat is recorded. Once land has been platted, disqualified, and additional taxes paid, any new account may requalify for designated forestland by application.

5. **Land that is specially assessed as forestland in Oregon may qualify for the riparian habitat exemption program upon application and approval of the application per ORS 308A.356 and ORS 308A.359**. This action would result in the disqualification of western Oregon

designated forestland and eastern Oregon designated forestland. The reference for this program is ORS 308A.350 through ORS 308A.383.

3A2. Timing of disqualification

Disqualification "occurs" when the change is made to the assessment roll (See Appendix F for "August 26, 2002 Attorney General Opinion and Oregon Tax Court case Meeks v. DOR.")

Disqualifications that occur between January 1 and June 30 become effective as of January 1 of the current assessment year and therefore for the tax year beginning that July 1.

Disqualifications that occur between July 1 and December 31 become effective as of January 1 of the next assessment year, and therefore for the tax year beginning the following July 1.

However, if the disqualification is due to the land no longer being forestland, the disqualification can occur at any time, but is effective only if the notice of disqualification is mailed and the tax roll is changed on or before August 14 of the tax year for which the disqualification is asserted. (ORS 321.366, 321.845)

The status of specially assessed property for each tax year is effective as of July 1 of each year. The assessor must disqualify designated forestland with changes to the assessment roll on or before June 30 prior to the beginning of the tax year. The assessor must notify the taxpayer in writing within 30 days of the disqualification and state the reason for the disqualification [ORS 308A.718(3)]. See section 3A(1) for "Disqualification reasons." The notice shall also include information about the option to place the land into another special assessment [ORS 308A.718(5)(a)(C)]. If the owner wishes to move the land to another special assessment, then the owner must submit an application within 30 days of the date of the notice of disqualification [ORS 308A.724(3)].

After receiving the notice, the taxpayer may appeal the assessor's action to the Magistrate Division of the Oregon Tax Court within 90 days [ORS 308A.718(4)].

3B. Disqualification of small tract forestland (STF)

3B1. Reasons for disqualification

1. The county assessor shall disqualify small tract forestland for the following reasons per ORS 321.716:
   a. Sale or transfer of small tract forestland.
   b. Discovery by the assessor that the land is no longer forestland. Predominant purpose of growing and harvesting trees of a marketable species is a central issue of the definition of forestland in the small tract forestland program. If the predominant purpose changes, this could be a reason to conclude that the land is no longer forestland. (See 2B, "Predominant purpose" in the "Qualification" chapter).
   c. The owner of STF property owns or holds in common ownership more than 5,000 acres of Oregon forestland.
   d. The owner of STF property owns or holds in common ownership less than 10 acres of Oregon forestland.
   e. The county assessor receives written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to STF under rules adopted by the Department of Revenue.
   f. The land qualifies for another special assessment listed in ORS 308A.706(1)d A, B, or F. **Or,**
   g. The recording of a subdivision plat under chapter 92 that subdivides the land.
2. The assessor **may** disqualify land from STF if the owner did not supply written notification as required by ORS 321.712(3) when the owner acquires, either directly or through common ownership, one or more tax lots that are contiguous to the STF owned or held in common ownership by the owner.
3. Small tract forestland is disqualified when the land qualifies for the riparian habitat exemption program. The reference for this program is ORS 308A.350 through ORS 308A.383.
4. An STF owner notifies the assessor to remove the special assessment. The only situation when an STF owner can request removal of the special assessment is when the owner applies for a non-farm dwelling under ORS 215.236. Before approval is granted for the home site, the land must be disqualified from special assessment.

3B2. Timing of disqualification

The assessor has 15 months to discover a sale or transfer of STF property. The assessor must send the owner a letter stating the intent to disqualify and give the owner 30 days to respond. The disqualified land will automatically be placed in the designated forestland special assessment if the land qualifies. The statute reference is ORS 321.716(3).

The timing discussed in section 3A2 of this chapter is the same for the small tract forestland program.

4. Other forest related disqualifications

4A. Exchanges of specially assessed forestland with governmental entities ORS 308A.730

When forestland is exchanged with a government entity, a disqualification action is initiated. If the land acquired by a government agency or body is specially valued under farm statutes (ORS 308A.062 or 308A.068), forest statutes (western, ORS 321.257 to 321.390; eastern ORS 321.805 to 321.855; or small tract, ORS 321.700 to 321.754) and the land acquired from the government is not farmland in an EFU zone or "highest and best use" forestland, the owner shall make application for special valuation as farm or forest. See the "Special provisions" chapter for more information on this topic.

5. Notification of disqualification

There are specific statutory requirements regarding the information that must be sent to a landowner when land is disqualified from special assessment. See Appendix H for "Disqualification notification procedures." This appendix addresses disqualification from both farm and forest special assessment and includes sample letters that show the statutory required and suggested language to use in the notification process.

6. Appeals

Reference ORS 321.359(2) for western Oregon forestland, ORS 321.842(2) for eastern Oregon forestland, and ORS 321.706(7) for small tract forestland Option.

These statute references describe the process that a landowner uses to appeal the denial of all or part of an application.

Appeals are to the Oregon Tax Court in the time and manner provided by ORS 305.404 to 305.560

ORS 305.275 states that any person may appeal to the magistrate division of the Oregon Tax Court if the person is aggrieved by and affected by an act, omission, order, or determination of:

a. The Department of Revenue.

b. County board of property tax appeals.

c. A county assessor (including, but not limited to the denial of a special assessment).

d. A tax collector.

The appeal must be filed with:

Oregon Tax Court
Magistrate Division
1163 State Street
Salem OR 97301

The appeal must be filed within 90 days after the act, omission, or determination becomes known to the person. This means the person must file within 90 days after the notification of denial/removal of special assessment from one of the programs listed above. (ORS 305.280)

A complaint or petition filed in the Magistrate Division requires a filing fee of $240.

Additional tax chapter

1. General information **5-3**
- A. Overview of statutes **5-3**
- B. Additional tax versus disqualification **5-3**

2. Additional tax upon disqualification **5-3**
- A. Calculation of taxes **5-4**
- B. Maximum years **5-4**
- C. STF additional tax **5-4**
- D. Owner request **5-5**

3. Additional tax deferred **5-5**
- A. Statutes **5-5**
- B. Change to other special assessment **5-6**
- C. Government exchange **5-6**
- D. Additional taxes following deferral **5-6**
  - 1) Maximum years **5-6**
  - 2) Calculating the tax **5-6**

4. No additional tax **5-8**
- A. Statute (ORS 308A.709) **5-8**
- B. Circumstances **5-8**
  - 1) Acquired by government agency (eminent domain) **5-8**
  - 2) Acquired by government agency (parks and recreation) **5-8**
  - 3) Leased public property **5-8**
  - 4) EFU change (not owner-initiated) **5-8**
  - 5) Forestland acquired by government agency **5-8**
  - 6) Highest and best use forestland declassified **5-8**

Additional tax

1. General information

Special assessment programs are in place to recognize that farm and forest properties are environmentally and economically beneficial to Oregon. When property is specially assessed, the owner pays reduced property taxes if they manage their land under the guidelines of the special assessment program. If a property ceases to meet the qualifications of special assessment, there is a potential "additional tax" on the property. The additional tax laws and procedures are similar on farm and forest properties. This chapter will focus on the provisions as they relate to forestland special assessments. For farm-related procedures, please refer to DOR's *Farm Use Assessment Procedures*, #150-303-422.

Specially assessed homesites generally do not have provisions to collect additional taxes.

Additional tax only applies to the years the land was specially assessed [ORS 308A.703(4)]. Any years when the additional tax has already been collected or abated cannot be collected again. Additional tax cannot be collected for any year the land was not specially assessed (exempt or assessed at market value).

1A. Overview of statutes

Additional tax statutes ORS 308A.700–733 apply to the following special assessments:

1. Exclusive farm use (EFU).
2. Non-exclusive farm use (non-EFU; all zones other than EFU).
3. Western Oregon designated forestland.
4. Eastern Oregon designated forestland.
5. Wildlife habitat (WLH).
6. Small tract forestland (STF option).

There are five basic scenarios regarding additional tax that will be addressed in this section:

1. The additional tax could be imposed and collectable following disqualification from special assessment. ORS 308A.703 is the statute that addresses the additional tax upon the land's disqualification from special assessment from 1A, 1–5 listed previously.
2. The additional tax could be deferred upon disqualification. This means that the potential additional tax remains on the property, but the tax is not imposed or collectable, and the taxes are deferred. ORS 308A.706 lists circumstances when the additional taxes will be deferred upon disqualification from one the special assessments listed in 1A, 1–5.
3. There are situations where the additional tax is not collectable upon disqualification. ORS 308A.709 lists situations when there will be no additional tax upon disqualification of special assessment.
4. Any additional tax that had been deferred under 308A.706 may later become imposed or collectable. ORS 308A.712 explains the situations and process for collecting additional taxes that had previously been deferred under ORS 308A.706.
5. ORS 308A.707 addresses additional taxes when land is disqualified from small tract forestland.

1B. Additional tax versus disqualification

Do not mix "additional tax" definitions and procedures with "disqualification" definitions and procedures. They are separate statutes and separate processes.

First there is a disqualification, and then consider whether or not to collect the additional tax. Not all disqualifications result in an additional tax. Sometimes the additional tax will be collected many years after the disqualification. It is important to keep the "potential additional tax" (PAT) notation on the assessment and tax roll. If in doubt, do not remove the notation from the roll.

It is possible that an entire account be disqualified and only portions require an additional tax computation. The other portions may have no additional tax or the additional tax is deferred. Careful review is needed of all uses, all acres, and reasons for disqualification separately. Some portions may be affected differently than other portions.

2. Additional tax upon disqualification

ORS 308A.703 addresses imposition of additional taxes upon disqualification from one of the special assessments listed in 1A (1–5). Information regarding the additional taxes for disqualification from STF is found in section 2C of this chapter.

Before deciding to collect, determine whether the additional taxes are collectable. Review the account history to make sure that any prior year's additional taxes have not been previously collected, deferred under ORS 308A.706, or forgiven under ORS 308A.709.

If the additional taxes are in a deferred status under ORS 308A.706, you must follow ORS 308A.712 to process the additional tax for those years.

If neither ORS 308A.706 (deferred) or 308A.709 (no additional tax) apply, then the additional taxes are processed under ORS 308A.703.

Following disqualification, the additional tax imposed will be added to the next assessment and tax roll to be collected like other property taxes.

2A. Calculation of taxes

The additional tax shall equal the difference between the taxes assessed against the land and the taxes that would have otherwise been assessed against the land had the land not been specially assessed. This calculation is performed for each year for the total number of years listed in 2B below.

Example: A property was under special assessment in 2005, and the property tax was $2,000 for the year. It would have otherwise been taxed at $10,000. The taxpayer gets credit for the $2,000 and will have the "potential" to pay an additional tax of $8,000 for that year to make up the difference.

2B. Maximum years

The number of years for which the additional taxes are calculated shall be the lesser of the number of years the land was under the special assessment, or:

Five years in the case of:

a. Non-EFU farmland.

b. Western Oregon designated forestland.

c. Eastern Oregon designated forestland.

d. EFU farmland where land remains inside an urban growth boundary.

e. Wildlife habitat where land remains inside an urban growth boundary.

Ten years in the case of:

a. EFU farmland where land remains outside an urban growth boundary.

b. Wildlife habitat where land remains outside an urban growth boundary.

c. Small tract forestland (see 2C below).

If a property was not in special assessment long enough to reach the maximum years, you can only collect the tax for the number of years the property was in special assessment.

See Appendix I for "Additional tax diagram."

2C. STF additional tax

If the disqualification is due to sale or transfer of STF property, the land automatically qualifies as designated forestland, unless the assessor determines the land is not forestland [ORS 321.716(3)(b)]. In this situation, additional taxes are imposed under ORS 308A.707(2)(a). If the land remains specially assessed under one of the special assessments listed in section 1A, 1–5 of this chapter, use ORS 308A.707(2) for computation.

Compute the difference between the taxes assessed under STF, and the taxes that would have been assessed as forestland under ORS 321.257–390 for western Oregon, or 321.805–855 for eastern Oregon. This calculation is done each year the land had been assessed as small tract forestland, up to a maximum of 10 years.

If, after disqualification, the land is not specially assessed under one of the five listed programs, the additional tax shall be the sum of:

a. Step 1 listed above, and

b. The difference between the taxes that would have been assessed against the land as forestland and the taxes that would have been imposed had the land not been specially assessed. This calculation is done for each year the land was forestland, up to a maximum of five years.

Example: Land was disqualified from STF, and did not qualify for another special assessment. Land was in STF for 10 years prior to disqualification. The table above shows the taxes for the last 10 years.

Step 1: Calculate the difference between STF taxes and tax as forestland. Add the amounts together for the last 10 years.

$115 + $110 + $108 + $103 + $100 + $95 + $92 + $87 + $85 + $75 = $970

Step 2: Calculate the difference between the tax as Forestland and tax at RMV. Add the amounts together for the last five years.

$1,750 + $1,655 + $1,560 + $1,465 + $1,370 = $7,800

Step 3: Compute total additional tax by adding amounts from Step 1 and Step 2 together.

$970 + $7,800 = $8,770 total additional tax

Table 4
Calculation of additional tax for disqualified STF properties

Tax year	2014/2015	2013/2014	2012/2013	2011/2012	2010/2011	2009/2010	2008/2009	2007/2008	2006/2007	2005/2006
Tax at STF	$35	$35	$32	$32	$30	$30	$28	$28	$25	$25
Tax at forestland	$150	$145	$140	$135	$130	$125	$120	$115	$110	$100
Tax as otherwise assessed (no special assessment)	$1,900	$1,800	$1,700	$1,600	$1,500	$1,400	$1,300	$1,200	$1,100	$1,000
Difference STF/FL	$115	$110	$108	$103	$100	$95	$92	$87	$85	$75
Difference FL/as otherwise assessed	$1,750	$1,655	$1,560	$1,465	$1,370	n/a	n/a	n/a	n/a	n/a

2D. Owner request

ORS 308A.715 allows the owner of land that is disqualified from special assessment to request to pay the additional taxes, even if the taxes may be deferred under ORS 308A.706. This generally happens when an owner does not want the land to be encumbered, or they are in a loan transaction and either the lender or buyer wants to clear the title of the property.

The owner must make written request to the assessor to request to pay the additional taxes. If the request is made prior to August 15 of the assessment year, the additional taxes are added to the current tax roll. If the request is made on or after August 15, the taxes will be added to the next year's roll.

Once an owner makes the request and pays the taxes, they cannot "change their mind" and request a refund. However, land may re-qualify for special assessment with a timely application. See Appendix F, "Hout v. Department of Revenue."

3. Additional tax deferred

3A. Statutes

There are circumstances where the additional tax upon disqualification is deferred. ORS 308A.706 lists the circumstances, and ORS 308A.712 explains how to determine the amount of deferred additional taxes once they become due for each scenario. The table on the next page shows the circumstance and corresponding additional tax statute for forestland special assessments.

Table 5

Additional tax statutes

Reason for deferral	Statute	Additional taxes	Statute
Governmental exchange of land of approximate equal value.	308A.706(1)(b)	Calculate additional tax on taxable owner's original land. Transfer the tax amount to the account of the acquired land.	308A.712(3)
Land acquired & used for natural heritage purposes.	308A.706(1)(c)	Additional taxes imposed at time land no longer used as natural heritage per ORS 308A.706(1)(c)	308A.712(4)
Land qualifies for another special assessment.	308A.706(1)(d)	Additional tax may be imposed at time of disqualification from special assessment, if collectable.	308A.712(5)

3B. Change to other special assessment

The most common reason for deferring the additional taxes upon disqualification of forestland is that land qualifies for another special assessment under ORS 308A.706(1)(d). This statute is commonly referred to as the "roll over" statute because it allows an owner to defer or "roll over" the additional taxes when they go to another special assessment.

It is important to maintain the "potential additional tax" notation on the assessment roll in this circumstance.

Land that is disqualified from STF that subsequently goes into another special assessment cannot be processed under this statute. Part of the additional taxes that are imposed on STF lands do not continue to be deferred if the land goes under another special assessment. The additional tax based on the differences between tax as forestland, and tax as otherwise assessed may continue to be different. See "Section 2C STF, Additional tax" of this chapter for more information.

3C. Government exchange

Under ORS 308A.730, a taxable owner with land under farm or forestland special assessment may exchange the land for land owned by a governmental agency if land is "of approximately equal value."

In this situation, the additional taxes on the land that was specially assessed is transferred to the land acquired by the taxable owner. These additional taxes are deferred on the taxable owner's acquired land. However, upon any future disqualification, the additional taxes will begin with the last year the land was under special assessment, up to the maximum number of years allowed, as listed in 2B of this section. To reach the maximum number of years, you may need to include some of the years the owner's original land was under special assessment.

See "Special provisions" chapter.

3D. Additional taxes following deferral

If the potential additional taxes were deferred following disqualification under ORS 308A.706, and later become collectable, the additional taxes, and maximum years of collection are determined under ORS 308A.712.

3D1. Maximum years

The number of years of additional tax computation shall be the total number of continuous tax years that forestland special assessment was in effect for the land, not to exceed:

a. Five years, or

b. Ten years if the property had been previously disqualified from farm use or wildlife habitat located in an EFU zone outside the urban growth boundary within the last 10 years.

3D2. Calculating the tax

To identify the number of years to collect, determine the following:

1. Total number of years land was under special assessment.

2 If the land been previously disqualified from either farm use or wildlife habitat on land that is outside the urban growth boundary and in an EFU zone.

   a. If no, the number of years you calculate the tax on is the lesser of the number of years in special assessment or five years.

   b. If yes, the number of years you calculate the tax on is the lesser of the number of years in special assessment or 10 years.

For the special assessments listed below, the number of years that may be taken into consideration for the purposes of the additional tax calculation is five years.

Farm use in EFU inside UGB (ORS 308A.062)

Farm use in non-EFU (ORS 308A.068)

Designated forestland western Oregon (ORS 321.358)

Designated forestland eastern Oregon (ORS 321.839)

Wildlife habitat (ORS 308A.424)

Example 1: Land was under designated forestland special assessment from 1996 to 2004. In 2005, the owner rolled the land over to wildlife habitat special assessment. In 2006, land was disqualified from special assessment for change of use. The maximum number of years for additional tax calculation is five years. Calculate the difference between the tax paid under special assessment and the tax that would have otherwise have been paid for each tax year 2001–02 through 2005–06.

Tax year	2006–07	2005–06	2004–05	2003–04	2002–03	2001–02	2000–01	1999–00	1998–99	1997–98	1996–97
Special assessment program		WLH	<—DFL—>								
Years to compute add tax		x	x	x	x	x					

Example 2: Land was under EFU assessment from 1996 through 2000 and land was outside the urban growth boundary. The owner decided to roll over into designated forestland (DFL) in 2001–02 and remained under DFL through 2005–06. Because land was disqualified from EFU outside the urban growth boundary within the last 10 years, there is a 10-year look back. Additional tax is computed on each tax year from 1996–1997 through 2005–2006.

Tax year	2006–07	2005–06	2004–05	2003–04	2002–03	2001–02	2000–01	1999–00	1998–99	1997–98	1996–97
Special assessment program		<—DFL—>					<—EFU—>				
Years to compute add tax		x	x	x	x	x	x	x	x	x	x

Example 3: Assume same scenario as example 2, only land was under EFU from 1996 to 1998 and under DFL from 1999 through 2005. Because land was disqualified from EFU outside the urban growth boundary within the last 10 years, there is a 10-year "look back," which means you look back to tax year 1996–97. Per ORS 308A.712(5)(b)(B), the additional tax for the DFL is limited to five years. Calculate the DFL additional tax for years 2001 through 2005, then compute the years under EFU (1996–1998). Because DFL additional tax is limited to five years, the additional tax cannot be assessed for 1999 or 2000.

Tax year	2006–07	2005–06	2004–05	2003–04	2002–03	2001–02	2000–01	1999–00	1998–99	1997–98	1996–97
Special assessment program		<—DFL—>							<–EFU–>		
Years to compute add tax		x	x	x	x	x			x	x	x

In the above example, the land must have been continuously subject to special assessment for 10 years, otherwise calculate five years additional tax [ORS 308A.712(b)(A)].

4. No additional tax

4A. Statute (ORS 308A.709)

ORS 308A.709 addresses circumstances when there is no additional tax following disqualification. In these situations, the "potential additional tax" notation may be removed from the roll and no additional taxes are imposed or collected.

4B. Circumstances

The circumstances include when land is:

4B1. Acquired by governmental agency (eminent domain)

Eminent domain is the power of a government agency to condemn or take property from private ownership for public benefit provided there is just compensation to the owner (i.e., the government agency adequately compensates the owner for the value of the property).

ORS 308A.709(1) specifies the acquisition by the government entity requires the "lawful exercise of the power of eminent domain." An eminent domain acquisition may be by force, but many times government agencies acquire the property through negotiation with a willing owner. For an acquisition to qualify under ORS 308A.709, the courts have ruled the government agency only has to have the power to condemn the property in question. The agency must also be able to demonstrate the reason it acquired the property was for a purpose that would have allowed condemnation had the owner not been willing to sell.

4B2. Acquired by government agency (parks and recreation)

The land becomes exempt from property taxation.

These acquisitions are covered under ORS 308A.709(2), (3) and (4).

4B3. Leased public property

ORS 308A.709(5) addresses public property leased by a taxable owner under a crop share agreement. This statute only applies to farm special assessment. See *Farm Use Assessment Procedures* (#150-303-422) for more information.

4B4. EFU change (not owner-initiated)

ORS 308A.709(6) only applies to farm special assessment.

4B5. Forestland acquired by government agency

ORS 308A.709(7) states that if a government agency acquires the forestland, it is not taxable and no additional tax is imposed.

Do not confuse this statute with 308A.703(5), which states that if the disqualification is a result of the land being acquired by an ownership making the land exempt, the lien for additional taxes shall attach as of the day preceding the sale or transfer. ORS 308A.703(5) is addressing those exempt owners **other than government agencies** who have become exempt as a result of an approved application (e.g., a church or other charitable organization).

4B6. Highest and best use forestland declassified

There is no additional tax for land declassified from highest and best use forestland.

Special provisions chapter

1. Governmental exchanges 6-3

2. Properties with timber under short rotation 6-3

3. Land supporting juniper trees 6-3

4. **Conservation easements** 6-3
   - A. Legislative declarations 6-3
   - B. Definition 6-4
   - C. Easement with public vs. private entity 6-4
   - D. Language of easement 6-4

5. Specially assessed homesites 6-5
   - A. Qualification 6-5
   - B. Definitions 6-6
     - 1) ORS 215.010, Definitions for county planning 6-6
     - 2) ORS 92.017, Lawfully created lots and parcels 6-6
   - C. Valuation 6-8
   - D. Disqualification 6-9

6. Non-forest related homesites 6-9

7. Non-farm dwellings in an exclusive farm use (EFU) zone 6-10

8. Land supporting Christmas trees 6-11

9. Forested land that may be assessed in other ways 6-11

Special provisions

1. Governmental exchanges [ORS 308A.706(1)(b) and ORS 308A.730]

Land acquired by a government entity as the result of an exchange of land of approximately equal value is not subject to additional taxes being imposed or deferred. [See ORS 308A.730(4).] If the property is not of approximately equal value, this section does not apply.

When forestland is exchanged with a government entity, remove the special assessment and the potential tax liability on the land acquired by the government. If the land acquired from the government is not farmland in an EFU zone or "highest and best use" forestland, the owner may make application for special valuation as farm or forest land in the manner provided under ORS 308A.077 (farm), 321.358 (western Oregon forestland), 321.706 (small tract forestland) **or** 321.839 (eastern Oregon forestland), whichever is applicable.

If the exchange takes place prior to July 1, the owner shall file the application on or before August 1. If the exchange takes place on or after July 1, the owner shall make application on or before April 1 of the following year.

If the owner of the acquired land does not file an application as required under ORS 308A.730 or the land does not meet the qualification for special assessment for which the application is made then a disqualification will result in an additional tax. The amount of additional taxes imposed will be equal to the amount imposed against the land transferred to the government entity. The additional tax must be paid, and may not be deferred under ORS 308A.706(1)(b).

2. Properties with timber under short rotation [ORS 321.267(3) and ORS 321.824(3)]

Land used for growing hardwood timber under certain criteria is not eligible for forestland special assessment. The hardwood species includes but is not limited to hybrid cottonwood/poplar. Land is ineligible for forestland special assessment if the following four conditions are met:

1. The land is prepared using intensive cultivation methods and is cleared of competing vegetation for at least three years after planting;
2. The timber is of a species marketable as fiber for inclusion in the manufacturing of paper products;
3. The timber is harvested on a rotation cycle within 12 years after planting; **and**
4. The land and timber are subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation and irrigation.

Properties that fit this short rotation hardwood production may be considered for a farm use special assessment [see ORS 308A.056(2)]. See the *Farm Use Assessment Procedures* for additional details.

3. Land supporting juniper trees

"Forestland means land...that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and that has been designated as forestland...or the highest and best use of which is the growing and harvesting of such trees." The marketable species are described in the rules OAR 150-321.358(4), 150-321.839(4), and 629-610-0050.

Land that solely supports stands of juniper trees is not considered to be forestland for the purpose of special assessment programs. Tree species are acceptable for reforestation and for residual stand stocking measurements if all of the following criteria are met:

1. The species must be ecologically suited to the planting site;
2. Be capable of producing logs, fiber, or other wood products suitable in size and quantity for the production of lumber, sheeting, pulp or other commercial forest products; and
3. Must be marketable in the foreseeable future.

Juniper is not marketable in the foreseeable future and therefore does not qualify for forestland special assessment.

4. Conservation easements ORS 308A.740, ORS 308A.743, ORS 271.715 through ORS 271.795

4A. Legislative declarations

The Legislature has allowed for conservation easements to overlay specially assessed resource lands such as farmland and forestland. Conservation easements are agreements between a landowner and a second party that memorialize the landowner's

intent to manage all or a portion of their property in a manner agreed upon between the parties. The law provides for these easements in ORS 308A.740–743 (easements with private entities) and ORS 271.715–795 (easements with public entities).

Neither of these statutes directs the Department of Revenue or county tax administrators to intervene in the development of the easement by requiring specific elements in the agreement.

The legislative findings and declarations under ORS 308A.740 encourage private lands to be managed in a sustainable manner, intend to use tax policy to encourage this use, intend to not impose additional taxes on property if conservation issues are applied, and define conservation. "Conservation" is the management of land, water, and natural resources for the purpose of meeting human and ecological needs in a sustainable manner.

The existence of the conservation easement or deed restriction may not, in it itself, cause disqualification from special assessment. It will also not preclude disqualification for some other reason (ORS 308A.743).

4B. Definition

ORS 271.715(1) defines "conservation easement" as a non-possessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open space values of real property, ensuring its availability for agriculture, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

4C. Easement with public vs. private entity

The statutes provide for different tax applications following the recording of a conservation easement depending if the easement is with a public or private entity. A conservation easement between a landowner and a public entity is taxed at real market value minus any reduction in value caused by the conservation easement (see ORS 271.785). A conservation easement between a landowner and a private entity allows the property to stay in a special assessment as long as the requirements for the special assessment continue to be met. (See Appendix F, "Lane County v. Richard Briggs.")

ORS 308A.743(3) requires that the conservation easement be recorded in the records of the clerk of the county in which the land is located and a copy of the conservation easement, deed restriction, or wildlife habitat conservation and management plan with the property tax account number must be sent to the county assessor.

4D. Language of easement

The wording of the easement is **very critical** in interpretation of the use of the land. This interpretation will determine the appraisal and assessment of the property for tax purposes.

The land cannot be disqualified from its current forestland special assessment as long as the conservation easement does not interfere with the land meeting the requirements of the special assessment program. These easements may restrict growing and/or harvesting of trees. The language of the easement needs to be carefully reviewed to assure compliance with the provisions of the special assessment can be maintained.

A common question about maintaining the special assessment as forestland on property subject to a conservation easement centers on an acceptable level of harvesting. If a conservation easement on forestland limits timber harvesting on a property, at what level of harvest reduction is acceptable before the assessor must conclude that the land no longer meets the qualification criteria for forest use special assessment? A decision must be made whether or not the land is being held or used for the predominant purpose of growing and harvesting trees of a marketable species. If the easement lists details that encumber the use of a property for typical forest management activities and lacks a plan that details the selective cutting described in the purpose statement of a conservation easement, this may lead to the conclusion to disqualify the property from special assessment. Each property is unique and conservation easements are written to a specific piece of property. This requires detailed review and decision making on a case-by-case basis.

There is not any statutory authority for property tax administrators to require anything to be put into a conservation easement. However, there must be enough information contained in the conservation easement for the assessor to determine that the qualifications of special assessment will continue to be met.

Example: A conservation easement allows select-cutting harvesting practices and also states a purpose of the easement is the preservation of green space. Would the definition of forestland be met?

The term "preservation of green space" means that the owners will maintain the land in a state that is close to the natural vegetation. A "forestland" special assessment can be considered as green space as long as the predominant purpose of growing and

harvesting trees of a marketable species and other qualification requirements are met. Select cut harvesting practices are allowed. If a conservation easement refers to selective cutting as described in the management plan, make sure to request a copy of the management plan as part of a review process. If you find the management activities are described only for a short period (such as five years) and do not identify levels of harvesting in terms of percent of cut, volume or acreage, then this could be reason to disqualify the special assessment.

It is reasonable to expect a management plan to specify how and when harvesting will occur and provide detail about the quantities to be harvested. Details on how the harvest will be performed are also a reasonable expectation to find in a management plan. Is the harvest going to be done with a ground machines, cable systems, horses, helicopter, or by some other means? If there are no specific long range plans (20, 40, 50, 75, or 100 years, etc.) for the management of the forestland, this may lead to a conclusion that the landowner is not meeting the definition of forestland for growing and harvesting trees.

5. Specially assessed forest homesites

5A. Qualification

Homesites used in conjunction with a parcel of greater than 10 acres of qualifying forestland receive a special assessment for the land under the dwelling as long as the dwelling use criterion in ORS 308A.250(2) and 308A.253(5) are met. The homesite must be located on a parcel of land that is zoned in the comprehensive plan as exclusive farm use (EFU), forest use, or farm and forest use per OAR 150-308A.253. Land qualifies for special assessment under ORS 308A.256 (maximum assessed value and assessed value of homesites) if it is under dwellings that are used in conjunction with activities customarily done in the management and operation of forestland or it is held or used for the predominant purpose of growing and harvesting trees of a marketable species.

No owner application is required to receive the forest homesite special assessment, see OAR 150-308A.253.

ORS 308A.253(5) states that the use of the dwelling includes, but is not limited to being:

- Owned and occupied by a person who is engaged in the forest operation, **or**
- Occupied by an employee of the owner of the forestland, **or**
- Occupied by a person who is involved in the forest operation, **or**
- Owned and occupied by a person who is no longer engaged in the forest operation, but:
  1. Has the harvest of timber from the forestland as their principle source of income,
  2. Was engaged in the forest operation, during the five consecutive years before the tax year in which engagement in the forest operation ended, **and**
  3. Owned and occupied the dwelling continuously during the period since engagement in the forest operation ended. "Continuous" in this paragraph includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

5B. Definitions

ORS 308A.250, OAR 150-308A.250

"Forestland," for the purpose of the homesite statutes (ORS 308A.250 to 308A.259), means land that is assessed as one of the three items below, **and** is a parcel of land of more than 10 acres that has been zoned in the comprehensive plan for exclusive farm use, forest use, or farm and forest use.

1. Highest and best use forestland .
2. Designated forestland (ORS 321.257-321.390 or ORS 321.805-321.855).
3. Small tract forestland (ORS 321.700 to 321.754).

"Homesite" means land under the dwelling and all tangible improvements to the land under and adjacent to a dwelling and other structures that are customarily provided in conjunction with dwelling. According to OAR 150-308A.250, "homesite" also includes site developments. Site developments are improvements to the land that become so intertwined with the land as to become inseparable.

"On-site developments" (OSD) are land improvements within the site that support the buildings or other property uses. [OAR 150-307.010(1) (2)(a)(A)(ii)]

See OAR 150-307.010(1) for detailed descriptions of site developments.

"Owner(s)" means:

a. The person who holds an estate in the homesite in fee simple or for life.

b. Any one of tenants in common or tenants by the entirety, holding an estate in the homesite in fee simple or for life.

c. Any person of legal age, duly authorized in writing to act on behalf of any person described in paragraph (a) or (b) of this subsection in filing an application for special assessment of non-exclusive farm use zone farmland.

d. The guardian or conservator of an owner, or the executor or administrator of an owner's estate.

e. The purchaser of the fee simple or life estate of an owner under a contract of sale.

"Parcel" for homesite purposes is defined under OAR 150-308A.256(1)(a) as a quantity of land that is capable of being described in a single description by a closed traverse, or as one of a number of subsections or sections in a township(s), or as lots, blocks, or tracts in a subdivision. A "parcel" may consist of one or more tax lots.

While a parcel may consist of one or more tax lots, tax lots are not legal divisions of land. Tax lots are administrative divisions of land created by the assessor's office to accommodate property taxation.

Appraisers should be aware of what their local planning department considers a "legal parcel." If there is a question or concern that a parcel is not a legal division of land it should be verified with the local planning department.

Only the local planning department has authority to approve legal divisions of land.

ORS 92.010 defines:

1. "Lot" as a single unit of land that is created by a subdivision of land.
2. "Parcel" as a single unit of land that is created by a partition of land.

"Site developments" are improvements to the land that become so intertwined with the land as to become inseparable. Site development is synonymous with land improvement. Examples are fill, grading and leveling, utility facilities (sewer, water, gas, electric). See OAR 150-307.010(1)(2)(a)(A).

5B1. ORS 215.010 definitions for county planning

As used in this chapter:

1. The terms defined in ORS 92.010 shall have the meanings given therein, except that "parcel:"
   a. Includes a unit of land created:
      A. By partitioning land as defined in ORS 92.010;
      B. In compliance with all applicable planning, zoning and partitioning ordinances and regulations; **or**
      C. By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.
   b. Does not include a unit of land created solely to establish a separate tax account.

"Discrete lot or parcel" is defined under ORS 92.017. This statute requires that parcels cannot be lawfully changed unless parcel lines are legally vacated (combining of parcels or lot line adjustments) or further divided. The local planning department has the authority to legally approve a change in a lot or parcel, otherwise the lot or parcel must remain discrete.

5B2. ORS 92.017 lawfully created lots and parcels

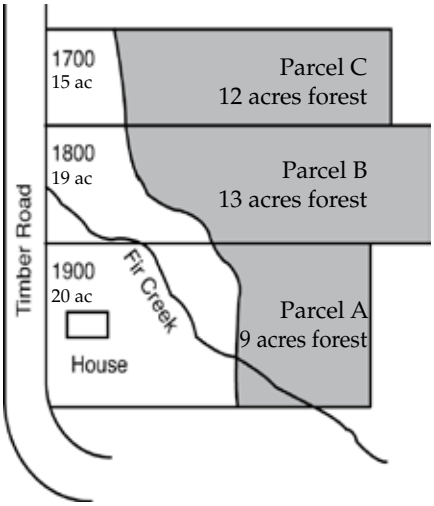
A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.

Government lots in the United States Geological Survey (USGS) are not discrete and saleable "lots" or "parcels" as those terms are defined in ORS 92.010 and 215.010.

Government lots are not subject to the provisions of ORS 92.017. Government lots are simply survey units, like townships and sections. Reference: Department of Justice File No. 660-001-GN0326-97 (October 18, 1997).

Qualification of a homesite under ORS 308A.253 is subject to the definition of "owner" or "owners" in ORS 308A.250(5). Only the owner (or authorized representative) of a parcel in fee simple or a life estate can qualify the homesite for special assessment. Recorded warranty deeds, trust deeds, bargain and sale deeds, contract of sale or other legal instruments of ownership transfer in fee simple or life estate can be used to verify the ownership and legal description of the parcel on which the homesite is located.

The following examples are intended to illustrate how property could be considered a "legal parcel." They are not intended to set or change land use policy.



Examples

The above tax lots 1700 (15 acres with 12 acres forestland), 1800 (19 acres with 13 acres forestland), and 1900 (20 acres with 9 acres) could be described as legal parcels in the following examples.

Example 1: Parcels A and B not legally divided

When reviewing deeds or other legal instruments of ownership transfer the legal description may include any number of descriptions which only describes one legal parcel. The following warranty deed from Brown to Jones states:

Parcel 1 is described as follows:

Parcel A: S ½ of the SW ¼ of the SW ¼ of Section 1, Township 7 South, Range 3 West, Willamette Meridian. **(TL 1900, 20 Ac, with 9 Ac forestland)**

Parcel B: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed north 660 feet to the point of beginning. From the point of beginning proceed north 500 feet, east 1655 feet, south 500 feet, west 1655 feet to the point of beginning. **(TL 1800, 19 Ac, with 13 Ac forestland)**

Parcel 2 is described as follows:

Parcel C: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed north 1160 feet to the point of beginning. From the point of beginning proceed north 436 feet, east 1499 feet, south 436 feet, west 1499 feet to the point of beginning. **(TL 1700, 15 Ac, with 12 Ac forestland)**

In this case, even though the legal description in the deed separately describes Parcel A and Parcel B, the legal ownership for the two descriptions is only one parcel, because the land has never been legally divided. **(TL 1900 and 1800, 39 Ac with 21 Ac forestland).** Parcel C is a separate legal parcel. **(TL 1700, 15 Ac with 12 Ac forestland).**

In example 1, the forestland on the 39 acres is a total of 21 acres. This exceeds 10 acres so the **homesite qualifies** under ORS 308A.250(2) and 308A.253(1). When calculating the homesite value under ORS 308A.256, you would also include parcel 2 (described as parcel C), because it is under the same ownership and is contiguous to the homesite parcel.

Example 2: Parcels A and B legally divided

In the following example, Jones partitioned parcel A and B with the local planning department and has sold to Smith. The warranty deed Jones to Smith states:

Parcel A: S ½ of the SW ¼ of the SW ¼ of Section 1, Township 7 South, Range 3 West, Willamette Meridian. **(TL 1900, 20 Ac, with 9 Ac forestland)**

Parcel B: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed north 660 feet to the point of beginning. From the point of beginning proceed north 500 feet, east 1655 feet, south 500 feet, west 1655 feet to the point of beginning. **(TL 1800, 19 Ac, with 13 Ac forestland)**

Parcel C: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed north 1160 feet to the point of beginning. From the point of beginning proceed north 436 feet, east 1499 feet, south 436 feet, west 1499 feet to the point of beginning. **(TL 1700, 15 Ac, with 12 Ac forestland)**

In this case, the legal description within the deed describes two separate legal parcels, because parcels A and B have been divided (partitioned) and are now two legal parcels of record. Parcel C remained a separate legal parcel of record.

In example 1, the homesite qualified, now that the land has been partitioned in example 2, the **homesite no longer qualifies**, because the forestland on Parcel A is less than 10 acres and no longer meets the homesite definition of ORS 308A.250(2). If a homesite is ever constructed on parcel B, it would qualify for forestland homesite assessment as long as parcel B continues to exceed 10 acres of forestland.

Example 3: Parcels B and C legally combined

The following warranty deed from Smith to Green states:

Parcel 1 is described as follows:

Parcel A: S ½ of the SW ¼ of the SW ¼ of Section 1, Township 7 South, Range 3 West, Willamette Meridian. **(TL 1900, 20 Ac, with 9 Ac forestland)**

Parcel 2 is described as follows:

Parcel B: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed

north 660 feet to the point of beginning. From the point of beginning proceed north 500 feet, east 1655 feet, south 500 feet, west 1655 feet to the point of beginning. **(TL 1800, 19 Ac, with 13 Ac forestland)**

Parcel C: From the SW corner of section 1, Township 7 South, Range 3 West, Willamette Meridian proceed north 1160 feet to the point of beginning. From the point of beginning proceed north 436 feet, east 1499 feet, south 436 feet, west 1499 feet to the point of beginning. **(TL 1700, 15 Ac, with 12 Ac forestland)**

In this case, parcels A, B, and C as demonstrated in example 2 were owned by Smith as three separate parcels and in the conveyance of title, Smith has combined parcel B with parcel C as specified in ORS 92.017 to create a new legal parcel 2 of record. **(TL 1800 and 1700, 34 Ac with 25 Ac forestland)**

Parcel 1 (Parcel A in the legal description) remains a separate legal parcel of record **(TL 1900, 20 Ac, with 9 Ac forestland)** and has less than 10 acres of forestland so the homesite continues to not qualify under ORS 308A.250(2).

If Green develops a homesite on parcel 2 (Parcels B and C in the legal description) it would qualify for forestland homesite special assessment under ORS 308A.250(2) and 308A.253(1) as long as parcel 2 continues to exceed 10 acres of forestland.

The above examples demonstrate that land may be partitioned, subdivided, or combined at any time to form different legal lots or parcels. It is important to carefully read recorded instruments of conveyance and if there is any doubt concerning legal parcels it is recommended you verify your information with the local planning department.

5C. Valuation

OAR 150-308A.256

1. **Definitions:**

   "Contiguous" means having a common boundary to some extent greater than a point. Parcels are contiguous if separated by public or county roads, state highways, or non-navigable streams or rivers. Parcels are not contiguous if they are separated by interstate freeways or navigable streams or rivers, except where there is a direct connecting access, such as an underpass, for property separated by an interstate freeway.

   "Same ownership" is when separate land accounts (tax lots) have a common name in the title. Example: A parcel of land is owned by a wife in her name and she jointly owns another parcel with her husband. These two parcels would be considered to be in the same ownership. Properties would not be in the same ownership if one parcel is owned by a husband and wife and the other parcel is owned by a corporation even though the husband and wife own the corporation. The reference to this definition is OAR 150-308A.256(1)(e).

   Homesites associated with forestland special assessments are valued separately from the forestland acreage. The homesite value is based on the value of 1 acre regardless of the actual "footprint" of the homesite. Land other than the homesite that is under forest-related buildings is specially assessed as forestland, the same as other qualified specially assessed forestland on the parcel.

2. **Determine the value:**

   The steps used to determine the value of a qualified homesite are outlined in OAR 150-308A.256 in paragraph (3). The details that need to be determined are as follows:

   1) Identify the total number of acres of the parcel and contiguous acres under the same ownership.

   2) Calculate the bare land average per acre real market value (RMV) of the parcel.

      a. Determine the total bare land RMV for the parcel and contiguous under the same ownership on which the homesite is located.

      b. Divide the total bare land RMV by the total acres of the parcel and contiguous acres under the same ownership. The result is the average RMV for 1 acre of the parcel and the contiguous acres under the same ownership.

3. Find the specially assessed value (SAV) of the land improvements. The SAV of the land improvements are to be valued at $4,000, or the depreciated replacement cost of the items that make up the land improvements, whichever is less.

4. The average RMV of 1 acre of the land plus the land improvement SAV equals the total homesite SAV. The land improvement must be carried as a separate item on the land record as specified in OAR 150-307.010(1) paragraph (2)(a)(B).

5. Refer to OAR 150-308A.256 paragraph 4 for calculation of a homesite MSAV (maximum specially assessed value).

   a. For the 1997–98 tax year and subsequent tax years, the MSAV on homesites qualified for the 1995–96 tax year and before, equals the 1995–96 SAV reduced by 10 percent.

b. For 1997–98 and subsequent tax years, the MSAV of any newly qualified homesite equals the product of the residential rural property class 4-X-X changed property ratio multiplied by the farm or forest homesite SAV.

c. Once the MSAV of a homesite has been established by the two previous steps, the MSAV increases 3 percent each year thereafter.

The assessed value of a qualified farm or forest homesite equals the lesser of the homesite SAV or the homesite MSAV. See paragraph 5 in OAR 150-308A.256.

5D. Disqualification

When establishing a homesite on designated forestland or small tract forestland, a disqualification action occurs. Land taken out of forest production to create a forest related dwelling homesite transfers the land from one special assessment to another special assessment. This disqualification would be processed under ORS 308.156(4)(b) and would not be an exception under Measure 50.

At any point in time that the county discovers that the qualification criteria no longer applies to a specially assessed homesite a disqualification can be initiated. The county needs to verify the owner and occupant of the dwelling to determine if the criteria of ORS 308A.253(5) continues to be met. A forest-related homesite is disqualified if the dwelling is vacant [except for ORS 308A.253(5)(b)(C)]. This reference states that the dwelling is not considered "vacant" if the dwelling was unoccupied due to health, vacation, or other reason if during the period the dwelling was not in use it was not leased or rented to another person. While occupied, the dwelling must have been by a person: A) whose principal source of income is derived from the harvest of timber from forestland on which the dwelling is located; B) who owned and occupied the dwelling for five consecutive years before the operation ended.

Support of a disqualification action for the forest related homesite not being used in conjunction with the management and operation of the forestland is found in ORS 308A.259(1)(a). ORS 308A.259(1)(b) states that vacancy will not be considered a change in use, however this portion of the statute is only applicable to farm related homesites, not forest homesites. No additional tax will be imposed following this disqualification [ORS 308A.259(2)]. The disqualification action on the homesite will not affect the remaining qualifying portion of the parcel in a forestland special assessment.

When a partition or lot line adjustment occurs on a forestland parcel, landowners as well as property tax administrators should be aware of the impact the change will have on the special assessment of the property. If the partition or lot line adjustment reduces the qualified forestland on the parcel to 10 acres or less, the county must disqualify the homesite on the parcel from special assessment.

6. Non-forest related homesites

Forestland taken out of production to develop a non-forest related homesite is disqualified as forestland that is "no longer in use." If the disqualified land was designated forestland, all additional taxes will be calculated and advanced for collection when the homesite is created. This disqualification of designated forestland results in a Measure 50 exception as described under ORS 308.156(4)(a). H&BU forestland used for the homesite is declassified; refer to ORS 308A.718(2). There is no additional tax on the declassified H&BU homesite.

The area of the homesite will be valued at a market value. It will not be specially assessed. The remaining acres of qualified forestland will continue to be specially assessed.

A non-forest related homesite may be any size; it could be over an acre or under an acre. All land associated with the dwelling is assessed at a market value. If there are forest-related buildings on the property (some may be near the home), then the land associated with the forest-related buildings are assessed at the value per acre of the qualified forestland special assessment program approved on the account.

Non-qualifying homesites are valued and assessed based on rural land appraisal concepts under OAR 150-308.205-(A)(2)(h), the same as any other rural homesite. The rural homesite value is a component of the parcel where the homesite is located, and an adjustment for utility should be made to the homesite value for amenities such as view or river frontage. This differs from the assessment of a qualifying specially assessed homesite, which requires any added value for homesite amenities to be divided as an average with all of the contiguous common ownership acres and parcels.

OAR 150-308.205-(A)(2)(h) states: The real [market] value for rural lands shall be based on an average price per acre for each size of parcel. Adjustments to the value shall be made to those acres with more or less utility. For improved parcels the value of the site developments as defined by 150-307.010(1)(2)(a)(A) must be added.

Under this rule, the value of a homesite is calculated as the **average** market value per acre for the parcel, plus the value of onsite development with no limitation. However, if the homesite has additional utility

or inutility features such as a river front, view, poor access, etc., the homesite value can be adjusted for such features. However, the value of the homesite is not considered a utility adjustment. The utility value of the homesite is to be calculated as part of the average market value per acre for the parcel.

If zoning allows greater utility such as land divisions, then land schedules can be developed to reflect typical land division sizes occurring in the market area.

Both the qualifying and non-qualifying homesite procedures require an average market value for the homesite acre. A difference in value and procedure is recognized when it is necessary to make an adjustment for utility, zoning, or contiguous acres of common ownership. Where EFU or qualifying non-EFU has a $4,000 OSD (on-site development) value limit, rural residential is assessed based on market value and does not have an OSD limit.

Example: An owner of 9 acres of land wishes to create a 1-acre homesite on the property. The current special assessment on the entire 9 acres is designated forestland. The property is approved by the county planning department for placement of a home on the property (i.e., template test). The 1-acre area used for the homesite would be disqualified from the forestland program. No option would be extended to the owner for any other special assessment. Calculate the additional tax and prepare the amount due for collection. The homesite would be assessed at a market value. The remaining 8 acres of specially assessed land remain unaffected by this disqualification action.

Example: An owner of 11 acres of small tract forestland (STF) wishes to create a 1-acre homesite on the property. The current special assessment on the entire 11 acres is STF. The county planning department has approved the placement of a home on the property. The 1-acre area used for the homesite would be disqualified from the STF program. The homesite area would not qualify for a forest homesite special assessment since 'forestland' defined for homesite purposes is "more than 10 acres...zoned in the comprehensive plan...for forest use" and "is assessed as small tract forestland..." Calculate the additional taxes (two calculations; see ORS 308A.707) and prepare the amount due for collection. The homesite would be assessed at a market value. The remaining 10 acres of specially assessed land remains in the STF program unaffected by the creation of the homesite. (The STF program has a 10-acre minimum to qualify for the program.)

Example: The actual footprint of the homesite is less than 1 acre and the total parcel size is 2.5 acres. Total physical area of the homesite may be less than 1 acre when determining the assessment of a qualified forest homesite or a non-forest related homesite.

The total area utilized for the actual homesite is between 0.28 and 0.42 acres. The assessor, excluding a "standard" 1 acre for the homesite, disqualified the remaining property for special assessment since it was below the required 2-acre minimum. The landowner appealed for reinstatement of the subject property, less the homesite to the special forestland designation.

Issue: Is the standard practice proper? (The assessor excluding a rigid 1-acre homesite to obtain net acreage, which is then used to determine acreage eligibility requirements for special assessment.)

Discussion: No. The assessor relied upon the department's opinion and order VL 79-147 for excluding his "standard" 1 acre for a homesite on property classified as designated forestland. However, the opinion and order relied upon clearly held that the utilization of "the assessor's office standardization of homesite size at one (1) acre" was incorrect when the taxpayer was able to show that the actual "homesite" area was less than 1 acre.

In the present case, the evidence showed that the homesite was less than 1 acre, and in fact, less than 0.69 acres which would allow petitioner to satisfy the minimum acreage requirements of OAR 150-321.358(4) paragraph 3.

Order: Petition granted [OF 2398-V; O&O No. VL 81-578; 6-30-81.]

The 2.00-acre minimum of designated forestland continues and the 0.69 acre homesite is valued at a 1.00-acre value.

7. Non-farm dwellings in an exclusive farm use (EFU) zone

ORS 215.236

Designated and small tract forestlands sometimes exist in EFU zones. ORS 215.236 requires any designated or STF forestland, EFU farm use land and land under open-space special assessment to be disqualified and additional taxes paid prior to final approval for the establishment of a non-farm dwelling on a lot or parcel. (No additional taxes are due if the land was H&BU acreage.) The lot or parcel may not requalify for special assessment unless it is combined with another contiguous lot or parcel. The combined properties will then be considered a qualifying parcel for a special assessment program. A lot or parcel subject to ORS 215.236 may qualify for wildlife habitat special assessment following disqualification and avoid additional taxes. (The wildlife habitat special

assessment is available only in counties that offer the program).

See the "Disqualification" section of the *Farm Use Assessment Procedures* manual (DOR publication 150-303-422) for additional discussion of disqualification criteria of ORS 215.236. Also, see the appendix for notification and sample disqualification letters, Group B, for language about the establishment of a non-farm dwelling in an exclusive farm use zone.

8. Land supporting Christmas trees

ORS 308A.056(2), ORS 321.267(2), ORS 321.824(2)

In ORS 308A.056(2), the term "farm use" includes cultured Christmas trees as a land use that qualifies for a farm use special assessment. ORS 321.267(2) says that land may not be assessed as western Oregon designated forestland if the land is prepared using intensive cultivation and tilling and all unwanted plant growth is controlled continuously for the exclusive purpose of growing Christmas trees. The reference for this same issue in eastern Oregon is ORS 321.824(2) and states "Land used exclusively for growing cultured Christmas trees may not be assessed under ORS 321.805 to 321.855." A detailed definition of "cultured Christmas trees" is found under ORS 321.805(1) for eastern Oregon.

A common problem with the assessment of land supporting Christmas trees involves stands of trees that the owner has stopped cultivating for the Christmas tree market and has allowed to grow beyond maturity for potential timber production. This places the county assessor's staff in the position of deciding when to disqualify from a farm use assessment. An option upon disqualification from farm use special assessment is to place the previously cultured Christmas tree acreage into a farm woodlot category. This could be done on acreages up to 20 acres [the maximum for a woodlot, per ORS 308A.056(3)(h)]. This change would not change the value per acre that was used on the land under Christmas tree production since the productivity and the potential use of the soil have not changed.

When periodic maintenance practices common for care of cultured Christmas trees are no longer evident, then the county may initiate a disqualification of the farm use special assessment if the land is not placed into the farm woodlot category. Practices to look for are: plowing or disking the ground, high density planting (at numbers per acre not typical for reforestation standards), shearing of the trees, weed and brush control, basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigating. If culturing practices are absent to the point that the trees are growing in a size or quality that are not marketable for the Christmas tree market, then the county may initiate a disqualification action.

In the process of notification for disqualification of farm use special assessment (ORS 308A.718), the option to apply for special assessment as forestland is presented (ORS 308A.724). It is the responsibility of the landowner to submit an application for a forestland program. The land will be reviewed and examined by the county staff to determine if the acreage meets the qualification criteria for the forestland special assessment program.

Some tree species that are suitable for Christmas trees are not ecologically suited for forestland production on certain planting sites. Noble firs can be grown for Christmas trees at lower elevations, but are not suitable for timber production at lower elevations. However, Noble fir is an acceptable species for timber production at higher elevations. When trying to determine if former Christmas tree plantations can be qualified under special assessment for forestland, appraisers may need to consult with local forestry expertise to determine if the qualifications for specially assessed forestland are met. If the landowner does not apply for another special assessment after the farm use disqualification, then the land would be assessed at a market value.

9. Forested land that may be assessed in other ways

There are properties that may be forested that do not have a special assessment as "forestland" for tax purposes. Examples include:

- Tract land assessment; property classification code 4-0-0

  Tract land involves parcels of unimproved acreage where the highest and best use is for development to a suburban or rural homesite; however the land has not been divided into lots. The classification is placed on a property due to an appraisal decision by the county assessor staff.

  This assessment is at a market value on the land. The landowner has not applied for a special assessment by choice or by not understanding the options available. Land assessed as tract land may support stands of timber or be lightly stocked with trees and associated native plants.

  Land under the following special assessments may support natural vegetation that is below or at stocking standards for designated forestland or Small Tract Forestland.

- Open space lands

  References: ORS 308A.300 through 308A.330

- Riparian habitat exemption

  References: ORS 308A.350 through 308A.383

- Wildlife habitat

  References: ORS 308A.400 through 308A.430.

  Not all counties in Oregon offer the wildlife habitat special assessment as an option to landowners, (ORS 308A.415).

Glossary

Additional tax: The tax that is calculated when the specially assessed status is removed from a property. The tax is based on the difference between the taxes assessed against the land and the taxes that would have been assessed had the land not been in the special assessment. The number of years the taxes are collected is dependant on the special assessment program. The taxes are placed on the next property tax roll.

Afforestation: The establishment of trees on land that has lacked forest cover for a very long time or never has been forested.

Annual ring: The growth layer displayed by a cross-section of a tree trunk is viewed as one light-colored ring of spring growth and one dark-colored ring of summer growth.

Appraisal: An opinion of value based upon systematically collecting and analyzing relevant facts and data.

Arm's length transaction: A written agreement made in the open market where there is no duress, each party is independent of each other, and no trades or hidden considerations are involved.

Assessed value (AV): The value that property taxes are based upon. It is the lesser of the maximum assessed value (MAV) or real market value (RMV) of real property. When dealing with specially assessed property, the lower of specially assessed value (SAV) or the maximum specially assessed value (MSAV) per acre by land class. As it relates to the entire account, the assessed value will be the sum of the lesser of RMV, MAV, SAV, or MSAV.

Basal area: Basal area is the cross section of a tree stem at breast height (4.5 feet above the ground), often expressed as the sum of all of the trees on an acre in square feet.

Basal pruning: The act of removing the lower branches of a Christmas tree to create a clear area on the trunk. This develops a clear area at the base of the trunk that will support the tree in a tree stand. The basal portion of the tree is called a "handle" in the industry.

Board of property tax appeals (BOPTA): The local appeal board that hears petitions for the reduction of property values and the dismissal of late filing penalties is BOPTA. The board convenes the first Monday in February.

Board foot: This term is used as a measure of volume of lumber. A board foot is a solid piece of wood 12 inches wide, 12 inches long and 1 inch thick

Breast height: A point of measurement on a tree that is 4.5 feet (1.37 meters) from the ground on the uphill side of the trunk is known as the breast height.

Coppicing: The reproduction of plants by cutting or pruning to encourage new growth is the coppice method. Coppicing is allowing the sprouting of certain tree species from the stump to regenerate the stand.

DBH: Abbreviation stands for "diameter at breast height" (4.5 feet above the ground).

Designated forestland: Land with a higher and better use than forestland that is qualified into the special assessment program at the request of a landowner and with approval of the county assessor.

DOR: Oregon Department of Revenue.

Eastern Oregon: That part of Oregon which lies east of the summit of the Cascade mountain range. Includes Baker, Crook, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wheeler, and Wasco counties.

F-class: The Department of Revenue forestland classifications in Western Oregon that indicate the ability of the land to grow trees. There are eight levels of F-class that represent the productivity of the land.

Farm woodlot: Land under farm use special assessment that the land owner has elected to keep in a forested condition. The maximum acreage that may be placed in this program is 20 acres.

Forest practice: Any activity on forestland such as timber harvesting, road construction, road maintenance, spraying of chemicals, clearing brush, and tree planting is referred to as a forest practice.

Forest management: This activity is the practical application of scientific, economic and social principles to the administration of a forest for specified objectives.

Forest management plan: A written document that describes the goals and objectives of the physical activities for a piece of forestland. This plan would include the activities involved in nurturing a stand of

trees, completing harvesting, and establishing a new stand of trees.

Free to grow: This term describes the desirable condition of a tree growing on a forested site. The tree must have a high probability of remaining or becoming vigorous, healthy, and dominant over undesirable competing competition.

Hardwood: Hardwood is a type of tree that is generally broadleaf and drops the leaves each year. Examples are maple, alder, ash and cottonwood.

Highest and best use: "The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and results in the highest value." *The Appraisal of Real Estate,* 10th Edition.

Highest and best use forestland: Land determined to qualify for forestland assessment by highest and best use appraisal analysis. This land classification receives forestland special assessment regardless of the presence of trees growing on the land.

Marketable species: An acceptable class of trees that need to be present to qualify designated forestland. It is any tree that is capable of producing logs, fiber, or other material suitable for the production of lumber, sheeting, pulp, firewood, or other commercial forest products.

Maximum assessed value (MAV): The limit of a property's assessed value (AV). For the 1997–98 tax year, the maximum assessed value (MAV) is the 1995–96 real market value (RMV) less 10 percent. The MAV may be recalculated under certain circumstances. For tax years after 1997–98, the MAV will be the greater of 103 percent of the property's AV from the prior year or 100 percent of the property's MAV from the prior year.

Maximum specially assessed value (MSAV): The limit of a property's specially assessed value (SAV). For the 1997–98 tax year, the MSAV is the 1995–96 SAV less 10 percent. For tax years after 1997–98, the MSAV may increase a maximum of 3 percent per year.

Mean annual increment: The average yearly increase in wood volume produced in a tree or stand of trees up to a point in time.

Natural reforestation: Restocking land with trees by seeds from remaining trees or from sprouting from the stump (coppice).

ODF: Oregon Department of Forestry.

Partition land: The act of dividing land into two or three parcels of land within a calendar year. See ORS 92.010(7) for exclusions from the definition.

Platting: The act of recording a final map of a subdivision under ORS chapter 92.

Productivity class: Ranking land on the ability to grow trees based on measurements that relate to yield tables of volume. The US Department of Agriculture has established seven site levels based on cubic volume yield tables.

Real market value (RMV): The amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as to the assessment date for the tax year.

Reforestation: Natural or artificial stocking (planting) of land with forest tree species is reforestation. It is also called forest regeneration.

Reforestation plan: A document prepared by a landowner (or a consultant) that describes how the tree stocking standards on a property will be met.

Riparian area: Land along a water body (stream or lake) where vegetation is influenced by year round or seasonal water. This area is sometimes referred to as a riparian management zone.

Saplings and pole: Live trees of acceptable species of good form and vigor, with a diameter at breast height (DBH) of one to ten inches. These trees are described in the administrative rules of the Oregon Department of Forestry for stocking requirements.

Seedlings: Live trees of acceptable species of good form and vigor that are less than one inch in diameter at breast height (DBH). These trees are described in the administrative rules of the Oregon Department of Forestry for stocking requirements.

Severance tax: A tax levied on logs after timber is harvested and measured.

Silviculture: The art and science of establishing, growing and harvesting timber.

Site index: The average height of dominant and codominant trees at a designated age is a site index. A 50-year site index table converts an actual tree height at a given age to a number that relates to that tree if it were at 50 years of age.

Softwoods: Cone bearing trees with needles such as douglas fir, ponderosa pine, and western hemlock.

Specially assessed: A value established by statute, rather than real market value, used to determine taxes.

Stocking: A measure of the number of trees occupying a land area is stocking. It is usually measured in terms of well spaced trees per acre or basal area per acre. The density is relative to an optimum or desired level of trees on the site.

Stump culture: The practice of leaving a few lower branches on the stump at the time a Christmas tree is harvested to serve as "nurse branches" until a shoot sprouts to produce a new tree.

Subdivide land: The act of dividing land into four or more lots within a calendar year is subdividing. (See ORS chapter 92 for reference.)

Timber: Trees of commercial size that are standing, fallen, living, or dead.

Well distributed trees: Trees are considered well distributed over acreage if 80 percent or more of the area subject to reforestation requirements contains at least the minimum per acres stocking required by the rules of the site. An additional criterion is not more than 10 percent of the area contains less than one-half of the minimum stocking requirements for the site.

Western Oregon: That part of Oregon which lies west of the summit of the Cascade Mountains. This area includes Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill counties.

Woodlot: The forested portion of a property where small scale operations are carried out.

Appendix A—Sample reforestation plan

POLK COUNTY

Polk County Assessor's Office
Forest land Management Plan

This plan is to be submitted with an application for designation of forest land, if the property does not meet the minimum stocking requirements.

Name _____ Phone Number (s) _____

Description of Property

Account Number	Map and Tax Lot	Total Acres	Acres Under Application	Acres to be Forested

1. Ground cover _____

2. Present stocking _____

Site Preparation

3. Soil tillage _____

4. Brush control/Slash disposal _____

5. Grass and weed control methods _____

6. Protection from grazing and browsing animals _____

OVER

Planting Information (attach map)

7. Species to be planted _____

_____

_____

_____

_____

8. Elevation of property _____

9. Planting start date _____ **Planting completion date** _____

10. Number of trees per acre that will be planted _____

11. Method of planting

_____

_____

_____

_____

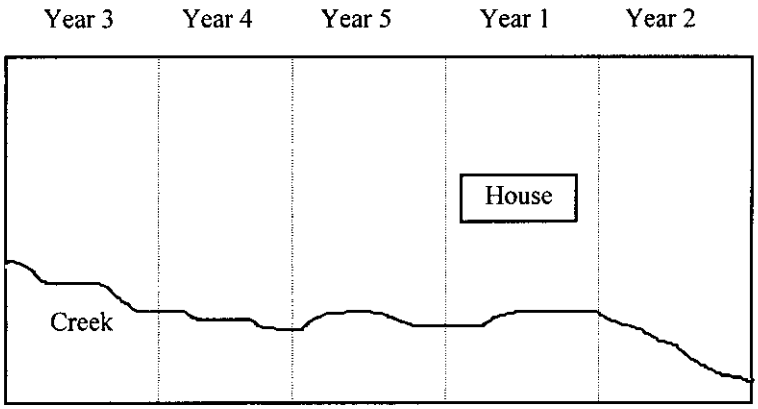
12. Mortality replacement

_____

_____

Submit an aerial photo that shows when and where trees will be planted. See example bellow:

Sample Map



Additional information

_____

_____

_____

_____

By signing this document I pledge that the above practices will be followed. And I understand that performing these practices it will greatly increase the chances of having success in the survival of the trees, however, following these practices will not guarantee that the trees will survive and thus continue to qualify the above property for Designated Forestland. I also understand that failure to perform these practices will greatly increase the possibility that the trees will not survive or thrive and therefore result in the above property being disqualified from Designated Forestland.

Property Owner's Signature_____ **Date** _____

150-303-424 (Rev. 05-13)

Appendix B—ODF land use planning notes

LAND USE PLANNING NOTES <<<<

NUMBER 3 X APRIL 1998

"STEWARDSHIP IN FORESTRY"

PURPOSE: This technical bulletin has been developed to help landowners and local governments when they must use an alternative to the USDA Soil Survey to determine the productivity of forestland. Under OAR 660-06-005 "where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry." This paper describes the methodology that the Department approves and provides guidance and other information necessary to use that methodology. We have also included some background information to answer some commonly asked questions about the cubic foot productivity class system.

Why use the average annual cubic foot production in land use decisions?

The Department of Forestry advises using the USDA Cubic Foot Productivity Class[1] system, as opposed to other systems of measure, when making land use planning decisions because it measures the relative productivity of the soil, it is not dependent upon the condition of the forest or the species of trees currently growing on the site, and it is more consistent than other measures.

The cubic foot productivity class system ranks soils based upon the mean annual increment measured in cubic feet at the point in time where the culmination of mean annual increment (maximum average annual growth) occurs. This is the average growth rate of the timber over the life of the stand measured at the peak of that average growth rate. The table below shows the potential timber yields of productivity classes 1 - 5 in cubic feet per acre per year (cuft/ac/yr).

[1]Field instructions for forest surveys in Washington, Oregon, and Northern California. USDA Forest Service, PNW Range and Experiment Station.

CUBIC FOOT PRODUCTIVITY CLASSES

CODE	POTENTIAL YIELD-MEAN ANNUAL INCREMENT
1	225 or more cuft/ac/yr
2	165 to 224 cuft/ac/yr
3	120 to 164 cuft/ac/yr
4	85 to 119 cuft/ac/yr
5	50 to 84 cuft/ac/yr

Cubic foot productivity class was developed to compare the relative productivity of different soils. Other measures which might be used to compare different parcels, such as site class or site index, are not consistent between species and authors. Site class is commonly used on the west side to describe the productivity of Douglas-fir forests, but site class is only used for Douglas-fir and not for other species. Site index is calculated as tree height divided by tree age at a base age of 100 or 50. Since on the same area, in the same length of time, different species grow to different heights, site index is not consistent between species.

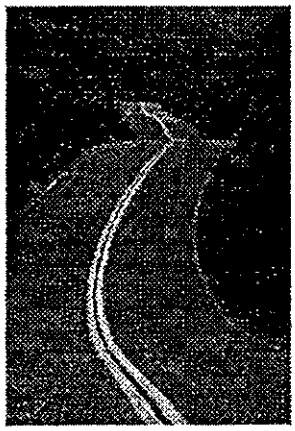
For example cubic foot productivity class III can produce between 120 and 164 cubic feet per acre per year from a fully stocked natural stand. In the next column is a comparison with several species and site indexes.

CUBIC FOOT PRODUCTIVITY CLASS 3
(120 - 164 cuft/ac/yr)

Site Index Equal to Productivity Class III

Douglas-fir	
(100 yr Site Index)	130 - 160
Western Hemlock	
(100 yr Site Index)	100 - 110
Ponderosa Pine	
(100 yr Site Index)	120 - 130
White Fir	
(50 yr Site Index)	60 - 70
Engelmann Spruce	
(50 year Site Index)	80 - 90

Another advantage of using cubic foot productivity class is that the ratings are available for most forestland without professional assistance. The published soil surveys contain a rating which can be used by county planners or private landowners to rate productivity and using the information does not require visiting the site or taking measurements.



Why don't we use board feet instead of cubic feet?

Cubic foot volume is a form of measurement commonly used in forestry research and forest management planning. It is a physical measurement based upon the actual volume of wood. On the other hand, board foot volume is based upon a series of rules. The board foot rules were developed to try to determine the amount of lumber which could be sawed (at that time) from a range of different diameter logs. Although its predictive abilities are out of date (1 board foot of log now produces from 1.7 - 2 board feet of lumber), board foot rules continue to be the most common measure used to buy and sell logs in the Northwest. The problem with converting cubic feet to board feet is that the conversion factor is not a constant. Because board foot volume is determined by a rule, one cubic foot of wood from a log with a scaling diameter (small end diameter) of 6 inches contains 3.32 board feet, while one cubic foot of wood from a log with a scaling diameter (small end diameter) of 30 inches contains 6.86 board feet. Therefore as the average diameter of a stand increases in size, the board foot/cubic foot ratio of the stand also increases. To complicate matters further, the length of the logs cut from the tree effects the conversion from cubic feet to board feet. Since trees are tapered and board foot is measured from the small end of the log, cutting the tree into different length logs changes the number of board feet contained in the tree. Because of this difference, the exact number of board feet contained in a stand of timber cannot be determined without knowing how the trees will be bucked into logs.

Because the board feet contained in a stand of timber depends on the average diameter of the stand and the way the trees are bucked into logs, the ratio of board feet to cubic feet is not constant. Comparisons such as soil productivity are much easier to make based upon a constant volume measure such as cubic feet. That is why it is more commonly used in the more technical forestry applications.

General Procedures to Challenge the Site Productivity Listed in the Soil Survey

Before deciding to use an alternative method of measuring the productivity of forestland, documentation should be produced showing that an attempt has been made to use the soil survey and either the soil(s) in question have no rating, or reasons exist indicating that the soil survey may be inaccurate. Where either of these two circumstances exist, a soil scientist from the USDA Natural Resource Conservation Service (NRCS, formerly SCS) should be contacted.

In many cases soils that are primarily used for agriculture were not given ratings for forestry. However, this does not mean they are not capable of growing trees. On the contrary, they may be highly productive, and a NRCS soil scientist may be able to provide a rating of that soil's forest capability. An NRCS soil scientist should also be able to advise you about the procedures used to conduct the soil survey and the accuracy of that survey as it relates to the property and soils in question. The advice received may save both the land owner and local official time and money.

Because the soil survey is not site specific information, The Department of Forestry has agreed to approve methods that would allow a land owner to use site specific information to determine the productivity of the land when applying for a dwelling or other land use decision.

The process should work something like this:

1. The Department of Forestry has approved a methodology for calculating site productivity (the details are described below in this document). When the landowner contacts the county with concerns about the productivity rating of their property, they are provided with information about the required methodology.

2. The landowner must have an independent, knowledgeable person, like a consulting forester, measure the trees on the property and calculate the cubic foot site class using the approved methods. Plots must be taken to measure the productivity of each different soil type and aspect on the property. The consultant must use care when selecting site trees to obtain an accurate measurement, and the consultant's report must provide adequate detail to determine whether the approved methods were followed.

3. The consultant shall provide a copy of the report to the county to use in making land use decisions. If the county has questions about whether the consultant followed the methodology, the Department of Forestry may need to review the report. However, because this is a land use decision, the county must make the final decision to accept or reject the work of the consultant.

Methodology Approved by the Department of Forestry for Calculating Site Productivity

The Department of Forestry does not measure sites for landowners. The landowner needs to have an independent qualified person, such as a consulting forester, take the measurements and calculate the cubic foot site class. The methodology the Department of Forestry approves to determine the productivity of an area is contained in the *Field instructions for forest surveys in Washington, Oregon, and Northern California. USDA Forest Service, PNW Range and Experiment Station.* Equivalent published methodology is more widely available from a Weyerhaeuser research paper, by King[2]. These papers describe how to select site-trees and calculate site index. A second paper, from the US Department of Agriculture[3], uses site index information

[2]King, James E. 1966. Site index curves for Douglas-fir in the Pacific Northwest. Weyerhaeuser Forestry Paper No. 8. Weyerhaeuser Forestry Research Center, Centralia, WA.

[3]USDA. 1986. Culmination of mean annual increment for commercial forest trees of Oregon.

(continued on next page)

as determined from on-site measurements to reference a set of cubic foot productivity tables. We approve this method because it is based on site specific measurements and it will produce results that are consistent with the Soil Survey.

A summary of the methodology and the necessary tables to calculate site class for the three most common forest types are included below. The methods listed in this paper can be used in combination with other published site index and yield tables if the site is not suited to one of these species. However, the use of other tables or the use of other species to determine site index must be approved by the Department of Forestry on a case by case basis.

Plots must be taken to measure the productivity of each different soil type and aspect on the property. Selection of site-trees (trees selected to determine site index) is a critical part of accurately determining the productivity of the land. To be used, site-trees must have remained in a dominant or co-dominant position throughout their life. If the land has been selectively harvested in the past, most or all of the dominant trees in the stand may have been removed. Basing site index calculations on the remaining trees, grown in lower crown positions, will not accurately measure site productivity. In some cases it may be difficult to find enough site trees on the property to accurately determine productivity. If insufficient dominant trees exist on the property to determine the site index, site-trees may be selected from adjacent properties with the same aspect, elevation, and soil type.

If the parcel is a forest site and no trees are available for site index calculations, or if the site index cannot be determined accurately from the existing timber in the area, then soil survey methodology will be required to accurately assess the site productivity. To map the area and provide site specific data that is more accurate than the USDA Soil Survey will require the landowner to employ a soil scientist to do a higher intensity soil survey. The qualifications and procedures for conducting such a survey are contained in OAR 603-80-0040 (3). This survey must provide detailed information on the soil types represented on the property.

General Rules for Selecting Site Trees

1. If possible, use the species that dominates the area. Height from 15 to 20 dominant and co-dominant trees and age counts on about 10 trees should be sufficient to determine site index if the area is homogeneous. Additional plots will need to be taken to represent different soil types and aspects across the property.

2. You may select site trees of different species as long as they use the same site table.

Technical Note No. 2. USDA, Soil Conservation Service, Portland, OR. (Note: the SCS - Soil Conservation Service is now the NRCS - Natural Resource Conservation Service)

3. Site index should not vary by more than 20 or 30 between site trees (as indicated on each site table), unless the difference can be explained by actual site variation. Use the site index tables below to compare site measurements.

4. If you select Douglas-fir or grand fir site trees use the site tree selection method for King's Douglas-fir table, outlined below. For other site tree species, use the site tree selection criteria for other species.

Method for Selecting Site Trees for King's Site Index Table
(Use for Douglas-fir and grand fir)

1. Within the plot area, locate an approximately circular area that encompasses 25 trees (the "site index clump") and that is representative of the site being sampled. When there is a choice, favor well-stocked areas over sparse areas. When counting trees, include only Douglas-fir with normally-formed tops; do not include understory trees that are both younger and shorter than the general crown canopy.

2. Of these 25 trees, select the 5 with the largest dbh as site trees.

3. Any site tree with a clear history of suppression should be rejected, and the next largest tree selected if it is suitable. However, you may select a suppressed tree over a shorter, suppression-free tree of the same age.

4. If a 25-tree clump is not available, a smaller clump may be used. You should still limit the site tree subsample to the 1/5 of the trees in the clump with the largest dbh **unless** this gives you less than three site trees.

Method for Selecting Site Trees for Other Site Index Tables

1. Select trees that are or have been free from suppression for their entire lives. A tree that has been suppressed will have closely-spaced annual growth rings on all or part of its increment core.

2. Select dominant trees.

3. Trees less than 50 years old are undesirable if older trees are available. For ponderosa pine, trees 60 to 120 years old are most desirable.

4. Site trees should be evenly distributed across the plot area.

5. Select trees that show no signs of top-out, such as crooks or forks, **unless** these trees are taller than normally-formed trees of the same dbh.

6. If no suitable site trees are available from the property, select dominant trees from a nearby area with the same general aspect, elevation, and soil type. Note the location of the site trees in your report.

Site Tables:

Depending on the species of site tree selected, use the appropriate table to determine site index.

1. King's Douglas-fir table. Use for Douglas-fir and grand fir.

2. Barnes western hemlock table. Use for western hemlock and Sitka spruce.

3. Meyer's ponderosa pine table. Use for ponderosa pine and Jeffrey pine. Use this table when in stands that are predominantly pine, or when pine site trees are all that are available (except in the Willamette Valley).

How to use site tables:

The following site index tables are "upper limit tables." This means that when a tree height indicates a site index that falls between two site indices listed you should use the higher one. Example: Site tree is Douglas-fir, 75 years old at breast height, 115 feet tall. King's Douglas-fir site index table indicates that a height of 115 feet at age 75 falls between site index 80 and 90. Site index is therefore 90.

Published by:

Oregon Department of Forestry
Resource Planning Office
2600 State Street
Salem, Oregon 97310

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PONDEROSA PINE SITE TABLE

SITE INDEX TABLE — HT IN FEET

BH AGE	40	50	60	70	80	90	100	110	120	130	140	150
30	2.95	10.17	17.39	24.61	31.82	39.04	46.26	53.15	60.37	67.59	74.80	82.02
40	12.14	20.01	27.56	35.43	42.98	50.85	58.40	66.27	73.82	81.69	89.24	97.11
50	20.34	28.54	36.75	44.95	53.15	61.02	69.23	77.43	85.63	93.83	102.03	110.24
60	27.56	36.09	44.62	53.15	61.68	70.21	78.74	87.27	95.80	104.33	112.86	121.39
70	33.46	42.32	51.18	60.04	69.23	78.08	86.94	95.80	104.66	113.52	122.70	131.56
80	38.39	47.57	56.76	65.94	75.46	84.65	93.83	103.35	112.53	121.72	130.91	140.42
90	41.99	51.84	61.35	70.87	80.71	90.22	99.74	109.58	119.09	128.94	138.45	147.97
100	44.95	55.12	64.96	75.13	84.97	95.14	104.99	115.16	125.00	134.84	145.01	154.86
110	47.24	57.41	67.91	78.08	88.58	99.08	109.25	119.75	130.25	140.42	150.92	161.09
120	48.56	59.38	69.88	80.71	91.54	102.36	113.19	123.69	134.51	145.34	156.17	166.99
130	49.21	60.37	71.52	82.68	93.83	104.99	116.14	127.30	138.45	149.61	160.76	171.92
140	50.85	62.34	73.82	85.30	96.78	108.27	119.75	131.23	142.72	154.20	165.68	176.84
150	52.17	63.98	75.79	87.27	99.08	110.89	122.70	134.51	146.33	158.14	169.62	181.43
160	53.48	65.29	77.43	89.57	101.71	113.52	125.66	137.79	149.93	161.74	173.88	186.02
170	54.46	66.93	79.07	91.54	104.00	116.14	128.61	141.08	153.21	165.68	177.82	190.29
180	55.77	68.24	81.04	93.50	106.30	118.77	131.56	144.03	156.82	169.29	182.09	194.55
190	56.76	69.55	82.68	95.47	108.27	121.39	134.19	146.98	160.10	172.90	185.69	198.82
200	57.74	71.19	84.32	97.44	110.56	123.69	137.14	150.26	163.39	176.51	189.63	202.76
210	59.05	72.51	85.96	99.41	112.86	126.31	139.76	153.21	166.67	180.12	193.57	207.02
220	60.04	73.82	87.60	101.38	114.83	128.61	142.39	156.17	169.95	183.40	197.18	210.96
230	61.02	75.13	89.24	103.02	117.13	130.91	145.01	159.12	172.90	187.01	201.11	214.89
240	62.34	76.44	90.55	104.99	119.09	133.53	147.64	162.07	176.18	190.29	204.72	218.83
250	63.32	77.76	92.19	106.63	121.39	135.83	150.26	164.70	179.13	193.90	208.33	222.77
260	64.30	79.07	93.83	108.60	123.36	138.12	152.89	167.65	182.41	197.18	211.94	226.71
270	65.29	80.38	95.47	110.24	125.33	140.42	155.51	170.60	185.37	200.46	215.55	230.64
280	66.27	81.69	96.78	112.20	127.30	142.72	158.14	173.23	188.65	203.74	219.16	234.25
290	67.26	83.00	98.42	113.84	129.59	145.01	160.43	176.18	191.60	207.02	222.44	238.19
300	68.24	84.32	100.07	115.81	131.56	147.31	163.06	178.81	194.55	210.30	226.05	241.80

Allowable difference in site index - 30

COASTAL DOUGLAS-FIR SITE TABLE

SITE INDEX TABLE

HT IN FEET

BH AGE	40	50	60	70	80	90	100	110	120	130	140	150	160	170
30	32.15	39.04	45.93	52.49	59.38	66.27	73.16	79.72	86.61	93.50	100.07	106.96	113.84	120.41
40	39.37	47.90	56.43	64.96	73.49	82.02	90.55	99.08	107.61	116.14	124.67	133.20	141.40	149.93
50	44.95	55.12	64.96	75.13	84.97	95.14	104.99	114.83	125.00	134.84	145.01	154.86	165.03	174.87
60	49.54	60.70	71.85	83.33	94.49	105.64	116.80	128.28	139.44	150.92	162.07	173.56	185.04	196.19
70	53.48	65.62	77.76	90.22	102.36	114.83	126.97	139.44	151.90	164.37	176.84	189.63	202.10	214.89
80	56.76	69.55	82.68	95.80	108.92	122.37	135.83	148.95	162.40	176.18	189.63	203.41	217.19	230.97
90	59.38	73.16	86.94	100.72	114.83	128.94	143.04	157.48	171.92	186.35	200.79	215.55	230.31	245.08
100	61.68	76.12	90.55	104.99	119.75	134.51	149.61	164.70	179.79	195.21	210.63	226.05	241.80	257.55
110	63.65	78.74	93.50	108.92	124.34	139.76	155.18	171.26	187.01	203.08	219.16	235.56	252.30	269.03
120	65.29	80.71	96.46	112.20	127.95	144.03	160.43	176.84	193.24	209.97	227.03	244.09	261.48	278.87
130	66.93	83.00	98.75	115.16	131.56	147.97	165.03	181.76	199.15	216.53	233.92	251.97	269.68	288.06
140	68.24	84.65	101.05	117.78	134.51	151.57	168.96	186.35	204.07	222.11	240.48	258.86	277.56	296.26
150	69.55	86.29	103.02	120.08	137.47	154.86	172.57	190.62	208.66	227.36	246.06	265.09	284.45	303.80
160	70.87	87.60	104.66	122.05	139.76	157.81	175.85	194.23	212.93	231.95	251.31	270.67	290.68	310.69
170	71.85	88.91	106.30	124.02	142.06	160.43	178.81	197.83	216.86	236.22	255.90	275.92	296.26	316.93
180	72.51	90.22	107.94	125.98	144.36	162.73	181.76	200.79	220.47	240.16	260.50	280.84	301.84	322.83
190	73.49	91.21	109.25	127.62	146.00	165.03	184.38	203.74	223.75	243.77	264.43	285.43	306.76	328.41
200	74.15	92.19	110.56	128.94	147.97	166.99	186.68	206.36	226.71	247.37	268.04	289.37	311.35	333.33
210	74.80	93.18	111.55	130.25	149.61	168.96	188.85	208.99	229.33	250.33	271.65	293.31	315.29	337.93
220	75.46	93.83	112.53	131.56	150.92	170.60	190.62	211.29	231.95	253.28	274.93	296.92	319.22	342.19
230	76.12	94.82	113.52	132.87	152.23	172.24	192.58	213.25	234.25	255.90	277.89	300.20	323.16	346.46
240	76.77	95.47	114.50	133.86	153.54	173.88	194.23	215.22	236.55	258.53	280.51	303.48	326.44	350.06
250	77.43	96.13	115.16	134.84	154.86	175.20	195.87	217.19	238.84	260.83	283.14	306.43	329.72	353.67
260	77.76	96.78	116.14	135.83	155.84	176.51	197.51	218.83	240.81	263.12	285.76	309.05	332.68	356.95
270	78.08	97.44	116.80	136.81	157.15	177.82	198.82	220.47	242.45	265.09	288.06	311.68	335.63	360.24
280	78.74	97.77	117.45	137.47	158.14	178.81	200.13	222.11	244.09	267.06	290.35	313.98	338.25	363.19
290	79.07	98.42	118.11	138.45	158.79	180.12	201.44	223.42	245.73	268.70	292.32	316.27	340.88	366.14
300	79.40	98.75	118.77	139.11	159.78	181.10	202.76	224.74	247.37	270.67	294.29	318.57	343.17	368.77

Allowable difference in site index-20

Western Hemlock - 263 and Mountain Hemlock - 264[1]
Upper Limits of Site Indices--Dominant and Codominant Trees
Use for all true firs except white and grand fir and for all cedars except incense

Age years	Site index																
	40	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190	200
	Total height in feet																
10	2	4	4	4	5	6	6	6	8	8	8	9	10	10	11	12	12
20	9	12	14	16	18	20	22	24	26	28	30	32	34	37	39	41	43
30	17	21	24	28	32	36	40	44	47	51	55	59	63	66	70	74	78
40	23	28	34	39	44	50	54	60	66	70	76	81	86	92	96	102	107
50	29	35	42	48	55	61	67	74	80	86	93	99	106	112	118	124	132
60	34	41	49	56	64	71	79	86	93	101	108	116	123	131	138	145	153
70	37	45	53	61	70	78	86	94	103	111	119	127	136	144	152	160	171
80	39	48	57	66	75	84	93	102	110	119	128	137	147	156	164	173	182
90	42	52	61	71	80	90	99	108	118	128	137	146	156	165	175	185	194
100	45	55	65	75	85	95	105	115	125	135	145	155	165	175	185	195	205
110	47	58	68	79	89	99	110	120	131	141	152	162	173	183	194	204	215
120	49	60	70	81	92	103	113	124	135	146	156	167	178	189	190	210	221
130	50	61	72	83	94	105	116	127	138	149	160	171	183	194	205	216	227
140	51	62	74	85	96	107	118	129	141	152	163	174	186	197	208	220	231
150	52	63	75	86	97	109	120	131	143	154	166	177	189	200	212	223	235
160	52	64	76	87	99	110	121	133	145	156	168	179	191	203	214	226	238
180	53	65	77	89	101	112	123	136	148	159	171	183	195	207	219	230	242
200	54	66	78	90	102	113	125	138	150	161	173	186	197	210	221	233	245
220	54	66	78	90	103	114	127	139	151	163	175	187	199	211	224	235	247
240	55	67	79	91	103	115	127	139	152	164	176	188	200	212	225	237	249
260	55	67	79	91	104	116	128	140	152	164	176	188	200	213	225	238	250
280	55	67	80	92	104	116	128	140	153	165	177	189	201	214	226	239	251
300	55	67	80	92	104	117	129	141	153	166	178	190	202	215	227	240	252
Cubic-foot site class	7	6	5		4		3			2		1					

[1]Source: Barnes, George H., 1961. USDA Technical Bulletin 1273. PNW Experiment Station.

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
	Cu. Ft./Ac./Yr.		
40		30	
41		31	
42		31	
43		32	
44		33	
45		34	
46		34	
47		35	
48		36	
49		37	
50		38	
51		38	
52		39	
53		40	
54		41	
55		42	
56		42	
57		43	
58		44	
59		45	
60		46	
61		47	
62		48	
63		49	
64		50	
65		50	
66		51	
67		52	

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
68		53	
69		54	
70		55	79
71		56	81
72		58	83
73		59	84
74		60	86
75		62	89
76		63	91
77		64	93
78		65	94
79		67	96
80		69	98
81		70	100
82		72	102
83		74	103
84		75	105
85		77	107
86		78	109
87		80	111
88		82	113
89		83	114
90		85	116
91		87	118
92		88	120
93		90	122
94		92	123
95		94	125
96		96	128

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
97		97	130
98		99	132
99		101	134
100	142	102	136
101	144	104	138
102	145	106	140
103	147	108	141
104	149	110	143
105	151	112	145
106	153	114	147
107	154	116	149
108	156	118	150
109	158	120	152
110	160	122	154
111	162	124	156
112	164	126	158
113	166	128	160
114	168	130	162
115	170	132	163
116	172	134	167
117	174	136	169
118	176	137	171
119	178	139	173
120	180	141	175
121	182	144	176
122	184	146	178
123	186	149	180
124	188	151	182
125	190	154	184

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
126	192	156	186
127	194	159	188
128	196	161	190
129	198	164	191
130	200	166	193
131	202	168	195
132	204	170	197
133	205	173	199
134	207	175	201
135	209	177	203
136	211	179	207
137	213	181	209
138	214	183	210
139	216	185	212
140	218	188	214
141	220	190	216
142	222	192	218
143	224	194	220
144	226	197	222
145	228	199	224
146	230	201	226
147	232	203	227
148	234	205	229
149	236	208	231
150	238	210	233
151	240	212	235
152	241	215	237
153	243	217	239
154	244	220	241

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
155	246	222	243
156	248	224	244
157	249	227	246
158	251	229	248
159	252	232	250
160	254	234	252
161	256		
162	258		
163	260		
164	262		
165	264		
166	266		
167	268		
168	270		
169	272		
170	274		
171	276		
172	278		
173	279		
174	281		
175	283		
176	285		
177	287		
178	288		
179	290		
180	292		
181	294		
182	296		
183	297		

SITE INDEX	CMAI FOR WESTERN HEMLOCK 100 YR. TABLE (TSHE) 990-BARNES	CMAI FOR PONDEROSA PINE 100 YR. TABLE (PIPO) 600-MEYER	CMAI FOR DOUGLAS-FIR WEST SIDE 50 YR. (PSME) 795-KING
184	299		
185	301		
186	303		
187	305		
188	306		
189	308		
190	310		
191	312		
192	314		
193	316		
194	318		
195	320		
196	322		
197	324		
198	326		
199	328		
200	330		
201	332		
202	333		
203	335		
204	336		
205	338		
206	340		
207	341		
208	343		
209	344		
210	346		

Appendix C—Notification of operations (permit)

"STEWARDSHIP IN FORESTRY"

NOTIFICATION OF OPERATION/APPLICATION FOR PERMIT

OREGON DEPARTMENT OF FORESTRY **OREGON DEPARTMENT OF REVENUE**

OREGON DEPARTMENT OF REVENUE

Filing this notification does not grant permission to remove forest products! First obtain permission from the landowner and timber owner.

For activities or operations within an urban growth boundary, the applicant is advised to contact the appropriate local government regarding land use regulations which may apply to the future use or development of this site.

On-site inspections may be conducted by Oregon Department of Forestry (ODF) employees to ensure compliance with all the laws and rules governing fire protection and forest practices on private land.

File a new Notification of Operation/Application for Permit form at an ODF office if **any** of the following conditions apply:

- **Your operation area is new.**
- **You are adding a new activity to the operation.**
- **You are changing or increasing the area involved in an existing operation.**
- **It is after February 28, and you are continuing an operation that has been idle since the end of the previous calendar year and you have not informed ODF you intend to continue the operation before now.**

ODF must also be informed in writing of any other changes in the information on an existing notification, but completion of a new form may not be required.

Provide PHOTOCOPIES of the completed original notification form and map to the local offices of the Water Resources Department and the Oregon Department of Fish and Wildlife ONLY IF you plan to use on-site water to mix pesticides or to control slash burns.

Multiple harvest units may be listed on one notification. BUT, if HARVEST units are separated by a mile or more (in a straight line) or are in different counties, file separate notifications for each unit. An operation can be any combination of forest activities. See OAR 629-605-0140 for a complete list. OAR 629-600-0100 defines "operation," "commercial," and "unit."

The instructions are printed in italics. Please print or type the information on the form. ***Do not fill in shaded boxes.***
File notice with the State Forester ***at least 15 days prior*** *to the date you would like to start operating.* ***A notification is not considered accepted until it is properly filled out, has a map attached, and is received by the appropriate ODF office.*** *Mail, fax, or deliver the form to one of the Oregon Department of Forestry offices that accepts notifications.*

COUNTY *(Enter only one)* :

NOTIFICATION NUMBER ***(Office Use)***

NOTICE & PERMIT TYPE

Check box(es) that apply

☐ **2A** Notice to the State Forester that an operation will be conducted on lands described here (ORS 527.670). **15 day waiting period required, unless waived.**

☐ **2B** Application for permit to operate power driven machinery (ORS 477.625). **Expires at end of calendar year.**

☐ **2C** Notice to the State Forester and the Dept. of Revenue of the **intent to harvest timber** (ORS 321.550).

DATE RECEIVED: _____

TIME RECEIVED: _____ INITIALS: _____

DISTRICT: _____

OFFICE: _____

Enter name & phone number of person to be contacted in case of fire emergency. This person should know what resources they have available for fire and have the authority to commit these resources in case of fire.

REPRESENTATIVE: _____

AREA CODE: _____ **PHONE NUMBER:** _____

DATE OF CORRECTION: _____

CORRECTION: _____

Check the appropriate box as to who is completing this form:

☐ Operator ☐ Landowner ☐ Timber Owner

TIMBER SALE NAME AND/OR NUMBER (If applicable):

Enter the Operator information

OPERATOR

(Person and/or company conducting the operation)

Name:

Business Name:

Mailing Address:

City, State, & Zip Code:

Area Code: Phone No.:

Operator Codes: UDF1: UDF2: UDF3: UDF4: UDF5:

ATTENTION: If you are conducting timber harvesting or road construction within 100 feet of overhead or underground utility lines, call the Oregon Utility Notification Center at 1-800-332-2344. Request that the owner of the line be notified, and record the number issued to you by the Oregon Utility Notification Center here: _____.

FORM 629-2-1-002d 12K Order (Rev. 11/05)

Form 629-2-1-002d – Notification.doc/Jaz D (FP)

(Continued on Next Page)

Enter and check the Landowner information

LANDOWNER

RC/EG/S Codes

Information about the forest landowner in Recipient Class (RC), Ethnic Group (EG), and Land Ownership Size (S) is needed for annual reports. We ask you to voluntarily enter this information.

*RC: **(Recipient Class)** Check the box that best identifies the **landowner:***

- ☐ 1. Local Government
- ☐ 2. State Government
- ☐ 3. Federal Agency
- ☐ 4. Individual/Non-industrial private
- ☐ 5. Partnership/Corporation/Industrial
- ☐ 6. Other private (church, nonprofit organization, etc.)

*E.G. **(Ethnic Group)** Check the box that best identifies the **landowner** (Codes 2 – 7 apply to recipient class 4 [individual] only):*

- ☐ 1. Does not apply
- ☐ 2. White
- ☐ 3. Black
- ☐ 4. Hispanic
- ☐ 5. American Indian/Alaskan Native
- ☐ 6. Asian/Pacific Islander
- ☐ 7. All other

*S: **(Land Ownership Size)** Check the box that best identifies the total forest ownership of the **landowner:***

- ☐ 1. Does not apply
- ☐ 2. 0 – 9 acres
- ☐ 3. 10 – 99 acres
- ☐ 4. 100 – 499 acres
- ☐ 5. 500 – 999 acres
- ☐ 6. 1,000 – 4,999 acres
- ☐ 7. 5,000 + acres

(Landowner is responsible for reforestation)

Name:

Business Name:

Mailing Address:

City, State, & Zip Code:

Area Code: Phone No.:

ATTENTION: Timber harvesting may result in a tree planting requirement on the landowner. The landowner has the responsibility to reforest if the harvest results in an under stocked condition.

Landowner Codes: UDF1: UDF2: UDF3: UDF4: UDF5:

Enter the Timber Owner and Taxpayer Information

TIMBER OWNER AND TAXPAYER

(Responsible for paying the harvest and, if applicable, severance taxes)

Name:

Business Name:

Mailing Address:

City, State, & Zip Code:

Area Code: Phone No.:

ATTENTION: You are required to provide a Timber Owner Employer Identification Number OR a Social Security Number by the Oregon Department of Revenue's Statute ORS 321.015. **The Social Security Number will be used ONLY for the purpose of identifying you to the Dept. of Revenue for the collection of timber tax.** The Social Security number will be held in confidence.

*Enter the **Timber Owner Employer Identification No.** OR a **Social Security No.** in the box:*

Timber Owner Codes: UDF1: UDF2: UDF3: UDF4: UDF5:

(Continued on Next Page)

UNIT NO. _____ | SF#: | Fire priority: | FPA priority: | Page 3

Enter Unit No. If more than one unit, use Unit Addendum Sheets. Check appropriate box(es) & fill in acres/feet/etc.

ACTIVITY CODE	METHODS USED
☐ **1A** COMMERCIAL THINNING, SELECTIVE CUTTING (leaving most of the merchantable timber on the unit after harvesting) _____ Acres	☐ Cable ☐ Ground ☐ Other (explain) _____
ESTIMATED MBF REMOVED: _____	
☐ **1B** CLEAR-CUT, OVERSTORY REMOVAL (most or all of the merchantable timber will be removed during harvesting) _____ Acres	☐ Cable ☐ Ground ☐ Other (explain) _____
ESTIMATED MBF REMOVED: _____	
☐ **1C** FELLING only _____ Acres	
☐ **1D** OTHER HARVEST TYPES not covered in **1A** or **1B** (wind storm salvage, hauling r/w logs, selling chips, etc.) _____ Acres	Explain on lines below _____
ESTIMATED MBF REMOVED: _____	
☐ **1E** SORT YARD	
☐ **2A** ROAD CONSTRUCTION _____ Feet _____ Est MBF	☐ Dozer ☐ Backhoe ☐ Other (explain) _____
☐ **2B** ROAD RECONSTRUCTION _____ Feet _____ Est MBF	☐ Dozer ☐ Backhoe ☐ Other (explain) _____
☐ **3** SITE PREPARATION (Do not use for building construction site) _____ Acres	☐ Manual ☐ Mechanical ☐ Burning

*CAUTION: Fill out **Methods Used** for each type of chemical application.*

☐ **4A** HERBICIDE application _____ Acres	☐ Aerial ☐ Ground
☐ **4B** INSECTICIDE application _____ Acres	☐ Pressurized & Broadcast ☐ Other methods
☐ **4C** RODENTICIDE application _____ Acres	Write in common name, brand name (if known), carrier, additives, or, for fertilizer only, the application rate. For triclopyr and 2,4-D only, specify whether amine or ester formulation: _____
☐ **4D** FERTILIZER application _____ Acres	
☐ **4E** FUNGICIDE application _____ Acres	
☐ **4F** REPELLENT application _____ Acres	

(Continued on Next Column)

Check appropriate box(es) & fill in acres, etc.

ACTIVITY CODE	METHODS USED
☐ **5** CHANGING LAND USE to a non-forest use (house site, agricultural, etc.) _____ Acres	WARNING: Local government land use approval may be required. A land use change may not exempt the landowner from all reforestation requirements.
☐ **6** TREATMENT OF SLASH _____ Acres	☐ Manual ☐ Burning ☐ Mechanical
☐ **7** PRE-COMMERCIAL THINNING _____ Acres	
☐ **8** OTHER (any noncommercial activities, i.e, rockpits, etc.)	**Explain on line below** _____

Enter starting and ending dates.

ESTIMATED STARTING DATE: _____
(Must be 15 days after the appropriate office receives notification)

ESTIMATED ENDING DATE: _____
(Expires at end of calendar year)

SITE CODES

Check the appropriate Waters, Topography, and Soil site codes. One of each code must be checked on each unit.

WATERS

- ☐ **W100** Within 100' of any lake or stream, (a channel that carries flowing surface water during some time of the year)
- ☐ **W300** Within 300' of any estuary or any wetland greater than 8 acres
- ☐ **WNA** Waters not applicable

TOPOGRAPHY (over the steepest third of operation)

- ☐ **T1** Slope of **0%** to **35%**
- ☐ **T2** Slope of **36%** to **65%**
- ☐ **T3** Slope greater than **65%**

SOIL

- ☐ **S1** **No evidence** of mass soil movement (slips, landslides, etc.)
- ☐ **S2** Evidence of old slides, small failures
- ☐ **S3** **Recent** or **active** movement; **wet areas**

APPLICANT REMARKS: *Please describe the intent of the operation, what equipment will be used and any other information that may be relevant to the Stewardship Forester.*

(Continued on Next Page)

CONCERNS

*Check any **Concerns** that you are aware of in the boxes below.*

- ☐ **ARC** Archaeological site
- ☐ **CGG** Columbia Gorge General management area
- ☐ **CGS** Columbia Gorge Scenic management area
- ☐ **SH** Scenic Highway (operation near a FPA scenic highway)
- ☐ **SW** Operation near a state Scenic Waterway
- ☐ **UGB** Operation takes place within an Urban Growth Boundary
- ☐ **WG** Operation takes place in the Willamette Greenway

STREAM NAME and/or SIZE, TYPE, & WATERSHED CODE

WATERS

*Check any of the **Water** codes that you are aware of in the boxes below.*

- ☐ **DWS** Domestic Water Supply
- ☐ **LL** Lake greater than 8 acres
- ☐ **OTHER LAKES** Less than 8 acres
- ☐ **OTHER WETLANDS** Less than 8 acres
- ☐ **WETLANDS** Bog, estuary, significant wetland (>8 acres), important springs in E. Oregon

(Continue to Next Column)

RESOURCES

*Check any of the **Resources** that you are aware of in the boxes below.*

- ☐ **BEN** Bald Eagle Nesting site
- ☐ **BEP** Bald Eagle Perch and foraging site
- ☐ **BER** Bald Eagle Roosting site
- ☐ **BIO** Biological site of a rare life form or community
- ☐ **BPS** Band-tailed Pigeon mineral, watering, or springs site
- ☐ **CC** Operation will result in a single clear-cut or continuation of contiguous clear-cuts that exceed 120 acres
- ☐ **CWD** Columbia Whitetail Deer
- ☐ **GBH** Great Blue Heron nest site
- ☐ **GLD** Golden eagle nest site
- ☐ **HLH** High Landslide Hazard Location
- ☐ **MUR** Marbled Murrelet nest site
- ☐ **NSO** Northern Spotted Owl site
- ☐ **OSP** Osprey nest site
- ☐ **RAP** Other Raptor nest site
- ☐ **SBS** Sensitive Bird nesting, roosting, or watering site
- ☐ **T&E** Threatened or Endangered species site

(Continue to Legal Description)

Rule:	Non stat. WP:	Stat. WP:	AP:	Rule:	Non stat. WP:	Stat. WP:	AP:

LEGAL DESCRIPTION

*Check each 1/16 of every section that applies. Enter information for government lots (if applicable), section, township, and range. If more space is needed use a **Legal Description Addendum Sheet.***

Govt. Lot # if outside std section	NE				NW				SW				SE				SEC	TWP	RGE	REGULATED USE AREA
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐				
	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐				
	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐				
	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐				
	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐				

Subscriber:	Subscriber:	W. R. Subscriber:	AAcomp ☐
Subscriber:	Subscriber:	W. R. Subscriber:	

There is a 15 day waiting period in effect unless otherwise informed by the Stewardship Forester.

Check this box if a waiver of the 15 day waiting period is requested: ☐
Checking the box does not necessarily mean a waiver will be granted.

Waiting period waived by:

Date:

Print name of applicant in box below.

X

I (applicant) certify that all information I have provided is true & correct.

Signature: **Date:**

ATTACH MAP AND/OR AERIAL PHOTOS (The notification form is NOT complete unless a map or aerial photo of the operation area is attached. Either one of these must show the operation area, access route, north arrow, scale, etc.)

Appendix D—DOR sales questionnaire

Forestland Sales Verification Questionnaire

The Department of Revenue is charged with annually determining the real market value of highest and best use forestland. Information gathered from sales of these properties is vital to determining appropriate values. Information you provide on this verification form is confidential. Only summaries combining many sales will be available to interested parties.

Please review the general information portion and complete as much as possible of the remaining questionnaire.

GENERAL INFORMATION

Please Return within 15 days to:
Department of Revenue
Property Tax Div. / Forestland
Attn: Bill Carter
P O Box 14380
Salem, OR 97309 – 2555
Telephone: 503-945-8329

Grantee: (purchaser)
JarJar Binks and Associates, Inc.
Address: 1234 Star System Ten
Galictic, OR 97000

Grantor: (seller) Luke Skywalker

Sale Date: February 9, 4006 **Sale Price:** 100,000.00 dracma

County: Luanna

Property Tax Account Number(s)	Map and Tax Lot Numbers
1. R3559999095	19-19-19-00-00500-00
2.	(160.29 ac)
3.	
4.	

Record additional account information on a separate paper and attach.

Questionnaire

1. Was the land purchased for use as forestland? ☐ Yes ☐ No
   Comments:

2. Was the property exposed to the open market? ☐ Yes ☐ No
   Comments:

3. Were any other considerations (other than listed on the sales deed) included in the purchase of the property?
   Comments:

4. Can the property be used for purposes other than forest use?
   Comments:

Purchaser Allocation of Sale Price

Please complete the following tables as completely as possible.

Table 1 - Overall Sale Price Allocation		
Type	**Acres / Description**	**Value**
Land (Table 2)		
Timber (Table 3)		
Reproduction (Table 4)		
Improvements		
Other		
Total		

Table 2 - Land Allocation by Site Quality and Acres		
Site Quality	**Acres**	**Total Site Value**
Total		

Table 3 – Timber - Volume by Species		
Species	**MBF**	**Total Species Price**
Total		

Table 4 - Reproduction Acres & Price by Site & Age												
	1-5 Yr.		**6-10 Yr.**		**11-15 Yr.**		**16-20 Yr.**		**21-25 Yr.**		**25-30 Yr.**	
Site	**Acres**	**Price**	**Acres**	**Price**	**Acres**	**Price**	**Acres**	**Price**	**Acres**	**Price**	**Acres**	**Price**
Total												

Signature _____ Date _____ Telephone _____

Appendix E—Resource contact list

(Where to Get Help)

Oregon Department of Revenue (DOR):
Contact DOR with questions concerning general questions regarding property tax administration and the farm or forest special assessment programs. DOR staff will assist with interpreting laws and statutes. DOR staff will also answer questions regarding STF applications and the corresponding severance tax program.

Oregon Department of Forestry (ODF):
Contact ODF Stewardship Foresters for questions concerning Oregon's Forest Practices Act (FPA) rules concerning forest operations and activities, management plans for conducting sensitive operations, reforestation following harvest, and other landowner questions. See list of contacts in this appendix.

OSU Forestry Extension Agents:
Contact OSU for information regarding reforestation issues, such as suitable species and management plans. See list of contacts in this appendix.

Oregon Forest Resources Institute (OFRI):
OFRI is a good contact for forest land owners. They provide information and training to promote environmentally sound and publicly acceptable forest practices. They can assist landowners manage their forests according to best forest practices. OFRI also has a wide variety of publications regarding forest practices in Oregon. OFRI's contact information:

Oregon Forest Resources Institute
317 SW Sixth Avenue, Suite 400
Portland, OR 97204-1705

Phone: (971) 673-2944
(800) 719-9195

FAX: (971) 673-2946
email: info@ofri.com

Web site: www.oregonforests.org

Stewardship Foresters – PUBLIC Information

DISTRICT	COUNTY	ADDRESS	PHONE/FAX	STEWARDSHIP FORESTER
Northeast Oregon	**Baker**	**Baker City Sub-Unit** 2995 Hughes Lane Baker City, OR 97814	(541) 523-5831 fax: 523-5874	Joe Hessel
West Oregon	**Benton**	**W. Oregon District** 24533 Alsea Hwy. Philomath, OR 97370	(541) 929-3266 fax: 929-5549	Terry Orton Russ Anderson
North Cascade	**Clackamas**	**Molalla Unit** 14995 S. Hwy 211 Molalla, OR 97038	(503) 829-2216 fax: 829-4736	Kristin Cotugno Dan Clough Jeff Hepler Mike Haasken
Astoria	**Clatsop**	**Astoria District** 92219 Hwy 202 Astoria, OR 97103	(503) 325-5451 fax: 325-2756	Ashley Lertora Kevin Berry
Forest Grove	**Columbia**	**Columbia City Unit** 405 E Street Columbia City, OR 97018	(503) 397-2636 fax: 397-6361	Jay Worley Malcolm Hiatt John Krause Lin Farm
Coos	**Coos**	**Coos District** 63612 Fifth Road Coos Bay, OR 97420	(541) 267-4136 fax: 269-2027	Tod Haren Tuch Koreiva Jennifer Wright
Central Oregon	**Crook**	**Prineville Unit** 3501 E. 3rd Street Prineville, OR 97754	(541) 447-5658 fax: 447-1469	Stu Otto Ed Keith
Coos	**Curry**	**Coos District** 63612 Fifth Road Coos Bay, OR 97420	(541) 267-4136 fax: 269-2027	Tod Haren Dave Taylor Tuch Koreiva Jennifer Wright Mike Hogan
Central Oregon	**Deschutes**	**Prineville Unit** 3501 E. 3rd Street Prineville, OR 97754	(541) 447-5658 fax: 447-1469	Stu Otto Ed Keith
West Lane	**Douglas** Upper Smith R. Drainage	**W. Lane District** P.O. Box 157 Veneta, OR 97487	(541) 935-2283 fax: 935-0731	Jordan Ryder
Coos	**Douglas** Lower Smith R. Drainage	**Coos District** 63612 Fifth Road Coos Bay, OR 97420	(541) 267-4136 fax: 269-2027	Dave Taylor
Coos	**Douglas** Umpqua R. Drainage West of R8	**Coos District** 63612 Fifth Road Coos Bay, OR 97420	(541) 267-4136 fax: 269-2027	Dave Taylor
Douglas	**Douglas** Umpqua R.Drainage East of R9	**Douglas District** 1758 NE Airport Road Roseburg, OR 97470	(541) 440-3412 fax: 440-3424 and fax: 440-3419	Bob Young Scott Swearingen Jack Tannehill Mike Dewey
Central Oregon	**Gilliam**	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Mitch Mund
Central Oregon	**Grant**	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Mitch Mund – North Kirk Ausland
Central Oregon	**Harney**	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Kirk Ausland

* Temporarily out of district on developmental assignment.

Stewardship Foresters – PUBLIC Information

DISTRICT	COUNTY	ADDRESS	PHONE/FAX	STEWARDSHIP FORESTER
Central Oregon	**Hood River**	**The Dalles Unit** 3701 W. 13th St. The Dalles, OR 97058	(541) 296-4626 fax: 298-4993	Doug Thiesies
Southwest Oregon	**Jackson**	**SW Oregon District** 5286 Table Rock Rd. Central Point, OR 97502	(541) 664-3328 fax: 776-6184	Matt Krunglevich Bob Marcu
Central Oregon	**Jefferson**	**Prineville Unit** 3501 E. 3rd Street Prineville, OR 97754	(541) 447-5658 fax: 447-1469	Stu Otto Ed Keith
Southwest Oregon	**Josephine**	**Grants Pass Unit** 5375 Monument Drive Grants Pass, OR 97526	(541) 474-3152 fax: 474-3158	Steve Wetmore Tyson Schultz Matt Krunglevich
Klamath/ Lake	**Klamath**	**Klamath-Lake District** 3200 DeLap Road Klamath Falls, OR 97601	(541) 883-5681 fax: 883-5555	Anne Maloney Dennis Lee Mike Townsend
Klamath/ Lake	**Lake – FPA** **" - Incentives**	**Lakeview Unit** 2290 North 4th St. Lakeview, OR 97630	(541) 947-3311 fax: 947-3078	Kellie Carlsen Anne Maloney
South Cascade	**Lane** East of I-5	**Eastern Lane Unit** 3150 Main Street Springfield, OR 97478	(541) 726-3588 fax: 726-2501	Marvin Vetter Tim Meehan
South Cascade	**Lane** East of I-5	**W. Lane District** P.O. Box 157 Veneta, OR 97487	(541) 935-2283 fax: 935-0731	Joe Lynch
Western Lane	**Lane** West of I-5	**W. Lane District** P.O. Box 157 Veneta, OR 97487	(541) 935-2283 fax: 935-0731	Joe Lynch Ole Buch Paul Clements Jordan Ryder
Western Lane	**Lane** West of I-5 Florence Area	**Florence Unit** **2660 Kingwood St.** **Florence, OR 97439**	(541) 997-8713 fax: 997-3737	Jim Hall
West Oregon	**Lincoln**	**Toledo Unit** 763 NW Forestry Rd. Toledo, OR 97391	(541) 336-2273 fax: 336-5261	Doug Grafe Randy Van Prooyen
North Cascade	**Linn** North	**Santiam Unit** 22965 N Fork Rd SE Lyons, OR 97358	(503) 859-2151 fax: 859-2158	Shannon Fowler Alan Brog
South Cascade	**Linn** South	**Sweet Home Unit** 4690 Hwy 20 Sweet Home, OR 97386	(541) 367-6108 fax: 367-5613	Jim Ewing Neal Bond
Central Oregon	**Malheur**	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Joe Hessel Russ Lane
North Cascade	**Marion** North of Mt. Angel	**Molalla Unit** 14995 S. Hwy 211 Molalla, OR 97038	(503) 829-2216 fax: 829-4736	Jeff Hepler
North Cascade	**Marion** South of Mt. Angel	**Santiam Unit** 22965 N Fork Rd SE Lyons, OR 97358	(503) 859-2151 fax: 859-2158	Shannon Fowler Alan Brog
Central Oregon	**Morrow** West	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Mitch Mund Kirk Ausland
Northeast Oregon	**Morrow** East	**Pendleton Unit** 1055 Airport Road Pendleton, OR 97801	(541) 276-3491 fax: 276-0710	Dennis Perilli

Stewardship Foresters – PUBLIC Information

DISTRICT	COUNTY	ADDRESS	PHONE/FAX	STEWARDSHIP FORESTER
Forest Grove	**Multnomah** West of Portland	**Columbia City Unit** 405 E Street Columbia City, OR 97018	(503) 397-2636 fax: 397-6361	John Krause Lin Farm Jay Worley Malcolm Hiatt
North Cascade	**Multnomah** East of Portland	**Molalla Unit** 14995 S. Hwy 211 Molalla, OR 97038	(503) 829-2216 fax: 829-4736	Kristin Cotugno
West Oregon	**Polk**	**Dallas Unit** 825 Oak Villa Rd Dallas, OR 97338	(503) 623-8146 fax: 623-9034	Jeff Classen Dave Thompson
Central Oregon	**Sherman**	**The Dalles Unit** 3701 W. 13th St. The Dalles, OR 97058	(541) 296-4626 fax: 298-4993	Doug Thiesies
Tillamook	**Tillamook**	**Tillamook District** 5005 East 3rd Tillamook, OR 97141	(503) 842-2545 fax: 842-3143	Danny Cotton
Northeast Oregon	**Umatilla**	**Pendleton Unit** 1055 Airport Road Pendleton, OR 97801	(541) 276-3491 fax: 276-0710	Dennis Perilli
Northeast Oregon	**Union**	**NE Oregon District** 611 20th Street La Grande, OR 97850	(541) 963-3168 fax: 962-1058	Diane Partridge Rick Wagner
Northeast Oregon	**Wallowa**	**Wallowa Unit** 802 W. Hwy. 82 Wallowa, OR 97885	(541) 886-2881 fax: 886-9085	Mike Shaw
Central Oregon	**Wasco**	**The Dalles Unit** 3701 W. 13th St. The Dalles, OR 97058	(541) 296-4626 fax: 298-4993	Doug Thiesies
Forest Grove	**Washington** North	**Columbia City Unit** 405 E Street Columbia City, OR 97018	(503) 397-2636 fax: 397-6361	Jay Worley Malcolm Hiatt John Krause Lin Farm
Forest Grove	**Washington** South	**Forest Grove Dist.** 801 Gales Creek Rd. Forest Grove, OR 97116	(503) 357-2191 fax: 357-4548	Eric Perkins
Central Oregon	**Wheeler** North	**John Day Unit** P.O. Box 546 John Day, OR 97845	(541) 575-1139 fax: 575-2253	Mitch Mund Russ Lane
Central Oregon	**Wheeler** South	**Prineville Unit** 3501 E. 3rd Street Prineville, OR 97754	(541) 447-5658 fax: 447-1469	Ed Keith
Forest Grove	**Yamhill**	**Forest Grove Dist.** 801 Gales Ck. Rd. Forest Grove, OR 97116	(503) 357-2191 fax: 357-4548	Brent O'nion Eric Perkins

OSU Forestry Extension Agents

Clatsop and Tillamook County
Ahrens, Glenn
Clatsop Cty-OSU Extension Svc.
2001 Marine Drive, Rm. 210
Astoria OR 97103
Glenn.Ahrens@oregonstate.edu
503-325-8573

Lincoln County
Angima, Sam
Lincoln County Extension
29 SE 2nd Street
Newport OR 97365
Sam.Angima@oregonstate.edu
541-265-3887

Jackson and Josephene County
Bennett, Max
Jackson Cty-OSU Extension Svc.
S. OR Research & Ext. Ctr.
569 Hanley Road
Central Point OR 97502-1251
Max.Bennett@oregonstate.edu
541-766-7371

Clackamas County
Bondi, Mike
Clackamas Cty-OSU Extension Svc.
200 Warner Milne Road
Oregon City OR 97045
michael.bondi@oregonstate.edu
503-655-8631

Lane County
Bowers, Steve
Lane Cty-OSU Extension Svc.
950 West 13th Street
Eugene OR 97402
Steve.Bowers@oregonstate.edu
541-682-7311

Curry County
Burris, Frank
Curry Cty-OSU Extension Svc.
PO Box 488
Gold Beach OR 97444
Frank.Burris@oregonstate.edu
541-247-6672

Deschutes, Jefferson and Crook County
Fitzgerald, Steve
Deschutes Cty-OSU Extension Svc.
3893 SW Airport Way
Redmond OR 97756-8697
Stephen.Fitzgerald@oregonstate.edu
541-548-6088 X16

Benton and Linn County
Fletcher, Rick
Benton Cty-OSU Extension Svc.
1849 NW 9th Street, Suite 8
Corvallis OR 97330
Rick.Fletcher@oregonstate.edu
541-766-3554

Hood River OR and Skamania Cty. WA
Helgerson, Ole
Skamania Cty-WSU Extension Svc.
Box 790, 27 N. Russell St.
Stevenson WA 98648-0790
helgerso@wsu.edu
509-427-9427

Columbia and Washington County
Landgren, Chal
Washington Cty-OSU Extension Svc.
18640 NW Walker Rd. #1400
Beaverton OR 97006-8927
chad.landgren@oregonstate.edu
503-725-2300

Union, Umatilla and Wallowa County
Oester, Paul
Union Cty-OSU Extension Svc.
10507 North McAlister Road, Room 9
LaGrande OR 97850
Paul.t.oester@oregonstate.edu
541-963-1010

Baker and Grant County
Parker, Bob
Baker Cty-OSU Extension Svc.
2610 Grove Street
Baker City OR 97814
Bob.Parker@oregonstate.edu
541-523-6418

Douglas County
Punches, John
Douglas Cty-OSU Extension Svc.
PO Box 1165
Roseburg OR 97470
John.Punches@oregonstate.edu
503-672-4461

Yamhill, Marion and Polk County
Withrow-Robinson, Brad
Yamhill Cty-OSU Extension Svc.
2050 NE Lafayette Avenue
McMinnville OR 97128-9333
Brad.w-r@oregonstate.edu
503-434-8914

Appendix F—Court case summary

a. **Daniel M. Smith versus Department of Revenue and Marion County Assessor**..... 8-33

There are specific statutes on disqualification procedures which require the notification of disqualification to state the reason for disqualification. Failure to cite the correct statute may invalidate the disqualification.

b. **William M. Meeks, Jr. versus Department of Revenue**..... 8-42

Disqualification from special assessment occurs when the actual change is made on the assessment and tax roll by the assessor or authorized agent.

c. **Neal A. Hout versus Department of Revenue and Yamhill County**..... 8-46

Once an owner submits written request (ORS 308A.715) and pays additional taxes, the owner cannot change their mind and request a refund.

d. **Tollefson versus Department of Revenue**..... 8-54

Case involving determination of "highest & best use" as forestland. Highest and best use may change with circumstances. Physical features, constrictions on use, and market conditions all have bearing on the highest and best use.

e. **Department of Revenue versus David D. Rankin**..... 8-60

In order for isolated openings to be considered "forestland" for special assessment, the openings must provide benefits to sustain the surrounding forestland in forest use. "Forestland" is defined for different purposes: for taxation purposes and forestland preservation purposes.

f. **Lane County versus Richard A. Briggs**..... 8-64

Addresses how to value forestland under a conservation easement with a public entity.

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

DANIEL M. SMITH,	)	
	)	**TC 4588**
Plaintiff,	)	
	)	**OPINION**
v.	)	
	)	
DEPARTMENT OF REVENUE,	)	
State of Oregon,	)	
and MARION COUNTY ASSESSOR	)	
	)	
Defendants.	)	

I. INTRODUCTION

This action was tried in the court after denial of a motion for summary judgment filed by the defendant Department of Revenue (the department). The proceedings in this case focused primarily on the substantive propriety of the actions of the Marion County Assessor (the county) in disqualifying certain land from special farm use assessment. However, although plaintiff (taxpayer) did not raise the question of the procedural propriety of the actions of the county specifically in his pleadings, substantial testimony and several exhibits relevant to procedural issues were received without objection at the trial. The county was afforded an opportunity to review its files for evidence on those procedural issues.

Because the court is of the opinion that there is a fatal

flaw in the procedure followed by the county in this matter, this opinion will focus on facts and analysis related to that procedure.

II. FACTS

The trial established the following facts:

For several years prior to 2001 the land in question had qualified for special assessment as farmland producing grass crops. The land had been platted in 1913 and therefore was qualified as non-exclusive farm use land. During calendar year 2000, taxpayer leased the land to a tenant farmer whose crop failed.

Beginning in calendar year 2000, taxpayer took steps to improve the land and to determine if it could support septic features consistent with residential development. Taxpayer constructed a road across the property which could serve as access to residential lots. The road could also serve as access to nursery plantings, a use to which taxpayer testified he was converting the land. Taxpayer also put up signs advertising portions of the land for sale as residential lots. Notwithstanding the development efforts of taxpayer, in late June 2001 a hay crop was harvested off the land not covered by the road.

Apparently because he had heard from someone in the office that some development was proceeding on the land, Richard K.

Kreitzer (Kreitzer), the county assessment official assigned to this account, visited the property. There he observed that septic test holes had been dug, the road installed, and underground electric vaults constructed. At some point Kreitzer also became aware that no crop income had been produced from the land in calendar year 2000. Kreitzer made one visit to the property on or about May 1, 2001, and concluded it was no longer in farm use, even though what became a hay crop was observable. Kreitzer described this crop as "unkept."

On a parallel path, other county personnel were verifying the farm income produced from the land. An annual letter inquiring about farm income was sent to taxpayer in early 2001 and it was forwarded to the tenant farmer. One other letter inquiring about farm income for prior years was sent to taxpayer by the county. The county apparently did not take the position that the land had failed the income test for farm use assessment at that time and did not send out the types of notices required by governing rules to be sent when income qualification is at issue.[1] At trial, Kreitzer testified that the county did not disqualify the property because of failure to produce the

[1] The court says "apparently" because the county produced no such notices initially or after being afforded the opportunity to review its files on the disqualification process.

requisite amount of farm income.[2]

Kreitzer testified he had no personal knowledge of the use of the property for farm purposes in calendar year 2000. He drew inferences from information he gathered in early 2001 about the intent of taxpayer. He did not know of the failed crop of the tenant in the year 2000.[3] Kreitzer testified he attempted to contact taxpayer about disqualification, but was not successful. Kreitzer's office did send taxpayer a letter, dated April 19, 2001, stating that the disqualification process was being initiated because "[p]roperty is not being farmed and is being included in the subdivision Academy additions." (Def's Ex X). By April 24, 2001, taxpayer had responded in writing that disqualification was unwarranted because he had planted grass and clover for use as silage and hay. No evidence was presented as to any attempt by the county to follow up on this information, even though the department's rules require counties to take efforts to understand all facts in connection with qualification

---

[2] On April 25, 2001, the county inquired as to income history for the property for 1998, 1999 and 2000. It is not clear from the record what, if any, response was received. Presumably the income history was not an issue since the county did not follow the strict procedural process in OAR 150-308A.071 for income disqualification.

[3] The focus of testimony and other evidence at the trial was January 1, 2000. The pleadings of taxpayer assert that the land was disqualified for the years 1996-97 through 2001-2002. The notification of disqualification in the record contains no indication of the tax years to which it relates.

and disqualification of property. C.f. OAR 150-308A.059(2)(b).[4]

Kreitzer's visit to the property occurred on or about May 1, 2001. The next communication by the county to taxpayer appears from the record to be a letter of June 13, 2001, signed on behalf of Kreitzer and informing taxpayer that the land in question had been disqualified, "by request of the owner." (Ptf's Ex 2). This letter also informed taxpayer of an estimated market value for the property and an additional tax due. Finally, the letter informed taxpayer of rights to appeal the disqualification to the Magistrate Division of this court.

Taxpayer filed a timely appeal in this court of the county's disqualification action. The Magistrate assigned to the case decided the matter on the basis of substantive qualification for farm use special assessment and upheld the disqualification action of the county.

III. ISSUE

Was taxpayer's land properly disqualified from the benefits of farm use special assessment?

IV. ANALYSIS

Oregon, like all other states, has adopted special assessment rules for farmland. The statutory scheme now found in ORS Chapter 308A[5] contains detailed procedural as well as

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[4] All references to the Oregon Administrative Rules (OAR) are to 2001.

[5] All references to the Oregon Revised Statutes (ORS) are to 2001.

substantive requirements. The department has promulgated a series of rules dealing with substantive and procedural issues arising under ORS Chapter 308A. Taxpayers who might otherwise have benefitted from ORS 308A have been denied those benefits in cases where strict compliance with the statute has not occurred. See, *Marriott v. Dept. of Rev.*, 4 OTR 503 (1971).

A major demarcation in ORS Chapter 308A is between land that is "[e]xclusive farm use zone farmland" and land which is "[n]onexclusive farm use zone farmland." ORS 308A.053(2) and (4); *compare* ORS 308A.113 and ORS 308A.116. As mentioned above, the land in question here is nonexclusive farm use zone farmland (Non-EFU land).

Non-EFU land can be disqualified from special assessment if income requirements under ORS 308A.071 are not met or if the county assessor determines that the land is no longer in farm use. ORS 308A.116(1)(c).

The basis for disqualification on which a county proceeds is important. Disqualification because of failure to meet income requirements must follow a detailed procedure. *See* OAR 150-308A.071. However, a different set of procedural requirements applies to determinations that land is no longer in farm use. *See* OAR 150-308A.116.

Once a disqualification decision has been reached, the specific statute on disqualification procedures, ORS 308A.718,

requires the notification of disqualification to "state the reason for disqualification." ORS 308A.718(3). The importance of requiring the statement of the basis for the disqualification becomes apparent later in the statute. In cases where disqualification is *by request of the property owner* or by reason of acquisition of the property by a government or tax-exempt entity, the notice need not contain a written explanation summarizing a series of points. ORS 308A.718(6). However, disqualification by reason of failure to keep property in farm use must be followed by written notification providing the reason for disqualification and a written statement about the items specified in ORS 308A.718(5)(a). One of these items is a written explanation of the administrative acts needed to change the type of special assessment. This disclosure relates to actions required of taxpayer that must be taken within specific time frames in order for additional taxes to be deferred. See ORS 308A.718(5)(c); ORS 308A.724; OAR 150-308A.718(2)(d).

In this case the record reveals that the county at one time in early 2001 may have had concerns about the income history of this property and sent a notice of this concern to taxpayer. (Defs Ex W) The county did not, however, rely on income disqualification at trial nor, according to Kreitzer, in its initial decision to disqualify. The county sent a notice of potential disqualification on April 19, 2001, based on lack of

farm use and inclusion of the property in a subdivision. The county official did not visit the property until after sending the notice and the record does not indicate that the county made a reasonable effort to contact the owner[6] or to request information on the recent history of the use of the property. Those are both mandatory steps under governing rules. *See* OAR 150-308A.116(1)(a).

Most importantly, the county did not comply with ORS 308A.718(3) in providing *the reason* for disqualification. Its notice stated that taxpayer had requested disqualification. That was not correct. Further, and perhaps related to its misstatement of the reason for disqualification, the county failed to provide all of the written explanations required by ORS 308A.718.[7] Those written explanatory summaries are required by statute and, in the court's opinion, the failure to provide them renders the disqualification invalid. *See, Preble v. Depart. of Rev.*, 331 Or 320, 14 P3d 613 (2000).

In this case the county made a determination that the land was no longer in farm use, and disqualified the land effective

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[6] OAR 150-308A.116(6) requires the assessor to retain copies of contact letter(s) or a record of other means of contact as well as information from the person contacted. In this case the only evidence as to attempts by the county to contact taxpayer was Kreitzer's testimony that he made one attempt which was unsuccessful.

[7] The notification document, Ptf's Ex 2, contains some of the disclosures required by ORS 308A.718(5) and OAR 150-308A.718 but omits others. Absent are those relating to ORS 308A.724 and the discussion of potential penalties.

January 1, 2001. Under ORS 308A.116(6) that act of disqualification is permissible only when the notice of disqualification required under ORS 308A.718 is mailed prior to August 15 of that year . A notice meeting the requirements of ORS 308A.718 was not mailed within the statutory time limit and that act of disqualification is invalid.

V. CONCLUSION

For the foregoing reasons, the action of the county in disqualifying the property in question here is declared invalid.

Dated this ____ day of March, 2004.

_____

Henry C. Breithaupt

Judge

THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUPT ON MARCH 17, 2004 AND FILED ON MARCH 17, 2004. THIS IS AN UNPUBLISHED DOCUMENT.

Oregon Tax Court
WILLIAM M. MEEKS, JR.
v.
DEPARTMENT OF REVENUE

March 31, 1977

Plaintiff, assessor for Douglas County, appealed from an order of defendant, Department of Revenue, reinstating special farm use assessment of certain real property for the tax year 1974-1975. The court found that, although there was some justification for the disqualification, the assessor failed to record the change on the assessment roll prior to July 1, 1974. Because of the assessor's failure to change the roll in a timely manner, the subject property must continue to enjoy special assessment at its farm use value for the tax year 1974-1975 pursuant to ORS 308.370(3).

The actual change of the assessment roll is the essential overt act which proves the assessor's exercise of his judgment and establishes a disqualification from special farm use assessment as having actually occurred.
Trial had February 2, 1977, in Circuit Courtroom, Douglas County Courthouse, Roseburg.

Paul Nolte, County Counsel for Douglas County, Roseburg, represented plaintiff.

James D. Manary, Assistant Attorney General, Salem, represented defendant.

Decision for defendant rendered March 31, 1977.

CARLISLE B. ROBERTS, Judge.

The plaintiff, County Assessor for Douglas County, Oregon, appealed from the defendant's Order No. VL 76-87, dated February 27, 1976, in which the department reinstated a special assessment for farm use (described in ORS 308.370) with respect to land owned by David and Barbara Putnam in the tax year 1974-1975.

In August or September 1973, the Putnams purchased three contiguous 20-acre parcels of real property (identified in the county assessor's records as Assessor's Account Nos. 11564.17, 11600.15 and 11600.16) from B. Bradley Rattner. Mr. Rattner originally owned about 900 acres on which he had grazed cattle for many years, but in recent years he has been selling off small parcels. However, at the time of sale to the Putnams, Mr. Rattner's whole property was assessed at farm use value and this classification was carried over on the assessment and tax rolls as applicable to the property purchased by the Putnams.

Mr. Putnam testified that he had learned from the seller that the property was in farm use and he hoped to continue that use. Soon after purchase of the property, the Putnams sought advice as to the best use of the land, discussing the question

with representatives of the Soil Conservation Service of the U. S. Department of Agriculture. They were advised that 48.95 acres should be used for timber production and only the remainder should be used for farming. On September 10, 1973, Mr. Putnam entered into a "conservation understanding" with the Soil and Water Conservation District of South Douglas County to obtain assistance in using the "land within its capabilities" and "to treat it according to its needs." Since the purchased property had no water of its own, no cattle were grazed upon the property from the time of its purchase by the Putnams until January 1, 1974, the assessment date, but the Putnams had installed $2,000 worth of fencing, cleaned out blackberries and rose bushes, and fertilized and seeded clover and fescue on the property which was suitable for farm use.

On February 14, 1974, the Soil and Water Conservation District drafted and submitted a plan of soil classes, slope, and other information indicating that reforestation was best for approximately 50 acres and that the remainder should be used for hay and stock. The Putnams found springs and piped water for development of the farm area and future homesite.

In April 1974, the taxpayers were given a notice, pursuant to ORS 308.280, advising them of increased property assessments, and this notice, incidentally, showed the land to be classified as in farm use for the tax year 1974-1975. But in August 1974, the Putnams received a letter from the Douglas County Assessor, under date of August 8, 1974, which cited ORS 308.395 and stated: "* * * The accounts listed below [the Putnams' 60 acres] were disqualified because the land is no longer being used as farm land."

After consulting the assessor's office and learning that the board of equalization had no jurisdiction in the matter, the Putnams, on August 19, 1974, wrote to the Department of Revenue for information and, on October 25, 1974, filed an appeal with the defendant, seeking to set aside the county assessor's action of August 8, 1974. After a hearing on November 6, 1975, the Department of Revenue affirmed the assessor with respect to the 48.95 acres of timberland [FN*] but, convinced that the Putnams' intention to farm was bona fide and was sustained by their activities, held that "the 10.75 acres of farm land, * * * should be restored to farm-use assessment for the tax year 1974- 1975."

> FN* No issue as to the tax treatment of this acreage was presented to this court.

In its complaint, the plaintiff states that the department's order with respect to the 10.75 acres of farmland should be set aside and held for naught "because no evidence exists to support the finding that David and Barbara Putnam employed these 10.75 acres for the purpose of obtaining a profit in money."

Based on the total testimony, it appears to the court that there was some reason to justify the disqualification of the subject property for farm use for the assessment date of January 1, 1974, but the question is raised, when was it legally "disqualified"?

ORS 308.370(3) reads:

"The entitlement of farm land to the special assessment provisions of this section shall be determined as of January 1. However, if land so qualified becomes disqualified prior to July 1 of the same year, it shall be assessed at its true cash value as defined by law without regard to this section. *IF THE LAND BECOMES*

DISQUALIFIED AFTER JULY 1, ITS ASSESSMENT FOR THAT YEAR SHALL CONTINUE AS PROVIDED IN THIS SECTION." (Emphasis supplied.)

ORS 308.390(1) provides, upon application, a county assessor shall assess land for farm use "* * * until the land becomesDISQUALIFIED for such assessment by: * * * (c) *REMOVAL OF THE SPECIAL ASSESSMENT BY THE ASSESSOR* upon the discovery that the land is no longer being used as farm land; * * *." (Emphasis supplied.)

ORS 308.395 provides:

"(1) * * * whenever land which has received special assessment as farm use land * * * thereafter becomes disqualified for such assessment, the assessor shall notify the owner thereof * * *."

A witness for the county assessor, who had been engaged in farm appraisals for 20 years prior to his retirement from the office of the county assessor in May 1975, testified that the procedure to disqualify farmland, in the office of the Douglas Connty Assessor, involved the inspection of the property; consultation with the owners, when possible; the conclusion by the farm appraiser that the land was not being used for production; recommendation by the appraiser to the assessor; the mailing of an informal notice to the property owners to give them opportunity to be heard (not required by statute); (and then, presumably, the determination by the county assessor of nonuse and mailing of the statutory notice to the owners as required by ORS 308.395-but the witness did not specifically testify on these last two points).

The county could not prove the informal notice was mailed and Mr. Putnam testified it was never received. The county's witness agreed that the letter mailed by the office of the county assessor as of August 8, 1974, was not a mere "information letter" to the owners but the actual letter of disqualification. Another witness for the county assessor recognized that disqualification after July 1 would allow the special use assessment to continue for the tax year in question but he believed that the decision to disqualify had been made by the assessor prior to July 1. However, the first witness of the assessor testified that the official change of the roll was made on July 8, 1974. This testimony was not disputed.

A consideration of the provisions of ORS 308.370, 308.390 and 308.395 leads the court to the conclusion that the change in the assessment roll must actually be made before July 1 if it is to be effective in the immediately following tax year beginning July 1. Recommendation by the assessor's staff, made during the assessment period of January 1-June 30, that specific property be disqualified may be a necessary step in the process of disqualification. However, the actual change of the roll by the county assessor or his duly authorized agent is the essential overt act which proves the assessor's exercise of his judgment and establishes the disqualification as having actually occurred. Lacking such change in the public records, it is impossible to make the last sentence of ORS 308.370(3) effective. Written notice of the disqualification must be given immediately thereafter to the property owner.

The court concludes that the 10.75 acres of the subject property, as described in the defendant's opinion and order, was not disqualified as farm use land before July 1, 1974, and therefore the assessment for that year must be continued as provided in ORS 308.370(3).

Defendant's Order No. VL 76-87 is affirmed. The Assessor and Tax Collector of

Douglas County shall amend the assessment and tax rolls as required by this decision. If taxes have been paid by the Putnams in excess of those required by the tax roll as amended, the excess, with statutory interest thereon, shall be refunded to the taxpayers, David and Barbara Putnam, by the Board of County Commissioners of Douglas County, Oregon, pursuant to ORS 311.806 and 311.812.

THIS DECISION WAS SIGNED BY JUDGE CARL N. BYERS ON JANUARY 23, 2001, AND FILE STAMPED ON JANUARY 23, 2001.

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

NEAL A. HOUT,	)	
	)	**Case No. 4484**
Plaintiff,	)	
	)	**OPINION**
v.	)	
	)	
DEPARTMENT OF REVENUE, State of Oregon,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
YAMHILL COUNTY,	)	
	)	
Intervenor-Defendant.	)	

Plaintiff (taxpayer) appeals from a magistrate Decision upholding the denial of taxpayer's claim for refund of property taxes. Taxpayer claims that his property should not have been disqualified from special farm-use assessment and that he is entitled to a refund of the additional taxes paid. Trial de novo was held November 17, 2000, in the courtroom of the Oregon Tax Court, Salem.

FACTS

In 1994, taxpayer purchased 25 acres of farm land. At the time of purchase, the land was zoned for non-exclusive

farm use and received special farm-use assessment. After purchasing the property, taxpayer continued to obtain special farm-use assessment. Taxpayer constructed a personal residence and two pole barns on the property, fenced portions of it, and worked to develop it as a farm. Taxpayer acquired two horses, three beef cows, one pig, four goats, five or six chickens, and some cats and dogs. Taxpayer abruptly changed his plans to develop the property in 1997 when he was divorced. Taxpayer put the property up for sale, disposed of the farm animals, and moved from the property.

In February 1999, the Yamhill County Assessor sent taxpayer a letter and a gross income questionnaire. The letter advised taxpayer that an appraiser would physically inspect the property for farm use. (Inv's Ex A.) Taxpayer completed and returned the gross income questionnaire showing $168 income in 1996 from a pig, but no income in 1997 or 1998. (Inv's Ex B.) In May 1999, an appraiser from the assessor's office visited the property and saw no farm-use activity. Based upon the appraiser's inspection and the questionnaire, the assessor determined the property no longer qualified for special farm-use assessment. On June 9, 1999, the assessor sent taxpayer a letter stating that the property was being disqualified from special farm-use assessment and that it

"will result in back taxes being levied in the amount of $10,320.74."[1] (Ptf's Ex 2.) Taxpayer appealed from that action on August 27, 1999, to the Magistrate Division of the Oregon Tax Court.

On June 14, 1999, taxpayer signed an earnest-money agreement to sell the property, which had been on the market for over two years. The earnest money agreement acknowledged that the property was specially assessed and provided that if, as a result of the buyer's actions or the closing of the transaction, the property became disqualified from special farm-use assessment, the buyer would be responsible for and pay the taxes when due. The agreement then states:

> "However, if as a result of the Seller's actions prior to closing, the Property either is disqualified from its entitlement to special use assessment or loses its deferred property tax status, Seller shall be responsible for and shall pay at or before closing all deferred and/or additional taxes and interest which may be levied against the Property and shall hold Buyer completely harmless therefrom." (Emphasis added.) (Inv's Ex D at 1.)

Based upon the above-quoted language, the escrow company

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[1] ORS 308.382(1)(b) provides that:

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> "The additional tax imposed * * * shall remain as potential additional tax liability for the property, but shall not be collected unless [the owner requests in writing that the tax be imposed]"

All references to the Oregon Revised Statutes are to 1997.

prepared closing documents requiring taxpayer to pay the $10,320.74 in additional taxes. Taxpayer testified that he did not become aware of that obligation until the day of closing. When made aware of it, he objected but was informed that if the additional taxes of $10,320.74 were not paid, the transaction would not close. Therefore, taxpayer signed the necessary documents, the sale closed, and a check in the amount of $10,320.74 was sent by the escrow company to the Yamhill County Tax Collector. (Inv's Ex G.) The county cashed the check in satisfaction of the potential additional taxes. Taxpayer seeks a refund of those taxes.

ISSUES

Taxpayer's appeal presents two issues: (1) Did the assessor err in disqualifying the property from special farm-use assessment? (2) Is taxpayer entitled to a refund of additional taxes paid?

ANALYSIS

Based on all of the evidence submitted, the court finds that the assessor correctly disqualified taxpayer's property from special farm-use assessment in June 1999. Construing the evidence most favorably to taxpayer, even when taxpayer had the maximum number of animals, the farm-use was marginal. It must be remembered that special farm-use assessment was

intended to benefit "bonafide" farms. Beddoe v. Dept. of Rev., 8 OTR 186 (1979). The statute requires that the person claiming farm-use assessment intends to make a profit in money. Everhart v. Dept. of Rev., 15 OTR 76, 79 (1999). Hobby farms, where land owners maintain a few domestic animals and pets, do not qualify as bonafide farms. Here, the only income taxpayer ever reported receiving was $168 from a pig.[2]

Even if taxpayer's use of the property initially qualified, it is clear that it did not qualify for special assessment in 1998 and 1999. Taxpayer divorced his wife, moved from the property, and disposed of the farm animals. The property was listed for sale and there were no farming activities.[3]

Taxpayer contends that even if the property were properly disqualified, the potential additional taxes should not have been paid. ORS 308.382(4) provides in relevant part:

> "(a) The additional tax * * * may be imposed at any time after disqualification of the property from special assessment as farmland if the property owner so requests.

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[2] The court questions that amount because taxpayer reported that the pig was consumed by his family.

[3] Upon selling the property, taxpayer certified for federal income tax purposes that all of the property was residential property and no portion had been used for business or rental purposes. (Inv's Ex E.) That certification seems inconsistent with taxpayer's claim of farm use.

"(b) A request for imposition of tax under this section shall be made in writing to the county assessor."

The statute specifies that if the request is made prior to August 15, the potential additional taxes are added to the current tax roll and collected along with other property taxes. If the request is made after August 15, the potential additional taxes are added to the next general property tax roll.

The statute does not anticipate the common circumstance here where an owner sells the property and, as a condition of the sale, must pay the potential additional taxes in order to convey clear title. In such circumstances, the owner generally cannot wait for the taxes to be placed on the next property tax roll and paid in due course. The taxes must be paid immediately or the sale will not close.

Taxpayer argues that he did not make a request in writing to the assessor to impose the taxes as required by the ORS 308.382(4)(b). In response, Intervenor Yamhill County contends that by executing the earnest money agreement and the escrow instructions, taxpayer appointed the escrow company as his agent.[4] Both arguments miss the mark.

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[4] The county would attribute the escrow agent's actions to taxpayer. The flaw in that argument is that the escrow agent did not request the assessor to impose the taxes. Also, the

The requirements of ORS 308.382(4)(b) are not applicable here because the assessor did not impose the additional taxes. At the time of closing the sale, the additional taxes were still only "potential." The need to pay the taxes arose only because of taxpayer's earnest money agreement. Therefore, taxpayer was confronted by his own escrow agent with the need to pay the taxes. Although taxpayer objected, he nevertheless agreed to and signed the documents approving the payment.

The real question is: If an owner proffers a check to the tax collector for potential additional taxes and that check is accepted, may the owner later claim that he did not request the additional taxes be paid and seek a refund of the same? The answer to that question must be no.

ORS 308.382(1)(b) provides that the potential additional taxes "shall not be collected" unless pursuant to subsection (4). That subsection requires the owner to make a written request to the assessor before the assessor may impose the taxes. However, that statutory requirement is for the protection of the owner and may be waived. See Turney v J.H.

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escrow instructions state that:

> "All terms and provisions of the earnest money agreement, amendments or addenda thereto, have been complied with to the complete satisfaction of the undersigned parties or will be complied with outside of this escrow." (Inv's Ex E at 5.)

Tillman Co., 112 Or 122, 228 P 933 (1924) and Welker v. TSPC, 152 Or App 190, 953 P2d 403 (1998). The court finds that taxpayer waived the requirement by tendering payment to the tax collector.

Taxpayer may have felt that he had no choice, but that is because payment was required by his sale agreement and he wanted the sale to be completed. However, taxpayer's desire to close the sale of the property does not vitiate his actions that resulted in payment of the potential additional taxes.[5] Therefore, taxpayer's claim for a refund of the additional taxes paid must be denied. Accordingly, judgment will be entered consistent with this Opinion. Costs to neither party.

Dated this ____ day of January 2001.

_____
Carl N. Byers
Judge

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[5] Taxpayer testified that he was told by the county he could pay and later appeal. Obviously, if that advice was given, it was in error. However, taxpayer may not rely upon that advice when his own agreement required him to pay the taxes.

Oregon Tax Court
GEORGE TOLLEFSON, Administrator of the Estate of HILDA TOLLEFSON, deceased
v.
DEPARTMENT OF REVENUE
January 18, 1979

Plaintiff appealed from defendant's order which sustained the inheritance tax auditor's valuation of certain timberland, and which determined plaintiff owed additional inheritance taxes. The court noted that (1) plaintiff's residual approach was more representative of the "market" than defendant's, and (2) defendant's contended highest and best use (subdividing the property for rural homesite purposes) was not supported by the evidence. The court found the preponderance of the evidence favored plaintiff's valuation, and ordered that the assessment be modified to conform with this decision.

The highest and best use of property may change with time and circumstances, so that its current use will no longer be its highest and best use; the physical features of the property, any legal, contractual or economic constrictions on the use of the site, and market conditions such as supply and demand, may all have a bearing on highest and best use, and should all be considered in making that decision.

The highest and best use for land is the use that, at the time of the appraisal, is the most profitable likely use. Grossly speculative uses may not be considered.

When preparing market value estimates, appraisers should limit themselves to highest and best use considerations that have a strong, present probability of achievement, i.e., the most likely use at the time.

Under the "residual" method, the value of timberland is determined by subtracting the estimated value of the timber from the total price paid for the comparable property; hence, any error in estimating the value of the timber will cause the resulting land value also to be misstated.

Where the value of the timberland is at issue, the court's role is to determine the fair market value of the bare land and the non-merchantable timber in the market. That market is established by willing buyers and willing sellers involved in arm's-length transactions in the timber market.

The court is powerless to add to the value of merchantable timber already determined, where the plaintiff challenges only the value of the land and non-merchantable "reproduction" timber.

The value of property for inheritance tax purposes is its true cash value as of the date of the decedent's death. ORS 118.150(1)(1973 Replacement Part).

An appraisal of property involves more than merely adjusting previously computed values to the appropriate assessment date. Although a mechanical approach to valuation may have some justification in the property tax field, it may not be

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sufficient to prevail when contested in gift or inheritance tax cases.

In cases involving the determination of the true cash value of property, the court is not confined by the values alleged by the parties. Rather, it is the court's duty to determine value based upon the preponderance of the evidence presented. ORS 305.427; ORS 305.435.

Trial held November 7, 1978, in the United States District Courtroom, Eugene.

Edward Ray Fechtel, Husband, Johnson, Fechtel & Goff, Eugene, represented plaintiff.

G. F. Bartz, Assistant Attorney General, Salem, represented defendant.

Decision for plaintiff rendered January 18, 1979.

CARLISLE B. ROBERTS, Judge.

Plaintiff appealed from defendant's Order No. IH 77-12, dated December 20, 1977. In that order, defendant sustained the inheritance tax auditor's valuation of the subject property and determined that plaintiff owed additional inheritance taxes based upon that assessment.

The subject property consists of 101.83 acres of land to the west and slightly south of Eugene, identified in the county assessor's records as Tax Lot 18-5-23-600. (The entire parcel of land covers 119.83 acres, but 18 acres are not timbered and their value is not at issue here.) The value of the timber is not contested; only the value of the timberland, along with any non-merchantable timber thereon, is involved in this suit. The property was and is zoned AGT (agriculture, grazing and timber). This zoning provides for either 5-acre or 20-acre minimum-sized parcels.

On April 19, 1968, the decedent, Hilda Tollefson, transferred the subject property to her son and daughter-in-law, Mr. and Mrs. George Tollefson, but decedent retained a life estate in the property, which she held at her death on August 18, 1975.[FN1]

FN1 There is some inconsistency in the records as to the date of death. The assessment prepared by defendant's Estate Audit Section appraises the subject property as of August 8, 1975. At trial, counsel referred to both August 8 and August 18, 1975, as the date of death. Since the difference of ten days is insignificant, it can be ignored, and the court will assume August 18, 1975, as the date of death.

The value of property for inheritance tax purposes is its true cash value as of the date of the decedent's death. ORS 118.150(1) (1973 Replacement Part); OAR 150-118.150(1). Defendant contended in its initial appraisal and in its pleadings that the true cash value of the property was $500 per acre, or $50,900 for the total tract of land. Plaintiff alleged at the Department of Revenue hearing and in his complaint that the true cash value of the property was not greater than $100 per acre, or $10,180. At trial, plaintiff's witnesses gave value estimates

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ranging from $75 per acre to $128 per acre. Defendant's two witnesses estimated the value of this property at $500 to $510 per acre. These discrepancies once again illustrate the highly subjective quality of the concept of value. However, the court is not confined by the values alleged by the parties. Rather, it is the court's duty to determine value based upon the preponderance of the evidence presented. ORS 305.427; ORS 305.435; *Noyes v. Dept. of Rev.*, 7 OTR 325, 329 (1978).

At the trial, several witnesses gave their opinion of the subject property's market value as of the August 18, 1975, assessment date. For the plaintiff, both Mr. and Mrs. George Tollefson, the current owners of the subject property, estimated that the market value of the subject property was between $80 and $110 per acre at the assessment date. These estimates were based upon their familiarity with the property, the lack of any legal or physical access to the subject other than through their own farm property, and upon reference to 80 adjacent, similar acres of timberland, owned by Mr. and Mrs. Tollefson, which was assessed by the county for tax purposes at less than $80 per acre.

In addition to Mr. and Mrs. George Tollefson, two expert witnesses, both private forester-consultants, offered their opinions of the fair market value of the subject property at the date of death. After considering the past and present use of the property, its slope and elevation, zoning, location, and lack of road access and water, both experts found the highest and best use of the property was for timber production. Each utilized the market data approach, relying on sales of what they deemed to be comparable properties. They arrived at comparable bare land values by a residual approach. In this approach, plaintiff's appraisers subtracted the value of the "merchantable" timber from the sales price of the comparable property to arrive at an indicated value for the bare land and non-merchantable (or "reproduction") timber for each comparable property. The appraisers then adjusted the indicated residual amount for each comparable property to account for differences (such as site class and time of sale) between each comparable and the subject. Utilizing this approach, plaintiff's first expert witness arrived at an indicated land value of $128 per acre, or $13,065. Plaintiff's second expert witness arrived at an indicated value of $75 per acre, a total value of $7,635. The court believes the value arrived at by plaintiff's first expert witness, $13,065, is the more reliable one because it is based on a clearer analysis of the subject property and of comparable sales.

Two expert witnesses testified for the defendant and expressed their opinions of the market value of the subject property as of the assessment date.

The first expert had performed a preliminary value estimate for inheritance tax purposes for the Department of Revenue. Utilizing a recent aerial photograph of the subject property and relying on figures taken from the ad valorem tax rolls, he estimated the value of the subject property to be $500 per acre at the assessment date. This approach is not deemed reliable. An appraisal of property involves more than merely adjusting previously computed values to the appropriate assessment date. As this court noted in *Starker v. Dept. of Rev.*, 6 OTR 10, 17 (1975):
"In this particular instance, the procedures of the defendant's Timber Section, applied to gift taxes, although based on a wealth of data, did not impart conviction. As one of counsel for plaintiff stated:
"'In summary, defendant's mechanical approach to valuation of the timber and

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timberlands, which ignores the actual expenses in harvesting the timber on the Starker tracts, may have some justification in the property tax field where practical tax administration might require a generalized approach and where rough equality among taxpayers is sought, but it has no justification in contested gift [or inheritance] tax cases, where the question presented is solely and clearly the question of the true cash value of the property given, to be determined as of the date of gift. * * *"'

Defendant's second witness, an appraiser for the Assessment and Appraisal Division of the Department of Revenue, prepared two appraisal reports concerning the subject property. The first report, dated June 27, 1977, was not offered by defendant at trial, but was placed in the record by the plaintiff. (Pl Ex 9.) In that report, the appraiser found that the highest and best use of the subject property was its present use of timber production and farming. After considering all three approaches to value (cost, income and market), he relied on the market data approach for his final value estimate. He also utilized the residual technique to arrive at the value of the land, subtracting the estimated value of the merchantable timber from the sales price of each comparable property. He then adjusted the residual land values for such variables as time, size, location, and quality of access, and arrived at an estimated land value of $550 per acre.

In his second appraisal report, dated November 3, 1978, and offered into evidence by the defendant, the appraiser also utilized the market data approach. In this report, however, he deemed the highest and best use of the subject property to be "rural residential with timber production and farming as added benefits. * * *" (Def Ex A, at 7.) Using the residual technique, and adjusting the comparables to the subject for certain variables, defendant's appraiser arrived at an indicated value for the subject property of $510 per acre.

The wide discrepancies between the values contended by plaintiff's witnesses (approximately $100 per acre) and defendant's expert witnesses (approximately $500 per acre) may be explained by careful study of the testimony of the several witnesses and by recognizing that these discrepancies demonstrate the high degree of subjectivity inherent in the appraisal process. The discrepancies can partially be explained by, and point out the weaknesses of, the "residual" method of valuing timberland. Under the residual technique, the value of the timberland is determined by subtracting the estimated value of the timber from the total price paid for the comparable property. Thus, any error in estimating the value of the timber will cause the resulting land value also to be misstated. An understatement of the estimated timber value will cause the residual land value to be overstated, and vice versa.

In the present case, plaintiff's estimate of "merchantable" timber included all timber with a diameter of eight inches or greater (as found in the marketplace), while defendant's estimate of merchantable timber included only timber having a diameter of 12 inches or greater (following ORS 321.605(10) and (11) (1973 Replacement Part)). Under the residual technique, it is clear that plaintiff's approach will yield a higher estimated timber value, and therefore a lower residual land value, than will defendant's approach. Thus, while both defendant's and plaintiff's estimated values included an amount attributable to the bare land, defendant's value of around $500 per acre also includes the value of all timber

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having a diameter of less than 12 inches, while plaintiff's value of about $100 per acre includes, in addition to a bare land value, the value of timber less than eight inches in diameter. It is probable that the value of the timber between 8 and 12 inches in diameter accounts for much of the difference between the two valuations.

In this case, the court's role is to determine the fair market value of the bare land and the non-merchantable timber *in the market*. The Department of Revenue does not establish the "market" for timber or timberland. Instead, willing buyers and willing sellers involved in arm's-length transactions in the timber market do so. The timber market, composed of buyers and sellers of timber and timberland, generally treats timber having a diameter of eight inches or greater as "merchantable." That being the case, this court finds that plaintiff's approach of including in the bare land value only "non-merchantable" timber (i.e., having a diameter of less than eight inches) is more reasonable and convincing than defendant's approach.[FN2]

> Had the Department of Revenue valued timber having a diameter of eight inches or greater as being merchantable timber, it is quite conceivable that it would have assigned a much higher valuation to the timber portion than the $160,800 it originally assessed. However, plaintiff has only challenged the value of the land and the reproduction and has not challenged the timber valuation. Thus, this court is powerless to add to the merchantable timber value, since that value is not at issue. *Nepom v. Dept. of Revenue*, 272 Or 249, 536 P2d 496 (1975); ORS 305.435.

Finally, the chasm between plaintiff's and defendant's value contentions is partially due to their disparate opinions as to the subject property's highest and best use. Plaintiff consistently contended the highest and best use was the property's present use of timber production. Defendant contended at trial that the property's highest and best use was for rural homesites, with timber production and farming as merely "adjunct" benefits.

[7.] This court believes that the highest and best use of the subject property at the date of death was its current and historic use of timber production. The justification given by defendant's appraiser for his opinion of the highest and best use was that a potential existed, because of favorable zoning and rapid population growth in the area, for dividing the property into smaller sized parcels. It is true that the highest and best use of property may change with time and circumstances, so that its current use will no longer be its highest and best use. *See Oregon Broad-casting v. Dept. of Rev.*, 7 OTR 379 (1978) *modified* 287 Or 267, 598 P2d 689, *rehearing denied* 287 Or 499, 601 P2d 473 (1979). The physical features of the property, any legal, contractual, or economic constrictions on the use of the site, and market conditions such as supply and demand, may all have a bearing on highest and best use, and should be considered in making that decision.

In the present case, it is *possible* the property could be subdivided, since the zoning allowed for either 5-acre or 20-acre tracts. (The basis for a determination of the choice between 5 or 20 was not made clear in the record.) However, the mere *possibility* of subdividing the property into rural homesites is not enough to

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support a finding that this constitutes the property's highest and best use. The requirement of valuation of property at its highest and best use does not sanction the adoption of merely speculative uses. *Williams v. Commission*, 1 OTR 265, 269 (1963). Instead, the highest and best use for land is "*the use that, at the time of the appraisal, is the most profitable likely use.* * * *" American Institute of Real Estate Appraisers, *The Appraisal of Real Estate* 43 (7th ed 1978). When preparing market value estimates, appraisers should limit themselves to highest and best use considerations that have a strong, present probability of achievement; i.e., the most *likely* use at the time. *The Appraisal of Real Estate, supra*, 136-138. More remote possibilities that may occur to the informed buyer or seller must be given less weight.

Defendant's contended highest and best use (subdividing the property for rural homesites) was not supported by evidence that the subject property was presently desirable for such purpose. No evidence of 5-acre rural homesite tracts in the immediate area was introduced at trial. Further, it appears from the testimony of plaintiff's appraiser that the subject timberland is part of and contiguous to a block of approximately 1,800 acres of timbered land which has remained in timber production for a long period and constitutes an economic undertaking of a high order. Finally, plaintiff has convinced this court that certain characteristics of the subject property, including lack of road access, the lack of a sufficient water supply, the steep slope of the land, and the existing soil conditions make it highly unlikely that, at some time near the assessment date, the property could feasibly have been subdivided into rural homesites for sale in quantity in competition with other sites in the area. The commercial use of the property for homesites or rural tracts is premature.

Having considered all the evidence before it, the court finds that plaintiff's valuation approach is the more reasonable, and consequently finds the true cash value of the subject property on August 18, 1975, was $13,065. Defendant's Order No. IH 77-12 is modified in accordance with this decision and its Estate Audit Section assessment shall be modified and reissued. If any tax in excess of the amount found necessary by this decision has been paid, it shall be refunded pursuant to ORS 118.171 (1977 Replacement Part).

Plaintiff is entitled to his statutory costs and disbursements.

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IN THE OREGON TAX COURT
REGULAR DIVISION

DEPARTMENT OF REVENUE,

Plaintiff,

v.

DAVID D. RANKIN
and K. Dianne Rankin,

Defendants.

(TC 4596)

Plaintiff, Department of Revenue, appeals from a decision of the Magistrate Division finding that Defendants' property qualified for forest deferral. Plaintiff argues that the property does not qualify for forest deferral because it is not forestland as defined by ORS 321.257(3). Defendants argue that the property qualifies as forestland under the isolated opening portion of the statutory definition. The court found that to the extent forestland, as defined by ORS 321.257(3), includes nonforested ares, the intent of the statute is that those nonforested areas must provide benefits to sustain the surrounding forestland in forest use. Finding no showing that Defendants' property is necessary to hold the nearby forestland in forest use, the court held that Defendants' property is not forestland and therefore does not qualify for forest deferral.

Property Taxation - Forestland Special Assessment

1. To qualify under the Western Oregon Forestland and Privlege Tax for special forestland assessment, property must qualify as forestland as defined by ORS 321.257(3).

Property Taxation - Forestland Special Assessment - Disqualification

2. Property previously designated as forestland will be disqualified from forestland special assessment in the event the assessor discovers the property no longer meets the statutory definition.

Property Taxation - Forestland Special Assessment - Concurrent and Conflicting Regulations

3. The legislature did not intend the forestry and tax definitions of "forestland" to be congruent.

Property Taxation - Forestland - Isolated Opening

4. To qualify as forestland under the isolated opening portion of ORS 321.257(3), the nonforested property must provide benefits to sustain the surrounding forestland in forest use.

Marilyn Harbur, Assistant Attorney General, Department of Justice, Salem, filed the motion and argued the cause for Plaintiff (the department).

David D. Rankin and K. Dianne Rankin, Defendants (taxpayers) filed a response and argued the cause *pro se*.

Submitted on Plaintiff's Motion for Summary Judgment.

Decision for Plaintiff rendered June 26, 2003.

HENRY C. BREITHAUPT, Judge.

Plaintiff Department of Revenue (the department) appeals from a decision of the Magistrate Division finding that the property of Defendants David and K. Dianne Rankin (taxpayers) qualifies for forest deferral.

I. FACTS

The following facts are summarized from the Stipulation of Facts filed by the parties with the court. Taxpayers own 117.67 acres of land along the south inlet of South Slough on the Siuslaw River in western Lane County. At issue in this appeal are tax lots 700 and 1001 hereinafter the subject property.[(1)] The

parties have agreed that the real market value of the subject property is $1280.

The Lane County Assessor notified taxpayers by letter dated May 8, 2001, that the subject property had been declassified from forest deferral pursuant to ORS 321.359(1)(b)(C).[(2)] It is undisputed that taxpayers' property east of the railroad right-of-way is forestland, as defined by ORS 321.257(4)(2001),[(3)] and is not at issue in this case. The subject property is tideland, covered by commingled salt and fresh water twice a day. A railroad right-of-way separates the forested portion of taxpayers' overall property from the tideland portions. Water and mud surround the subject property at low tide and water surrounds the subject property at high tide. Trees cannot be grown on the subject property, except for an occasional tree in close proximity to the railroad right-of-way.

II. ISSUE

Is property that is covered by commingled salt and fresh water twice daily an "isolated opening * * * necessary to hold the surrounding forestland in forest use through sound management practices" so as to qualify for forest deferral as forestland pursuant to ORS 321.257(3)?

III. ANALYSIS

To determine whether the subject property meets the definition of forestland, the court will apply the method of statutory construction set forth in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P2d 1143(1993). The starting point is the text of ORS 321.257(3) and the context of that statute, including other provisions of the same and related statutes.

Id. at 610-11 (citations omitted).

1. To qualify for special forestland assessment pursuant to the Western Oregon Forestland and Privilege Tax,[(4)] property must be designated as forestland. *See* ORS 321.358 (requiring application for designation as forestland). ORS 321.257(3) defines "forestland" as:

> "[L]and in western Oregon (a) which is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forestland or (b) the highest and best use of which is the growing and harvesting of such trees. Trees of a marketable species may vary in different areas in western Oregon and may change as the utilization of forest trees changes. The size, age, location, quality and condition of trees do not necessarily determine marketable species. **Forestland often contains isolated openings which because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If such openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, they are deemed forestland**. Forestland does not include buildings, structures, machinery, equipment or fixtures erected upon, under or above the soil, but does include roads described in ORS 308.236."

(Emphasis added.)

2. Property is "designated" as forestland upon written application by a property owner to the county assessor.

ORS 321.258. Forestland designation will not be granted by the assessor unless the property is held or used for the predominant purpose of growing and harvesting trees or the property otherwise qualifies within the statutory definition. ORS 321.257(3). Land previously designated as forestland will be disqualified in the event the assessor discovers that the property no longer meets the statutory definition. ORS 321.359(1)(b)(C).

The department argues that the definition of forestland in ORS 321.257(3) is focused on maximizing timber production and only land that "either grows trees or is in some way beneficial to the growing of trees" qualifies as forestland under the statute. The department asserts the statutory definition of forestland and the context of related statutes support a narrow construction of forestland: a construction that excludes taxpayers' property from qualifying as forestland.

The context of the definition of forestland set forth in ORS 321.257(3) includes ORS 321.259 and ORS 321.262. The legislative findings set forth in ORS 321.259 focus on the taxing policies of the state with respect to timber and forestland management. Those policies seek to "encourage production of forest resources for commerce, recreation and watersheds, stabilize employment levels, prevent large population shifts and encourage millage of timber products within Oregon."

ORS 321.259(2). Further, timber is treated as a long-term crop and forestland is taxed "based on the value of the forestland in timber production, and the majority of the tax * * * [is] imposed at the time of harvest." ORS 321.259(4), (5). The department argues that the statutory findings demonstrate a legislative intent that the definition of forestland is to be narrowly construed, focusing on property that either grows trees or is necessary to the production of timber as a crop for harvest.

Taxpayers point to ORS 321.262(2)(c) as support for their position that the subject property should be classified as forestland. ORS 321.262 sets forth the purposes of the Western Oregon Forest and Privilege Tax scheme. That statute recognizes the long-term nature of the forest crop and encourages growth and harvest of timber. ORS 321.262(2)(a). Further, the privilege tax scheme is said to promote the state's forestry policy including "the restocking of forestlands * * * enhancing the water supply, preventing erosion, providing habitat for wildlife * * * and providing for needed products." ORS 321.262(2)(c).

Taxpayers also argue that Department of Forestry statutes, such as portions of the Oregon Forest Practices Act[(5)] and related administrative rules, support their position that the subject property qualifies as forestland under ORS 321.257 (3). Taxpayers urge the court to consider statutes such as ORS 527.630(1) and 527.710(2) and (3), which form part of the Oregon Forest Practices Act, as part of the context of the definition of forestland in ORS 321.257(3). Taxpayers appear to do this because the forestry statutes make reference to the effect of forest practices on water, estuaries, and tidelands. Additionally, taxpayers point to management practices specified in related administrative rules as additional support for their position that the subject property qualifies for forestland designation for tax purposes.[(6)]

The essence of taxpayers' position is that when designating property as forestland pursuant to ORS 321.257(3), the assessor should consider and apply not only the statutory definition of ORS 321.257(3), but the definitions and regulations that apply to forestland pursuant to the forestry statutes and administrative rules. The department contends that the definition of forestland and the context of the forestland taxation statutes do not extend to statutes and administrative rules governing the Department of Forestry.

The question of whether taxation statutes should be coordinated with other statutory schemes dealing with similar subjects has previously been considered in the context of land use statutes. In *Springer v. LCDC*, 111 Or App 262, 826 P2d 54 (1992), *rev den* 313 Or 354 (1992), the issue before the court was whether preferential tax assessment programs administered by the Department of Revenue, such as farm use and forestland statutes, affect land use and therefore are subject to the requirements of ORS 197.180(1).[(7)]

Focused on the juxtaposition of land use and tax laws, the *Springer* decision aptly captured the difficulty of coordinating statutes with similar subject matter but different purposes.

> "[G]overnment programs that affect land use are not subject to the land use laws if the fundamental purposes of the programs would be frustrated by attempting to coordinate them with land use requirements or if the primary objectives of the programs are so different from the land use requirements that an attempt

at coordination would result in sacrificing those primary objectives to an incidental effect."

Id. at 267. The court concluded that the tax statutes governing farm use and forestland are distinct from the land use laws of the state and held that, although the tax and land use laws deal with similar subjects, the administration of the laws was not intended to be coordinated. *Id.* at 268.

3. It is true, as taxpayers assert, that the forestland taxation statutes at issue in this case and the Department of Forestry statutes, such as the Oregon Forest Practices Act, relate to similar general subject matter. However, the statutory schemes have different purposes, definitions, eligibility requirements, and enforcement mechanisms.

Compare ORS 321.257(3)(defining forestland for purposes of the revenue statutes) *with* ORS 527.620(7) (defining forestland for purposes of the forestry statutes). It is particularly important that the definition of "forestland" in the forestry statutes applies "regardless of how the land is zoned **or taxed**." ORS 527.620(7) (emphasis added). That statutory provision makes clear the legislature did not intend the forestry and tax definitions of "forestland" to be congruent.

The forestry statutes and administrative rules taxpayers urge the court to consider establish the state's policies and regulations with respect to forest management. However, as to land within or adjacent to forestland, those statutes have a different focus than the forestland tax statutes. The forestry statutes and rules focus on preserving forestland. The statutes also focus on the effects of use of forestland on other natural resources and protection of waterways and riparian areas. *See* OAR 620-635-0100 (establishing the purpose and goals for the water protection rules of the Oregon Department of Forestry). The nonforestland is the beneficiary of the forestland regulation program.

4. In contrast, the forestland tax assessment statutes are directly concerned with what effects nonforested lands, such as isolated openings, might have on the forestland, not with the effects of forestland on nonforested areas. *See Prahar v. Dept. of Rev.*, 13 OTR 232, 234 (1995) (discussing forestland tax policy as promoting growth of timber as crop). In order to qualify as an isolated opening, the nonforested property must be surrounded by forestland and necessary to sustain the surrounding forestland in forest use. ORS 321.257(3). To the extent the definition of forestland includes nonforested areas, such as isolated openings, the focus of the statute is on benefits those areas provide to the forestland, not on benefits the forestland provides to the nonforested areas.

The subject property is located nearby other property owned by taxpayers that the parties agree qualifies as forestland for purposes of assessment and taxation. As tideland, the subject property may be properly considered as part of the estuary of the south inlet of south slough of the Siuslaw River and it may benefit from the provisions of the general forestry statutes.[(8)] The forestry statutes might impose some limitations on the activities taxpayers choose to undertake on their other forested property so as to not adversely impact the subject tideland property. That linkage does not, however, make the tideland necessary to hold the forestland in forest use. Proximity alone does not result in the subject property being necessary to hold the nearby forestland in forest use as required by the tax statutes. No showing has been made that the tideland or estuary is necessary to the forestland. The fact that some uses of the forestland could affect the tideland does not make the tideland necessary to the forestland.

IV. CONCLUSION

Applying the definition of forestland pursuant to ORS 321.257(3) to the subject property, it is the conclusion of the court that the subject property does not qualify as forestland. Now, therefore,

IT IS ORDERED that Plaintiff's Motion for Summary Judgment is granted. Costs to neither party.

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1. As to tax lot 700, only the 7.9 acres west of the railroad right-of-way are at issue. Tax lot 1001 is 6.78 acres and is also located west of the railroad right-of-way. The total acreage at issue is 14.68 acres.

Return to previous location.

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

LANE COUNTY ASSESSOR,	)	
	)	
Plaintiff,	)	No. 020593A
	)	
v.	)	
	)	
RICHARD A. BRIGGS	)	
	)	
Defendant.	)	**DECISION**

Lane County has appealed an order of the board of property tax appeals. The decision of the board was to lower the assessed value, for the 2001-02 tax year, of property owned by Richard A. Briggs and identified by Account No. 405215.

Lane County was represented by Steve Nassett, of its staff. Mr. Briggs presented his case.

The property at issue is owned by Mr. Briggs, subject to an easement granted to the Bureau of Land Management. Located on the west side of Greenhill Road near its intersection with Royal Avenue in Lane County, the property is 22.2 acres in area, of which 18.7 acres is delineated wetlands.

STATEMENT OF FACTS

Management of the west Eugene wetlands is done through Wetland Executive Team (WET) a partnership between the City of Eugene, the Bureau of Land Management, and The Nature Conservancy. The Statement of Partnership beginning this relationship was signed on March 11, 1994, and continues in effect through this day. A subsequent Memorandum of Agreement, made on June 13, 1995, further delineated the authority of the Bureau of Land Management to act for the City of Eugene and The Nature Conservancy.

On December 29, 1999, Mr. Briggs donated a conservation easement to the

Bureau of Land Management. As part of this process, a summary appraisal report was commissioned and submitted to the U.S. Department of the Interior, Bureau of Land Management, and Mr. Briggs. This report found the market value of the property, as held in fee simple title, to be $40,000. An allocation of the interests conveyed found the rights embodied in the conservation easement to be worth $38,000. The reserved rights retained by Mr. Briggs were estimated at $2,000. The date of the report was April 14, 2000, for a valuation date as of December 29, 1999, the day of donation.

The board of property tax appeals, after considering these facts, chose to reduce the real market value of Mr. Briggs' property to $2,000. Through this appeal Lane County seeks to have its value increased to $36,797.

COURT'S ANALYSIS

A conservation easement is a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations on the use of the property. ORS 271.715.[1] Not every entity may qualify as a holder of a conservation easement. Under ORS 271.715(3)(a), a holder may only be:

> "The state or any county, metropolitan service district, city or park and recreation district acting alone or in cooperation with any federal or state agency, public corporation or political subdivision."

The court is satisfied that the requirements for a holder of a conservation easement exist in this case. The Bureau of Land Management of the Department of the Interior, a federal agency, holds the easement. The Bureau of Land Management acted in concert, under both a Statement of Partnership and a Memorandum of Agreement, with the City of Eugene in the management of west Eugene wetlands. This degree of accord meets the test for cooperation between a city and a federal agency set out in ORS 271.715(3)(a) in its test for

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[1] All references to the Oregon Revised Statutes are to 2001.

status as a holder.

Once the determination is made that an otherwise valid conservation easement exists, with the easement held by a qualifying holder, the action of the board of property tax appeals is seen as proper. The rule for the taxation of conservation easements is set out in ORS 271.785 and ORS 308.146(7). Under these statutes the property is assessed on the basis of its real market value, less any reduction in that value caused by the easement. The appraisal information on which the board acted demonstrates that the real market value of the unimpaired property was $40,000, that the value attributable to the easement was $38,000, and that the residual estate held by Mr. Briggs was $2,000. This $2,000 was the assessed value ordered by the board.

Lane County makes the point that ORS 307.010 calls for the assessment of the entire interest in the land. As a general rule, this is certainly true. However, ORS 271.785 lays out specific provisions applying to the assessment of conservation easements. In the application of this statute $38,000 is lost to assessment, however, this fact is hardly remarkable. The holders of the easement are, after all, the City of Eugene and the federal government. In balancing the general rules, it is not lost on the court that the property interests of national and local governments are typically not assessable.

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///

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CONCLUSION

Now, therefore,

IT IS THE DECISION OF THIS COURT that the appeal is denied. The

March 22, 2002, Order of the Board of Property Tax Appeals shall remain undisturbed.

Dated this _____ day of August, 2002.

SCOT A. SIDERAS
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON AUGUST 29, 2002. THE COURT FILED THIS DOCUMENT ON AUGUST 29, 2002.

Appendix G—Counter questions

You need to clarify what information the taxpayer needs. Many taxpayers will describe their situation and use terms that are not consistent with current law or procedures. It is important to communicate with the taxpayer so you understand what the important issues are. Many conversations start off in one direction only to find out that the real issues are something else. It is important to verify the details of every situation until you are satisfied you have identified all of the issues related to their question.

Before answering a question, narrow the question down so that you know what type of special assessment the owner is inquiring about. For instance, if it's a farm use question you need to know if the land is all EFU or all non-EFU or a mix of EFU and non-EFU. The farm may also have portions that are under forestland special assessment or wildlife habitat, etc. Each program has its own statutes and though they may be similar, they all have differences and the land involved needs to be identified and processed separately.

Often the taxpayer may be anxious because they have received a notification from the assessor or tax collector, or are concerned their property taxes will be adversely affected. You cannot please everyone and sometimes you can do little to help them. However, it helps if you give them enough information so they understand their situation and feel that they are being treated equitably. The old saying of treating someone else the way you would like to be treated yourself goes a long way to defuse most situations.

If you don't know the answer, in most situations you can research the issue and get back to the taxpayer later. Be sure to take good notes and obtain enough information so that you can accurately identify the account, the land or property involved, and the details of the issue.

This section contains some common counter questions that you may experience.

These questions are designed to provide basic direction and are not designed to be all-inclusive. You are encouraged to study and research current statutes, administrative rules, information circulars, and forms to build upon these questions.

The answers to these questions will likely develop into additional questions and dialogue. Read the answers and be prepared to address any obvious additional questions.

Special assessments (all programs)

What happens if I purchase specially assessed property?

- Owners have a responsibility to learn about the special assessment program that applies to their property. If they wish to continue special assessment they must keep the land in a qualifying use.
- Provide information circulars, applications, forms, websites and resource contacts (Appendix E). Explain some of the basics for the special assessment program they are inquiring about.
- Explain there is a "potential additional tax" notation on the assessment roll and on their property tax statement(s) for properties in special assessment.
- Explain disqualification, change in special assessment and additional tax consequences for the program.

Can I put part of my land in farm and part in forest (or something else)?

- Yes, any land on your parcel that meets the qualification requirements of a given program may receive special assessment.
- Special assessment is granted on a per acre basis and only one special assessment may be granted for the same land. Special assessments cannot overlap.

How much will I save on my tax bill if I put land in special assessment?

- Explain that values will be changed from the current assessed value on the affected land to a specially assessed value for the number of acres for each land class. You can use the last available rate and value difference to get an approximate answer.

Can I change to a different special assessment?

- First determine what special assessment program the land is currently in or has been disqualified from and which program the owner wants to change to. The timing of the change should occur so that the owner has an opportunity to transition from one special assessment to another without a break in special assessment.

— If the land is currently under special assessment, inform the owner the land is disqualified for "no longer in use" in their current special assessment program when the use changes. Once disqualified, follow the procedure below for a change in special assessment under ORS 308A.706(1)(d).

— Change in special assessment of disqualified land under ORS 308A.706(1)(d). If the change is the result of a disqualification, you will need to have a good understanding of the procedures for each type of disqualification. The "Disqualification notification procedures" (Appendix H) will explain timing and procedures. See the "Heptagon diagram" (Appendix I) for possible changes in special assessment. ORS 308A.724 provides the statutory timing requirements for a change in special assessment following a disqualification. A disqualification notification letter should be in the file. Review the disqualification notification letter with the owner to explain the reason and procedure for the disqualification. If a change in special assessment is not possible explain any tax consequences. The land may be assessed based on market value or there may be the collection of additional taxes upon disqualification from special assessment.

  ORS 308A.724 specifies that land changing to non-EFU following a disqualification has five years to meet both the income and use requirements.

  ORS 321.709(2)(d) specifies that land changing to STF must not have been disqualified from STF for any of the five tax years preceding the year for which STF special assessment is sought. However, there is a requirement that all contiguous forestland acquired by an STF owner be placed in the STF program. In this instance, it is acceptable to place land disqualified from STF in the previous five years back into the program.

- Review any information circulars or applications and forms the owner will need to complete to accomplish the change in special assessment. If a change is not possible inform the owner of the reasons why the land cannot qualify.

How much will it cost me to discontinue the special assessment?

- Determine the program the owner wants to discontinue and address increases in taxable value and additional taxes.

  — EFU: The owner cannot request to remove land from special assessment in an EFU zone. If the owner discontinues farming, the land can be disqualified for "no longer in use" and will be assessed based on market value. At any time the owner resumes farming any of the land for profit in a qualifying use, the land is required to be under farm use special assessment.

  ORS 308A.706(1)(a) specifies the additional tax is only collectable for disqualified farmland if change in use is incompatible with returning the land to a farm use. Idle land is not a change of use and no additional tax can be collected if the land is not farmed, but, remains idle.

  — Non-EFU: If the owner requests the land be removed from farm use special assessment, the land will be assessed based on market value. The owner may continue to farm the land for profit. To requalify, the owner will need to submit a new application.

  ORS 308A.706(1)(d) specifies the additional tax is only collectable for disqualified farmland if the change in use is incompatible with returning the land to a farm use. Idle land is not a change of use and no additional tax can be collected if the land is not farmed, but, remains idle.

  If the special assessment is being removed due to recording of a subdivision plat, any portion of the land may requalify for non-EFU special assessment after paying additional taxes and meeting the requalification criteria of ORS 308A.116(4). There is no provision for the owner to change to a different special assessment. A change to a different special assessment will require the owner to submit a timely application or claim under the provisions of the program. This may result in the valuation of the land based on market value during the transition period.

  — Designated forestland: If the owner requests the land to be removed from designated forestland special assessment, the land will be assessed based on market value and additional taxes will be collected if the land does not change to a different special assessment.

  — Highest and best use forestland: HBU is not a special assessment, it is a classification based on an appraisal decision. There is no option for the owner to remove this classification. HBU forestland does not have additional taxes when the classification is removed upon determination by the assessor that the land has a higher and better use other than forestland.

  — Small tract forestland: If an owner changes **from** STF **to** another special assessment or to exempt ownership the difference between the STF taxes and the taxes imposed as forestland

will be imposed. See the "Additional tax" chapter. An **owner cannot change STF to DFL or HBU forestland** If the land is removed from the STF special assessment and does not change to a different special assessment the land will be assessed based on market value and the second additional tax for the difference between 100 percent forestland values and what it would have otherwise been assessed based on market value will be collectable.

- Additional taxes will be required for land in EFU, DFL, STF, or open space if an owner is in the process of establishing a non-farm dwelling under ORS 215.236.

  ORS 215.236(4) does not require disqualification or an additional tax for any land already in WLH special assessment at the time the owner is seeking a non-farm dwelling under ORS 215.236.

  ORS 215.236(6) specifies after being disqualified the landowner may **change from** EFU, DFL, STF, or open space **to** WLH special assessment. Additional taxes for any land qualifying for a change to WLH special assessment are deferred under ORS 308A.706(1)(d) or in the case of open space under ORS 308A.318(4). Additional taxes would be collected for any portion of the disqualified land not qualifying for a change to WLH.

- An owner may request to pay additional taxes as specified in ORS 308A.715 for any land that has been disqualified.

Why does it say "potential additional tax liability" on my tax bill or print out?

- This is just a potential lien and is not collectable until an event occurs which would require its collection. When a property first begins a special assessment program, the law requires the PAT notation on the assessment and tax rolls. This is to inform the owner and general public that a potential collectable lien attached to the property since the land was under special assessment.
- If the owner wants more information, identify the program the owner is interested in and address additional taxes following the "disqualification notification procedures" and "information circulars" for the program.

What happens to the special assessment if I sell my property?

- If any of the land is EFU, non-EFU farmland, or DFL, the special assessment is not affected by the change of ownership. The special assessment stays with the land except for:

  1. Small tract forestland (STF) requires the new owner to submit an STF application for continued qualification. The application must be received within 30 days of receiving the "notice of intent to disqualify" letter from the county assessor. If an application for continued qualification is not returned to the assessor within the required 30 days, the land will be disqualified from STF. The land will automatically qualify for designated forestland or highest and best use forestland and will revert back to 100 percent forestland values. Land disqualified will not be eligible to return to the STF program for a minimum of five years.
  2. Highest and best use forestland is not a special assessment, it is an appraisal decision. A sale or change in ownership by itself is not a reason to change the land from highest and best use forestland.

Forestland

What do I have to do to qualify for forest assessment?

- Designated forestland: To qualify, the area to be designated must be at least two contiguous acres in one ownership. If the owner meets the minimum acreage qualifications, provide the owner an application. Go over the details of the required application.
- Small tract forestland: First determine if the owner has or will have a minimum of 10 acres of qualified forestland, but less than 5,000 acres of qualified forestland in common ownership in Oregon. If the owner meets the acreage qualifications, then discuss the application requirements. If the land is not already under designated forestland provide the owner with an application for designated of forestland **and** an STF application. Go over the details of the required application(s) with the owner.
- Highest and best use forestland: any land classified as HBU is assessed as forestland. No application is necessary. HBU forestland is not a special assessment it is an appraisal decision.

If I have forestland, what sort of activity to I have to notify the Oregon Department of Forestry (ODF) of?

The ODF requires notification for most forest operations, including:

- Harvesting (including commercial thinning).
- Disposal or treatment of slash (including prescribed burning).

- Site preparation for planting (including application of herbicides).
- Pre-commercial thinning to reduce overstocked stands.
- Stand maintenance (including chemical application for pest control).
- Road construction and maintenance.

A copy of the ODF notification form is in Appendix C. Direct the landowner to contact their local ODF office for more information.

I have 10 acres of Christmas trees that I am not going to harvest. Can I convert these acres to forestland?

- A landowner may make an application for designated forestland on property that may be under another special assessment. Christmas tree plantings are often planted at high densities and will likely meet the minimum stocking requirements. However, field confirmation is required.
- Some tree species planted for Christmas trees may not be suitable for timber production and would therefore not meet stocking requirements. See "Land supporting christmas trees" in the "Special provisions" chapter.
- Become familiar with the suitable reforestation tree species in your area, or contact the local ODF stewardship forester for more information.

How many trees per acre are needed to qualify for forestland?

- Most land in western Oregon requires the minimum seedling equivalent to be 200 trees per acre for cubic foot site productivity classes I, II, and III.
- Most land in eastern Oregon requires the minimum seedling equivalent to be 100 trees per acre for cubic foot productivity site class VI.
- Refer to table 2, page 2–10 for more details.

What happens when the trees are thinned/ harvested?

- Taxes on harvested timber must be reported and paid to the Oregon Department of Revenue:
  1. Severance tax: Applies to the harvest of timber from any land specially assessed as STF.
  2. Forest products harvest tax (FPHT): Applies to any timber harvested in Oregon, except for timber harvested from Indian reservation lands.
- To continue forestland special assessment, the landowner must take action to ensure that the land continues to meet the minimum stocking requirements.

  Note: Prior to harvesting, you must notify the Oregon Department of Forestry. See "Resource contacts" in Appendix E.

Homesite

Can I build a house on my forestland?

- Receiving approval to establish a forestland dwelling can be a very complicated process that will require the landowner to gather information from several sources. Direct the landowner to the contact the county planning department for requirements to establish a dwelling on land zoned for forest use.
- If the lot or parcel is more than 10 acres in western Oregon, or 30 acres in eastern Oregon, the landowner will have to conduct a stocking survey and submit it to the assessor as one of the criteria for approval.
- The assessor is responsible for verifying that the minimum stocking requirements have been meet (ORS 215.730). See the "Qualification" chapter, section 2D5.

I have forestland. Can my homesite also get a special assessment?

- The parcel the homesite is located on needs to have at least 10.01 acres of qualified forestland in addition to the area of the homesite. The homesite area can be less than an acre or more than an acre. No application is require for a qualifying homesite.

  Reminder: Only forest homesites in the following zones can qualify:

  1. EFU.
  2. Forest.
  3. Farm and forest mixed.

  Homesites in rural residential, commercial, industrial zones, etc. do not meet the criteria and these homesites cannot qualify for forestland homesite special assessment.

What is a non-farm dwelling? …parcel?

- Non-farm dwellings that affect special assessments are land use decisions under ORS 215.236 that occur only in EFU zones. Land use decisions for the establishment of dwellings are regulated by the local planning department. To gain final approval for establishing a non-farm dwelling under ORS

215.236 requires any land, in the parcel the non-farm dwelling is located on, to be disqualified and additional taxes paid for the following special assessment programs:

— EFU.

— Open space.

— DFL (eastern Oregon or western Oregon).

— STF.

To requalify the parcel for special assessment in the any of the above programs, ORS 215.236(5) requires an entire contiguous lot or parcel to be combined with the property that is subject to ORS 215.236. A lot line adjustment is a portion of a parcel and will not requalify the property. Combining a contiguous lot or parcel that is also subject to ORS 215.236 will not requalify the property.

The following only applies to counties that allow wildlife habitat (WLH): An owner may elect to change from one of the above special assessments to WLH special assessment and defer additional taxes under ORS 308A.706(1)(d) or if open space 308A.418(4). ORS 215.236 does not require disqualification of any land already under WLH special assessment. Land subject to ORS 215.236 may qualify for WLH special assessment at any time. Land subject to ORS 215.236 that is disqualified from WLH may not change to any of the above special assessments until ORS 215.236(5) is satisfied.

Appendix H

Oregon Department of Revenue – Property Tax Division
Farm/Forest Tech Group
February 1, 2007

Disqualification Notification Procedures

ORS 308A.718

ORS 308A.724

TABLE OF CONTENTS

I. EXPLANATION OF STATUTE 308A.718 8-79

II. EXPLANATION OF STATUTE 308A.724 8-83

III. CONTENTS OF NOTIFICATION LETTER ORS & OAR 150-308A.718 8-85

IV. BRIEF DESCRIPTION OF DISQUALIFICATION GROUPS 8-87

V. SAMPLE LETTER CHART 8-91

VI. SAMPLE LETTER INSTRUCTIONS 8-93

VII. SAMPLE LETTERS 8-95

Explanation of Statute 308A.718

All of the following language (**in Black**) for the Explanation of ORS 308A.718 is statutory. ORS 308A.718 is quoted word for word and the appropriate statutory information for disqualifications have been inserted (***in italicized Red***) into the ORS 308A.718 language where applicable. Language in ORS 308A.718 has been (**bolded** or <u>underlined)</u> to add emphasis for importance. "Notes" have been added (**in Shaded Blue**) when appropriate to provide additional interpretation.

ORS 308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation.

(1) The county assessor shall **<u>send notice</u>** as provided in this section if land is disqualified under any of the following special assessment programs:

(a) Farm use special assessment under ORS 308A.050 to 308A.128

EFU Farmland - ORS 308A.113(1)

(a) No longer in use;

(b) Zone change to non-EFU;

(c) Non-farm dwelling under ORS 215.236.

Non-EFU Farmland - ORS 308A.116(1)

(a) Owner request;

(b) Sale or transfer to an ownership making the land exempt;

(c) No longer in use or failure to meet income requirements of ORS 308A.071;

(d) Recording a subdivision plat.

(b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259

Farm or Forest Homesite ORS 308A.259(1)

(a) Not being used in conjunction with forestland;

(b) Not being used in conjunction with farmland and is being used for a non-farm purpose. (vacancy is not a change in use)

Note: If a homesite becomes disqualified for the establishment of a non-farm dwelling under ORS 215.236 the additional tax is collectable under ORS 308A.259(2). Otherwise, there is no additional tax for homesite disqualifications.

(c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390

W.O. Forestland - ORS 321.359(1)(b)

(A) Owner request;

(B) Sale or transfer to an ownership making the land exempt;

(C) No longer in use;

(D) Recording a subdivision plat.

W.O. Forestland - ORS 215.236 non-farm dwelling in an EFU zone

(d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855

E.O. Forestland - ORS 321.842(1)(b)

(A) Owner request;

(B) Sale or transfer to an ownership making the land exempt;

(C) No longer in use;

(D) Recording a subdivision plat.

E.O. Forestland - ORS 215.236 non-farm dwelling in an EFU zone

(e) Small Tract Forestland special assessment under ORS 321.700 to 321.754

STF Option - ORS 321.712(1)

(a) Owner acquisition of contiguous land held in common ownership; Assessor may disqualify – see note below.

(b) Owner acquisition of common ownership exceeds 5,000 acres of Oregon forestland; Disqualification required – see note below.

(c) Owner sells forestland resulting in a common ownership of less than 10 acres of Oregon Forestland; Disqualification required – see note below.

(d) Change of use to a use that is no longer forestland. Disqualification required – see note below.

NOTE: ORS 321.712(3) states "the county Assessor **may** disqualify Small Tract Forestland if the assessor discovers an acquisition, sale, or change in use… for which the owner did not give written notification". Because of the requirements of ORS 321.716 the only time the Assessor **"may"** disqualify is under ORS 321.712(3)**(a) Owner acquisition of contiguous land held in common ownership.** ORS 321.712(3)**(b), (c), and (d)** are reasons the assessor **must** disqualify as specified under ORS 308A.716.

STF Option - ORS 321.716(1)

(a) Sale or transfer of STF forestland;

(b) No longer in use;

(c) Owner owning or holding in common ownership more than 5,000 acres of Oregon forestland;

(d) Owner owning or holding in common ownership less than 10 acres of Oregon forestland;

(e) Written notice from State Forester that the land no longer meets Small Tract Forestland requirements;

(f) STF land qualifying for another special assessment under ORS 308A.706(1)(d)(A),(B) or (F);

(g) Recording a subdivision plat.

(f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430

WLH - ORS 308A.430(2)

(a) Written notice from Oregon Department of Fish and Wildlife the plan is not being implemented as approved;

(b) Owner request;

(c) Sale or transfer to an ownership making the land exempt;

(d) WLH land qualifying for another special assessment listed in ORS 308A.703(1);

(e) Recording a subdivision plat.

Note: No provision in statute to disqualify land in wildlife habitat special assessment under ORS 215.236 for establishment of a non-farm dwelling in an EFU zone. If the land is disqualified from EFU, open space, designated forestland or small tract

forestland then the land may requalify for Wildlife Habitat Special assessment under ORS 215.236(6) and additional taxes may be deferred under ORS 308A.706(1)(d).

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the **highest and best use** of land **changes from forestland** to a different highest and best use.

(3) **Within 30 days** after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer **in writing** of the disqualification and shall **state the reason** for the disqualification.

A disqualification is effective the date the assessment and tax roll changes; before July 1 it is important to keep the timing of the notification letter within 30 days of the date of the roll change. [*Meeks v. Dept. of Revenue*, 7 OTR 113 (1977)] Roll changes must be made prior to July 1 to be effective for the current assessment and tax year.

For "**no longer in use**" disqualifications, the "notification letter under ORS 308A.718" must be accomplished **no later than August 14**. When the August 14 disqualification requirements have been accomplished the disqualification becomes effective back to January 1 of the assessment year as specified in the following special assessment statutes:

Exclusive Farm Use, ORS 308A.113(1)(a) and (3);
Non-Exclusive Farm Use, ORS 308A.116(1)(c) and (6);
Designated Forestland western Oregon, ORS 321.359(1)(b)(C) and 321.366;
Designated Forestland eastern Oregon, ORS 321.842(1)(b)(C) and 321.845.

Note: The August 14 date provision for "no longer in use" does not apply to Small Tract Forestland or Wildlife Habitat Special Assessment programs.

(4) Following receipt of the notification, the taxpayer may appeal the Assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

ORS 305.505(1) provides the criteria for appeals made to the Oregon Tax court and generally directs an appeal to the Magistrate division unless specifically designated by the tax court judge for hearing at the regular division. A party to the appeal may request mediation as specified in ORS 305.505(2). The manner of appeals to the Magistrate Division of the Oregon Tax Court is found under ORS 305.275. The timing of appeals to the Magistrate Division is found under ORS 305.280. ORS 305.280(1) requires the appeal to be filed within 90 days after the disqualification becomes actually known to the taxpayer, but in no event later than one year after the disqualification has been made.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

(A) ORS 308A.706(1)(d) (relating to change in special assessment);

ORS 308A.706(1)(d)
(A) ORS 308A.062, Exclusive Farm Use (EFU)
(B) ORS 308A.068, Non-Exclusive Farm Use (Non-EFU
(C) ORS 321.358, Western Oregon Designated Forestland (DFL)
(D) ORS 321.839, Eastern Oregon Designated Forestland (DFL)

(E) ORS 321.709, Small Tract Forestland (STF)
(F) ORS 308A.424. Wildlife Habitat (WLH)

(B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);

(C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no re-qualification or reclassification is made under one of the other special assessment laws listed in this paragraph.

Note: See Additional tax information in "Disqualification Group Sample Letters"

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

Note: See "Explanation of ORS 308A.724" and "Disqualification Group Sample Letters"

(c) (A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the Assessor **within 30 days** of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

(a) The result of a request for disqualification by the property owner; or
(No notice under ORS 308A.718 is required) (See Group F)

(b) Because the property is being acquired by a government or tax-exempt entity.
[1999c.314 §39; 2003 c.454 §38:2003 c.539 §18; 2003 c.621 §89]
(No notice under ORS 308A.718 is required) (See Group F)

Note: Section 39, chapter 454, Oregon Laws 2003, provides:

Section 39. The amendments to ORS 308A.718 by section 38 of this 2003 Act apply to tax years beginning on or after July 1, 2004. [2003 c.455 §39]

Note: The amendments to 308A.718 by section 89, chapter 621, Oregon Laws 2003, apply to property tax years beginning on or after July 1, 2004. See section 96b, chapter 621, Oregon Laws 2003.

Note: See note under 308A.318

308A.721 [1999 c.314 §40; repealed by 2003 c.454 §81 and 2003 c.621 §49]

Explanation of Statute 308A.724

All of the following language (**in Black**) for the Explanation of ORS 308A.724 is statutory. ORS 308A.724 is quoted word for word. Language in ORS 308A.724 has been (**bolded** or underlined) to add emphasis for importance. "Notes" have been added (**in Shaded Blue**) when appropriate to provide additional interpretation.

Change of Special Assessment

ORS 308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat land.

(1) (a) In order for additional taxes imposed under ORS 308A.703 to be **deferred under ORS 308A.706(1)(d)** (relating to change in special assessment), the owner must file an application or claim for classification under another special assessment law.

(b) If the disqualification is **effective prior to July 1** in any year, the **owner shall file the required claim or application on or before August 1** of that year.

Note: Disqualifications occurring between January 1 and June 30 are processed under this statute. Includes "No longer in use" disqualifications occurring only between January 1 and August 14.

(c) If the disqualification is **effective on or after July 1**, the county taxing authorities **shall continue the classification** on the current assessment and tax rolls, and the **owner shall file the required claim or application in the next calendar year** in accordance with the laws governing the particular special assessment program.

Disqualifications between July 1 and December 31 are processed under this statute. Includes "No longer in use" disqualifications occurring only between August 15 and December 31.

(2) If an owner of land disqualified under one of the special assessment laws listed in ORS 308A.706(1)(d) seeks to qualify for farm use special assessment of non-exclusive farm use zone farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in which application is made under this section, to qualify for the two-year farm use requirement of ORS 308A.068 and the income requirement under ORS 308A.071.

(3) Notwithstanding subsection (1) of this section, an owner may make application under this section at any time within 30 days of the date notice of disqualification is sent by the Assessor under ORS 308A.718.

Note: Following a disqualification, the 30 day application period is the general rule. **See ORS 308A.724(1)(b) and (c) (above)** for timing of applications which only applies following a change in special assessment under ORS 308A.706(1)(d). Applications or qualification for a different special assessment that do not involve a disqualification under ORS 308A.706(1)(d) must meet the time period as specified by this statute. If an owner wants to change from one special assessment to another it is recommended to process a disqualification as specified in Group C Sample Letters to allow a rollover under ORS 308A.706(1)(d). (See Application section of this manual for application or qualification dates and timelines)

(4) Notwithstanding subsections (1) to (3) of this section, an owner of land disqualified from wildlife habitat special assessment under ORS 308A.430 that was previously subject to ORS 215.236(5) may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236(5). [1999 c.314 §41; 2003 c. 454 §40; 2003 c.539 §20; 2003 c.621 §90] (See note under 308A.318.)

ORS 308A.718 & OAR 150-308A.718
Contents of Notification Letter

- Identify the land disqualified;
  - Account number
  - Number of acres affected
- Notice to the person claiming special assessment;
- A statement the land has been disqualified from __**(type of)**__ special assessment;
- The reason for the disqualification and the correct statute the land is disqualified under;
  - Changing "Highest and Best Use Forestland" is not a disqualification, however, a notice under ORS 308A.718 must be sent when the use changes (ORS 308.718(2)).
  - **Often owners involved with County Planners will come in and request the disqualification for a non-farm dwelling in an EFU zone under ORS 215.236. Even though this is an owner request disqualification a notification under ORS 308A.718 is required because ORS 215.236(7) requires the additional taxes to be processed by statute. By statute additional taxes are to be processed under ORS 308A.700 to ORS 308A.733 which encompasses ORS 308A.718. Any land in open space will be processed under ORS 308A.318(4) for a change to WLH.**
  - When an owner requests a disqualification for a subdivision plat this is not an owner request. It is a disqualification for the act of recording a subdivision and needs to be processed under: (See Group A and Group A-STF)

    308A.116(1)(d) (non-EFU);
    308A.430(2)(e) (WLH);
    321.359(1)(b)(D) (DFL West-OR);
    321.716(1)(g) (STF);
    321.822(1)(b)(D) (DFL East-OR).
- If the property does not or cannot qualify for a change in special assessment or otherwise does not qualify for an exemption the land will be processed as a measure 50 exception and assessed based on market value as calculated under ORS 308.156; (when applicable)
- Inform taxpayer of appeal rights;
  - Appeal to Magistrate Division of the Oregon Tax Court. Address of the Magistrate Division. Must appeal within 90 days from the date the disqualification is known to the taxpayer. $240 appeal fee payable to the Magistrate. Appeal forms available in the Assessor's Office or from the Magistrate Division.
- Summarize requirements to change special assessments. List all special assessments relating to change under ORS 308A.706(d) and 308A.727;
  - ORS 308A.062, Exclusive Farm Use (EFU)
  - ORS 308A.068, Non-Exclusive Farm Use (non-EFU)
  - ORS 321.358, Western Oregon Designated Forestland
  - ORS 321.839, Eastern Oregon Designated Forestland
  - ORS 321.709, Small Tract Forestland
  - ORS 308A.424, Wildlife Habitat (WLH)
  - ORS 308A.727, Open Space (for certain golf courses)
- Provide taxpayer with instructions to make a change to another special assessment;
  - Under ORS 308A.724(1) if the owner elects to defer the additional taxes under ORS 308A.706(1)(d) the owner must file an application or claim for classification they wish to change to;
    - by August 1, or within 30 days of the date the notice of disqualification is sent, for disqualifications effective prior to July 1 of the assessment year whichever date is later .
    - by April 1 of the next calendar year for notice of disqualifications effective July 1 or after of the current assessment year.
  - Under ORS 308A.724(3) if the additional taxes are not deferred under ORS 308A.706(1(d) the owner has 30 days of the date of the disqualification to file an application or claim.
  - The land must meet qualification requirements of the program they are changing to.

- Following a change in special assessment listed in ORS 308A.706(1)(d) explain that after submitting an acceptable application for non-EFU farmland the owner will have five years to meet the non-EFU farm use and income qualification requirements. (ORS 308A.724(2))
- Land disqualified from Wildlife Habitat that is subject to ORS 215.236 may not change to another special assessment listed in ORS 215.236(4) without first satisfying the requirements of ORS 215.236(5).

Brief Description of Disqualification Groups:

Recommended language for the letters are "**in black**" . Language has been **bolded** or underlined to add emphasis for importance. "Notes" have been added (**in Shaded Blue**) when appropriate to provide additional interpretation and are not part of the recommended language in the sample letters. Sample letters should be tailored to fit the situation and the county's own style of communication.

Group # A: This group of disqualifications is for a reason that requires notification under ORS 308A.718 and **additional taxes will be collected**.

No option to defer additional taxes under ORS 308A.706 for this group.

- The land is no longer in use because the land has changed to a non-qualifying use such as residential, commercial or industrial and has been disqualified from the following program:
  Exclusive Farm Use, ORS 308A.113(1)(a);
  Non-Exclusive Farm Use, ORS 308A.116 (1)(c);
  Designated Forestland western Oregon, ORS 321.359(1)(b)(C);
  Designated Forestland eastern Oregon, ORS 321.842(1)(b)(C);
  Wildlife Habitat plan not being implemented as approved, ORS 308A.430(2)(a)
  Use Group A-STF for disqualification of any land in STF.
- Recording of a subdivision plat under ORS Chapter 92 requires the disqualification of the land from:
  Non-Exclusive Farm Use, ORS 308A.116 (1)(d);
  Designated Forestland western Oregon, ORS 321.359(1)(b)(D);
  Designated Forestland eastern Oregon, ORS 321.842(1)(b)(D);
  Wildlife Habitat, ORS 308A.430(2)(e);
  Use Group A-STF for disqualification of any land in STF.
- Establishment of a non-farm dwelling in an EFU zone ORS 215.236(4) and (7);
  Use Group A-STF for disqualification of any land in small tract forestland.

  If your county offers Wildlife Habitat special assessment, process the disqualification notification under Group B or Group B-STF.

  Exclusive Farm Use, ORS 308A.113(1)(c);
  Open Space, ORS 308A.318(2);
  Designated Forestland western Oregon, ORS 321.359(1)(b)(A);
  Designated Forestland eastern Oregon, ORS 321.842(1)(b)(A);

- Other: _____

Group # A-STF: This group of disqualifications is for a reason that requires notification under ORS 308A.718 and **additional taxes will be collected**.

Note: No option to defer additional taxes under ORS 308A.706 for this group.

- Small Tract Forestland is no longer in forestland use because the land has changed to a non-qualifying use such as residential, commercial or industrial and has been disqualified under ORS 321.712(1)(d), 321.716(1)(b); **(choose statute that applies)**
  Use Group A for any disqualifications other than STF.

Recording of a subdivision plat under ORS Chapter 92 requires the disqualification of the land from Small Tract Forestland under ORS 321.716(1)(g);

Use Group A for any disqualifications other than STF.

- Establishment of a non-farm dwelling in an EFU zone, ORS 215.236(4) and (7);
  Use Group A for any disqualifications other than STF.

  If your county offers Wildlife Habitat special assessment process, the Small Tract Forestland disqualification notification under Group B-STF.

- Other: _____

Group #B: This group of disqualifications is for a reason that requires notification under ORS 308A.718 **and** additional taxes are collectable if the land does not change to a different special assessment.

- Currently the land is no longer in a qualifying use and has been disqualified from the following program:
  Designated Forestland western Oregon ORS 321.359(1)(b)(C)
  Designated Forestland eastern Oregon ORS 321.842(1)(b)(C)
  Wildlife Habitat plan not being implemented as approved, ORS 308A.430(2)(a)
  Use group B-STF for disqualification of any land in STF.
- Establishment of a non-farm dwelling in an EFU zone ORS 215.236(4) and (7);
  Use group B-STF for disqualification of any land in STF.

  If your county does not offer Wildlife Habitat special assessment, then process the disqualification notification under Group A or Group A-STF.

  Exclusive Farm Use, ORS 308A.113(1)(c);
  Open Space, ORS 308A.318(2);
  Designated Forestland western Oregon, ORS 321.359(1)(b)(A);
  Designated Forestland eastern Oregon, ORS 321.842(1)(b)(A);
- Other: _____

Group #B-STF: Note: This group of disqualifications are for a reason that requires notification under ORS 308A.718. "Small Tract Forestland additional taxes" under ORS 308A.707(3) are required to be collected if the land does not change to a different special assessment.

- Owner of Small Tract Forestland acquired contiguous land and did not give assessor written notification, ORS 321.712(1)(a); **Note: Assessor may disqualify (Optional – this disqualification is by Assessor discretion)**

- Small Tract Forestland sells or transfers ownership and the new owner does not apply for continued qualification within 30 days, ORS 321.716(1)(a) and 321.719;
- Change in use of any portion of Small Tract Forestland to a use that is not a forestland use, ORS 321.712(1)(d) **or** Discovery by the Assessor that the land is no longer forestland, ORS 321.716(1)(b); **(choose statute that applies)**
- Small Tract Forestland ownership exceeds 5,000 acres of Oregon Forestland, ORS 321.712(1)(b), 321.716(1)(c); **(choose statute that applies)**
- Small Tract Forestland ownership is less than 10 acres of Oregon Forestland, ORS 321,712(1)(c), 321.716(1)(d); **(choose statute that applies)**
- A written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to Small Tract Forestland under rules adopted by the Department of Revenue; ORS321.716(1)(e);
  Use Group B for any disqualifications other than STF.

- Establishment of a non-farm dwelling in an exclusive farm use zone; ORS 215.236(4) and (7);
  Use Group B for any disqualifications other than STF.

  If your county does not offer Wildlife Habitat special assessment, process the disqualification notification for Small Tract Forestland under Group A-STF.

- Other _____

Group #C: This group of disqualifications is for a reason that requires notification under ORS 308A.718 **and** additional taxes are required to be **deferred**.

- Currently **farmland** is **no longer in a qualifying use** or **has been removed from an Exclusive Farm Use Zone at the request of the owner** and has been disqualified from the following program:
  Exclusive Farm Use, ORS 308A.113(1)(a);
  Exclusive Farm Use, ORS 308A.113(1)(b);
  Non-Exclusive Farm Use, ORS 308A.116(1)(c);
- The land is involved in a government exchange of land; ORS 308A.730
- The land has been acquired and is being used for Natural Heritage purposes as specified under ORS 308A.706(1)(c);
- Failure to meet the income requirements under ORS 308A.071, ORS 308A.116(1)(c);
- Small Tract Forestland qualifying for another special assessment under ORS 308A.706(1)(d)(A),(B) or (F). (ORS 321.716(1)(f));
- Wildlife Habitat land qualifying for another special assessment under ORS 308A.703, 308A.430(2)(d);
- Other: _____

Note: Only STF and WLH require a statutory disqualification for land qualifying for another special assessment. When land in special assessment programs other than STF and WLH is going from one special assessment to another special assessment due to a timely application or claim, you may want to send a "no longer in use" disqualification notice under Group C in order to be consistent. The additional taxes for the change in special assessment are deferred under ORS 308A.706(1)(d).

Group #D: This group of disqualifications was previously processed under ORS 308A.718 and potential additional taxes were deferred. The land is currently not under a special assessment program and the collection of deferred potential additional taxes are now required.

- The farmland was previously disqualified because the land was no longer used for a qualifying farm use. The potential additional taxes were deferred under ORS 308A.706(1)(a) and are now required to be collected under ORS 308A.712(2). The farmland was previously disqualified under the following program:
  - Exclusive Farm Use, ORS 308A.113(1)(a);
  - Non-Exclusive Farm Use, ORS 308A.116(1)(c);
- Potential additional taxes were deferred under ORS 308A.706(1)(c) for a change to Natural Heritage uses and are now required to be collected ORS 308A.712(4).
- Potential additional taxes were required to be deferred or abated under ORS 308A.706(1)(e) because the non-EFU farmland was previously disqualified under ORS 308A.116(1)(c) for failure to meet the income requirements under ORS 308A.071. As specified in ORS 308A.119 when the land is used for a higher and better use than

farmland the unabated years of potential additional taxes are required to be calculated and collected under ORS 308A.703 for the incompatible change of use.

Group #E: This group of disqualifications is for a reason that requires notification under ORS 308A.718 and **additional taxes are not required.**

- Highest and Best Use of this land has been declassified from forestland to _____.
- The homesite is no longer used in conjunction with special assessment, ORS 308A.259.
- The Forestland or Small Tract Forestland Homesite no longer meets zoning requirements of ORS 308A.250 and has been disqualified because the owner has initiated a removal of the land from an EFU zone. ORS 308A.259
- The land has been removed from an EFU zone by a local governing body under ORS 308A.709(6), ORS 308A.113(1)(b).
- Other: _____

Group #F: This group of disqualifications are for a reason that **do not require notification under ORS 308A.718**.

- At the request of the owner (ORS 308A.718(6))
    - Non-Exclusive Farm Use, ORS 38A.116(1)(a);
    - Designated Forestland, ORS 321.359(1)(b)(A) Western Oregon
    - Designated Forestland, ORS 321.842(1)(b)(A) Eastern Oregon
    - Wildlife Habitat, ORS 308A.430(2)(b)
- Acquisition by an ownership making the land exempt (ORS 308A.718(6))
    - Non-Exclusive Farm Use, ORS 38A.116(1)(b);
    - Designated Forestland, ORS 321.359(1)(b)(B) Western Oregon
    - Designated Forestland, ORS 321.842(1)(b)(B) Eastern Oregon
    - Wildlife Habitat, ORS 308A.430(2)(c)

Sample Letter Chart – Groups A-F

Group	Notify	Collect	Defer or No Add Tax	Comments
A	Yes	Yes	No	
A-STF	Yes	Yes	No	
B	Yes	Possibly*	Possibly*	*Collect DFL and WLH Additional tax under 308A.703 if 308A.706, 709, or 712 doesn't apply. EFU or Non-EFU is deferred 308A.706(1)(a)
B-STF	Yes	STF 308A.707 Yes 20% to 100%	STF 308A.707 Possibly* 100% to Mkt	*Collect STF Additional tax for difference between 100% and market under 308A.707(3) if 308A.706, 709 or 712 doesn't apply.
C	Yes	No	Yes	
D	Yes	Yes	No	
E	Yes	No	No	
F	No	Possibly*	Possibly*	*See Group F "Owner Request"

Sample Letters Instructions – Group's A through Group F

Reasons for disqualification have been grouped. Each group has similar disqualification characteristics. A brief explanation for each disqualification group is provided at the beginning of each sample letter. Small Tract Forestland (STF) disqualifications require different procedures and were broken out separately to avoid confusion and misinterpretation (See Group A-STF and Group B-STF). The sample letters follow the statutory procedures explained previously. Language in the sample letters have been (**bolded** or underlined) to add emphasis for importance. "Notes" have been added in (**blue shade**) when appropriate to provide additional interpretation or instructions to county personnel processing the letters. **The (blue shade) information is not intended to be part of the letter to the taxpayer.**

These sample letters address **open space special assessment disqualifications** only when the statutes address open space with other types of farm, forest, or wildlife habitat special assessments. **When disqualifying open space land it is recommended to review the open space statutes separately from these disqualification letters and process them accordingly.**

Each disqualification should be carefully studied before deciding the appropriate reason or basis for disqualification. **After deciding the reason for disqualification, then all information in the sample letter that does not pertain to the disqualification should be deleted, and any additional information that would be appropriate should be added.**

ORS 308A.718 requires the disqualification notification letter to the taxpayer must be in writing within 30 days after the date the land has been disqualified.

The disqualification is not effective until the assessment and tax rolls have been changed. Oregon Tax Court decision *Meeks v. DOR, 7 OTR 113 (1977)* page 117 states "the actual change of the roll by the county assessor or his duly authorized agent is the essential overt act which proves the assessor's exercise of his judgment and establishes the disqualification as having actually occurred".

The **general rule** for a disqualification to be effective for the current tax year is to change the assessment and tax rolls by no later than June 30.

Special provisions allow discovery for **"no longer in use"** disqualification's for EFU ORS 308A.113; Non-EFU ORS 308A.116; DFL WO ORS 321.366 and DFL EO ORS 321.845 special assessments provided the notification letter is mailed to the taxpayer no later than August 14 of the assessment year. (For additional information on timing of disqualifications see disqualification section of the Farm Manual)

These samples letters are only a guide to provide statutory compliance with ORS 308A.718 and 308A.724. If your county assessor elects to use these letters, it is encouraged that counties further personalize them as they deem appropriate.

Sample Letter – Group A

Note: This group of disqualifications is for a reason that requires notification under ORS 308A.718 **and** additional taxes will be collected.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of _____land on the above real property account(s) have been disqualified by the Assessor for the following reason. **(Choose the correct reason for disqualification and eliminate the others.)**

___ The land is no longer qualified because the land has changed to a non-qualifying use such as residential, commercial or industrial. The land has been disqualified from special assessment under: **(Choose the appropriate program)**

- Exclusive Farm Use ORS 308A.113(1)(a);
- Non-Exclusive Farm Use ORS 308A.116(1)(c);
- Designated Forestland ORS 321.359(1)(b)(C), Western Oregon;
- Designated Forestland ORS 321.842(1)(b)(C), Eastern Oregon;
- Wildlife Habitat plan not being implemented as approved ORS 308A.430(2)(a).

Use Group A-STF for disqualification of any land in STF.

Any land that you have changed the use incompatible with returning the land to special assessment programs will be required to be disqualified and pay additional taxes.

Please review the "Special Assessment Qualification" section of this disqualification notice. If you believe any portion of the land can meet the qualification requirements of any of these special assessments **(Choose time period)**

in accordance with ORS 308A.724, the application or claim for a change to another special assessment under ORS 308A.706(1)(d) must be submitted **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed, whichever date is later.

"No longer in use" disqualifications for EFU ORS 308A.113; Non-EFU ORS 308A.116; DFL WO ORS 321.366 and DFL EO ORS 321.845 have special provisions which require this notification letter must be mailed no later than August 14.

WLH does not have special provisions for "No longer in use" disqualifications. Therefore, WLH disqualification must follow the general rule and are required to be

disqualified on the tax and assessment rolls by no later than June 30 to be effective for the current tax year.

(Choose the appropriate time period that applies to this disqualification)

in accordance with ORS 308A.724 if the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current tax rolls, and the owner shall file the required claim or application under ORS 308A.706(1)(d) in the next calendar year, **no later than April 1,** in accordance with the laws governing the particular special assessment program.

(Choose the appropriate time period that applies to this disqualification)

This disqualification assumes it is for a reason that all of the acres disqualified have changed use and the current use cannot meet qualification requirements of any of the special assessment programs. The above paragraph is inserted to satisfy the courts just in case an event occurs, that the assessor is unaware of, that may possibly qualify the land for a change in special assessment. If the assessor is aware the owner may possibly qualify any of the acres for special assessment under ORS 308A.706(1)(d) or 308A.727 (open space), those acres should be separately processed under **Group B.**

___ Recording of a subdivision plat under ORS Chapter 92 requires the disqualification of the land from:

- Non-Exclusive Farm Use, ORS 308A.116(1)(d) and (4);
- Designated Forestland ORS 321.359(1)(b)(D) and (3), Western Oregon;
- Designated Forestland ORS 321.842(1)(b)(D) and (3), Eastern Oregon;
- Wildlife Habitat, ORS 308A.430(2)(e) and (3).

Use Group A-STF for disqualification of any land in STF.

This disqualification statute specifies that a landowner may submit a claim or application to requalify for **(insert here, the special assessment program that the land was under at the time of the subdivision disqualification)** special assessment **after** "payment of all additional taxes, any interest or penalty that remains due and owing on the land".

(Add this sentence for farmland or forestland subdivision disqualifications) Land disqualified from **insert here, farm or forest** use must comply with any applicable local government zoning ordinances, governing minimum lot or parcel acreage before the land can requalify for special assessment.

> **Note: ORS 308A.116(4) Non-EFU; 321.359(3) DFL western Oregon; 321.842(3) DFL eastern Oregon; ORS 321.716(2) STF and 308A.430(3) WLH specifies that land disqualified for the act of recording a subdivision may only requalify for the special assessment they were in at the time of disqualification.**

Under ORS 308A.724(3), you have **30 days from the date of this disqualification notice** to apply for special assessment for the current assessment year. The

additional tax is required to be paid and cannot be deferred under ORS 308A.706(1)(d) for this disqualification.
If the disqualification occurs more than 30 days prior to April 1 of the current assessment year the taxpayer will have until April 1 of as specified in ORS 308A.077.

Delete down to "Special Assessment Qualification"

___ Establishment of a non-farm dwelling in an exclusive farm use zone. As specified in ORS 215.236(4) and (7) the owner has requested the land to be disqualified from: **(Choose the appropriate program)**

- Exclusive Farm Use, ORS 308A.050 to 308A.128
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;

Use Group A-STF for disqualification of any land in STF.

If your county offers Wildlife Habitat special assessment, process the disqualification notification under Group B or Group B-STF.

When a lot or parcel has been established for a non-farm dwelling and a **final land use approval has been issued** by the local governing body under ORS 215.236, ORS 215.236(5) prohibits the entire lot or parcel from re-qualifying for any of the following special assessment programs listed under ORS 215.236(4):

- Exclusive Farm Use, ORS 308A.050 to 308A.128;
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;
- Small Tract Forestland, ORS 321.700 to 321.754.

When the lot or parcel is legally combined with a contiguous lot or parcel that constitutes a qualifying parcel as specified in ORS 215.236(5), the restrictions of ORS 215.236 are removed and the land may once again requalify to receive special assessment under any the above programs listed under ORS 215.236(4). Combining of a contiguous lot or parcel that is also subject to ORS 215.236 does not constitute a qualifying parcel. Combining of contiguous land in the form of a lot line adjustment is the combining of a portion of a lot or parcel and does not constitute a qualifying parcel.

(Will require tracking as long as the lot or parcel may be subject to ORS 215.236(5))

___ Other: _____

Additional Tax Information

Additional tax procedure for land disqualified from open space special assessment under non-farm dwelling statute, ORS 215.236(4). (Delete below "all other special assessment" additional tax procedures.

Open space additional taxes are calculated for the number of years the property has been in open space special assessment as specified in ORS 308A.312 and 308A.318.

Open space additional tax to be extended to the 2006-07 tax rolls for collection: $_____

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

For ORS 215.236 non-farm dwelling disqualifications delete down to "Appeal Rights".

Procedure for land disqualified from all other special assessments. (Delete above "open space" additional tax procedures.)

As specified in ORS 308A.700 to 733 for **each year**, beginning with the last year the land was under special assessment, the additional tax is calculated as the difference between the taxes assessed against the land in each year and the taxes that would otherwise have been assessed against the land had the land not been in special assessment.

Additional taxes are calculated for the number of years the property has been in special assessment, **not to exceed** _____ **(Choose the appropriate years of calculation)**

- 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. **Applies only to land disqualified from Exclusive Farm Use or Wildlife Habitat special assessment.**
- Five years. **Applies to all other special assessment disqualifications.**

Additional tax to be extended to the 2006-2007 tax rolls for collection: $_____

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

For ORS 215.236 non-farm dwelling disqualifications delete down to "Appeal Rights".

Special Assessment Qualification

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you may **possibly qualify** for are:

For subdivision disqualifications eliminate all other options other than the special assessment the land was under at the time of disqualification.

Exclusive Farm Use ORS 308A.062: Any land that is within an Exclusive Farm Use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement as specified under ORS 308A.071. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment, the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forestland ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. If your land currently does not meet minimum stocking or species requirements, you may submit an acceptable stocking plan along with a completed application to the Assessor's Office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.706: Eligible owners, having at least 10 acres but less than 5,000 acres of qualified forestland in Oregon, may submit an STF Option application to have their forestland special assessment reduced from the statutory 100% to the STF Option of 20% of the statutory specially assessed value. The resulting tax savings will subject the qualifying property to a severance tax at the time of harvest of any marketable timber. Any land under this special assessment that is not assessed as highest and best use forestland must also have a second qualifying application for designated forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes may be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

This disqualification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File #** **Certified #** **Assessment Year 2006-07**

Sample Letter – Group A – STF

Note: This group of disqualifications requires notification under ORS 308A.718 **and** additional taxes for "Small Tract Forestland" will be collected.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of Small Tract Forestland on the above real property account(s) has been disqualified by the Assessor for the following reason.

(Choose the correct reason for disqualification and eliminate the others.)

___ Small Tract Forestland is no longer in forestland use because the land has changed to a non-qualifying use such as residential, commercial or industrial and has been disqualified, ORS 321.716(1)(b);

Use Group A for any disqualifications other than STF.

Because you have changed the use, the land cannot meet the qualifications of any of the special assessment programs.

Please review the "Special Assessment Qualification" section of this disqualification notice. If you believe any portion of the land can meet the qualification requirements of any of these special assessments **(Choose time period)**

in accordance with ORS 308A.724 the application or claim for a change to another special assessment under ORS 308A.706(1)(d) must be submitted **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed whichever date is later.

STF does not have special provisions for "No longer in use" disqualifications. Therefore, STF disqualification must follow the general rule and are required to be disqualified on the tax and assessment rolls by no later than June 30 to be effective for the current tax year.

(Choose the appropriate time period that applies to this disqualification)

in accordance with ORS 308A.724 if the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current tax rolls, and the owner shall file the required claim or application under ORS 308A.706(1)(d) in the next calendar year, **no later than April 1,** in accordance with the laws governing the particular special assessment program.
(Choose the appropriate time period that applies to this disqualification)

Note: This disqualification assumes it is for a reason that all of the acres have changed use and the current use cannot meet qualification requirements of any of the special assessment programs. The above paragraph is inserted to satisfy the courts just in case an event occurs, that the assessor is unaware of, that may possibly qualify the land for a change in special assessment. If the assessor is aware the owner may possibly qualify any of the acres for special assessment under ORS 308A.706(1)(d) or 308A.727 (open space), those acres should be processed under **Group B.**

Since the land has been disqualified from Small Tract Forestland it will not be eligible for Small Tract Forestland special assessment for a period of five years as required by ORS 321.709(2)(d). After the five-year period has expired a new application may be submitted for Small Tract Forestland.

___ Recording of a subdivision plat under ORS Chapter 92 requires the disqualification of the land from Small Tract Forestland, ORS 321.716(1)(g);

Use Group A for any disqualifications other than STF.

ORS 321.716(2) specifies the land may requalify for **"Small Tract Forestland"** after paying "all additional taxes" and any interest that remains due and owing as a result of the disqualification, provided the land complies with any applicable local government zoning ordinances governing minimum lot or parcel acreage for forest use.

Note: As specified in ORS 321.716(2) land disqualified for the act of recording a subdivision may only requalify for "Small Tract Forestland" and may not change to a different special assessment.

Under ORS 308A.724(3), you have **30 days from the date of this disqualification notice** to submit an application to the assessor for "**Small Tract Forestland**" special assessment under ORS 321.706. **If the disqualification occurs more than 30 days prior to April 1 of the current assessment year the taxpayer will have until April 1 of as specified in ORS 308A.077.** The additional taxes are required to be paid and cannot be deferred under ORS 308A.706(1)(d) for this disqualification.

Small Tract Forestland ORS 321.706: Eligible owners, having at least 10 acres but less than 5,000 acres of qualified forestland in Oregon (ORS 321.709), may submit an STF Option application to have their forestland special assessment reduced from the statutory 100% to the STF Option of 20% of the statutory specially assessed value. The resulting tax savings will subject the qualifying property to a severance tax at the time of harvest of any marketable timber. Any land under this special assessment that is not assessed as highest and best use forestland must also have a second qualifying application for designated forestland.

___ Establishment of a non-farm dwelling in an exclusive farm use zone. As specified in ORS 215.236(4) and (7) the owner has requested the land to be disqualified from Small Tract Forestland.

If your county offers Wildlife Habitat special assessment process the Small Tract Forestland disqualification notification under Group B-STF.

Use Group A for any disqualifications other than STF.

When a lot or parcel has been established for a non-farm dwelling and a **final land use approval has been issued** by the local governing body under ORS 215.236, ORS 215.236(5) prohibits the entire lot or parcel from re-qualifying for any of the following special assessment programs listed under ORS 215.236(4):

- Exclusive Farm Use, ORS 308A.050 to 308A.128;
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;
- Small Tract Forestland, ORS 321.700 to 321.754.

When the lot or parcel is legally combined with a contiguous lot or parcel that constitutes a qualifying parcel as specified in ORS 215.236(5), the restrictions of ORS 215.236 are removed and the land may once again requalify to receive special assessment under any the above programs listed under ORS 215.236(4). Combining of a contiguous lot or parcel that is also subject to ORS 215.236 does not constitute a qualifying parcel. Combining of contiguous land in the form of a lot line adjustment is the combining of a portion of a lot or parcel and does not constitute a qualifying parcel.

(Will require tracking as long as the lot or parcel may be subject to ORS 215.236(5))

___ Other: _____

Additional Tax Information

The calculation of additional taxes for land that is disqualified from "Small Tract Forestland" special assessment involves two separate additional taxes.

Note: When the land is HBU forestland only the Small Tract Forestland additional taxes (20% to 100%) under ORS 308A.707(3)(a)(A) is collectable.

As specified in ORS 308A.707(3); First, the "Small Tract Forestland additional Taxes" under ORS 308A.707(3)(a)(A) are calculated. Second, the "Forestland Additional Taxes" under ORS 308A.707(3)(a)(B) are calculated.

The following information provides the calculation process for each of these additional taxes:

Special Assessment Forestland Additional Taxes under ORS 308A.707(3)(a)(A):

As specified in ORS 308A.707(3)(a)(A) the additional tax is calculated under ORS 308A.707(2) for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 10 years. This calculation is the difference between the taxes assessed against the land as Small Tract Forestland and the taxes that would have

been assessed at 100% of Forestland values. **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)**

Small Tract Forestland Additional Taxes under ORS 308A.707(3)(a)(B):

As specified in ORS 308A.707(3)(a)(B) the additional tax for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 5 years, is calculated as the difference between the taxes that would have been assessed against the land at 100% of Forestland values **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)** and the taxes that would have otherwise been assessed against the land had the land not received special assessment.

"Small Tract Forestland Additional Tax" imposed under ORS 308A.707(3)(a)(A) to be extended to the 2006-2007 tax rolls for collection. $_____

"Forestland Additional Tax" imposed under ORS 308A.707(3)(a)(B) to be extended to the 2006-07 tax rolls for collection. $ _____

Following this disqualification any land that is no longer in a special assessment program will be assessed based on market value as calculated under ORS 308.156.

Delete down to Appeal Rights section below for ORS 215.236 disqualifications.

Special Assessment Qualification

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you **may possibly** qualify for are:

For subdivision disqualifications delete all qualification options except for WLH

Exclusive Farm Use ORS 308A.062: Any land that is within an Exclusive Farm Use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment, the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forestland ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. If your land currently does not meet minimum stocking or species requirements, you may submit an acceptable stocking plan along with a completed application to the Assessor's Office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.709: Since your land has been disqualified from Small Tract Forestland, it is not eligible for Small Tract Forestland special assessment for a period of five years as required by ORS 321.709(2)(d). After the five year period has expired, you may submit an application for Small Tract Forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes will be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

This disqualification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File #** **Certified #** **Assessment Year 2006-07**

Sample Letter – Group B

Note: This group of disqualifications is for a reason that requires notification under ORS 308A.718 **and** additional taxes are collectable if the land does not change to a different special assessment.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of _____land on the above real property account(s) has been disqualified by the Assessor for the following reason.

(Choose the correct reason for disqualification and eliminate the others.)

___ The land is no longer in a qualifying use and has been disqualified from the following program: **(Choose the appropriate program)**

Use group B-STF for disqualification of any land in STF.

Designated Forestland, ORS 321.359(1)(b)(C), western Oregon;
Designated Forestland, ORS 321.842(1)(b)(C), eastern Oregon;
Wildlife Habitat plan not being implemented as approved, ORS 308A.430(2)(a).

___ Establishment of a non-farm dwelling in an exclusive farm use zone. As specified in ORS 215.236(4) and (7) the owner has requested the land to be disqualified from:
If your county does not offer Wildlife Habitat special assessment then process the disqualification notification under Group A or Group A-STF.

Use group B-STF for disqualification of any land in Small Tract Forestland.

(Choose the appropriate program)

- Exclusive Farm Use, ORS 308A.050 to 308A.128
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;

If your county offers wildlife habitat special assessment and any portion of the lot or parcel is in one of the special assessments listed in ORS 215.236(4) below, proceed with a disqualification notification letter. Do not disqualify or collect any additional taxes on any land in wildlife habitat special assessment because WLH, is not listed under ORS 215.236(4).

If your land can meet the qualification requirements of wildlife habitat special assessment, you may defer additional taxes for a change in special assessment under ORS 308A.706(1)(d) for any of the following special assessment programs listed under ORS 215.236(4):

- Exclusive Farm Use, ORS 308A.050 to 308A.128
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;
- Small Tract Forestland, ORS 321.700 to 321.754.

If you cannot or elect not to qualify your land for wildlife habitat special assessment within the statutory time period (see change in special assessment), the entire lot or parcel receiving a non-farm dwelling land use approval will be subject to disqualification and collection of additional taxes under ORS 215.236(4). When a lot or parcel has been established for a non-farm dwelling and a **final land use approval has been issued** by the local governing body under ORS 215.236, ORS 215.236(5) restricts the requalification of the lot or parcel from receiving special assessment from the above programs listed in ORS 215.236(4). The restrictions of ORS 215.236 are removed and the land may once again qualify to receive special assessment for any of the above programs listed in ORS 215.236(4) when the lot or parcel is legally combined with a contiguous lot or parcel that constitutes a qualifying parcel as specified in ORS 215.236(5). Combining of a contiguous lot or parcel that is also subject to ORS 215.236 does not constitute a qualifying parcel. Combining of contiguous land in the form of a lot line adjustment is the combining of a portion of a lot or parcel and does not constitute a qualifying parcel.

(Will require tracking as long as the lot or parcel may be subject to ORS 215.236(5))

FOR LAND THAT IS ALREADY IN WILDLIFE HABITAT SPECIAL ASSESSMENT WHEN THE NON-FARM DWELLING FINAL LAND USE APPROVAL UNDER ORS 215.236 IS GRANTED:

There is no statutory provision for **land already in WLH special assessment** to be disqualified under ORS 215.236(2) thru (4). The lot or parcel will still be subject to the conditions of ORS 215.236(5) in the event of a future disqualification from WLH special assessment. When the owner builds the non-farm dwelling on land that is specially assessed under wildlife habitat, the homesite area (approximately one acre), will be disqualified from wildlife habitat special assessment and additional taxes will be collected if the homesite does not qualify under ORS 308A.253. Process a non-qualifying homesite area under Group A as a residential change in use.

OWNER ATTEMPTING TO QUALIFY LAND UNDER WLH AT THE SAME TIME THEY ARE APPLYING FOR A NON-FARM DWELLING UNDER ORS 215.236:

ORS 215.236(4) Owner notification to assessor "before" final approval of land use change:
If the owner notifies the assessor of the pending non-farm dwelling application **"prior to final approval"** of the land use change, the owner is in compliance with ORS 215.236(4). To change from any of the special assessments listed in ORS 215.236(4) to WLH special assessment, the land owner may submit a timely WLH application to the assessor no later than April 1 of the assessment year. The land owner may also submit a WLH application following disqualification which will **defer additional taxes for a change in special assessment (rollover) under ORS 308A.706(1)(d).** Under the provisions of ORS 308A.706(1)(d), the owner will need to submit the WLH application in accordance with the timelines in ORS 308A.724(1). (See timelines for "Change in Special Assessment". The additional taxes for any land changed **from open space special assessment to WLH will be deferred and processed as specified under ORS 308A.318(4).** (See timelines for open space under "Change in Special Assessment")

As required by ORS 308A.424 the WLH application to the assessor must include a copy of the wildlife and habitat conservation plan and an Oregon Department of Fish and Wildlife certified copy of the declaration the plan is being implemented as described in ORS 308A.412(3). Since these requirements may take considerable time, an owner may not be able to meet the timelines for a successful change in special assessment, which may result in collection of additional taxes and assessment based on market value until the land can qualify for WLH.

ORS 215.236(4) Owner notification to assessor "after" final approval of land use change:
If the owner notifies the assessor of the non-farm dwelling application after the final approval of the land use change, the owner is not in compliance with ORS 215.236(4). Even though the owner is not in compliance with ORS 215.236(4), if there is still time for the owner to submit a WLH application prior to April 1 or the lot or parcel can be processed for a disqualification prior to the July 1 tax year, it is recommended to process the disqualification under Group B or Group B-STF notification requirements which will provide the owner an opportunity to change to WLH under ORS 308A.706(1)(d).

If the owner notifies the assessor after the July 1 tax year and any opportunity following a disqualification to change to WLH special assessment under ORS 308A.706(1)(d) has passed, the lot or parcel from that time on will need to be processed under Group A or Group A-STF. Group A or Group A-STF require the owner to pay the additional tax under ORS 215.236(4), and the owner may requalify the land in wildlife habitat special assessment as specified in ORS 215.236(6).

___ Other: _____

Additional Tax Information

Additional tax procedure for land disqualified from open space special assessment under non-farm dwelling statute, ORS 215.236(4) begins here

Open space additional taxes are calculated for the number of years the property has been in open space special assessment as specified in ORS 308A.312 and 308A.318.

All acres (or any portion) may possibly qualify for a change to wildlife habitat special assessment under ORS 308A.318(4). As specified in ORS 308A.318(4) changing to wildlife habitat special assessment will require any open space additional taxes be frozen and remain a potential additional tax while the land is in wildlife habitat special assessment. The open space additional taxes will remain separate from and in addition to wildlife habitat potential additional taxes. If the land ever becomes disqualified from wildlife habitat and again becomes qualified for open space special assessment, the open space potential additional tax calculation shall resume as of the date of the renewed open space use special assessment qualification.
(To qualify for wildlife habitat special assessment, see "Change in Special Assessment" section of this notification letter)

As specified in ORS 308A.318(4) if the land qualifies for WLH then separate notations must be maintained on the assessment and tax rolls for open space and wildlife habitat potential additional taxes.

Open space additional tax to be extended to the 2006-07 tax rolls for collection: $_____
(These additional taxes will be deferred under ORS 308A.318(4) with a timely change to wildlife habitat special assessment)

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

Delete down to "Change in Special Assessment" for open space disqualification

Additional tax procedure for land disqualified from all other special assessments begins here
All acres (or any portion) may possibly qualify for a change to another special assessment. Changing to a different special assessment will require any potential additional taxes to be deferred as specified under ORS 308A.706(1)(d).
(See "Change in Special Assessment" section of this notification letter)

Potential additional taxes that have been deferred under ORS 308A.706 may be collectable at a future date if the use of the land changes; such as using the land for residential, commercial or industrial purposes.

As specified in ORS 308A.700 to 733 for **each year**, beginning with the last year the land was under special assessment, the additional tax is calculated as the difference between the taxes assessed against the land in each year and the taxes that would otherwise have been assessed against the land had the land not been in special assessment.

Additional taxes are calculated for the number of years the property has been in special assessment, **not to exceed** _____ **(Choose the appropriate years of calculation)**

- 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. **Applies only to land disqualified from Exclusive Farm Use or Wildlife Habitat special assessment.**

- Five years. **Applies to all other special assessment disqualifications.**

Additional tax to be extended to the 2006-07 tax rolls for collection: $_____
(These additional taxes will be deferred under ORS 308A.706(1)(d) with a timely change in special assessment)

Any additional taxes that have been deferred are not collectable by the Assessor at this time. However, ORS 308A.715 allows the landowner to make a written request to pay the additional taxes at anytime following a disqualification.

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

Change in Special Assessment

When land is disqualified Under ORS 308A.706(1)(d), an application may be submitted for another special assessment program under ORS 308A.724, **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed whichever date is later.

(Choose the appropriate time period that applies to this disqualification)

When land is disqualified or declassified under ORS 308A.724, effective on or after July 1 of the assessment year the land will remain in special assessment for the current assessment and tax year. An application or required claim must be submitted by **no later than April 1** for special assessment in the next calendar year in accordance with the laws governing the particular special assessment program.

(Choose the appropriate time period that applies to this disqualification)

When land is disqualified under ORS 308A.318(4) from open space it may qualify for wildlife habitat special assessment. An application must be submitted by **no later than April 1** in the next calendar year in accordance with the laws governing the wildlife habitat special assessment program.

(Choose the appropriate time period that applies to this disqualification)

ORS 308A.318(4) does not provide criteria for the timing of a change from open space to wildlife habitat special assessment. The above timing follows the existing criteria of ORS 308A.424(3) for new wildlife habitat applications and provides at least 3 months for the owner to submit a wildlife habitat application.

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you **may possibly** qualify for are:

For EFU non-farm dwelling disqualifications eliminate all other options except for wildlife habitat special assessment under ORS 215.236(6).

Exclusive Farm Use ORS 308A.062: Any land that is within an Exclusive Farm Use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement as specified under ORS 308A.071. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment, the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forestland ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. If your land currently does not meet minimum stocking or species requirements, you may submit an acceptable stocking plan along with a completed application to the Assessor's Office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.706: Eligible owners, having at least 10 acres but less than 5,000 acres of qualified forestland in Oregon, may submit an STF Option application to have their forestland special assessment reduced from the statutory 100% to the STF Option of 20% of the statutory specially assessed value. The resulting tax savings will subject the qualifying property to a severance tax at the time of harvest of any marketable timber. Any land under this special assessment that is not assessed as highest and best use forestland must also have a second qualifying application for designated forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the

Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes may be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

This disqualification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File#:** **Certified #** **Assessment Year 2006-07**

Sample Letter Group B - STF

Note: This group of disqualifications are for a reason that requires notification under ORS 308A.718. "Small Tract Forestland additional taxes" under ORS 308A.707(3) are required to be collected if the land does not change to a different special assessment.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of Small Tract Forestland on the above real property account(s) has been disqualified by the Assessor for the following reason.

(Choose the correct reason for disqualification and eliminate the others.)

___ Owner of Small Tract Forestland acquired contiguous land and did not give assessor written notification, ORS 321.709 and ORS 321.712(1)(a);
Assessor may disqualify (Optional – this disqualification is by Assessor discretion)

___ Small Tract Forestland sells or transfers ownership and the new owner does not apply for continued qualification within 30 days of the date of notice of intent to disqualify from the Assessor, ORS 321.716(1)(a) and 321.719;

To avoid disqualification, ORS 321.719 has a special one-time provision to allow an applicant to file for continued qualification on or before December 15 of the first tax year for which the forestland would otherwise be disqualified from small track forestland. A $200 late filing fee will be required at the time the application for continued qualification is filed.

Note: If new owner comes in prior to assessor sending intent letter and they do not want to continue STF then inform the new owner to ignore the intent letter. The intent letter is the only means the county has to disqualify the land from STF because STF cannot be disqualified by owner request under these circumstances. Also if the owner does not want the land to be automatically changed to DFL then inform the owner to submit a written request to remove the land from forestland special assessment. An owner can request to have DFL removed. This will result in a disqualification upon owner request.

___ Change in use of any portion of Small Tract Forestland to a use that is not a forestland use, ORS 321.712(1)(d) **or** Discovery by the Assessor that the land is no longer forestland, ORS 321.716(1)(b); **(choose statute that applies)**
Use Group B for any disqualifications other than Small Tract Forestland.

___ Small Tract Forestland ownership exceeds 5,000 acres of Oregon Forestland, ORS 321.712(1)(b), 321.716(1)(c); **(choose statute that applies)**

___ Small Tract Forestland ownership is less than 10 acres of Oregon Forestland, ORS 321,712(1)(c), 321.716(1)(d); **(choose statute that applies)**

___ A written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to Small Tract Forestland under rules adopted by the Department of Revenue; ORS 321.716(1)(e);
Use Group B for any disqualifications other than STF.

___ Establishment of a non-farm dwelling in an exclusive farm use zone. As specified in ORS 215.236(4) and (7) the owner has requested the land to be disqualified from Small Tract Forestland.

If any portion of the lot or parcel is in one of the special assessments listed in ORS 215.236(4) below then proceed with a disqualification notification letter. Do not disqualify or collect any additional taxes on any land in wildlife habitat special assessment because WLH special assessment is not listed under ORS 215.236(4).

If your county does not offer Wildlife Habitat special assessment then process the disqualification notification for Small Tract Forestland under Group A-STF.

Use Group B for any disqualifications other than STF.

If your land can meet the qualification requirements of wildlife habitat special assessment, you may defer additional taxes* with a change in special assessment under ORS 308A.706(1)(d) to any of the following special assessment programs listed under ORS 215.236(4):

- Exclusive Farm Use, ORS 308A.050 to 308A.128
- Open Space, ORS 308A.315;
- Designated Forestland western Oregon, ORS 321.257 to 321.390;
- Designated Forestland eastern Oregon, ORS 321.805 to 321.855;
- Small Tract Forestland, ORS 321.700 to 321.754.

* Small Tract Forestland additional taxes under ORS 308A.707(3)(a)(A) cannot be deferred. (See additional tax section below)

If you cannot or elect not to qualify your land for wildlife habitat special assessment within the statutory time period (see change in special assessment), the entire lot or parcel receiving a non-farm dwelling land use approval will be subject to disqualification and collection of additional taxes under ORS 215.236(4). When a lot or parcel has been established for a non-farm dwelling and a **final land use approval has been issued** by the local governing body under ORS 215.236, ORS 215.236(5) restricts the requalification of the lot or parcel from receiving special assessment from the above programs listed in ORS 215.236(4). The restrictions of ORS 215.236 are removed and the land may once again qualify to receive special assessment for any of the above programs listed in ORS 215.236(4) when the lot or parcel is legally combined with a contiguous lot or parcel that constitutes a qualifying parcel as specified in ORS 215.236(5). Combining of a contiguous lot or parcel that is also subject to ORS 215.236 does not constitute a qualifying parcel. Combining of contiguous land in the form of a lot line adjustment is the combining of a portion of a lot or parcel and does not constitute a qualifying parcel.

(Will require tracking as long as the lot or parcel may be subject to ORS 215.236(5))

FOR LAND THAT IS ALREADY IN WILDLIFE HABITAT SPECIAL ASSESSMENT WHEN A FINAL LAND USE APPROVAL FOR A NON-FARM DWELLING UNDER ORS 215.236 IS GRANTED:

There is no statutory provision for **land already in WLH special assessment** to be disqualified under ORS 215.236(2) thru (4). The lot or parcel would still be subject to the conditions of ORS 215.236(5) in the event of a future disqualification from WLH special assessment. When the owner builds the non-farm dwelling on land that is specially assessed under wildlife habitat, the homesite area (approximately one acre) will be disqualified from wildlife habitat special assessment and additional taxes will be collected if the homesite does not qualify under ORS 308A.253. Process a non-qualifying homesite area under Group A as a residential change in use.

OWNER ATTEMPTING TO QUALIFY LAND UNDER WLH WHILE AT THE SAME TIME APPLYING FOR A NON-FARM DWELLING UNDER ORS 215.236:

ORS 215.236(4) Owner notification to assessor "before" final approval of land use change: If the owner notifies the assessor of the pending non-farm dwelling application **"prior to final approval"** of the land use change under ORS 215.236, the owner is in compliance with ORS 215.236(4). To change from Small Tract Forestland listed in ORS 215.236(4) to WLH special assessment the land owner may submit a timely WLH application to the assessor no later than April 1 of the assessment year. The land owner may also submit a WLH application following disqualification which will **defer forestland additional taxes (100% to Market) for a change in special assessment (rollover) under ORS 308A.706(1)(d).** The **Small Tract Forestland additional taxes (20% to 100%) must be collected** for a change in special assessment per ORS **308A.707(2).** Under the provisions of ORS 308A.706(1)(d) the owner will need to submit the WLH application in accordance with the timelines in ORS 308A.724(1), (See timelines for "Change in Special Assessment").

As required by ORS 308A.424 the WLH application to the assessor must include a copy of the wildlife and habitat conservation plan and an Oregon Department of Fish and Wildlife certified copy of the declaration the plan is being implemented as described in ORS 308A.412(3). Since these requirements my take considerable time, an owner may not be able to meet the timelines for a successful change in special assessment, which may result in collection of additional taxes and assessment based on market value until the land can qualify for WLH.

ORS 215.236(4) Owner notification to assessor "after" final approval of land use change: If the owner notifies the assessor of the non-farm dwelling application after the final approval of the land use change, the owner is not in compliance with ORS 215.236(4). If there is still time for the owner to submit a WLH application prior to April 1 or the lot or parcel can be processed for a disqualification prior to the July 1 tax year, it is recommended to process the disqualification under Group B or Group B-STF notification requirements. This will provide the owner an opportunity to change to WLH under ORS 308A.706(1)(d).

If the owner notifies the assessor after the July 1 tax year and any opportunity following a disqualification to change to WLH special assessment under ORS 308A.706(1)(d) has passed, the lot or parcel from that time on will need to be processed under Group A or Group A-STF. Group A or Group A-STF require the owner to pay the additional tax under ORS 215.236(4)

and then the owner may requalify the land in wildlife habitat special assessment as specified in ORS 215.236(6).

___ Other: _____

Since your land has been disqualified from Small Tract Forestland, it is not eligible for Small Tract Forestland special assessment for a period of five years as required by ORS 321.709(2(d). After five year period has expired, you may submit an application for Small Tract Forestland.

Additional Tax Information

The calculation of additional taxes for land that is disqualified from Small Tract Forestland special assessment involves two separate additional taxes.

(Note: When the land is HBU forestland only the STF additional taxes under ORS 308A.707(3)(a)(A) is collectable.)

As specified in ORS 308A.707(3); First, the "Small Tract Forestland Additional Taxes" under ORS 308A.707(3)(a)(A) are calculated. Second, the "Forestland Additional Taxes" under ORS 308A.707(3)(a)(B) are calculated.

The following information provides the calculation process for each of these additional taxes:

Small Tract Forestland Additional Taxes under ORS 308A.707(3)(a)(A):

As specified in ORS 308A.707(3)(a)(A) the additional tax is calculated under ORS 308A.707(2) for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 10 years. This calculation is the difference between the taxes assessed against the land as Small Tract Forestland and the taxes that would have been assessed at 100% of Forestland values. **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)**

Forestland Additional Taxes under ORS 308A.707(3)(a)(B):

As specified in ORS 308A.707(3)(a)(B) the additional tax for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 5 years, is calculated as the difference between the taxes that would have been assessed against the land at 100% of Forestland values **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)** and the taxes that would have otherwise been assessed against the land had the land not received special assessment.

"Small Tract Forestland Additional Tax" imposed under ORS 308A.707(3)(a)(A) to be extended to the 2006-07 tax rolls for collection.
$ _____

(Note: The additional taxes will be collected upon disqualification of Small Tract Forestland and cannot be deferred)

"Forestland Additional Tax" imposed under ORS 308A.707(3)(a)(B) to be extended to the 2006-07 tax rolls for collection. $_____
(Note: These additional taxes will be deferred under ORS 308A.706(1)(d) with a timely change in special assessment)

All acres (or any portion) may possibly qualify for a change to another special assessment. Changing to a different special assessment will require the "Forestland Additional Taxes" calculated under ORS 308A.707(3)(a)(B) to be deferred as specified under ORS 308A.706(1)(d). For any acres that do not qualify for a change in special assessment the "Small Tract Forestland Additional Tax" under ORS 308A.707(3)(a)(B) is required to be paid. A change in special assessment will not defer the additional taxes under ORS 308A.707(3)(a)(A) for this disqualification.
(See "Change in Special Assessment" section of this notification letter)

Potential additional taxes that have been deferred under ORS 308A.706 may be collectable at a future date if the use of the land changes; such as, using the land for residential, commercial or industrial purposes.

Any additional taxes that have been deferred are not collectable by the Assessor at this time. However, ORS 308A.715 allows the landowner to make a written request to pay the additional taxes at anytime following a disqualification.

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

Change in Special Assessment

When land is disqualified under ORS 308A.706(1)(d), an application may be submitted for another special assessment program under ORS 308A.724 **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed whichever date is later.
(Choose the appropriate time period that applies to this disqualification)

When land is disqualified or declassified under ORS 308A.724 effective on or after July 1 of the assessment year the land will remain in special assessment for the current assessment and tax year. An application or required claim must be submitted **no later than April 1** for special assessment in the next calendar year in accordance with the laws governing the particular special assessment program.
(Choose the appropriate time period that applies to this disqualification)

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you **may possibly** qualify for are:

Note: For EFU non-farm dwelling disqualifications eliminate all other options except for wildlife habitat special assessment under ORS 215.236(6).

Exclusive Farm Use ORS 308A.062: Any land that is within an exclusive farm use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forest Land ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. As part of this change, you may submit an acceptable stocking plan along with a completed application to the assessor's office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.709: Since your land has been disqualified from Small Tract Forestland, it is not eligible for Small Tract Forestland special assessment for a period of five years as required by ORS 321.709(2)(d). After the five year period has expired, you may submit an application for Small Tract Forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes may be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

Appeal Rights: This disqualification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File#:** **Certified #** **Assessment Year 2006-07**

Sample Letter – Group C

Note: This group of disqualifications is for a reason that requires notification under ORS 308A.718 **and** additional taxes are required to be deferred.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of _____land on the above real property account(s) has been disqualified by the Assessor for the following reason.

(Choose the correct reason for disqualification and eliminate the others.)

___ Currently the farmland **insert the correct reason** **is no longer in a qualifying use or has been removed from an Exclusive Farm Use Zone at the request of the owner** and has been disqualified from the following program:

- Exclusive Farm Use, ORS 308A.113(1)(a);
- Exclusive Farm Use, ORS 308A.113(1)(b);
- Non-Exclusive Farm Use, ORS 308A.116(1)(c);

The potential additional taxes for farm use disqualifications will be deferred under ORS 308A.706(1)(a) **when farmland becomes idle and does not change to a different special assessment.** In the future, if this land changes to an incompatible use the deferred additional taxes may become collectable. Uses that are incompatible with returning the land to farm use are; such as using the land for residential, commercial, industrial purposes, or any other use that is incompatible with farm use. Any acres deferred under ORS 308A.706(1)(a) will no longer be specially assessed and will be assessed based on market value as calculated under ORS 308.156.

You may also change to a different special assessment and the potential additional taxes will be deferred under ORS 308A.706(1)(d). Land will receive special assessment for any acres (or portion) that can meet the program qualification requirements of a different special assessment. Any acres that remain no longer specially assessed will be assessed based on market value as calculated under ORS 308.156 and additional taxes will be deferred under ORS 308A.706(1)(a) until there is a change of use incompatible with returning the land to farm use.
(See "Change of Special Assessment" section of this disqualification notice)

___ The land is involved in a government exchange of land. ORS 308A.730

The potential additional tax will be deferred under ORS 308A.706(1)(b) for this exchange and the potential additional tax liability on your old property will be transferred to the new land you are acquiring from the government entity. Upon submitting an application your new land will receive special assessment for any acres that can meet the program qualification requirements. Any acres on the new land that cannot meet special assessment qualification requirements will be assessed based on market value as calculated under ORS 308.156. See "Change of Special Assessment" section of this disqualification notice for programs that you may possibly qualify for.

___ The land has been acquired and is being used for Natural Heritage purposes as specified under ORS 308A.706(1)(c).

The potential additional tax will be deferred under ORS 308A.706(1)(c) and may be collectable in the event the land is no longer used for Natural Heritage purposes. Any acres that do not qualify for exemption will be assessed based on market value as calculated under ORS 308.156.

___ Failure to meet the income requirements under ORS 308A.071, as specified in ORS 308A.116(1)(c).

To date you have not provided sufficient information to the Assessor's office to meet the income requirements of ORS 308A.071 and your land has been disqualified. If you believe your land did meet the requirements to receive farm use special assessment, ORS 308A.089 allows you to submit an application for requalification on or before December 15 of the tax year for which the disqualification is first in effect. The new application must meet all use and income requirements of an application the same as anyone applying for farm use special assessment for the first time. Additionally, ORS 308A.089 requires a graduated late fee to a maximum of $250.

If you do not submit a qualifying application under ORS 308A.089, the potential additional taxes will be deferred under ORS 308A.706(1)(e) **provided the land continues to maintain limited farm use.** For each year limited farm use continues the oldest deferred year will be abated (eliminated) until no potential additional tax years remain as specified under ORS 308A.119. If you discontinue limited farm use at any time the abatement stops and any remaining deferred years of potential additional taxes will remain on the rolls as a notation. Any unabated years of potential additional taxes will be collectable in the event of a change of use such as, residential, commercial, industrial, or any other use that is incompatible with farm use. **Any acres deferred under ORS 308A.706(1)(e) will no longer be specially assessed and will be assessed based on market value as calculated under ORS 308.156 while limited farm use continues.**

If the land meets farm use and income requirements after December 15 of the first tax year for which the disqualification is in effect, you may submit a new application. If the land once again qualifies for Non-EFU farm use or any other special assessment the abatement of additional taxes will stop and any unabated years of additional tax will remain a potential lien the same as any other land under farm use special assessment.

Following this disqualification you may also change any acres to a different special assessment and the potential additional taxes will be deferred under ORS 308A.706(1)(d). Land will receive special assessment for any acres that can meet a given program qualification requirements. Any acres that are no longer specially assessed will be assessed based on market value as calculated under ORS 308.156. (See "Change of Special Assessment" section of this disqualification notice)

___ Small Tract Forestland qualifying for another special assessment under ORS 308A.706(1)(d)(A),(B) or (F). (ORS 321.716(1)(f));

The calculation of additional taxes for land that is disqualified from "Small Tract Forestland" special assessment involves two separate additional taxes.

Note: When the land is HBU forestland only the Small Tract Forestland additional taxes (20% to 100%) under ORS 308A.707(3)(a)(A) are collectable.

As specified in ORS 308A.707(3); First, the "Small Tract Forestland additional Taxes" under ORS 308A.707(3)(a)(A) are calculated. Second, the "Forestland Additional Taxes" under ORS 308A.707(3)(a)(B) are calculated.

The following information provides the calculation process for each of these additional taxes:

Special Assessment Forestland Additional Taxes under ORS 308A.707(3)(a)(A):

As specified in ORS 308A.707(3)(a)(A) the additional tax is calculated under ORS 308A.707(2) for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 10 years. This calculation is the difference between the taxes assessed against the land as Small Tract Forestland and the taxes that would have been assessed at 100% of Forestland values. **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)**

Small Tract Forestland Additional Taxes under ORS 308A.707(3)(a)(B):

As specified in ORS 308A.707(3)(a)(B) the additional tax for **each year,** beginning with the last year the land was under Small Tract Forestland special assessment, up to a maximum of 5 years, is calculated as the difference between the taxes that would have been assessed against the land at 100% of Forestland values **(Insert here, under ORS 321.257 to 321.390, if the land is located in western Oregon or under ORS 321.805 to 855, if the land is located in eastern Oregon.)** and the taxes that would have otherwise been assessed against the land had the land not received special assessment.

"Small Tract Forestland Additional Tax" imposed under ORS 308A.707(3)(a)(A) to be extended to the 2006-07 tax rolls for collection. $ _____

These additional taxes will be collected for this change in special assessment and cannot be deferred.

"Forestland Potential Additional Tax" calculated under ORS 308A.707(3)(a)(B) for this disqualification are $_____

These potential additional taxes have been deferred under ORS 308A.706(1)(d) and are not collectable at this time because the land has changed to a different special assessment.

Potential additional taxes that have been deferred under ORS 308A.706 may be collectable at a future date if the use of the land changes; such as, using the land for residential, commercial or industrial purposes.

Any additional taxes that have been deferred are not collectable by the Assessor at this time. However, ORS 308A.715 allows the landowner to make a written request to pay the additional taxes at anytime following a disqualification.

Since the land has been disqualified from Small Tract Forestland it will not be eligible for Small Tract Forestland special assessment for a period of five years as required by ORS

321.709(2)(d). After the five-year period has expired a new application may be submitted for Small Tract Forestland.

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

For STF delete from here down to "Change in Special Assessment"

___ Wildlife Habitat land qualifying for another special assessment listed under ORS 308A.703, as specified in ORS 308A.430(2)(d). ORS 308A.706(1)(d) requires the potential tax liability to be deferred when land is disqualified and is subsequently qualified for a different special assessment.

___ Other: _____

Note: Only STF and WLH require a statutory disqualification for land qualifying for another special assessment. When land in special assessment programs other than STF and WLH is going from one special assessment to another special assessment due to a timely application or claim, you may want to send a "no longer in use" disqualification notice under Group C in order to be consistent. The additional taxes for the change in special assessment are deferred under ORS 308A.706(1)(d).

Additional Tax Information

The potential additional taxes that have been deferred under ORS 308A.706 and will not be collected under this disqualification will remain a potential additional tax notation on the tax rolls. The deferred additional taxes may be collectable in the future, if the use of the land changes to a use that requires the collection of additional taxes; such as, using the land for residential, commercial, industrial or any other purpose incompatible with returning the land to special assessment.

As specified in ORS 308A.700 to 733 for **each year**, beginning with the last year the land was under special assessment, the additional tax is calculated as the difference between the taxes assessed against the land in each year and the taxes that would otherwise have been assessed against the land had the land not been in special assessment.

Additional taxes are calculated for the number of years the property has been in special assessment, **not to exceed** _____ **(Choose the appropriate years of calculation)**

- 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. **Applies only to land disqualified from Exclusive Farm Use or Wildlife Habitat special assessment.**

- Five years. **Applies to all other special assessment disqualifications.**

Any additional taxes that have been deferred are not collectable by the Assessor at this time. However, ORS 308A.715 allows the landowner to make a written request to pay the additional taxes at anytime following a disqualification.

Potential additional taxes for this disqualification are: $_____

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

Change in Special Assessment

Even though it is obvious that in some of the disqualifications in Group C (above) the owner will not change to a different special assessment, the courts have indicated they still want to have the change in special assessment option made available to the taxpayer. Also in the event that some acres may not be changing to a different special assessment or deferred use under ORS 308A.706, those acres should have a change in special assessment option made available to the taxpayer before assessing any disqualified land based on market value.

When land is disqualified under ORS 308A.706(1)(d), an application may be submitted for another special assessment program under ORS 308A.724, **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed whichever date is later.
(Choose the appropriate time period that applies to this disqualification)

When land is disqualified or declassified under ORS 308A.724, effective on or after July 1 of the assessment year the land will remain in special assessment for the current assessment and tax year. An application or required claim must be submitted **no later than April 1** for special assessment in the next calendar year in accordance with the laws governing the particular special assessment program.
(Choose the appropriate time period that applies to this disqualification)

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you **may possibly** qualify for are:

For owner initiated EFU zone change delete EFU option

Exclusive Farm Use ORS 308A.062: Any land that is within an Exclusive Farm Use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement as specified under ORS 308A.071. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forestland ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. If your land currently does not meet minimum stocking or species, requirements you may submit

an acceptable stocking plan along with a completed application to the Assessor's Office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.706: Eligible owners, having at least 10 acres but less than 5,000 acres of qualified forestland in Oregon, may submit an STF Option application to have their forestland special assessment reduced from the statutory 100% to the STF Option of 20% of the statutory specially assessed value. The resulting tax savings will subject the qualifying property to a severance tax at the time of harvest of any marketable timber. Any land under this special assessment that is not assessed as highest and best use forestland must also have a second qualifying application for designated forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes may be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

This disqualification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File#:** **Certified #** **Assessment Year 2006-07**

Sample Letter – Group D

Note: This group of disqualifications was previously processed under ORS 308A.718 and potential additional taxes were deferred. **The land did not remain under a special assessment program** and the collection of deferred potential additional taxes are now required.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

_____ acres of land on the above real property account(s) were previously disqualified from special assessment. At the time of disqualification you were notified under ORS 308A.718 that the potential additional taxes were required to be deferred under ORS 308A.706. Your land use has changed and now the deferred additional taxes are required to be calculated and collected for the following reason:

(Choose the correct reason for collection and eliminate the others.)

___ The farmland was previously disqualified because the land was no longer used for a qualifying farm use. At the time of disqualification the potential additional taxes were deferred under ORS 308A.706(1)(a) and are now required to be collected because the land use has changed to a use incompatible with farm use. The additional taxes have been calculated and will be collected as required by ORS 308A.712(2). The farmland was previously disqualified under: **(Choose the appropriate program)**

- Exclusive Farm Use, ORS 308A.113(1)(a);
- Non-Exclusive Farm Use, ORS 308A.116(1)(c);

___ The land was previously disqualified from (insert type of special assessment here) special assessment because the land was being used for Natural Heritage purposes and the potential additional taxes were required to be deferred under ORS 308A.706(1)(c). Since the land is no longer being used for Natural Heritage purposes the deferred potential additional taxes are calculated for collection as required by ORS 308A.712(4).

___ The farmland was previously disqualified from Non-Exclusive Farm Use special assessment under ORS 308A.116(1)(c) for failure to meet income requirements under ORS 308A.071. At the time of disqualification the potential additional taxes were required to be deferred under ORS 308A.706(1)(e). Following the disqualification for each year of limited farm use, including the growing of forest products, the oldest deferred year was abated (eliminated), under ORS 308A.119. Unabated years of potential additional taxes are required to be calculated and collected because the land is now being used for a higher and better use than farmland.

The additional tax is calculated as the difference between the taxes assessed against the land in each year and the taxes that would otherwise have been assessed against the land had the land not been in special assessment.

Note: For this additional tax collection under ORS 308A.119 delete from here, down to "Additional tax to be extended…"

___ Other _____

Additional Tax Information

As specified in ORS 308A.700 to 733 for **each year**, beginning with the last year the land was under special assessment, the additional tax is calculated as the difference between the taxes assessed against the land in each year and the taxes that would otherwise have been assessed against the land had the land not been in special assessment.

Additional taxes are calculated for the number of years the property has been in special assessment, **not to exceed** _____ **(Choose the appropriate years of calculation)**

- 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. **Applies only to land disqualified from Exclusive Farm Use or Wildlife Habitat special assessment.**

- Five years. **Applies to all other special assessment disqualifications.**

Additional tax to be extended to the 2006-2007 tax rolls for collection: $_____

Name: _____

Title: _____

By: **File#:** **Certified#** **Assessment Year 2006-07**

Sample Letter – Group E

Note: This group of disqualifications is for a reason that requires notification under ORS 308A.718 and additional taxes are not required.

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ACCOUNT NUMBER(S) CODE(S) ZONE DISQUALIFIED ACREAGE

In compliance with ORS 308A.718 and 308A.724, this is official notification that the special assessment of _____ acres of _____land on the above real property account(s) has been disqualified or declassified by the Assessor for the following reason.

(Choose the correct reason for disqualification and eliminate the others.)

___ Highest and Best Use of this land has been declassified from forestland to _____. (ORS 308A.718(2))

Insert correct statute here: Under ORS 321.358 western Oregon or 321.839 eastern Oregon an owner of land may apply to the county assessor by December 15 to have the land designated as forestland for the assessment year if for the prior assessment year the land had been highest and best use forestland and for the current assessment year the land is being assessed at a value reflecting a use other than highest and best use forestland.

After completing a satisfactory application for designated forestland **Insert correct statute here: under ORS 321.358 western Oregon or 321.839 eastern Oregon,** an owner may elect to submit an additional application to the county assessor by December 15 for the small track forestland option as specified under ORS 321.706 and 321.709.

Following this declassification any land that is no longer in a special assessment program will be based on market value as provided under ORS 308.146.

Delete from here down to "Appeal Rights" for highest and best use declassification.

___ The homesite is no longer used in conjunction with special assessment, ORS 308A.259. The reason for this disqualification is _____.

___ The **Insert correct homesite here: Forestland or Small Tract Forestland** Homesite no longer meets zoning requirements of ORS 308A.250 and has been disqualified because the owner has initiated a removal of the land from an EFU zone. ORS 308A.259

___ The land has been removed from an EFU zone by a local governing body under ORS 308A.709(6), ORS 308A.113(1)(b).

___ Other: _____

Following this disqualification any land that is no longer in a special assessment program will be based on market value as calculated under ORS 308.156.

NOTE: Delete from here down to "Appeal Rights" for a homesite disqualification.

Any acres (or portion) that can qualify for a change to another special assessment will not be assessed based on market value.

Change in Special Assessment

When land is disqualified under ORS 308A.706(1)(d), an application may be submitted for another special assessment program under ORS 308A.724, **within 30 days after the date on the notice of disqualification or by August 1** of the year in which the notice is mailed whichever date is later.

(Choose the appropriate time period that applies to this disqualification)

When land is disqualified or declassified under ORS 308A.724, effective on or after July 1 of the assessment year the land will remain in special assessment for the current assessment and tax year. An application or required claim must be submitted **no later than April 1** for special assessment in the next calendar year in accordance with the laws governing the particular special assessment program.

(Choose the appropriate time period that applies to this disqualification)

Provided that all acres (or any portion) can meet program qualification requirements, the special assessment programs you **may possibly** qualify for are:

Exclusive Farm Use ORS 308A.062: Any land that is within an Exclusive Farm Use zone and that is used exclusively for farm use. "Farm use" means the current employment of land for the primary purpose of obtaining a profit in money. Farm use is defined under ORS 308A.056. A potential additional tax for this program is a maximum of 10 years if the land is located outside of an Urban Growth Boundary. Otherwise, the maximum is 5 years.

Non-exclusive Farm Use ORS 308A.068: Any land that is not within an exclusive farm use zone that is being used for farming and produces a minimum gross income requirement as specified under ORS 308A.071. If additional taxes are deferred under ORS 308A.706(1)(d) for a change in special assessment the owner of a property shall have five years, beginning with the first year application is made, to meet the non-EFU qualification requirements as specified in ORS 308A.724(2). A potential additional tax is a maximum of 5 years.

Designated Forestland ORS 321.358: You must have at least two contiguous acres in one ownership and meet minimum stocking and merchantable species requirements, or have an acceptable plan for establishment of the minimum stocking and species requirements. If your land currently does not meet minimum stocking or species requirements, you may submit an acceptable stocking plan along with a completed application to the Assessor's Office. A potential additional tax is a maximum of 5 years.

Small Tract Forestland ORS 321.706: Eligible owners, having at least 10 acres but less than 5,000 acres of qualified forestland in Oregon, may submit an STF Option application to have their forestland special assessment reduced from the statutory 100% to the STF Option of 20% of the statutory specially assessed value. The resulting tax savings will subject the qualifying property to a severance tax at the time of harvest of any marketable timber. Any land under this special assessment that is not assessed as highest and best use forestland must also have a second qualifying application for designated forestland.

Wildlife Habitat Conservation and Management ORS 308A.424 or 215.236(6): The land must be located in an approved zone or area as specified under ORS 308A.415(1). A land owner must first initiate this special assessment program through the Oregon Department of Fish and Wildlife. When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment. Applications are available from, and are to be submitted to the Assessor, along with a copy of the approved wildlife habitat conservation and management plan and a certified copy of the declaration stating the plan is being implemented as described in ORS 308A.412(3). A potential additional tax for this

program is a maximum of 10 years if the land is outside of an Urban Growth Boundary and is in an Exclusive Farm Use zone. Otherwise, the maximum is 5 years.

Note: Land disqualified from Wildlife Habitat that is subject to a non-farm dwelling under ORS 215.236 may not change to another special assessment without first satisfying the requirements of ORS 215.236(5).

Open Space Lands ORS 308A.727: Submit an application to the Assessor. Within 10 days of the application the Assessor will refer the application to the appropriate Planning Commission for approval under ORS 308A.309 and ORS 308A.312. The application shall be acted upon in the same manner as an amendment to the Comprehensive Plan. As specified under ORS 308A.718, this change to open space special assessment is restricted to certain golf courses under ORS 308A.727. ORS 308A.727(2) specifies this change will defer potential additional taxes under ORS 308A.706(1)(d), and if the land is later withdrawn or otherwise removed from open space special assessment, the additional taxes may be calculated and collected as specified under ORS 308A.727(3) and (4). When the land is withdrawn or otherwise removed from open space special assessment, the potential additional taxes are collectable for each year the land is in open space (no maximum limitation). Open space potential additional taxes are also subject to interest and penalties as specified under ORS 308A.318 and 308A.321.

In accordance with ORS 308A.733 you have 30 days from the date you submit an application or request to change special assessment to withdraw. Your request to withdraw the change in special assessment must be made in writing to the assessor.

Appeal Rights

This disqualification or declassification may be appealed to the Oregon Tax Court, Magistrate Division, within 90 days of receipt of this notice in accordance with ORS 305.275 and ORS 305.280 in the manner provided in ORS 305.404 to ORS 305.560. There is a $240 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: _____

Title: _____

By: **File#:** **Certified #** **Assessment Year 2006-07**

Group F (No Letter Required under ORS 308A.718)

Note: This group of disqualifications are for a reason that do not require notification under ORS 308A.718.

- **The result of a request for disqualification by the property owner. (ORS 308A.718(6)(a))**

The land owner may come into the Assessors office at any time and request to have any portion or all of their land disqualified from the following special assessment programs:

- Non-Exclusive Farm Use, ORS 308A.116(1)(a);
- Designated Forestland western Oregon, ORS 321.359(1)(b)(A);
- Designated Forestland eastern Oregon, ORS 321.842(1)(b)(A);
- Wildlife Habitat, ORS 308A.430(2)(b).

This disqualification is an owner request and as specified in ORS 308A.718(6) it does not require notification under ORS 308A.718. It is recommended the owner submit the disqualification request **in writing**.

An owner request disqualification is not allowed for Small Tract Forestland (STF) special assessment, except, for non-farm dwellings under ORS 215.236 (See Group A-STF and Group B-STF).

ADDITIONAL TAXES FOLLOWING AN OWNER REQUEST TO DISQUALIFY

Non-EFU Farmland:
If the owner requests the disqualification under ORS 308A.116(1)(a), the additional taxes must be deferred under ORS 308A.706(1(a) if the owner does not elect to pay the additional taxes as specified in ORS 308A.715. **Will require tracking.**

If the Non-EFU additional taxes are not paid and the land is no longer in a special assessment program, this disqualification will require tracking and the potential additional tax must remain on the assessment and tax rolls. In the event the land changes use incompatible with farm use the additional taxes will no longer be deferred under ORS 308A.706(1)(a). The assessor will then need to use a Group D letter for collection of the additional taxes as required by ORS 308A.712(2).

Inform the owner (preferably in writing) if they plan to change the use incompatible with farm use that the additional taxes deferred under ORS 308A.706(1)(a) may become collectable as specified in ORS 308A.712(2) at the time they change use.

Designated Forestland (western or eastern Oregon) **and Wildlife Habitat**:
If the owner requests the disqualification and does not want to change to another special assessment under ORS 308A.706(1)(d), the additional taxes are required to be collected under ORS 308A.703 unless otherwise specified by law.

SATISFACTION OF PLANNING REQUIREMENTS IS NOT NECESSARILY AN OWNER REQUEST DISQUALIFICATION

When an owner comes in and requests a **disqualification for a subdivision plat under chapter 92 or a non-farm dwelling under ORS 215.236, this is not an owner request**. An owner may not always state they are in the process of obtaining a subdivision plat or a non-farm dwelling so it is recommended to always inquire why they are requesting the removal of the special assessment.

Disqualification for a subdivision will require notification under ORS 308A.718, collection of additional taxes and the owner may elect to requalify after paying the additional taxes provided the land can meet qualification requirements.

Non-farm dwellings will require disqualification and collection of additional taxes only if the land is in one of the programs identified under ORS 215.236(4). Collection of additional taxes may also be required if the land is not currently in one of the special assessment programs identified under ORS 215.236(4), but, the history of the account demonstrates there are collectable deferred additional taxes under ORS 308A.706. After paying the additional taxes the land may requalify for Wildlife Habitat special assessment as specified in ORS 215.236(6) in those counties that have this option. Otherwise, the non-farm dwelling lot or parcel must meet the requalification requirements of ORS 215.236(5) before they can receive special assessment from any of the programs identified under ORS 215.236(4).

(See **Group A, or Group A-STF**. for these disqualifications).

- **Acquisition by an ownership making the land exempt (ORS 308A.718(6)(b).**

Land acquired by an owner making land exempt does not require a notification under ORS 308A.718 for the following special assessment programs:

- Non-Exclusive Farm Use, ORS 308A.116(1)(b);
- Designated Forestland western Oregon, ORS 321.359(1)(b)(B);
- Designated Forestland eastern Oregon, ORS 321.842(1)(b)(B);
- Wildlife Habitat, ORS 308A.430(2)(c).
- Small Tract Forestland, ORS 321.716(1)(a)

ORS 308.156(4)

MAV "exceptions" following a disqualification

The affected and unaffected portions may be different when processing an account for an exception under ORS 308.156 than the affected and unaffected portions for processing the additional tax under ORS 308A.700 to 733.

"Market MAV" exception v. "specially assessed MSAV" exception

When processing exceptions for the disqualification of specially assessed land or homesites, there are two distinct types of "exception" calculations. One is related to the market side and the other is related to the specially assessed side.

"Market" calculations:

When specially assessed land is disqualified and will be valued at market value for the coming tax year, we rely on ORS 308.156(4)(a) for direction.

ORS 308.156(4)(a) states: "If the property was subject to exemption, partial exemption or special assessment as of the January 1 assessment date of the preceding assessment year and is disqualified from exemption, partial exemption or special assessment as of January 1 of the current assessment year, the property's maximum assessed value shall be established under this section."

Note: this section meaning ORS 308.156(5) and (6).

"Specially assessed" calculations:

When specially assessed land is disqualified from one special assessment but then qualifies for another specially assessed program for the coming tax year, we rely on ORS 308.156(4)(b) for direction (see example 1).

ORS 308.156(4)(b) states: "If property described in this subsection is eligible for a different type of exemption, partial exemption or special assessment as of January 1 of the current assessment year, the property's maximum assessed value shall be established under the provision granting the partial exemption or special assessment."

Note: "eligible" meaning timely submitting a qualifying application or claim for a different type of exemption, partial exemption, or special assessment. ORS 308A.718 and 308A.724 establishes the statutory criteria for eligibility to change to a different special assessment following a disqualification.

In short, ORS 308.156(4)(b) directs us to follow the provisions of the specially assessed program the land is going into. The MSAV for the new program just replaces the MSAV for the old program.

Important: As specified in ORS 308.156(4)(b), after a disqualification do not process the "market MAV" for any land that timely changes to a different special assessment, partial exemption or exemption.

Portions: It is possible that some portions of an account are processed under ORS 308.156(a) while other portions of the account are processed under ORS 308.156(4)(b). (See examples.)

Normally any given acre disqualified from special assessment will be calculated under either the "market" or "specially assessed" technique. However, there can be instances where both calculations are made for a single tax year (See example 8.)

ORS 308.156(4)(a) and (b) examples

Example 1: A land owner decides to change their Christmas tree operation from farm use special assessment to designated forestland and submits a qualifying application by April 1 under ORS 321.358(1). Under ORS 308.156(4)(b), do not process the market MAV. Since the account is eligible for a change to a different special assessment, ORS 308.156(4)(b) requires you to process the MAV exception under the special provisions granting the designated forestland special assessment. In this case, the exception will be to change the MSAV from farm use land class tables to MSAV forestland classification tables established under ORS 321.354 western Oregon; or 321.833 eastern Oregon. If a homesite is involved, there must be more than 10 acres of qualified forestland, process the MSAV homesite as a newly qualified homesite under ORS 308A.256(6).

Example 2: An owner submits a timely application, for exemption or partial exemption, on land that is currently under special assessment. This is the same as the previous example and the account needs to be disqualified from special assessment and do not process the market MAV as specified under ORS 308.156(4)(b). Since the account is eligible for a change to a different type of assessment (exemption in this case) then ORS 308.156(4)(b) requires you to process the MAV exception under the provisions granting the exemption or partial exemption.

Example 3: An owner receives a disqualification for farmland that is taken out of production. Following the disqualification the owner receives a notification letter and under ORS 308A.718 the land owner is "eligible" to change to another special assessment. If the owner submits a timely request or application to change to a different special assessment then ORS 308.156(4)(b) applies and do not process the market MAV. If the owner does not or cannot submit a timely request or application for a change in special assessment then process the market MAV as an exception under ORS 308.156(4)(a).

Example 4: When specially assessed land changes, to a qualifying homesite special assessment, it is going from one special assessment to another so ORS 308.156(4)(b) applies and do not process the Market MAV as an exception. Process the homesite MSAV as an exception under ORS 308A.256(6) as a newly qualified homesite. (Perron v. Douglas Co. Supreme Court OTC 3167; SC39455 dated 5-27-93)

Example 5: A homesite is granted special assessment on land that is currently assessed based on market value. Process the homesite MSAV as a newly qualified homesite under ORS 308A.256(6). Qualification of a homesite is not a reason to process an exception on the market MAV. ORS 308.156(4)(a) or (b) does not apply because the land being used for the new homesite is not being disqualified.

Example 6: A disqualification is for insufficient non-EFU income, and later requalifies under ORS 308A.089. The old application is disqualified and the market MAV exception is processed under ORS 308.156(4)(a). Later the land is requalified under a new application in compliance with ORS 308A.089. Process the account for property that newly qualifies for farm use special assessment under ORS 308A.107(6) and 308A.256(6) for a new homesite MSAV (if applicable). This is not a change to a different special assessment under ORS 308.156(4)(b).

Example 7: A subdivision plat under ORS chapter 92 is recorded on non-EFU land and is disqualified under ORS 308A.116 and later requalifies with a new application. The old application is disqualified and the market MAV exception for the subdivision land is processed under ORS 308A.156(4)(a). After paying the additional taxes the owner makes a timely application to requalify for non-EFU special assessment. Process the account for any land that newly qualifies for farm use special assessment under ORS 308A.107(6) and 308A.256(6) for a new homesite MSAV (if applicable). This is not a change to a different special assessment under ORS 308.156(4)(b).

Example 8: A portion of the land being disqualified timely changes to another special assessment under ORS 308A.706(1)(d) and a portion of the land being disqualified does not qualify for a change to a different special assessment. Follow ORS 308.156(4)(b) and change the MSAV for the portion changing to a different special assessment. The portion not able to qualify for a change in special assessment will be processed as a market MAV exception under ORS 308.156(4)(a).

Example 9: Land is reclassed under OAR 150-308A.107. This is a special provision that allows the land to be changed to a different MSAV land class. Process the MSAV land class change as an exception under ORS 308.156(4)(b).

Note: The change cannot be arbitrary and must be supported by a comprehensive study based on pre-existing criteria for the respective land classes in the county.

Example 10: A partition plat created from a Measure 49 (M37) claim on an EFU parcel has two existing residences on two separate specially assessed homesites. After the partition, each homesite has its own parcel and the third parcel is buildable. A MAV adjustment under ORS 308.156(1) only applies to the "market related MAV" for either a partition or a subdivision. The only time the "specially assessed related MSAV" is changed is when there is a disqualification and then we follow ORS 308.156(4)(a) or (b) depending on the circumstances of the disqualification. Since partitioning or subdividing does not require disqualification for EFU land, there is no change in the existing MSAV for the two existing homesites. When the buildable parcel is developed with a residence, the MSAV may be calculated under ORS 308A.256(6) for a newly qualified homesite, if applicable.

There are too many situations and possibilities to list them all. When deciding how to process a disqualified account for an MAV exception carefully interpret each situation to appropriately apply either the market MAV under ORS 308.156(4)(a) or the specially assessed or exemption MAV (MSAV) under ORS 308.156(4)(b).

Changed Property Analysis Codes

Sub-Category: Structures

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
1.	Any new construction/major addition greater than $10,000 in 1 year or $25,000 over 5 years.	Exception	Yes	Yes	308.153 & 308.149 150-308.149(6)
2.	Reconstruction of existing property.	Exception	Yes	Yes	308.153 & 308.149 150-308.149-(A)
3.	Modernization of existing property.	Exception	Yes	Yes	308.153 308.149
4.	Remodeling of existing property.	Exception	Yes	Yes	308.153 & 308.149 150-308.149-(A)
5.	Renovation of existing property.	Exception	Yes	Yes	308.153 & 308.149 150-308.149-(A)
6.	Rehabilitation of existing property.	Exception	Yes	Yes	308.153 & 308.149 150-308.149-(A)
7.	Restoration of existing property.	Exception	Yes	Yes	308.153 & 308.149 150-308.149-(A)
8.	General on-going maintenance and repair of any value.	RMV Change	No	Yes	308.149(5) 150-308.149-(A)
9.	Minor construction less than $10,001 in 1 year, or less than $25,001 over 5 years.	RMV Change	No	Yes	308.149(5) & (6) 150-308.149(6)
10.	Improvement physically moved to different location. (Unless subject to ORS 308.162)	Exception	Yes	Yes	308.149(5)
11.	Value of structures moved from one account to another. Structure not physically moved.	MAV Balance	Balance	Yes	308.162
12.	Error in square footage calculation corrected by review or reappraisal. No structural change.	RMV Change	No	Yes	
12 a.	Error in square footage. By taxpayer application. (Allows for reduction only)	Exception	Yes	Yes	311.234 150-311.234
13.	Floor levels reclassified after base year.	RMV Change	No	Yes	
14.	Inventory record corrected on review or reappraisal after base year. (Unless omitted property.)	RMV Change	No	Yes	
15.	Loss in value of property if destroyed or damaged due to fire or act of God. (Allows for reduction only.)	Exception	Yes	Yes	308.146(5) 150-308.146(5)(a)
16.	Building removed/demolished. (Not by fire or act of God.)	RMV Change	No	Yes	

Sub-Category: Land

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
17.	Improvements to land, either on-site or off-site greater than $10,000 in 1 year or $25,000 within 5 years. (As defined in ORS 307.010.)	Exception	Yes	Yes	308.153 307.010 150-307.010(1)
18.	Event on property or on contiguous property triggers change in value attributed to existing physical characteristic of land.	RMV Change	No	Yes	
19.	Combination of two or more accounts.	MAV Balance	Balance	Yes	

Sub-Category: Land (cont.)

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
20.	Previously existing landscaping revalued.	RMV Change MAV Balance	No	Yes	
21.	Property is rezoned and use does not change.	RMV Change	No	Yes	308.156(2)
22.	Property is rezoned and use is consistent with new zoning.	Exception	Yes	Yes	308.156(2) 150-308.156(5)-(B)
23.	Lot lines of property are adjusted.	Exception	Yes Limit	Yes	308.159 150-308.159
24.	Property is subdivided or partitioned under Ch. 92. (Not subject to ORS 308.162)	Exception	Yes	Yes	308.156(1) 150-308.156(5)-(A)
25.	Property is subdivided or partitioned only by deed division or court order. (Not subject to ORS 308.162)	Exception	Yes	Yes	308.156(1) 150-308.156(5)-(A)
25 a.	Property is divided on existing lot lines established by prior Ch. 92 subdivision or partition process.	MAV Balance	Balance	Yes	DOR Memo Dated 11-27-01
26.	Portion of property valued as a unit or part of total sold.	RMV Change	No	Yes	

Sub-Category: Personal Property/ MS/ M & E

($10,000 minor construction threshold does not include initial siting of MS or Floating Homes)

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
27.	Siting/installation of MS or floating structure.	Exception	Yes	Yes	308.149(5)
28.	Rehabilitation of MS or floating structure.	Exception	Yes	Yes	308.149(5)
29.	MS transferred from one roll to another. (Not physically moved.)	MAV Balance	Balance	Yes	308.162
30.	MS moved to different location.	Exception	Yes	Yes	308.149(5)
31.	Change of classification of M & E from Real to Personal or Personal to Real.	MAV Balance	Balance	Yes	308.162
32.	New account is created for new personal property.	Exception	Yes	Yes	308.153
33.	Personal property physically moved from one account to another. (Unless subject to ORS 308.162)	Exception	Yes	Yes	308.153
34.	Personal property value transferred from one account to another. (Not physically moved.)	MAV Balance	Balance	No	308.162
35.	M & E transferred from one account to another. (Not physically moved.)	MAV Balance	Balance	No	308.162

Sub-Category: Code Area Changes

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
36.	Code area changes due to any reason.	Not a change	NA	NA	
37.	Property physically moved to different code area.	Exception	Yes	Yes	308.149(5)

Sub-Category: Exemptions & Special Assessments

(MV = Market Value MAV; SA = Specially Assessed MSAV)

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
38.	Property changed from exempt or partially exempt to taxable.	Exception	Yes-MV	No *	308.156(4)(a) 150-308.156(5)-(D)
39.	Property disqualified from special assessment.	Exception	Yes-MV	No *	308.156(4)(a) 150-308.156(5)-(D)
40.	Property changed from one special assessment, exemption, or partial exemption to another special assessment, exemption, or partial exemption.	MSAV Change	No-MV Yes-SA	Yes	308.156(4)(b) 308A.706(1)(d)
41.	Classification of specially assessed land is changed by the assessor. Land is not changed or improved.	MSAV Change	No-MV Yes-SA	Yes	150-308A.107
42.	Classification of specially assessed land is changed due to improvements to the land and land is revalued.	MSAV Change	No-MV Yes-SA	Yes	150-308A.107
43.	Newly qualified property changed from market to specially assessed.	NA	No-MV Yes-SA	No	See valuation statutes per program.

Sub-Category: Miscellaneous

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
44.	Property class change. See Codes 21 & 22 if rezoned.	RMV Change	No	Yes	150-308.146
45.	Property contaminated. RMV reduced to reflect contamination.	RMV Change	No	Yes	150-308.205-(E)
45a.	Correction of contamination. (If RMV reduced to reflect contamination, then RMV and MAV adjusted as clean-up occurs.	Exception	Yes	Yes	150-308.205-(E)
46.	Market area changed (neighborhood, value area).	RMV Change	No	Yes	

Sub-Category: Corrections

Code Number	Description of Change	Changed Property Category	Allows Change of MAV?	Allows Change of RMV?	ORS & OAR Reference
47.	Omitted Property added to roll.	Exception	Yes	Yes	308.156(3) 150-308.156(5)-(C)
48.	Correction of clerical error or error or omission of another kind that adds value to the roll.	Exception	Yes	Yes	308.156(3)
49.	Settlement of appeal affects value for base year and changes MAV.	NA	Changes base MAV	Yes	
50.	Appeal reduces total value of property after base year. (Unless MAV change included in order/decision.)	RMV Change	No	Yes	
51.	Appeal reduces total value of property. Property includes an exception added after base year. Use best information to arrive at value attributable to exception.	Exception	Yes	Yes	
52.	Correction of clerical error or error or omission of another kind that does not result in addition of value.	MAV Balance	Balance	No	

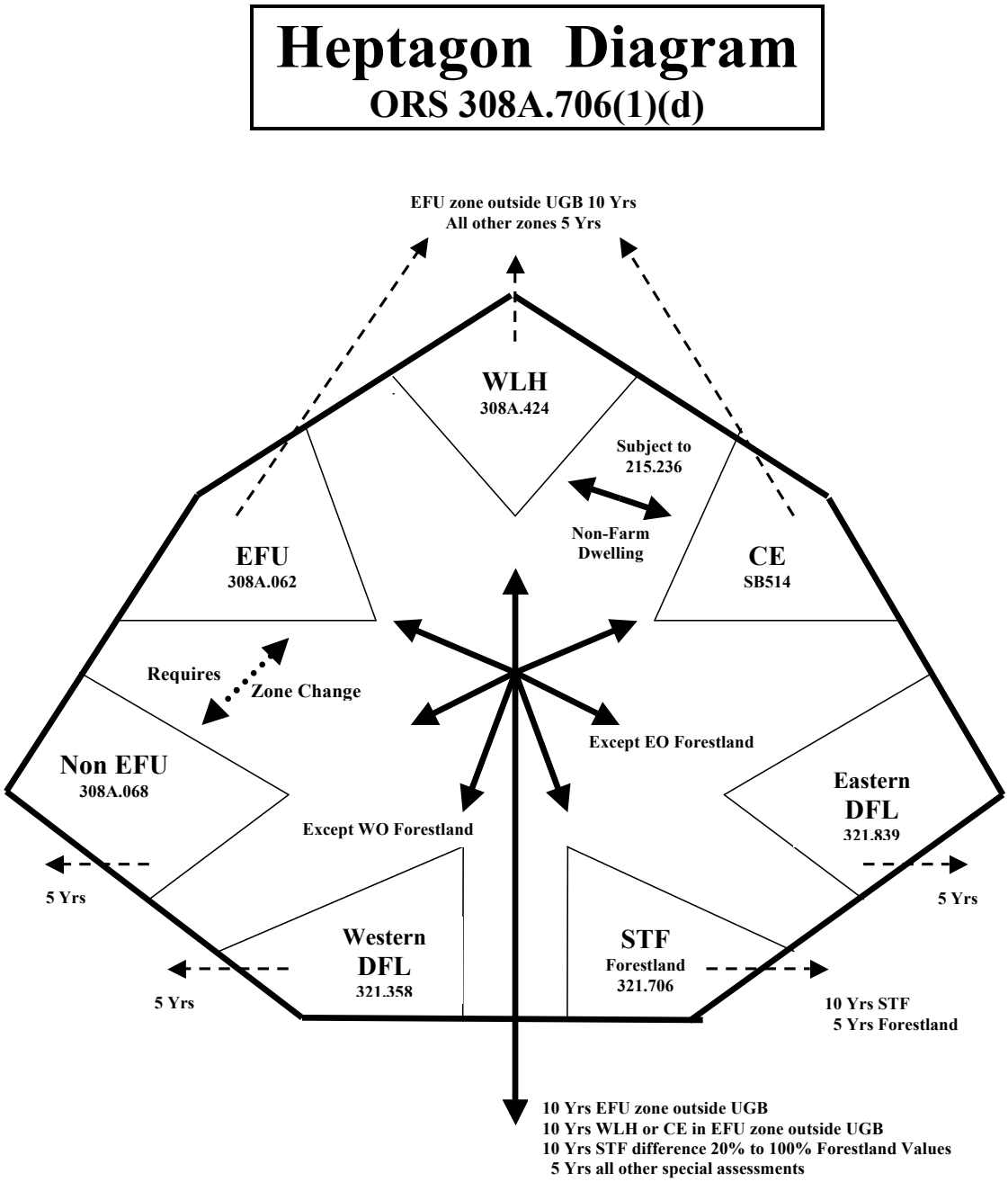
* RMV will need to be determined upon disqualification if no RMV exists on the roll or if use changes.

Appendix I—Special assessment diagram

Following a disqualification, ORS 308A.706(1)(d) allows an owner to defer additional taxes if the land qualifies to change to another special assessment. This change in special assessment is commonly called a "rollover." A change in special assessment cannot be offered under ORS 308A.706(1)(d) if the additional tax is required to be imposed.

As the diagram illustrates, any program can change to any other program (except eastern Oregon forestland cannot change with one another). EFU and non-EFU land cannot change with one another unless there is a zone change. STF can change and defer the additional taxes for 100 percent to market, but the 20 percent to 100 percent cannot be deferred. Land subject to 215.236 may **not** qualify for farm or forestland, but may qualify for WLH or CE or change between programs.

The arrows pointing away from the special assessment programs illustrate the maximum number of years of additional taxes for each program if the owner elects not to change special assessment under ORS 308A.706(1)(d).



Laws—Chapter 308A

2011 EDITION
Land Special Assessments
Revenue and Taxation

FARM USE SPECIAL ASSESSMENT

(Policy)

308A.050 Legislative intent

(Qualification for Farm Use Special Assessment)

308A.053 Definitions for ORS 308A.050 to 308A.128
308A.056 Definition of "farm use"
308A.059 Farm use definition; rules
308A.062 Qualification of exclusive farm use zone farmland
308A.065 County counsel review of exclusive farm use zoning ordinances; notice upon determination of unqualified land; assessment pending zone requalification
308A.068 Qualification of nonexclusive farm use zone farmland
308A.071 Income requirements for nonexclusive farm use zone farmland
308A.074 Wasteland qualifications; annual application
308A.077 Application to qualify nonexclusive farm use zone farmland
308A.080 Acquired land qualifications
308A.083 Effect of qualification generally
308A.086 Requalification generally
308A.089 Requalification of disqualified nonexclusive farm use zone farmland; fee
308A.091 Rules for farm use special assessment pursuant to remediation plan; fee; limitation

(Valuation)

308A.092 Determining value for farm use; procedure
308A.095 Elective appointment of county board of review for advice on income-approach factors
308A.098 County board of property tax appeals use of assessor's data
308A.107 Value for farm use; maximum assessed value and assessed value of farmland
308A.110 Real property improvements and machinery not subject to farm use special assessment

(Disqualification)

308A.113 Disqualification of exclusive farm use zone farmland; reversal for remediation plan
308A.116 Disqualification of nonexclusive farm use zone farmland; reversal for remediation plan
308A.119 Abatement; termination of abatement
308A.122 Effect of requalification on abated taxes
308A.125 Historic cemeteries within exclusive farm use zones; partition; effect of disqualification
308A.128 Certain district assessments inapplicable to exclusive farm use zone farmland

FARM AND FOREST HOMESITES

308A.250 Definitions for ORS 308A.250 to 308A.259
308A.253 Qualification of homesites
308A.256 Maximum assessed value and assessed value of homesites
308A.259 Disqualification of homesite

OPEN SPACE LANDS

308A.300 Definitions for ORS 308A.300 to 308A.330
308A.303 Policy
308A.306 Application for open space use assessment; contents of application; filing; reapplication
308A.309 Submission of application for approval of local granting authority; grounds for denial; approval; application withdrawal

308A.312 Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial
308A.315 Determination of maximum assessed value and assessed value of open space lands; rules
308A.318 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional taxes; exception
308A.321 Withdrawal by assessor when use changed; notice; imposition of additional taxes; interest; penalty; exception
308A.324 Prepayment of additional taxes; extending taxes on tax roll; collection; distribution
308A.327 Reports on land use from owners; effect of failure to make report upon demand
308A.330 Rules

RIPARIAN HABITAT EXEMPTION

308A.350 Definitions for ORS 308A.350 to 308A.383
308A.353 Policy
308A.356 Application for exemption as riparian land; contents; notice after sale or transfer
308A.359 Standards and criteria for exemption; determination; exemption limited to certain lands; application withdrawal
308A.360 City and county authorization required for exemption of riparian land within city and urban growth boundary
308A.362 Approval or disapproval of application; limitation on approval; order; notice; exemption; potential additional taxes
308A.365 Duration of exemption; change in use; withdrawal at request of owner
308A.368 Additional taxes upon withdrawal from riparian land designation; computation
308A.371 Additional taxes; payment; collection
308A.374 Reports on riparian land use from owners; effect of failure to make report upon demand; request by assessor for determination of continued qualification
308A.377 Abatement of additional tax when farm, forest or open space land designated riparian
308A.380 Limitation on amount of land that may be exempt as riparian land
308A.383 Rules

WILDLIFE HABITAT SPECIAL ASSESSMENT

308A.400 Findings
308A.403 Policy
308A.406 Definitions for ORS 308A.403 to 308A.430
308A.409 Wildlife habitat conservation and management plans; rules
308A.412 Plan submission and review; limitation on approval; rules
308A.415 Designation by State Fish and Wildlife Commission of land eligible for wildlife habitat special assessment
308A.418 Removal of designation upon request of city or county; requirements
308A.421 Effect of designation or removal for property tax purposes
308A.424 Application for special assessment; approval
308A.427 Valuation
308A.430 Disqualification from special assessment

CONSERVATION EASEMENT

308A.450 Definitions
308A.453 Requirements
308A.456 Application for conservation easement special assessment; contents; application fee
308A.459 Valuation
308A.462 Dwellings
308A.465 Inspection by holder; disqualification; notice; requalification

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS

(Additional Taxes)

308A.700 Definitions for ORS 308A.700 to 308A.733
308A.703 Additional taxes upon disqualification
308A.706 Circumstances when additional taxes are deferred; potential additional tax liability
308A.707 Additional taxes when land disqualified from small tract forestland assessment
308A.709 Circumstances when additional taxes are not imposed
308A.712 Determining amount of deferred additional taxes and period for which additional taxes are due
308A.715 Imposition of deferred additional taxes upon request of owner

(Disqualification Notification Procedures)

308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation; remediation plan notification

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat and conservation easement land
308A.727 Change to open space use; additional taxes upon withdrawal; notification upon application
308A.730 Application for special assessment following acquisition of land through government exchange; amount of additional taxes following disqualification
308A.733 Withdrawal of change of special assessment application

(Conservation Management; Effect on Disqualification)

308A.740 Legislative findings and declarations
308A.743 Disqualification limited when land subject to conservation and management plan, conservation easement or deed restriction; procedural requirements

FARM USE SPECIAL ASSESSMENT

(Policy)

308A.050 Legislative intent. The Legislative Assembly recognizes that agriculture and related land uses contribute significantly to Oregon's character and economy. The Legislative Assembly finds that providing the means for agriculture to continue and prosper is in the interest of all citizens of this state, who benefit directly or indirectly from agricultural production and stewardship of farmlands and ranchlands. Valuation of farm properties based upon market data from sales for investment or other purposes not connected with bona fide farm use encourages the conversion of agricultural land to other uses. The identification of agricultural land for farm use, as provided by law, substantially limits alternative uses of such land and justifies the valuation of that land based on its agricultural production capability. Therefore, it is the declared intent of the Legislative Assembly that bona fide farm properties be assessed for ad valorem property tax purposes at a value that is exclusive of values attributable to urban influences or speculative purposes. [1999 c.314 §1]

(Qualification for Farm Use Special Assessment)

308A.053 Definitions for ORS 308A.050 to 308A.128. As used in ORS 308A.050 to 308A.128:

(1) "Exclusive farm use zone" means a zoning district established by a county or a city under the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone provisions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.453, 215.455 or 215.700 to 215.780.

(2) "Exclusive farm use zone farmland" means land that qualifies for special assessment under ORS 308A.062.

(3) "Homesite" means the land, including all tangible improvements to the land under and adjacent to a dwelling and other structures, if any, that are customarily provided in conjunction with a dwelling.

(4) "Nonexclusive farm use zone farmland" means land that is not within an exclusive farm use zone but that qualifies for farm use special assessment under ORS 308A.068.

(5) "Remediation plan" means a plan certified by an extension agent of the Oregon State University Extension Service to remediate or mitigate severe adverse conditions on farmland.

(6) "Severe adverse conditions on farmland" means conditions that render impracticable continued farm use and that are not due to an intentional or negligent act or omission by the owner, tenant or lessee of the farmland or the applicant for certification of a remediation plan. [1999 c.314 §2; 2003 c.539 §34; 2009 c.776 §1; 2011 c.679 §10]

308A.056 Definition of "farm use." (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by:

(a) Raising, harvesting and selling crops.

(b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof.

(c) Dairying and selling dairy products.

(d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows.

(e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.

(f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection.

(g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products raised for human or animal use on land described in this section.

(h) Implementing a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located.

(i) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.

(2) "Farm use" does not include the use of land subject to timber and forestland taxation under ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood).

(3) For purposes of this section, land is currently employed for farm use if the land is:

(a) Farmland, the operation or use of which is subject to any farm-related government program;

(b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of this subsection, prior to maturity;

(d) Land not in an exclusive farm use zone that has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

(e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that is not currently being used for any economic farm use;

(f) Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

(g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(i) Land lying idle for no more than one year when the absence of farming activity is the result of the illness of the farmer or a member of the farmer's immediate family, including injury or infirmity, regardless of whether the illness results in death;

(j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood);

(k) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training greyhounds for racing;

(L) Land subject to a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located; or

(m) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

(i) Only the crops of the landowner are being processed;

(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or

(iii) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

(4) As used in this section:

(a) "Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a profit in money and customarily utilized in conjunction with farm use.

(b) "Cultured Christmas trees" means trees:

(A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(B) Of a marketable species;

(C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices:

(i) Basal pruning;

(ii) Fertilizing;

(iii) Insect and disease control;

(iv) Stump culture;

(v) Soil cultivation; or

(vi) Irrigation. [1999 c.314 §3; 2001 c.613 §21; 2003 c.454 §120; 2003 c.621 §81a; 2007 c.739 §37; 2009 c.776 §2; 2009 c.850 §13]

308A.059 Farm use definition; rules. (1) The Department of Revenue shall provide by rule for a more detailed definition of farm use, consistent with the general definition in ORS 308A.056, to be used by county assessors in determining qualification for special assessment under ORS 308A.068. The rules shall not be designed to exclude from the special assessment those lands that are in farm use as defined in ORS 308A.056 for which tax relief is intended.

(2) In determining qualification for special assessment under ORS 308A.068, the county assessor shall consider the use of the land by the owner, renter or operator thereof together with any other lands that are a part of one farming unit being operated by the owner, renter or operator. [Formerly 308.380]

308A.062 Qualification of exclusive farm use zone farmland. (1) Any land that is within an exclusive farm use zone and that is used exclusively for farm use shall qualify for farm use special assessment under ORS 308A.050 to 308A.128, unless disqualified under other provisions of law.

(2) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [1999 c.314 §5]

308A.065 County counsel review of exclusive farm use zoning ordinances; notice upon determination of unqualified land; assessment pending zone requalification. (1) Upon written request of the county assessor or county governing body, the county counsel shall review the zoning ordinances of the county that purport to establish exclusive farm use zones to determine if any zone mentioned in the ordinance is not an exclusive farm use zone. If the county counsel is in doubt as to whether a zone is an exclusive farm use zone, the county counsel shall request the assistance of the Department of Revenue under ORS 305.110. The county counsel shall promptly notify the county assessor and county governing body by letter of the findings of the county counsel.

(2) If the assessor discovers any land that has been granted farm use special assessment under ORS 308A.062 that is not qualified for such assessment because the zone is not an exclusive farm use zone, the assessor shall immediately notify the county governing body of this fact.

(3) Within six months from the date the county governing body receives notice from the assessor or from the Land Conservation and Development Commission that a farm use zone is not an exclusive farm use zone, the county governing body shall qualify the zone as an exclusive farm use zone within the meaning of ORS 308A.062. The assessor shall continue to assess the land at the special assessment provided in ORS 308A.107 until the county governing body qualifies the zone or the land is disqualified under ORS 308A.113.

(4) Subsections (1) to (3) of this section shall provide the exclusive procedure for correcting the erroneous granting of farm use special assessment as exclusive farm use zone farmland when the zone does not meet the definition of an exclusive farm use zone under ORS 308A.053. [Formerly 308.403]

308A.068 Qualification of nonexclusive farm use zone farmland. (1) Any land that is not within an exclusive farm use zone but that is being used, and has been used for the preceding two years, exclusively for farm use shall qualify for farm use special assessment:

(a) If the land meets the income requirements set forth in ORS 308A.071; and

(b) Upon compliance with the application requirements set forth in ORS 308A.077.

(2)(a) The provisions of this section shall not apply to any land with respect to which the owner has granted, and has outstanding, any lease or option to buy the surface rights for other than farm use.

(b) This subsection does not apply in the case of a lease or option to buy surface rights:

(A)(i) For the exploration of geothermal resources, as defined by ORS 522.005, mineral resources or other subsurface resources; or

(ii) For the use of land for hunting, fishing, camping or other recreational use; and

(B) If the exploration, use or possession engaged in pursuant to the lease or option to buy does not interfere with the farm use of the farmland.

(3) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [1999 c.314 §7]

308A.071 Income requirements for nonexclusive farm use zone farmland. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a farm parcel that is not within an area zoned for exclusive farm use is not used exclusively for farm use unless all of the prerequisites of subsections (2) to (5) of this section are met.

(2)(a) Except as provided in subsection (6) of this section, in three out of the five full calendar years immediately preceding the assessment date, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the following amount for a calendar year:

(A) If the farm unit consists of 6-1/2 acres or less, the gross income from farm use shall be at least $650.

(B) If the farm unit consists of more than 6-1/2 acres but less than 30 acres, the gross income from farm use shall be at least equal to the product of $100 times the number of acres and any fraction of an acre of land included.

(C) If the farm unit consists of 30 acres or more, the gross income from farm use shall be at least $3,000.

(b) For purposes of determining the number of acres to be considered under paragraph (a) of this subsection, the land described in ORS 308A.056 (3) and the land, not exceeding one acre, used as a homestead shall not be included.

(c) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not all under the same ownership, the gross income requirements applicable to the farm parcel shall be as provided under paragraph (a) of this subsection. In addition, the gross income from farm use of a farm parcel described under this paragraph must be at least:

(A) One-half of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit; or

(B) A cash or net share crop rental of one-quarter of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit. For purposes of this subparagraph, "net share crop rental" means the value of any crop received by the owner of the farm parcel less any costs borne by the owner of the farm parcel.

(3) Excise or income tax returns are filed with the Department of Revenue for purposes of ORS chapter 316, 317 or 318 by the farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules showing rental income received by the owner of the farm parcel, during the years to which the income requirements of this section apply.

(4) Upon request, a copy of the returns or the schedules of the returns showing the gross income received from farm use is furnished by the taxpayer to the county assessor.

(5) The burden of proving the gross income of the farm unit for the years described in subsection (2) of this section is upon the person claiming special assessment for the land.

(6) The failure of a farm unit to produce the amount of gross income required by subsection (2) of this section shall not prevent the farm unit from meeting the qualifications of this section if:

(a) The failure is because:

(A) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(B) Severe drought conditions are declared under ORS 536.700 to 536.780; and

(b) The farm unit produces the required amount of gross income in three out of the last five nonflood or nondrought years.

(7) As used in this section:

(a) "Farm parcel" means the contiguous land under the same ownership, whether assessed as one or more than one tax lot.

(b) "Gross income" includes the value of any crop or livestock that is used by the owner personally or in the farming operation of the owner, but does not include:

(A) The value of any crop or livestock so used unless records accurately reflecting both value and use of the crop or livestock are kept by the owner in a manner consistent with generally accepted accounting principles; and

(B) The purchase cost of livestock.

(c) "Owner" or "ownership" means any person described under ORS 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an owner as tenant in common or other joint ownership interest. [Formerly 308.372; 2003 c.46 §22]

308A.074 Wasteland qualifications; annual application. (1) Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with nonexclusive farm use zone farmland described in ORS 308A.068, and that is not currently being used for any economic farm use shall qualify for farm use special assessment under ORS 308A.068 if the farmland was operated as part of a farm unit that produced more than one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this section.

(2)(a) An owner of wasteland shall make annual application to qualify the wasteland as nonexclusive farm use zone farmland under ORS 308A.068.

(b) The application shall be filed with the county assessor on or before April 15 of each year qualification is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the county assessor and shall include any information as may be reasonably required to determine qualification, including copies of applicable state income tax returns. All information provided, including determinations

made under administrative and court proceedings relating to the assessment of the wasteland, shall be confidential information of the assessor's office and shall be used only for purposes of ORS 308A.050 to 308A.128.

(c) There shall be attached to each application an affidavit or affirmation from the applicant providing that the statements contained in the application are true.

(3) For purposes of this section, "owner" or "owners" means the person or persons entitled to file for special assessment under ORS 308A.077 (2)(b). [1999 c.314 §9]

308A.077 Application to qualify nonexclusive farm use zone farmland. (1) Any owner of nonexclusive farm use zone farmland entitled to special assessment under ORS 308A.068 must, to secure the assessment, make application therefor to the county assessor on or before April 1 of the first year in which the assessment is desired.

(2)(a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include any information as may reasonably be required to determine the entitlement of the applicant.

(b) The application may be signed by any one of the following:

(A) The owner of the farmland who holds an estate therein in fee simple or for life.

(B) Any one of tenants in common or tenants by the entirety, holding an estate in the farmland in fee simple or for life.

(C) Any person of legal age, duly authorized in writing to sign an application on behalf of any person described in subparagraph (A) or (B) of this paragraph.

(D) The guardian or conservator of an owner, or the executor or administrator of an owner's estate.

(E) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or the deputy of the assessor may not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

(3) There shall be attached to each application the affidavit or affirmation of the applicant that the statements contained therein are true. [Formerly 308.375; 2003 c.46 §23]

308A.080 Acquired land qualifications. (1) Acquired land shall qualify for farm use special assessment if:

(a) The acquired land:

(A) Is not in an exclusive farm use zone;

(B) Is, immediately upon acquisition, put into farm use; and

(C) Is operated as part of the total farming unit with the original land; and

(b) The original land:

(A) Is owned by the purchaser of the acquired land;

(B) Is in farm use;

(C) Is assessed under ORS 308A.107; and

(D) Produced gross income of at least $10,000 in the calendar year prior to acquisition.

(2) Land that qualifies for farm use special assessment under subsection (1) of this section shall, for purposes of the gross income requirement under ORS 308A.071, be added to and treated as a part of the entire farming unit upon acquisition.

(3) In order for acquired land described in this section to qualify under ORS 308A.068, an application must be filed under ORS 308A.077 on or before April 1 of the first year following acquisition in which farm use special assessment is sought for the acquired land. [Formerly 308.374]

308A.083 Effect of qualification generally. In the case of exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062 or nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068, the county assessor shall enter on the assessment and tax roll the notation "potential additional tax liability" until the land is disqualified under ORS 308A.113 or 308A.116. [1999 c.314 §12]

308A.086 Requalification generally. (1) Any land that has been disqualified from farm use special assessment under ORS 308A.050 to 308A.128 may requalify for special assessment under ORS 308A.050 to 308A.128 at the same time and in the same manner and under the same provisions of law as land initially qualifies for farm use special assessment under ORS 308A.050 to 308A.128.

(2) Land that requalifies under this section must meet applicable qualification requirements as of the assessment date for the tax year for which special assessment of the requalified land under ORS 308A.050 to 308A.128 is sought.

(3) This section does not apply to the requalification of land that was disqualified and that is described:

(a) In the case of land in an exclusive farm use zone, under ORS 215.236 (relating to nonfarm dwellings) and ORS 308A.706 (1)(a) (relating to compatible nonuse);

(b) In the case of nonexclusive farm use zone farmland, under ORS 308A.089 (relating to requalification during first year of disqualification), 308A.116 (4) (relating to subdivision), 308A.122 (relating to abatement for failure to meet income requirements) or 308A.706 (1)(a) (relating to compatible nonuse); and

(c) Under ORS 308A.706 (1)(d) (relating to change in special assessment). [1999 c.314 §13]

308A.089 Requalification of disqualified nonexclusive farm use zone farmland; fee. (1) Notwithstanding ORS 308A.724, land that was nonexclusive farm use zone farmland and that has been disqualified by the county assessor from farm use special assessment for the reason that the land is no longer in farm use as described under ORS 308A.116 (1)(c) may be requalified for farm use special assessment for the first year in which the disqualification is in effect.

(2) Disqualified farmland may requalify for special assessment under this section upon compliance with the following:

(a) The owner shall make application for requalification to the county assessor on or before December 15 of the tax year for which the disqualification is first in effect.

(b) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor.

(c) The application shall contain the information necessary to determine that the property meets the requirements of ORS 308A.071 and the other requirements for property to receive a farm use special assessment under ORS 308A.050 to 308A.128.

(d) The application shall be signed by the owner and shall be accompanied by a filing fee of:

(A) $1 for each $1,000 (or fraction of $1,000) of real market value of the property as determined under ORS 308.232.

(B) Not less than $10 or more than $250.

(e) There shall be annexed to each application for requalification the affidavit or affirmation of the applicant that the statements contained therein are true.

(3) Upon receipt of the application, the county assessor shall determine if the property meets the requirements of ORS 308A.071 and the other requirements for farm use special assessment under ORS 308A.050 to 308A.128 for the year in which the disqualification is first in effect.

(4) Upon approval of the application the county assessor shall notify the officer in charge of the assessment and tax roll of the requalification for special assessment under ORS 308A.068. The officer shall correct the current assessment and tax roll to reflect the special assessment, as provided under ORS 311.205 (1)(e).

(5) Upon disapproval of the application, the county assessor shall notify the owner of the application's disapproval and the land's continued disqualification. If notice of disapproval is not mailed prior to April 15 of the tax year, the application shall be considered approved.

(6) As used in this section, "owner" means the person or persons entitled to file for special assessment under ORS 308A.077 (2)(b). [Formerly 308.392]

308A.091 Rules for farm use special assessment pursuant to remediation plan; fee; limitation. (1) The Director of the Department of Revenue shall adopt rules necessary for administration of farm use special assessment pursuant to a remediation plan under ORS 308A.056.

(2) The Director of the Oregon State University Extension Service may establish by rule a fee, payable by persons seeking to implement remediation plans, in an amount necessary to reimburse the Oregon State University Extension Service for the costs of certifying the plans.

(3) Only the portions of farmland on which the remediation plan is actually implemented qualify for farm use special assessment under ORS 308A.062 and 308A.068 pursuant to a remediation plan under ORS 308A.056. [2009 c.776 §9]

Note: 308A.091 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Valuation)

308A.092 Determining value for farm use; procedure. (1) This section applies to:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The values for farm use of farmland shall be determined utilizing an income approach. In utilizing the income approach, the capitalization rate shall be the effective rate of interest charged in Oregon by the Federal Farm Credit Bank system at the time of closing on loans for farm properties estimated as an average over the past five reported calendar years, plus a component for the local tax rate. The Department of Revenue annually shall determine and specify the rate according to the best information available, and shall certify the rate to the county assessors.

(3) The county assessors shall develop tables for each assessment year that reflect, for each class and area, the values determined under this section and that express the values as values per acre. [Formerly 308.345; 2011 c.193 §2]

308A.095 Elective appointment of county board of review for advice on income-approach factors. (1) Income-approach factors being utilized by a county assessor in arriving at the values for farm use of farmland determined under ORS 308A.092 may be submitted by the county assessor to a county board of review appointed at the request of the county assessor for the purpose of advising the county assessor as to whether the factors are proper under ORS 308A.092.

(2) A county board of review shall consist of:

(a) Two members appointed by the county court sitting for the transaction of county business, board of county commissioners or other county governing body of the county.

(b) Two members appointed by the county assessor.

(c) One member appointed by the four members appointed as provided in paragraphs (a) and (b) of this subsection, who shall serve for a term of one year.

(3)(a) Each member of a county board of review appointed under subsection (2)(a) and (b) of this section shall serve for a term of two years.

(b) Notwithstanding paragraph (a) of this subsection, a member appointed under subsection (2)(a) or (b) of this section to fill a vacancy occurring prior to the expiration of a predecessor's term may not be appointed for a term longer than the remainder of the predecessor's term.

(4) Members of a county board of review must be persons knowledgeable and experienced in farmland values.

(5) Members of a county board of review shall be reimbursed by the county for their actual and necessary expenses incurred in the performance of their functions as members. [Formerly 308.350; 2011 c.193 §1]

308A.098 County board of property tax appeals use of assessor's data. Data utilized by a county assessor in arriving at the values for farm use of farmland under ORS 308A.092 shall be made available by the county assessor to the county board of property tax appeals in the event of any consideration of a petition involving the assessed value of farmland by the board of property tax appeals under ORS 309.100. [Formerly 308.355]

308A.101 [Formerly 308.360; repealed by 2011 c.193 §3]

308A.104 [Formerly 308.365; repealed by 2011 c.193 §3]

308A.107 Value for farm use; maximum assessed value and assessed value of farmland. (1) The value for farm use, maximum assessed value and assessed value shall be determined under this section for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The value for farm use for each property subject to special assessment under this section shall equal the applicable value derived from the tables created pursuant to ORS 308A.092 for the tax year multiplied by the acreage of the property within the applicable class and area.

(3)(a) The maximum assessed value for property subject to special assessment under this section shall be determined as provided in this subsection.

(b) The county assessor shall develop tables for each tax year that provide, for each class and area, a maximum assessed value per acre that is equal to 103 percent of the assessed value per acre for the preceding tax year or 100 percent of the maximum assessed value per acre for the preceding tax year, whichever is greater.

(4) Property subject to special assessment under this section shall have an assessed value for the tax year equal to the acreage of the property that is within the same class and area multiplied by the lesser of the value per acre applicable to the property under subsection (2) of this section or under subsection (3) of this section.

(5) If property subject to special assessment under this section consists of different classes, the assessed value of the property shall be the sum of the assessed values computed for each applicable class under subsection (4) of this section.

(6) Property that newly qualifies for farm use special assessment shall, for the first tax year for which the special assessment applies, have:

(a) A value for farm use as determined under subsection (2) of this section;

(b) A maximum assessed value as determined under the tables developed under subsection (3) of this section; and

(c) An assessed value as determined under subsections (4) and (5) of this section. [1999 c.314 §20; 2001 c.912 §5; 2005 c.94 §57]

308A.110 Real property improvements and machinery not subject to farm use special assessment. Except for property that is exempt or specially assessed under other provisions of law, real property improvements and machinery or other personal property on, attached to or in any other respect connected with property subject to assessment under ORS 308A.050 to 308A.128, including property used in operations that constitute farm use operations, shall have an assessed value determined under ORS 308.146. Real property improvements and machinery and personal property may not be assessed as provided in ORS 308A.050 to 308A.128. [1999 c.314 §21]

(Disqualification)

308A.113 Disqualification of exclusive farm use zone farmland; reversal for remediation plan. (1) Land within an exclusive farm use zone shall be disqualified from special assessment under ORS 308A.062 by:

(a) Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as farmland;

(b) Removal of the land from any exclusive farm use zone; or

(c) Establishing a nonfarm dwelling on the land under ORS 215.236.

(2) Notwithstanding subsection (1)(a) of this section, the county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:

(a) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780.

(3)(a) Disqualification under subsection (1)(a) of this section is reversed if the taxpayer:

(A) Notifies the assessor in writing pursuant to ORS 308A.718 of the taxpayer's intention to seek certification for a remediation plan; and

(B) Presents a certified remediation plan to the assessor within one year after the date of disqualification.

(b) In addition to the grounds for disqualification under subsection (1)(a) of this section, the assessor may disqualify land granted farm use special assessment pursuant to a remediation plan upon:

(A) Discovery, or notice from an extension agent of the Oregon State University Extension Service, that the plan is not being implemented substantially as certified; or

(B) Discovery, or notice from the owner, tenant or lessee or from an extension agent of the Oregon State University Extension Service, that the plan as certified is no longer necessary, practicable or effective.

(4)(a) Notwithstanding ORS 308.210, 308A.062, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.

(b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.

(5) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.397; 2009 c.776 §3]

308A.116 Disqualification of nonexclusive farm use zone farmland; reversal for remediation plan. (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS 308A.068 shall be disqualified from such special assessment upon:

(a) Notification by the taxpayer to the assessor to remove the special assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(c) Removal of the special assessment by the assessor upon the discovery that the land is no longer in farm use for failure to meet the income requirements under ORS 308A.071 or is no longer in farm use; or

(d) The act of recording a subdivision plat under the provisions of ORS chapter 92.

(2) The county assessor shall not disqualify the land that has been receiving special assessment upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner if the land continues to be used solely for farm use.

(3) When, for any reason, the land or any portion thereof ceases to be used solely for farm use, the owner at the time of the change in use shall notify the assessor of the change prior to the next January 1 assessment date.

(4) If under subsection (1)(d) of this section, the county assessor disqualifies land for special assessment upon the act of platting the land, the land, or a part of the land, may be requalified for special assessment upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

(b) Submission by the owner of an application for special assessment under ORS 308A.077;

(c) Meeting all of the qualifications for farm use special assessment under ORS 308A.068; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for farm use.

(5) The county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:

(a) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780.

(6)(a) Disqualification under subsection (1)(c) of this section is reversed if the taxpayer:

(A) Notifies the assessor in writing pursuant to ORS 308A.718 of the taxpayer's intention to seek certification for a remediation plan; and

(B) Files an application for a certified remediation plan with the assessor within one year after the date of disqualification.

(b) In addition to the grounds for disqualification under subsection (1)(c) of this section, the assessor may disqualify land granted farm use special assessment pursuant to a remediation plan upon:

(A) Discovery, or notice from an extension agent of the Oregon State University Extension Service, that the plan is not being implemented substantially as certified; or

(B) Discovery, or notice from the owner, tenant or lessee or from an extension agent of the Oregon State University Extension Service, that the plan as certified is no longer necessary, practicable or effective.

(7)(a) Notwithstanding ORS 308.210, 308A.068, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.

(b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.

(8) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.390; 2009 c.776 §4]

308A.119 Abatement; termination of abatement. (1) If on January 1 of any year any farmland assessed under ORS 308A.068 has become disqualified for farm use special assessment because of any gross income or other requirement of ORS 308A.071, the collection of the additional taxes under ORS 308A.700 to 308A.733 shall be deferred, but only if each year for a period of five consecutive years (or such lesser number of years in which farm use assessment was in effect prior to disqualification) beginning on January 1 of the first year the land became so disqualified, the land is used as farmland (including, for the purposes of this section, the growing of forest products). As the limited use is continued and completed each year, additional taxes are abated on the basis of an abatement of one year's additional tax for each year of limited use beginning with the oldest year for which additional taxes are due for up to five years (or the number of years for which farm use assessment was in effect, whichever is less). Beginning on the January 1 the land became so disqualified the land shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law without regard to any special assessment laws.

(2) If at any time prior to the expiration of the five-year (or lesser) period specified in subsection (1) of this section the land is used for a higher and better use than farmland, the abatement process shall terminate, and there shall be added to the tax extended against the land on the next general property tax roll, (to be collected and distributed in the same manner as the remainder of the real property tax) the additional taxes that still remain deferred and unabated under subsection (1) of this section.

(3) When land described in this section is used for a higher and better use than farmland during the five-year (or lesser) period described in subsection (1) of this section, the owner shall notify the county assessor before the following January 1 of the change in use.

(4) The amount determined to be due under this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370. [Formerly 308.404]

308A.122 Effect of requalification on abated taxes. If during the period specified in ORS 308A.119, the farmland again meets the gross income or other requirements of ORS 308A.071, the owner may apply to the assessor on or before April 1 of the next calendar year, in the manner provided in ORS 308A.077, for farm use special assessment. If satisfied that the requirements of ORS 308A.071 have been met, the assessor shall restore farm use special assessment to the land. The potential additional taxes for all years not already abated under ORS 308A.119 shall continue as a potential liability against the land under ORS 308A.119 and 308A.706, except that each oldest year of potential liability shall abate as the total of all other years of potential additional tax liability for prior years reaches five. [Formerly 308.406]

308A.125 Historic cemeteries within exclusive farm use zones; partition; effect of disqualification. Any land that has received special assessment as exclusive farm use zone farmland, has been used as a cemetery at any time between 1810 to 1950, contains fewer than 50 marked graves, is less than one acre in size and was issued a patent, whether recorded or unrecorded, before 1900 may be partitioned from a parcel that shall continue to qualify for special assessment. The parcel that continues in special assessment and the partitioned cemetery shall not be subject to the provisions of ORS 308A.703 as a result of partitioning under this section. [Formerly 308.400]

308A.128 Certain district assessments inapplicable to exclusive farm use zone farmland. (1) Except as otherwise provided in subsection (2) of this section, the assessments and levies of the following taxing units and special districts shall not be imposed while land is qualified for special assessment as exclusive farm use zone farmland under ORS 308A.062:

(a) Sanitary districts formed under ORS 450.005 to 450.245.

(b) Domestic water supply districts formed under ORS chapter 264.

(c) Water authorities, sanitary authorities or joint water and sanitary authorities formed under ORS 450.600 to 450.989.

(2) Subsection (1) of this section does not apply to:

(a) Benefit assessments or special ad valorem tax levies imposed upon homesites situated within a parcel of farm use land. As used in this paragraph, "homesite" means not more than one acre of land upon which are constructed nonfarm dwellings and appurtenances; or

(b) Benefit assessments or special ad valorem tax levies imposed subsequent to disqualification of lands for farm use special assessment under ORS 308A.062. [Formerly 308.401]

FARM AND FOREST HOMESITES

308A.250 Definitions for ORS 308A.250 to 308A.259. As used in ORS 308A.250 to 308A.259:

(1) "Exclusive farm use zone" has the meaning given that term in ORS 308A.053.

(2) "Forestland" means forestland that is a parcel of land of more than 10 acres that has been zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest use and that is, as of the assessment date for which value for the forest homesite is being determined:

(a) Land that has as its highest and best use the growing and harvesting of trees of a marketable species;

(b) Land that has been designated as forestland under ORS 321.257 to 321.390 or 321.805 to 321.855; or

(c) Land that is assessed as small tract forestland under ORS 321.700 to 321.754.

(3) "Homesite" means land described in ORS 308A.253, including all tangible improvements to the land under and adjacent to a dwelling and other structures, if any, that are customarily provided in conjunction with the dwelling.

(4) "Nonexclusive farm use zone farmland" has the meaning given that term in ORS 308A.053.

(5) "Owner" or "owners" means:

(a) The person who holds an estate in the homesite in fee simple or for life.

(b) Any one of tenants in common or tenants by the entirety, holding an estate in the homesite in fee simple or for life.

(c) Any person of legal age, duly authorized in writing to act on behalf of any person described in paragraph (a) or (b) of this subsection in filing an application for special assessment of nonexclusive farm use zone farmland.

(d) The guardian or conservator of an owner, or the executor or administrator of an owner's estate.

(e) The purchaser of the fee simple or life estate of an owner under a contract of sale. [1999 c.314 §29; 2003 c.454 §§96,98; 2003 c.621 §82]

308A.253 Qualification of homesites. (1) Land under a dwelling that is used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species shall qualify for special assessment under ORS 308A.256.

(2) Land under dwellings located within an exclusive farm use zone and used in conjunction with farm use shall qualify for special assessment under ORS 308A.256.

(3) Land under dwellings used in conjunction with the farm use of nonexclusive farm use zone farmland shall qualify for special assessment under ORS 308A.256 if the farmland was operated as a part of a farm unit that produced more than one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this section.

(4) Land under a dwelling on a lot or parcel that is specially assessed under ORS 308A.403 to 308A.430 or 308A.450 to 308A.465 shall qualify for special assessment under ORS 308A.256 if the land associated with the homesite:

(a) Was the subject of an application for wildlife habitat special assessment under ORS 308A.424 or conservation easement special assessment under ORS 308A.456 and includes an existing homesite that was specially assessed under one of the special assessments listed in ORS 308A.703 (1) during the assessment year prior to application; or

(b)(A) Is zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest use; and

(B) The parcel has a minimum of 10 acres that meet the stocking and species requirements of land specially assessed under ORS 321.354 or 321.833.

(5) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling "in conjunction with the activities customarily carried on in the management and operation of forestland" includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the forestland, is occupied by an employee of the owner of forestland who is employed in connection with the forest operation or is occupied by a person who is involved in the forest operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the forest operation but:

(A) Whose principal source of income is derived from the harvest of timber from the forestland on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the forest operation, during the five consecutive tax years before the tax year in which engagement in the forest operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the forest operation ended. For purposes of this subparagraph, "continuous" includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(6) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling "in conjunction with farm use" of farm use land includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the farm use land, is occupied by an employee of the owner of farm use land who is employed in connection with the farming operation or is occupied by a person who is involved in the farming operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the farm operation on the farm use land but:

(A) Whose principal source of income is from the farm operation on the farm use land on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the farm operation, during the five consecutive tax years before the tax year in which engagement in the farm operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the farm operation ended. For purposes of this subparagraph, "continuous" includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(7)(a) In order for land described in subsection (3) of this section to qualify for assessment under ORS 308A.250 to 308A.259, the owner or owners shall file an application with the county assessor on or before April 15 of each year the assessment is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the assessor and shall include any information as may be reasonably required to determine the entitlement of the applicant, including copies of applicable state income tax returns. All information provided, including determinations made under administrative and court proceedings where entitlement is in issue, shall be confidential information of the assessor's office and shall be used only for purposes of this subsection.

(b) There shall be attached to each application an affidavit or affirmation from the applicant providing that the statements contained in the application are true. [Formerly 308.376; 2003 c.539 §12; 2007 c.809 §8]

308A.256 Maximum assessed value and assessed value of homesites. (1) The maximum assessed value and assessed value of a homesite shall be determined as provided in this section.

(2) A homesite shall have an assessed value for ad valorem property tax purposes for the tax year equal to the lesser of the homesite's maximum assessed value or homesite value.

(3) The homesite value for purposes of ORS 308A.250 to 308A.259 shall equal the real market value of the bare land of the total parcel and contiguous acres under same ownership, as determined under ORS 308.205, divided by the number of acres in the total parcel and contiguous acres under the same ownership, plus the lesser of:

(a) $4,000; or

(b) The depreciated replacement cost of land improvements necessary to establish the homesite.

(4) For the purposes of establishing a homesite value, the value of one acre of land for each homesite, as determined in subsection (3) of this section shall be used.

(5) The homesite's maximum assessed value shall equal 103 percent of the homesite's assessed value for the previous tax year or 100 percent of the homesite's maximum assessed value for the previous tax year, whichever is greater.

(6) For the first tax year for which property constitutes a homesite under this section, the homesite's maximum assessed value shall equal the homesite's value as determined under subsection (3) of this section multiplied by the ratio of average maximum assessed value to real market value of the residential property class in the county. [Formerly 308.377; 2003 c.169 §2]

308A.259 Disqualification of homesite. (1) A homesite shall be disqualified from assessment under ORS 308A.256 and shall be assessed at the assessed value under ORS 308.146 if the dwelling:

(a) Is not being used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species; or

(b)(A) Is not being used in conjunction with farm use; and

(B) Is used for a nonfarm purpose; however, vacancy does not constitute a change in use.

(2) If a homesite becomes disqualified from special assessment under the provisions of subsection (1) of this section, except for establishing a nonfarm dwelling pursuant to ORS 215.236, no additional tax shall be imposed following disqualification. The remaining qualifying portion of the parcel shall be valued as specially assessed.

(3) If the owner establishes a nonfarm dwelling in an exclusive farm use zone under ORS 215.236, additional taxes shall be imposed as provided in ORS 308A.700 to 308A.733. [Formerly 308.378]

OPEN SPACE LANDS

308A.300 Definitions for ORS 308A.300 to 308A.330. As used in ORS 308A.300 to 308A.330, unless a different meaning is required by the context:

(1) "Open space land" means:

(a) Any land area so designated by an official comprehensive land use plan adopted by any city or county; or

(b) Any land area, the preservation of which in its present use would:

(A) Conserve and enhance natural or scenic resources;

(B) Protect air or streams or water supply;

(C) Promote conservation of soils, wetlands, beaches or tidal marshes;

(D) Conserve landscaped areas, such as public or private golf courses, which reduce air pollution and enhance the value of abutting or neighboring property;

(E) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;

(F) Enhance recreation opportunities;

(G) Preserve historic sites;

(H) Promote orderly urban or suburban development; or

(I) Retain in their natural state tracts of land, on such conditions as may be reasonably required by the legislative body granting the open space classification.

(2) "Current" or "currently" means as of next January 1, on which the property is to be listed and valued by the county assessor under ORS chapter 308.

(3) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" shall mean the contract vendee. [Formerly 308.740]

308A.303 Policy. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and the vegetation thereon to assure continued public health by counteracting pollutants and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. The legislature further declares that it is in the public interest to prevent the forced conversion of open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such open space land, and that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is the intent of ORS 308A.300 to 308A.330 to so provide. [Formerly 308.745]

308A.306 Application for open space use assessment; contents of application; filing; reapplication. An owner of land desiring current open space use assessment under ORS 308A.300 to 308A.330 shall make application to the county assessor upon forms prepared by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which classification is requested, the current open space use or uses of the land, and shall designate the paragraph of ORS 308A.300 (1) under which each such use falls. The application shall include such other information as is reasonably necessary to properly classify an area of land under ORS 308A.300 to 308A.330 with a verification of the truth thereof. Applications shall be made to the county assessor during the calendar year preceding the first assessment year for which such classification is requested. If the ownership of all property included in the application remains unchanged, a new application is not required after the first year for which application was made and approved. [Formerly 308.750]

308A.309 Submission of application for approval of local granting authority; grounds for denial; approval; application withdrawal. (1) Within 10 days of filing in the office of the assessor, the assessor shall refer each application for classification to the planning commission, if any, of the governing body and to the granting authority, which shall be the county governing body, if the land is in an unincorporated area, or the city legislative body, if it is in an incorporated area. An application shall be acted upon in a city or county with a comprehensive plan in the same manner in which an amendment to the comprehensive plan is processed. In determining whether an application made for classification under ORS 308A.300 (1)(b) should be approved or disapproved, the granting authority shall weigh:

(a) The projected costs and other consequences of extending urban services to the affected lot or parcel;

(b) The value of preserving the lot or parcel as open space;

(c) The projected costs and other consequences of extending urban services beyond the affected lot or parcel; and

(d) The projected costs and other consequences, including the projected costs of extending urban services, of expanding the urban growth boundary in other areas if necessary to compensate for any reduction in available buildable lands.

(2) The granting authority shall not deny the application solely because of the potential loss in revenue that may result from granting the application if the granting authority determines that preservation of the current use of the land will:

(a) Conserve or enhance natural or scenic resources;

(b) Protect air or streams or water supplies;

(c) Promote conservation of soils, wetlands, beaches or tidal marshes;

(d) Conserve landscaped areas, such as public or private golf courses, which enhance the value of abutting or neighboring property;

(e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces;

(f) Enhance recreation opportunities;

(g) Preserve historic sites;

(h) Promote orderly urban or suburban development; or

(i) Affect any other factors relevant to the general welfare of preserving the current use of the property.

(3) The granting authority may approve the application with respect to only part of the land which is the subject of the application; but if any part of the application is denied, the applicant may withdraw the entire application. [Formerly 308.755]

308A.312 Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial. (1) The granting authority shall immediately notify the county assessor and the applicant of its approval or disapproval which shall in no event be later than April 1 of the year following the year of receipt of said application. An application not denied by April 1 shall be deemed approved, and shall be considered to be land which qualifies under ORS 308A.300 to 308A.330.

(2) When the granting authority determines that land qualifies under ORS 308A.300 to 308A.330, it shall enter on record its order of approval and file a copy of the order with the county assessor within 10 days. The order shall state the open space use upon which approval was based. The county assessor shall, as to any such land, assess on the basis provided in ORS 308A.315, and each year the land is classified shall also enter on the assessment roll, as a notation, the assessed value of such land were it not so classified.

(3) Each year the assessor shall include in the certificate made under ORS 311.105 a notation of the amount of additional taxes which would be due if the land were not so classified.

(4) The additional taxes noted under subsection (3) of this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) On approval of an application filed under ORS 308A.306, for each year of classification the assessor shall indicate on the tax roll that the property is being specially assessed as open space land and is subject to potential additional taxes as provided by ORS 308A.318, by adding the notation "open space land (potential add'l tax)."

(6) Any owner whose application for classification has been denied may appeal to the circuit court in the county where the land is located, or if located in more than one county, in that county in which the major portion is located. [Formerly 308.760]

308A.315 Determination of maximum assessed value and assessed value of open space lands; rules. (1) The maximum assessed value and assessed value of land classified as open space land under ORS 308A.300 to 308A.330 shall be determined as provided in this section.

(2) Land classified as open space land shall have an assessed value for the tax year equal to the lesser of the land's maximum assessed value or the land's open space value determined under subsection (5) of this section.

(3) The land's maximum assessed value shall equal 103 percent of the land's assessed value for the previous tax year or 100 percent of the land's maximum assessed value for the previous tax year, whichever is greater.

(4)(a) For the first tax year for which the land is classified as open space land, the land shall have a maximum assessed value equal to the land's open space value determined under subsection (5) of this section multiplied by the ratio of the total maximum assessed value of all open space land within the county over the total open space value of all open space land in the county.

(b) If there is an insufficient amount of land classified as open space land in a county to permit a statistically reliable ratio to be determined under paragraph (a) of this subsection, the statewide totals of maximum assessed value of open space land and open space value shall be used in determining the ratio.

(c) The Department of Revenue shall prescribe rules setting forth the minimum amount of open space land in a county needed to establish a statistically reliable ratio.

(5) The open space value of land classified as such under ORS 308A.300 to 308A.330 shall be the land's real market value under ORS 308.205:

(a) Assuming the highest and best use of the land to be the current open space use, such as park, sanctuary or golf course. The assessor shall not consider alternative uses to which the land might be put.

(b) Valuing the improvements on the land, if any, as required by ORS 308.205. [Formerly 308.765; 2003 c.169 §3]

308A.318 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional taxes; exception. (1) When land has once been classified under ORS 308A.300 to 308A.330, it

shall remain under such classification and it shall not be applied to any other use than as open space unless withdrawn from classification as provided in subsection (2) of this section, except that if the use as open space land changes from one open space use to another open space use, such as a change from park purposes to golf course land, the owner shall notify the assessor of such change prior to the next January 1 assessment date.

(2) During any year after classification, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which such land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from such classification, and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be collected on such land in an amount equal to the total amount of potential additional taxes computed under ORS 308A.312 (3) during each year in which the land was classified, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable had the land not been so classified, limited to a total amount not in excess of the dollar difference in the value of the land as open space land for the last year of classification and the real market value under ORS 308.205 for the year of withdrawal.

(3) If the owner fails to give the notice required under subsection (1) of this section during the period of classification, upon withdrawal under subsection (2) of this section, the assessor shall add to the tax extended against the land previously classified, an amount, if any, equal to the additional taxes that would have been collected had the assessor valued the classified land on the basis of the changed open space use, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable.

(4) Notwithstanding subsection (2) of this section, open space lands that qualify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 or conservation easement special assessment under ORS 308A.450 to 308A.465 may be disqualified from open space special assessment and qualified for wildlife habitat special assessment or conservation easement special assessment without payment of any additional tax under this section.

(a) The additional tax as determined under subsection (2) of this section shall remain a potential liability notated on the assessment and tax roll, separate from and in addition to the wildlife habitat potential additional tax described in ORS 308A.427 or the conservation easement potential additional tax described in ORS 308A.459.

(b) The interest as described in subsection (2) of this section shall be frozen for as long as the land remains in wildlife habitat special assessment or conservation easement special assessment.

(c) If the land is disqualified from wildlife habitat special assessment or conservation easement special assessment and again becomes qualified for open space special assessment, the open space potential tax calculation shall resume as of the date of the renewed open space use special assessment qualification. [Formerly 308.770; 2003 c.539 §15; 2007 c.809 §9]

308A.321 Withdrawal by assessor when use changed; notice; imposition of additional taxes; interest; penalty; exception. (1) When land which has been classified and assessed under ORS 308A.300 to 308A.330 as open space land is applied to some use other than as open space land, except through compliance with ORS 308A.318 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days thereof notify the county assessor of such change in use. The assessor or assessors shall withdraw the land from classification and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be imposed upon such land in an amount equal to the amount that would have been due under ORS 308A.318 if notice had been given by the owner as of the date of withdrawal, plus a penalty equal to 20 percent of the amount so determined.

(2) If no notice is given as required by subsection (1) of this section, the assessor, upon discovery of the change in use, shall compute the amount of taxes, penalty and interest described in subsection (1) of this section, as though notice had been given, and shall add thereto an additional penalty equal to 20 percent of the total amount so computed, for failure to give such notice.

(3) The limitation described in ORS 308A.318 (2) applies only to the computation of taxes and interest, and not to the penalties described in subsections (1) and (2) of this section.

(4) The provisions of subsections (1) and (2) of this section shall not apply in the event that the change in use results from the sale of a least 50 percent of such land classified under ORS 308A.300 to 308A.330 within two years after the death of the owner. [Formerly 308.775]

308A.324 Prepayment of additional taxes; extending taxes on tax roll; collection; distribution. (1) The amount determined to be due under ORS 308A.318 or 308A.321 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(2) The amounts under ORS 308A.318 or 308A.321 shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property taxes. [Formerly 308.780]

308A.327 Reports on land use from owners; effect of failure to make report upon demand. The assessor shall at all times be authorized to demand in writing, by first class mail, and to receive reports from owners of land classified under ORS 308A.300 to 308A.330 as to the use of the land. If the owner fails to comply within 90 days after receipt of the demand, the assessor may immediately withdraw the land from classification. Upon withdrawal of the land from classification, the assessor shall give written notice to the granting authority of the withdrawal and apply the penalties provided in ORS 308A.318 and 308A.321. [Formerly 308.785; 2011 c.204 §6]

308A.330 Rules. The Department of Revenue of the State of Oregon shall make such rules and regulations consistent with ORS 308A.300 to 308A.330 as shall be necessary or desirable to permit its effective administration. [Formerly 308.790]

RIPARIAN HABITAT EXEMPTION

308A.350 Definitions for ORS 308A.350 to 308A.383. As used in ORS 308A.350 to 308A.383:

(1) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" means the contract vendee under a recorded contract.

(2) "Department" means the State Department of Fish and Wildlife.

(3) "Designated riparian land" means the beds of streams, the adjacent vegetation communities, and the land thereunder, which are predominantly influenced by their association with water, not to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately owned and which qualify for exemption under ORS 308A.350 to 308A.383.

(4) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3). [Formerly 308.792]

308A.353 Policy. The Legislative Assembly declares that it is in the best interest of the state to maintain, preserve, conserve and rehabilitate riparian lands to assure the protection of the soil, water, fish and wildlife resources of the state for the economic and social well-being of the state and its citizens. The Legislative Assembly declares that riparian habitat maintained in a healthy condition is a legitimate land use that contributes to erosion control, improved water quality and prolonged streamflow. The Legislative Assembly further declares that it is in the public interest to prevent the forced conversion of riparian environments to more intensive uses as a result of economic pressures caused by the assessment of those lands for purposes of property taxation at values incompatible with their protection as riparian lands and that tax exemption must be granted to permit the continued availability of riparian environments for these purposes, and it is the intent of ORS 308A.350 to 308A.383 to so provide. [Formerly 308.793]

308A.356 Application for exemption as riparian land; contents; notice after sale or transfer. An owner of land desiring designation and exemption of that land from ad valorem taxation as riparian land under ORS 308A.350 to 308A.383 shall make application to the county assessor upon forms prescribed by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which designation as riparian lands is requested and the current use of the land. The application shall include any other information as is reasonably necessary to properly designate an area of land as riparian land under ORS 308A.350 to 308A.383 with a verification of the truth thereof. Applications to the county assessor shall be made on or before December 31 of the calendar year preceding the first tax year for which such designation is requested. The county assessor shall notify the State Department of Fish and Wildlife if a recorded sale or transfer of the land granted exemption under ORS 308A.350 to 308A.383 occurs for the purpose of determining continued eligibility of the land for the exemption. The State Department of Fish and Wildlife shall notify the county assessor in writing of the finding within 120 days after the date the county assessor's notice is mailed or delivered. Failure of the assessor to notify the State Department of Fish and Wildlife shall not prevent the imposition of the additional tax prescribed by ORS 308A.368 (2). [Formerly 308.794]

308A.359 Standards and criteria for exemption; determination; exemption limited to certain lands; application withdrawal. (1) The State Department of Fish and Wildlife shall develop standards and criteria for the designation of land as riparian. Upon the receipt of an application referred to it by the county assessor, the department shall determine if the land described in the application is qualified for designation as riparian.

(2) The department shall review riparian management plans submitted by applicants to assure compliance with the intent of ORS 308A.353. Standards and criteria to be used to determine consistency with the intent of ORS 308A.350 to 308A.383 shall be developed by the department and shall be reviewed by the department annually. These criteria shall be in addition to the following provisions limiting participation under ORS 308A.350 to 308A.383:

(a)(A) Subject to subparagraph (B) of this paragraph, and except as provided in subparagraph (C) of this paragraph, only lands planned and zoned as forest or agricultural lands, including rangeland, in compliance with the statewide planning goals adopted under ORS 197.240 and outside adopted urban growth boundaries shall qualify.

(B) Lands that, as of July 1, 1997, are outside adopted urban growth boundaries and also as of that date are planned and zoned as forest or agricultural lands, including rangeland, in compliance with the statewide planning goals adopted under ORS 197.240 qualify, for tax years beginning on or after July 1, 1998, for riparian designation if they are managed in the manner provided for designated riparian lands and are otherwise eligible for riparian designation under ORS 308A.350 to 308A.383 even though the lands are no longer outside adopted urban growth boundaries or planned or zoned as forest or agriculture.

(C) Lands within the boundaries of a city and an urban growth boundary, if the city and county governing bodies have authorized the exemption under ORS 308A.360, may qualify if the lands are managed in the manner provided for riparian designation under ORS 308A.350 to 308A.383.

(b) Land management activities permitted within designated riparian lands shall be consistent with the intent of ORS 308A.350 to 308A.383.

(3) Land that the State Department of Fish and Wildlife determines may qualify for designation as riparian shall be approved by the department for designation and exemption under ORS 308A.350 to 308A.383 only if the owner of the land has developed and implemented, in accordance with the standards adopted under subsections (1) and (2) of this section, adequate measures for:

(a) The continued protection of the land; or

(b) Techniques for rehabilitation of the riparian land and those measures or techniques are approved by the department.

(4) The department may approve the application for designation of land as riparian with respect to only part of the land that is the subject of the application, but if any part of the application is denied, the applicant may withdraw the entire application. [Formerly 308.795; 2001 c.925 §7]

308A.360 City and county authorization required for exemption of riparian land within city and urban growth boundary. (1) Land located within the boundaries of a city and an urban growth boundary is exempt from the ad valorem property taxes of the city and county in which the land is located if:

(a) The governing bodies of the city and the county in which the land is located have both adopted ordinances or resolutions:

(A) Permitting the designation of land as riparian land; and

(B) If possible, describing how the city or county will provide technical assistance to landowners preparing riparian management plans pursuant to ORS 308A.359 and will monitor landowner compliance with approved plans; and

(b) The land qualifies for designation and exemption as riparian land under ORS 308A.350 to 308A.383.

(2) Copies of the authorizing ordinances or resolutions must be given to the county assessor and to the State Department of Fish and Wildlife. [2001 c.925 §6]

308A.362 Approval or disapproval of application; limitation on approval; order; notice; exemption; potential additional taxes. (1) The State Department of Fish and Wildlife shall immediately notify the county assessor and the applicant of its approval or disapproval of an application which shall in no event be later than April 1 of the year following the year of receipt of the application. Subject to subsection (2) of this section and the mileage limitation of ORS 308A.380, an application not denied by April 1 shall be deemed approved, and the land that is the subject of the application shall be considered to be land that qualifies under ORS 308A.359.

(2) An application for land described in ORS 308A.359 (2)(a)(B) shall be approved only if filed on or before five years after the date the land became land no longer outside adopted urban growth boundaries or planned or zoned as forest or agricultural land.

(3) An application for land described in ORS 308A.360 (1) may be approved only if ordinances or resolutions authorizing the exemption have been adopted by the city and county in which the land is located and these ordinances or resolutions are in effect on the date of application.

(4) The department may not approve more than 50 applications for land described in ORS 308A.360 (1) for any tax year. An application that is not approved because of the limitation imposed by this subsection shall be held for consideration for the next tax year.

(5)(a) When the department approves land for designation as riparian under ORS 308A.359, it shall enter an order of approval and file a copy of the order with the county assessor within 10 days. Upon receipt of the order, the county assessor shall enter a notation on the assessment roll that the land described in the order is exempt from ad valorem taxation.

(b) If the land is as described in ORS 308A.360 (1), the exemption shall apply only to the ad valorem property taxes of the city and county that have authorized the exemption.

(6) On approval of an application filed under ORS 308A.356, for each year of designation the assessor shall indicate on the assessment and tax roll that the property is exempt from taxation as riparian land or, in the case of land described in ORS 308A.360 (1), partially exempt from taxation. The assessor shall also indicate on the tax roll that the land is subject to potential additional taxes as provided by ORS 308A.368, by adding the notation "designated riparian land (potential add'l tax)."

(7) Any owner whose application for designation has been denied may appeal to the department under the provisions of ORS chapter 183 governing contested cases. [Formerly 308.796; 2001 c.925 §8]

308A.365 Duration of exemption; change in use; withdrawal at request of owner. (1) When land has once been designated as riparian under ORS 308A.350 to 308A.383, it shall remain under that designation and it shall not be applied to any use other than those specifically included in the management plan or consistent with the intent of ORS 308A.350 to 308A.383 unless withdrawn from designation as provided in subsection (2) of this section.

(2) During any year after designation, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which the land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from designation as riparian and shall immediately give written notice of the withdrawal to the State Department of Fish and Wildlife. [Formerly 308.797]

308A.368 Additional taxes upon withdrawal from riparian land designation; computation. (1) When land that has been designated as exempt from taxation under ORS 308A.350 to 308A.383 as riparian is applied to some use other than that compatible with riparian use, as defined in the management plan, except through compliance with ORS 308A.365 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days after the change in use notify the county assessor of the change in use. The assessor or assessors shall withdraw the land from designation and immediately give written notice of the withdrawal to the State Department of Fish and Wildlife. Thereafter, the land shall be assessed and taxed as other property similarly situated is assessed and taxed.

(2) The assessor, upon discovery of the change in use to a use other than that compatible with riparian or upon withdrawal by the owner of the land from designation, shall compute an additional tax equal to the difference between the taxes assessed against the land and the taxes that otherwise would have been assessed against the land had the land not received exemption for each of the last five years (or such lesser number of years, corresponding to the number of years of exemption under ORS 308A.350 to 308A.383 applicable to the property after its most recent change of ownership) preceding the tax year in which the land was withdrawn from designation. [Formerly 308.798]

308A.371 Additional taxes; payment; collection. (1) The amount determined to be due under ORS 308A.368 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(2) The amounts under ORS 308A.368 shall be added to the tax extended against the entire parcel of land of which the riparian land is a part on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property taxes. [Formerly 308.799]

308A.374 Reports on riparian land use from owners; effect of failure to make report upon demand; request by assessor for determination of continued qualification. (1) The assessor shall at all times be authorized to demand in writing, by first class mail, and to receive reports from owners of land designated as riparian under ORS 308A.350 to 308A.383 as to the use of the land. If the owner fails to comply within 90 days after

receipt of the demand, the assessor shall give written notice to the State Department of Fish and Wildlife and to the landowner of the assessor's intention to withdraw the land from designation and apply the payments and penalties provided in ORS 308A.368 not less than 30 days prior to automatic withdrawal of the riparian land from designation. If, prior to the expiration of the 30-day period, the landowner fails to file the requested report, the assessor immediately shall withdraw the land from designation and apply the payments and penalties provided in ORS 308A.368.

(2) If the assessor has reason to believe that land designated as riparian land no longer qualifies for designation and special assessment, the assessor shall request the State Department of Fish and Wildlife to determine if the land continues to qualify. The request shall be in writing. Upon receipt of the request, the State Department of Fish and Wildlife shall inspect the property and may take whatever steps are necessary to determine if the land continues to qualify for special assessment. The State Department of Fish and Wildlife shall notify the assessor of the determination made pursuant to the request of the assessor within 120 days after the request is received. A determination by the State Department of Fish and Wildlife that the property no longer qualifies shall constitute a discovery described in ORS 308A.368 (2). [Formerly 308.800; 2011 c.204 §7]

308A.377 Abatement of additional tax when farm, forest or open space land designated riparian. (1) Land may be designated as riparian upon application and approval of the application under ORS 308A.356 and 308A.359 if the land is being assessed under any of the following special assessment programs:

(a) ORS 308A.050 to 308A.128 (relating to farm use special assessment).

(b) ORS 321.257 to 321.390 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.855 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.700 to 321.754 (relating to special assessment as small tract forestland).

(e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

(2) Notwithstanding the provisions of any of the special assessment laws listed in subsection (1) of this section, the additional taxes, penalties and interest that would be due as a result of a change of designation to riparian shall be abated and shall not be collected. [Formerly 308.801; 2003 c.454 §§100,102; 2003 c.621 §83]

308A.380 Limitation on amount of land that may be exempt as riparian land. (1)(a) For the tax years beginning prior to July 1, 2004, the department may approve for designation as riparian land not more than 200 miles of private streambank in any county.

(b) The land approved for designation as riparian land under this subsection each year shall be in addition to, and not restricted by, the approval of designation of land as riparian during the previous year. However, the department may, in addition, approve for designation as riparian land each year an amount of land equal to the amount of land withdrawn from, or disqualified for, designation as riparian land during the previous year, and, an amount of land equal to the difference between the amount of land approved for designation as riparian land during the previous years and the maximum established under paragraph (a) of this subsection.

(2) If the department receives applications for designation of land as riparian in excess of the maximum established under subsection (1) of this section, preference shall be afforded according to the date the application was filed with the county assessor. Applications which are not approved because the maximum has been reached shall be held for consideration for approval for the next tax year. [Formerly 308.802]

308A.383 Rules. The Department of Revenue and the State Department of Fish and Wildlife shall make such rules consistent with ORS 308A.350 to 308A.383 as may be necessary or desirable to permit its effective administration. [Formerly 308.803]

WILDLIFE HABITAT SPECIAL ASSESSMENT

308A.400 Findings. (1) The Legislative Assembly finds that the State of Oregon has a rich diversity of plants, animals and other natural resources on private lands. Conservation and careful management of these resources is evident in Oregon's working landscape and is essential to the economic and ecological health of Oregon.

(2) The Legislative Assembly further finds that conservation of natural resources on private lands is desirable, and nonregulatory programs that encourage and enable landowners to engage voluntarily in conservation should be available to supplement regulatory and other approaches.

(3) The Legislative Assembly further finds that to maximize voluntary landowner participation in conservation programs, conservation should be recognized as a legitimate land use and landowners should have a full range of incentive programs from which to choose.

(4) The Legislative Assembly further finds that state government should have a mechanism to coordinate, facilitate and memorialize a landowner's compliance with regulatory requirements while simultaneously

providing a means to combine or coordinate multiple incentive programs among agencies and levels of government.

(5) The Legislative Assembly further finds that efforts should be made to more effectively and efficiently target conservation programs administered by federal, state and local governments.

(6) The Legislative Assembly further finds that there should be a comprehensive review to identify and assess the state's conservation needs and to coordinate the development, dissemination and implementation of a comprehensive statewide conservation strategy to define priorities and address ecological goals while enhancing economic and social conditions. [2003 c.539 §1]

Note: 308A.400 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308A.403 Policy. (1) The Legislative Assembly declares that the protection and preservation of the wildlife resources of this state ought to be encouraged by recognizing wildlife habitat conservation and management as a legitimate land use.

(2) The Legislative Assembly further declares that ORS 308A.403 to 308A.430 are intended to allow for the conservation and management of wildlife habitat.

(3) The Legislative Assembly recognizes that the integration of wildlife habitat conservation and management plans with generally accepted agricultural and forestry practices is an important element in exercising good land stewardship. [2003 c.539 §3]

308A.406 Definitions for ORS 308A.403 to 308A.430. As used in ORS 308A.403 to 308A.430:

(1) "Cooperating agency" means the State Department of Fish and Wildlife, the United States Fish and Wildlife Service, the Natural Resources Conservation Service of the United States Department of Agriculture, the Oregon State University Extension Service or other persons with wildlife habitat conservation and management training considered appropriate for the preparation of a wildlife habitat conservation and management plan, as established by rules adopted by the State Fish and Wildlife Commission under ORS 308A.409.

(2) "Department" means the State Department of Fish and Wildlife.

(3) "Lot" has the meaning given that term in ORS 92.010.

(4) "Parcel" has the meaning given that term in ORS 215.010.

(5) "Wildlife habitat conservation and management plan" or "plan" means a plan developed by a cooperating agency and landowner that specifies the conservation and management practices, including farm and forest uses consistent with the overall intent of the plan, that will be conducted to preserve and improve wildlife habitat on an affected lot or parcel. [2003 c.539 §4; 2005 c.94 §58]

308A.409 Wildlife habitat conservation and management plans; rules. (1)(a) The State Fish and Wildlife Commission shall adopt rules specifying the form and content of a wildlife habitat conservation and management plan that is sufficient for land that is subject to the plan to be specially assessed under ORS 308A.403 to 308A.430.

(b) The rules adopted pursuant to this section shall:

(A) Specify the conservation and management practices that are appropriate to preserve and enhance wildlife common to the diverse regions of this state; and

(B) Specify that wildlife habitat conservation and management plans may include those efforts that improve water quality, protect and restore fish and wildlife habitats, recover threatened or endangered species, enhance streamflows and maintain or restore long-term ecological health, diversity and productivity on a broad geographic scale.

(2) Under rules adopted pursuant to this section, the commission shall allow:

(a) Accepted agricultural and forestry practices as an integral part of the wildlife habitat conservation and management practices specified in an approved plan; and

(b) The lease or sale of in-stream water rights as an integral part of the wildlife habitat conservation and management practices specified in an approved plan.

(3) The rules shall be reviewed periodically by the commission and revised when considered necessary or appropriate by the commission. [2003 c.539 §5]

308A.412 Plan submission and review; limitation on approval; rules. (1) An owner of land described in ORS 308A.415 who seeks special assessment under ORS 308A.403 to 308A.430 shall first submit a proposed wildlife habitat conservation and management plan to the State Department of Fish and Wildlife for review.

(2) The department shall review each submitted plan for compliance with the standards set forth in the rules adopted under ORS 308A.409 and shall determine if the plan is being implemented.

(3) Upon completing a review of a proposed plan and determining that the plan is in compliance with the standards set forth in the rules adopted under ORS 308A.409 and is being implemented, the department shall issue to the landowner a written declaration that the land is subject to a wildlife habitat conservation and management plan approved by the department and that the landowner has begun implementing the plan.

(4) The State Fish and Wildlife Commission may establish by rule a limit on the number of plans that may be approved in each calendar year. An application that is not approved because the maximum number of plans for a year has already been approved shall be held for consideration for approval for the next year. [2003 c.539 §6]

308A.415 Designation by State Fish and Wildlife Commission of land eligible for wildlife habitat special assessment. (1) At the request of the governing body of a county, the State Fish and Wildlife Commission may designate the following land in unincorporated areas within the county as eligible for wildlife habitat special assessment:

(a) Any land that is zoned for exclusive farm use, mixed farm and forest use or forest use under a land use planning goal protecting agricultural land or forestland; or

(b) Land that is clearly identifiable as containing significant wildlife habitat.

(2) At the request of the governing body of a city, the commission may designate the following land within the city as eligible for wildlife habitat special assessment:

(a) Any land that is zoned for exclusive farm use, mixed farm and forest use or forest use under a land use planning goal protecting agricultural land or forestland; or

(b) Land that is clearly identifiable as containing significant wildlife habitat.

(3) With the prior consent of the governing body of a city, the county in which all or a part of the city is located may apply to the commission on behalf of the city for designation of any area that is within both the city and the county as eligible for wildlife habitat special assessment.

(4) The commission may designate land described in subsection (1) or (2) of this section as eligible for wildlife habitat special assessment only if the commission finds:

(a) That designation will promote the findings in ORS 308A.400 and the policy in ORS 308A.403; and

(b) That the land described in subsection (1) or (2) of this section is of the nature and quality to allow for implementation of wildlife habitat conservation and management plans approved under rules adopted pursuant to ORS 308A.409.

(5) Land may not qualify for wildlife habitat special assessment under ORS 308A.424 unless the commission has determined that the land is eligible for wildlife habitat special assessment under this section. [2003 c.539 §7]

308A.418 Removal of designation upon request of city or county; requirements. (1) The governing body of the city or county that requested designation under ORS 308A.415 may request that the State Fish and Wildlife Commission remove that designation.

(2) The commission shall remove the designation if:

(a) The city or county demonstrates that the designation creates an economic burden for the city or county; and

(b) The commission finds that the economic burden is significant.

(3) In making its determination under subsection (2) of this section, the commission shall give significant weight to the demonstration of economic burden made by the city or county. [2003 c.539 §7a]

308A.421 Effect of designation or removal for property tax purposes. A determination by the State Fish and Wildlife Commission to designate land as eligible for wildlife habitat special assessment under ORS 308A.415 or to remove that designation under ORS 308A.418 shall for property tax purposes be effective as of the tax year beginning the July 1 immediately following the determination. [2003 c.539 §7b]

308A.424 Application for special assessment; approval. (1) When a wildlife habitat conservation and management plan is approved by the State Department of Fish and Wildlife and is being implemented, the owner of the land subject to the plan may apply to the county assessor to receive wildlife habitat special assessment.

(2) Application shall be made to the county assessor on forms prepared by the Department of Revenue and supplied by the county assessor.

(3) Applications for wildlife habitat special assessment shall be made to the county assessor on or before April 1 of the first assessment year for which the assessment is desired. The application shall include:

(a) A copy of the wildlife habitat conservation and management plan.

(b) A certified copy of the declaration described in ORS 308A.412 (3).

(c) A description of the land that is the subject of the application that is sufficient for the county assessor to determine whether the land for which wildlife habitat special assessment is sought is within an area eligible for wildlife habitat special assessment.

(d) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.703 upon disqualification from wildlife habitat special assessment.

(e) An affirmation that the statements contained in the application are true.

(4) An application to the county assessor shall be deemed approved unless, before August 15 of the year in which the application was filed, the assessor notifies the applicant in writing that the application has been wholly or partially denied.

(5) Whether land that is subject to a wildlife habitat conservation and management plan qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. If land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232 at its real market value as defined by law without regard to this section and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [2003 c.539 §8]

308A.427 Valuation. (1) The county assessor shall value land for wildlife habitat special assessment in accordance with this section.

(a) For property that was specially assessed during the previous assessment year under a program listed in ORS 308A.706 (1)(d), the property shall continue to have a specially assessed value, a maximum assessed value and an assessed value as determined under whichever of the following was an applicable method of valuation for the previous assessment year:

(A) Under ORS 308A.050 to 308A.128; or

(B) Under ORS 321.354 or 321.833.

(b) For property that was not specially assessed during the previous assessment year, the property shall have a specially assessed value, a maximum assessed value and an assessed value:

(A) Determined under ORS 321.354 or 321.833 if, at the time of application, the land has growing upon it trees of a marketable species and in numbers sufficient to meet requirements for designated forestland under ORS 321.358 or 321.839; or

(B) If the criteria set forth in subparagraph (A) of this paragraph are not satisfied, determined under ORS 308A.050 to 308A.128.

(2) For property subject to wildlife habitat special assessment, the county assessor shall enter on the assessment and tax roll the notation "potential additional tax liability" until the land is disqualified under ORS 308A.430. [2003 c.539 §9]

308A.430 Disqualification from special assessment. (1) Land subject to a wildlife habitat conservation and management plan shall be inspected by the State Department of Fish and Wildlife periodically to ensure that the land is managed in accordance with the plan. If the plan is not being implemented as approved, the department shall notify the landowner and require compliance measures to be taken within six months. If the plan is still not being implemented as required by the department at the end of the six-month period, the department shall notify the county assessor that the plan is not being implemented as approved.

(2) The county assessor shall disqualify the land from wildlife habitat special assessment upon:

(a) Notice from the department as described in subsection (1) of this section;

(b) Notice of request by the landowner for withdrawal of the land from wildlife habitat special assessment;

(c) Sale or transfer to an ownership making the land exempt from ad valorem property taxation;

(d) The land qualifying for another special assessment listed in ORS 308A.703 (1); or

(e) The act of recording a subdivision plat under ORS chapter 92.

(3) If, pursuant to subsection (2)(e) of this section, the county assessor disqualifies land for wildlife habitat special assessment upon the act of recording a subdivision plat, the land may requalify for wildlife habitat special assessment upon:

(a) Payment of all additional tax and interest that remains due and owing as a result of the disqualification;

(b) Compliance with ORS 308A.403 to 308A.430; and

(c) Submission of an application for wildlife habitat special assessment under ORS 308A.424 and approval of the application by the county assessor.

(4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [2003 c.539 §10]

CONSERVATION EASEMENT

308A.450 Definitions. As used in ORS 308A.450 to 308A.465:

(1) "Conservation easement" has the meaning given that term in ORS 271.715.

(2) "Holder" has the meaning given that term in ORS 271.715.

(3) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 2010.

(4) "Lot" has the meaning given that term in ORS 92.010.

(5) "Parcel" has the meaning given that term in ORS 92.010, as further modified by ORS 215.010. [2007 c.809 §2; 2008 c.45 §6; 2009 c.5 §16; 2009 c.909 §16; 2010 c.82 §16; 2011 c.7 §16]

308A.453 Requirements. (1) Land subject to a conservation easement that is held by one or more holders and that is managed in compliance with the terms of the easement, shall receive conservation easement special assessment for ad valorem property tax purposes.

(2) In order for land to be subject to assessment under ORS 308A.450 to 308A.465:

(a) The terms of the conservation easement must be capable of meeting the requirements for being considered exclusively for conservation purposes under section 170(h) of the Internal Revenue Code if the land or easement were ever to be the subject of a contribution;

(b) The conservation easement must be recorded in the records of the clerk of the county in which the land is located; and

(c) A written certification must be filed with the county assessor stating that the conservation easement satisfies the requirements of paragraph (a) of this subsection. The certification must be filed by:

(A) The owner of the land, if a deduction has been claimed for federal income tax purposes under section 170 of the Internal Revenue Code for a qualified conservation contribution with respect to the conservation easement; or

(B) The holder, in all cases that are not described in subparagraph (A) of this paragraph. [2007 c.809 §3]

308A.456 Application for conservation easement special assessment; contents; application fee. (1) Upon satisfying the requirements of ORS 308A.453, the owner of land subject to a conservation easement may apply to the county assessor to receive conservation easement special assessment.

(2) Application shall be made to the county assessor on forms prepared by the Department of Revenue and supplied by the county assessor.

(3) Applications for conservation easement special assessment shall be made to the county assessor on or before April 1 of the first assessment year for which the assessment is desired. The application shall include:

(a) A copy of the conservation easement along with the property tax account number for the land.

(b) Contact information for the landowner and the holder or holders of the conservation easement.

(c) Representations, along with supporting documentation, that the requirements of ORS 308A.453 have been satisfied.

(d) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.700 to 308A.733 upon disqualification from conservation easement special assessment.

(e) An affirmation that the statements contained in the application are true.

(f) An application fee in the amount of $250.

(4) The county assessor shall approve an application that includes all documents listed in subsection (3) of this section. The assessor shall notify the landowner and the holder of the assessor's decision to approve or wholly or partially deny an application.

(5) Whether land subject to a conservation easement qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. If land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232 at its real market value as defined by law without regard to this section and shall be assessed at its assessed value under ORS 308.156 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year.

(6) Application fees collected under this section shall be deposited in the county general fund to the credit of the county assessor. [2007 c.809 §4]

308A.459 Valuation. (1) The county assessor shall value land for conservation easement special assessment in accordance with this section.

(2) For property that was specially assessed during the previous assessment year under a special assessment law listed in ORS 308A.706 (1)(d), the property shall have a specially assessed value, a maximum assessed value and an assessed value determined under whichever of the following was an applicable method of valuation for the previous assessment year:

(a) ORS 308A.050 to 308A.128; or

(b) ORS 321.354 or 321.833.

(3) For property that was not specially assessed during the previous assessment year, the property shall have a specially assessed value, a maximum assessed value and an assessed value:

(a) Determined under ORS 321.354 or 321.833 if, at the time of application, the land has growing upon it trees of a marketable species and in numbers sufficient to meet requirements for designated forestland under ORS 321.358 or 321.839; or

(b) If the criteria set forth in paragraph (a) of this subsection are not satisfied, determined under ORS 308A.050 to 308A.128.

(4) For property subject to conservation easement special assessment, the county assessor shall enter on the assessment and tax roll the notation "potential additional tax liability" until the land is disqualified under ORS 308A.465. [2007 c.809 §5]

308A.462 Dwellings. Subject to the terms of the applicable conservation easement, new and existing dwellings may be allowed on a lot or parcel subject to conservation easement special assessment as follows:

(1) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to (11), may remain.

(2) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling for which the landowner seeks approval complies with all applicable requirements under the county's acknowledged zoning ordinance. [2007 c.809 §6]

308A.465 Inspection by holder; disqualification; notice; requalification. (1) Land that is receiving conservation easement special assessment shall be inspected by a holder periodically to ensure that:

(a) The land is managed in accordance with the terms of the conservation easement to which the land is subject;

(b) The conservation easement continues to meet the requirements of ORS 308A.453 (2)(a); and

(c) The holder complies with subsection (2) of this section.

(2)(a) Every three years, or more frequently if requested in writing by the county assessor, the holder shall provide written certification to the county assessor that the land is being managed in accordance with the terms of the conservation easement to which the land is subject and that the conservation easement continues to meet the requirements of ORS 308A.453 (2)(a).

(b) If, upon inspection, the holder determines that the land is not being managed in accordance with the terms of the conservation easement to which the land is subject or that the conservation easement no longer meets the requirements of ORS 308A.453 (2)(a), the holder shall notify the landowner and require compliance measures to be taken within six months or a reasonable shorter period if permitted by the terms of the conservation easement. If the plan is still not being implemented as required by the holder at the end of the six-month period or applicable shorter period, the holder shall notify the county assessor that the land is not being managed in accordance with the terms of the conservation easement to which the land is subject.

(3) If the landowner has claimed a federal income tax deduction under section 170 of the Internal Revenue Code and the claim is disallowed because the contribution on which the claim is based is not a qualified conservation contribution under section 170(h) of the Internal Revenue Code, the landowner and holder shall immediately notify the county assessor of the disallowance.

(4) The county assessor shall disqualify the land from conservation easement special assessment upon:

(a) Failure of the holder to provide the certification described in subsection (2)(a) of this section within 90 days following the close of the three-year period or the date of the written request, whichever is earlier;

(b) Notice from the holder as described in subsection (2)(b) of this section;

(c) Notice from the landowner or holder as described in subsection (3) of this section;

(d) Notice of request for withdrawal by the landowner of the land from conservation easement special assessment;

(e) Sale or transfer to an ownership making the land exempt from ad valorem property taxation;

(f) The land qualifying for another special assessment listed in ORS 308A.706 (1)(d); or

(g) The act of recording a subdivision plat under ORS chapter 92.

(5) If, pursuant to subsection (4)(g) of this section, the county assessor disqualifies land for conservation easement special assessment upon the act of recording a subdivision plat, the land may requalify for conservation easement special assessment upon:

(a) Payment of all additional tax and interest that remain due and owing as a result of the disqualification;

(b) Compliance with ORS 308A.450 to 308A.465; and

(c) Submission of an application for conservation easement special assessment under ORS 308A.456 and approval of the application by the county assessor.

(6) Upon disqualification, the county assessor shall compute an additional tax under ORS 308A.700 to 308A.733. [2007 c.809 §7]

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS

(Additional Taxes)

308A.700 Definitions for ORS 308A.700 to 308A.733. As used in ORS 308A.700 to 308A.733:

(1) "Disqualification" includes the removal of forestland designation under ORS 321.359, 321.712, 321.716 or 321.842.

(2) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district under ORS 268.390 (3). [1999 c.314 §33; 2003 c.454 §§19,21; 2003 c.621 §84]

308A.703 Additional taxes upon disqualification. (1) This section applies to land upon the land's disqualification from special assessment under any of the following sections:

(a) Exclusive farm use zone farmland under ORS 308A.113;

(b) Nonexclusive farm use zone farmland under ORS 308A.116;

(c) Western Oregon designated forestland under ORS 321.359;

(d) Eastern Oregon designated forestland under ORS 321.842;

(e) Wildlife habitat special assessment under ORS 308A.430; or

(f) Conservation easement special assessment under ORS 308A.465.

(2) Following a disqualification listed in subsection (1) of this section, an additional tax shall be added to the tax extended against the land on the next assessment and tax roll, to be collected and distributed in the same manner as other ad valorem property tax moneys. The additional tax shall be equal to the difference between the taxes assessed against the land and the taxes that would otherwise have been assessed against the land, for each of the number of years determined under subsection (3) of this section.

(3) The number of years for which additional taxes shall be calculated shall equal the lesser of the number of consecutive years the land had qualified for the special assessment program for which disqualification has occurred or:

(a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately following disqualification, remains outside an urban growth boundary;

(b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary;

(c) Ten years, in the case of conservation easement special assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary; or

(d) Five years, in the case of:

(A) Nonexclusive farm use zone farmland;

(B) Western Oregon designated forestland;

(C) Eastern Oregon designated forestland;

(D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;

(E) Wildlife habitat special assessment land that is not described in paragraph (b) of this subsection; or

(F) Conservation easement special assessment land that is not described in paragraph (c) of this subsection.

(4)(a) Except as provided in paragraph (b) of this subsection, if disqualification under subsection (1)(a) or (b) of this section occurs within five years after the end of a period of farm use special assessment pursuant to a remediation plan as defined in ORS 308A.053, the number of years for which the additional tax shall be calculated shall be the number of years determined under subsection (3) of this section plus the number of years during which farm use special assessment was granted pursuant to the remediation plan.

(b) Additional tax may not be collected for the number of years during which farm use special assessment was granted pursuant to the remediation plan if the plan:

(A) Is implemented in good faith; and

(B) Fails to render continued farm use practicable.

(5) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(6) If the disqualification of the land is the result of the sale or transfer of the land to an ownership making the land exempt from ad valorem property taxation, the lien for additional taxes shall attach as of the day preceding the sale or transfer.

(7) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370. [1999 c.314 §34; 2001 c.114 §21; 2003 c.454 §§23,25; 2003 c.539 §16; 2003 c.621 §85; 2005 c.400 §3; 2007 c.809 §10; 2009 c.776 §5]

308A.706 Circumstances when additional taxes are deferred; potential additional tax liability. (1) Notwithstanding that land is disqualified from special assessment, the additional taxes described under ORS 308A.703 may not be imposed and shall remain a potential tax liability if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:

(A) Is not being used as farmland; and

(B) Is not being used for industrial, commercial, residential or other use that is incompatible with a purpose to return the land to farm use.

(b) Acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body.

(c) Acquired and used for natural heritage purposes and all of the following additional requirements are met:

(A) The land is registered under ORS 273.581 as a state natural area;

(B) The land is acquired by a private nonprofit corporation;

(C) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage resources of the area;

(D) If the land is retained by the corporation, it remains open to the public without charge for the uses described in subparagraph (C) of this paragraph; and

(E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

(d) Qualified for special assessment under:

(A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;

(B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone farmland;

(C) ORS 321.358, relating to classification as designated forestland in western Oregon;

(D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;

(E) ORS 321.709, relating to qualification as small tract forestland;

(F) ORS 308A.424, relating to wildlife habitat special assessment; or

(G) ORS 308A.456, relating to conservation easement special assessment.

(e) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are deferred or abated as provided in ORS 308A.119.

(2) This section does not apply to the additional taxes imposed under ORS 308A.703 (4)(a) for the number of years during which farm use special assessment was granted pursuant to a remediation plan as defined in ORS 308A.053.

(3) In any case where the additional tax is deferred under the provisions of this section but may subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the notation "potential additional tax liability" on the assessment and tax roll. [1999 c.314 §35; 2003 c.454 §§27,29; 2003 c.539 §17; 2003 c.621 §86; 2007 c.809 §11; 2009 c.217 §9; 2009 c.776 §6; 2011 c.319 §17]

308A.707 Additional taxes when land disqualified from small tract forestland assessment. (1) Notwithstanding ORS 308A.706, additional taxes shall be imposed on land that is disqualified from small tract forestland assessment under ORS 321.712 or 321.716. If after disqualification the land remains specially assessed under a special assessment program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (2) of this section. If after disqualification the land is not specially assessed

under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (3) of this section.

(2)(a) The additional taxes for disqualified small tract forestland that is qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the taxes that would have been assessed against the land:

(A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

(B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

(b) The number of years for which additional taxes shall be calculated shall equal the lesser of 10 years or the number of consecutive years the land has been assessed as small tract forestland.

(3)(a) The additional taxes for disqualified small tract forestland that is not qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the sum of:

(A) The amount determined under subsection (2) of this section; and

(B) The difference between the taxes that would have been assessed against the land under ORS 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern Oregon, and the taxes that would otherwise have been assessed against the land, for the lesser of the number of consecutive years the land was forestland or five years.

(b) Notwithstanding paragraph (a)(B) of this subsection, if any provision of ORS 308A.700 to 308A.733 would cause the deferral or elimination of additional taxes that are imposed under ORS 308A.703 or 308A.712, that provision shall also cause the deferral or elimination of the additional taxes imposed under paragraph (a)(B) of this subsection, under the same terms, requirements and conditions that additional taxes under ORS 308A.700 to 308A.733 are deferred or eliminated.

(4) The additional taxes described in this section shall be imposed and collected at the same time and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

(5) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

(7) As used in this section, "forestland," "western Oregon" and "eastern Oregon" have the meanings given those terms in ORS 321.700. [2003 c.454 §31; 2005 c.400 §4; 2007 c.809 §19]

308A.709 Circumstances when additional taxes are not imposed. Notwithstanding that land may have been disqualified from special assessment, no additional taxes may be imposed under ORS 308A.703 if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(1) Acquired by a governmental agency as a result of the lawful exercise of the power of eminent domain or the threat or imminence thereof.

(2) Acquired by purchase, agreement or donation under ORS 390.121 (relating to State Parks and Recreation Commission acquisitions).

(3) Acquired by a city, county, metropolitan service district created under ORS chapter 268 or park and recreation district organized under ORS chapter 266 for public recreational purposes or for the preservation of scenic or historic places.

(4) Acquired for wildlife management purposes under ORS 496.146.

(5) Public property that was leased or rented to a taxable owner as described in ORS 307.110 at the time of disqualification, and the reason for the disqualification was the termination of the lease under which the land was assessed.

(6) Land that ceases to be located within the boundaries of an exclusive farm use zone as the result of a change in the boundaries of the zone or removal of the zone following an action by the governing body of the county or city that:

(a) Was not requested or initiated by the owner of the land; or

(b) Was requested by:

(A) The State Parks and Recreation Department for public park purposes under ORS 390.121; or

(B) The State Fish and Wildlife Commission for wildlife management purposes under ORS 496.146.

(7) Forestland acquired by a federal, state or local governmental agency. In the case of an acquisition described in this subsection, a lien for additional taxes and interest may not attach on the day preceding the day of transfer of the forestland to the governmental agency. [1999 c.314 §36; 1999 c.800 §1a; 2003 c.454 §34; 2003 c.621 §87]

308A.712 Determining amount of deferred additional taxes and period for which additional taxes are due. (1) If the disqualification of land from special assessment results in the deferral of additional taxes under ORS 308A.706:

(a) The amount of deferred additional taxes shall be determined as provided for in this section in lieu of ORS 308A.703; and

(b) The deferred additional taxes shall be added to the assessment and tax roll for the year in which the event described in subsections (2) to (6) of this section is first taken into account for property tax purposes, to be collected and distributed in the same manner as other ad valorem property taxes.

(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of farmland) and subsequently the land is changed to an industrial, commercial, residential or other use incompatible with a return of the land to farm use, then:

(a) The amount of additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the farm use special assessment was in effect for the land, not to exceed:

(A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of farm use zoning applicable to the property; or

(B) In the case of all other farmland disqualified from farm use special assessment, five tax years.

(3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government exchange of land), additional taxes shall be collected when the land acquired as a result of the exchange is disqualified from special assessment. The additional taxes shall equal the total amount of additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to the governmental agency or body received the special assessment before the exchange plus the number of years, if any, the land acquired from the governmental agency or body received a special assessment after the exchange.

(b) The total number of years taken into account shall not exceed the maximum number of years for which additional taxes may be collected under the provision of law applicable to either the exchanged land (immediately before the exchange) or the acquired land, whichever is greater.

(4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to state natural areas), the additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

(5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the additional taxes that would have been collected at the time of disqualification shall be collected at the time the land is disqualified from any other special assessment law listed in ORS 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the land, not to exceed:

(A) Five tax years; or

(B) If the property had, within the past 10 tax years, been disqualified from a special assessment program described in ORS 308A.703 (3)(a) to (c) and had been continuously subject to special assessment, then 10 tax years. However, the number of continuous preceding years of special assessment under the special assessment programs listed in ORS 308A.703 (3)(d) that may be taken into consideration for purposes of computing the additional tax may not exceed five years.

(6) In determining the additional tax under subsection (5) of this section, the number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior to a disqualification of the land for special assessment as exclusive farm use zone farmland under the conditions described in ORS 308A.709 (6). [1999 c.314 §37; 2003 c.454 §36; 2003 c.621 §88; 2007 c.809 §16; 2009 c.217 §10]

308A.715 Imposition of deferred additional taxes upon request of owner. (1) Notwithstanding that additional taxes otherwise due under ORS 308A.703 are deferred under ORS 308A.706, the additional taxes may be imposed at any time after disqualification of the property from special assessment if the property owner so requests.

(2) A request for imposition of tax under this section shall be made in writing to the county assessor.

(3) If the request for imposition of tax under this section is made prior to August 15 of the assessment year, the additional tax shall be added to the current general property tax roll to be collected and distributed in the same manner as other real property tax. If the request for imposition of tax is made on or after August 15 of the assessment year, the additional tax shall be added to the next general property tax roll to be collected in the same manner as other ad valorem property taxes. [1999 c.314 §38]

(Disqualification Notification Procedures)

308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation; remediation plan notification. (1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

(a) Farm use special assessment under ORS 308A.050 to 308A.128.

(b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.

(c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.

(d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.

(e) Small tract forestland special assessment under ORS 321.700 to 321.754.

(f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.

(g) Conservation easement special assessment under ORS 308A.450 to 308A.465.

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

(A) ORS 308A.706 (1)(d) (relating to change in special assessment);

(B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);

(C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

(a) The result of a request for disqualification by the property owner; or

(b) Because the property is being acquired by a government or tax-exempt entity.

(7) Within 30 days after the date the notification required under subsection (3) of this section is mailed, a taxpayer intending to implement a remediation plan as defined in ORS 308A.053 on the disqualified land that is the subject of the notification must notify the assessor in writing of the taxpayer's intention to seek certification for the remediation plan. [1999 c.314 §39; 2003 c.454 §38; 2003 c.539 §18; 2003 c.621 §89; 2007 c.809 §12; 2009 c.776 §7]

308A.721 [1999 c.314 §40; repealed by 2003 c.454 §81 and 2003 c.621 §49]

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat and conservation easement land. (1)(a) In order for additional taxes imposed under ORS 308A.703 to be deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the owner must file an application or claim for classification under another special assessment law.

(b) If the disqualification is effective prior to July 1 in any year, the owner shall file the required claim or application on or before August 1 of that year.

(c) If the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current assessment and tax rolls, and the owner shall file the required claim or application in the next calendar year in accordance with the laws governing the particular special assessment program.

(2) If an owner of land disqualified under one of the special assessment laws listed in ORS 308A.706 (1)(d) seeks to qualify for farm use special assessment of nonexclusive farm use zone farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in which application is made under this section, to qualify for the two-year farm use requirement of ORS 308A.068 and the income requirement under ORS 308A.071.

(3) Notwithstanding subsection (1) of this section, an owner may make application under this section at any time within 30 days of the date notice of disqualification is sent by the assessor under ORS 308A.718.

(4) Notwithstanding subsections (1) to (3) of this section:

(a) An owner of land disqualified from wildlife habitat special assessment under ORS 308A.430 that was previously subject to ORS 215.236 (5), except for conservation easement special assessment, may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236 (5); and

(b) An owner of land disqualified from conservation easement special assessment under ORS 308A.465, except for wildlife habitat special assessment, may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236 (5). [1999 c.314 §41; 2003 c.454 §40; 2003 c.539 §20; 2003 c.621 §90; 2007 c.809 §14]

308A.727 Change to open space use; additional taxes upon withdrawal; notification upon application. (1) Land specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) shall be changed to open space use special assessment under ORS 308A.300 to 308A.330 if:

(a) Application for open space use special assessment is or has been made under ORS 308A.306;

(b) The land qualifies for open space use special assessment;

(c) The application for open space use special assessment is or has been approved under ORS 308A.309 and 308A.312;

(d) The open space use is for a golf course open to the general public with or without payment of fee or charge; and

(e) All or a portion of the land is within or is contiguous to an urban growth boundary.

(2) Land described in subsection (1) of this section shall not, upon the change from farm or forest use to open space use, be subject to any of the additional taxes ordinarily applicable when land specially assessed under one of the special assessment laws listed under ORS 308A.706 (1)(d) is disqualified, declassified or otherwise removed from such special assessment.

(3) When land that has been changed from special assessment as farm or forest land to open space use special assessment under subsections (1) and (2) of this section is later withdrawn or otherwise removed from open space use special assessment, all the provisions of ORS 308A.300 to 308A.330 shall apply except that there shall be added to the amount of additional taxes imposed under ORS 308A.318 or 308A.321 and computed under ORS 308A.312 (3), the amount of the additional taxes that, except for subsections (1) and (2) of this section, would have been added at the time of the change. However, in making the computation of the amount to be added under this subsection, the number of years specified in ORS 308A.703 shall be reduced by the number of continuous years of open space use special assessment in effect for the land pursuant to the change. At the time of the change to open space use and each year thereafter, the assessor shall determine and note upon the assessment and tax rolls the added amount of potential additional taxes, if any, that may become due under this subsection.

(4) For purposes of ORS 308A.324 and in construing any other provision of ORS 308A.300 to 308A.330, the amount of additional taxes added under subsection (3) of this section shall be treated as additional taxes imposed under ORS 308A.318 or 308A.321.

(5) Upon receipt of any application for open space use special assessment under ORS 308A.300 to 308A.330, the public official or agency shall notify the owner of the provisions of this section. [Formerly 321.795]

308A.730 Application for special assessment following acquisition of land through government exchange; amount of additional taxes following disqualification. (1) If land specially valued under ORS 308A.062, 308A.068, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 is acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental

agency or body and the land acquired from the governmental agency or body is not farm use land located within an exclusive farm use zone or is not land, the highest and best use of which is the growing and harvesting of trees of a marketable species, the owner shall make application for special valuation as farm or forest land in the manner provided under ORS 308A.077, 321.358, 321.706 or 321.839, whichever is applicable, as follows:

(a) If the exchange takes place prior to July 1, the owner shall file the application on or before August 1.

(b) If the exchange takes place on or after July 1, the owner shall file the application on or before April 1 of the following year.

(2) Failure to file an application as required under this section, or failure to otherwise meet the qualification for special valuation under the special assessment law for which application is made shall disqualify the land under ORS 308A.703. However, the amount of additional taxes imposed upon the disqualification under this subsection shall be equal to those that would have been imposed against the land transferred to the governmental agency or body on account of the exchange were it not for ORS 308A.706 (1)(b).

(3) If an application filed under this section is for classification for farm use special assessment under ORS 308A.068, the owner shall have five years beginning with the first year of classification to meet the income requirements under ORS 308A.071 and need not meet the two-year farm use requirements of ORS 308A.068.

(4) This section does not apply to an exchange of forestland to which ORS 308A.706 (1)(b) (relating to governmental exchange) applies. [Formerly 308.373; 2003 c.454 §§42,44; 2003 c.621 §91]

308A.733 Withdrawal of change of special assessment application. (1) Where any property has been granted special assessment for the purposes of property taxation under any of the special assessment laws listed in subsection (2) of this section, and the owner or other qualified person applies for a change in the classification under another special assessment law, the applicant shall have 30 days thereafter within which to withdraw the application, by giving written notice to the public official or agency to whom the applicant applied for the change in classification. If no notice of withdrawal is given by the applicant, the application shall be acted upon and the change in classification made, as otherwise provided by law.

(2) This section applies to the following special assessment laws:

(a) ORS 308A.050 to 308A.128 (relating to special assessment at value for farm use).

(b) ORS 321.257 to 321.390 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.855 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.700 to 321.754 (relating to special assessment as small tract forestland).

(e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

(f) ORS 308A.350 to 308A.383 (relating to designation as riparian land).

(g) ORS 308A.403 to 308A.430 (relating to special assessment as wildlife habitat).

(h) ORS 308A.450 to 308A.465 (relating to special assessment as conservation easement). [Formerly 308.025; 2003 c.454 §§46,48; 2003 c.621 §92; 2007 c.809 §17]

(Conservation Management; Effect on Disqualification)

308A.740 Legislative findings and declarations. (1) The Legislative Assembly finds that it is in the interests of the people of this state that certain private lands be managed in a sustainable manner for the purpose of maintaining the long-term ecological, economic and social values that these lands provide.

(2) The Legislative Assembly declares that it is the policy of this state to encourage landowners to manage private lands in a sustainable manner through tax policy, land use planning, education and technical and financial incentives.

(3) The Legislative Assembly further declares that it is the policy of this state not to impose additional taxes on property, commodities or income if a landowner voluntarily forgoes, limits or postpones economic uses of private land for conservation purposes.

(4) As used in this section, "conservation" means the management of land, water and natural resources for the purpose of meeting human and ecological needs in a sustainable manner. [2001 c.708 §2]

308A.743 Disqualification limited when land subject to conservation and management plan, conservation easement or deed restriction; procedural requirements. (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to 308A.330, 308A.403 to 308A.430, 308A.450 to 308A.465, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may not be disqualified from the special assessment or exemption, and may not be subject to additional taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:

(a) Entered into a wildlife habitat conservation and management plan, as described in ORS 308A.403 to 308A.430, approved by the State Department of Fish and Wildlife; or

(b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the land:

(A) Is managed in compliance with the conservation easement or deed restriction; and

(B) Continues to meet the requirements for special assessment or exemption. The existence of the conservation easement or deed restriction may not cause the disqualification of the land from special assessment or exemption or preclude the disqualification of the land from special assessment or exemption for some other reason.

(2) A property owner who executes a conservation easement may convey the easement to a land trust or other qualified entity without a loss of benefits under this section.

(3) In order for land to be subject to this section:

(a) The conservation easement, deed restriction or wildlife habitat conservation and management plan must be recorded in the records of the clerk of the county in which the land is located; and

(b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and management plan, along with the property tax account number for the land, must be sent to the county assessor. [2001 c.708 §3; 2003 c.454 §§50,52; 2003 c.539 §35; 2003 c.621 §93; 2007 c.809 §15]

Rules—Chapter 308A

DIVISION 308A
LAND SPECIAL ASSESSMENTS

150-308A.056 Farm Use Definitions, Inactivity Due to Illness, and Description of Lands in Farm Use
150-308A.062 Assessment of Farmlands Within Exclusive Farm Use (EFU) Zones
150-308A.068 Assessment of Farmlands Outside of Exclusive Farm Use (EFU) Zones
150-308A.071 Gross Income Requirement
150-308A.074 Wasteland
150-308A.080 Acquired Land as Part of Farming Unit
150-308A.092 Valuation of Certain Agricultural Land to Reflect Value for Farm Use Only
150-308A.107 Calculation of MSAV When SAV Soil Classification is Changed
150-308A.113 Disqualification of Exclusive Farm Use Farmland; Site Inspection and Notation
150-308A.116 Disqualification of Non-Exclusive Farm Use (Non-EFU) Farmland; Site Inspection and Notation
150-308A.250 Definition of Specially Assessed Homesites
150-308A.253 Application for Specially Assessed Homesite
150-308A.256 Qualified Specially Assessed Homesite Valuation
150-308A.315(4) Ratio Calculation for Open Space Lands
150-308A.703 When to Impose Additional Tax
150-308A.706 No Additional Tax; Notation Remains
150-308A.712 Deferred Additional Tax (ORS 308A.706); When to Collect
150-308A.718 Disqualification Notification Procedures
150-308A.724 Owner Requests Change to a Different Special Assessment

DIVISION 308A
LAND SPECIAL ASSESSMENTS

150-308A.056 Farm Use Definitions, Inactivity Due to Illness, and Description of Lands in Farm Use

(1) This rule applies to land in both exclusive farm use zones and non-exclusive farm use zones that may qualify for special assessment under ORS 308A.062 or 308A.068.

(2) Definitions:

(a) "Farm unit" means a farming enterprise which includes all parcels being farmed by a single operator, whether the operator owns or leases the farmland.

(b) "Farm use" is defined in ORS 308A.056 and applies to land both inside and outside exclusive farm use zones.

(c) "Illness" means sickness, disease, injury, or disorder of body or mind which prevent the farmer or immediate family member from performing necessary farm operations.

(d) For purposes of subsection (2)(c): "Immediate family member" means the farmer's spouse, children, or any person for whom the farmer has a legal responsibility including, but not limited to, guardianship of a dependent parent or child.

(e) "Land" means land in its natural state, including any site developments (see ORS 307.010).

(A) "Land" includes all mines, minerals, quarries, dikes, banks, drainage tile, water rights, and the like. Since ORS 308A.056 relates only to land used for farming, any mineral reserves under the land continue to be assessed at real market value as defined by ORS 308.205. Minerals include oil and gas. Severed mineral interests, even though underlying zoned farmland, are assessed to the owner in accordance with ORS 308.115.

(B) For the purpose of assessment of land in farm use, "land" does not include buildings, structures, improvements (unless their contribution is an integral part of the income attributable to the land), machinery, equipment, land improvements for homesites, fixtures erected upon or affixed to the land itself, or land used for a non-farm residence or other non-farm purpose.

(f) "Wasteland" includes but is not limited to swamps, rock outcroppings, gullies, unusable overflow lands, and drainage ways.

(A) Wasteland does not include tillable lands left idle or uncultivated and non-tillable grazing lands left unused when the accepted farming practice is to utilize the land.

(B) Wasteland does include land described in paragraph (1)(f)(A), if the owner can show that it is uneconomical to utilize the land as part of the farm unit. Utilizing the land is uneconomical if the cost to raise crops or animals exceeds the value of the crops or animals. Examples in which it would not be economical to utilize the land include:

(i) An unfenced area of grazing land where the annualized cost of fencing would exceed the income derived from the land.

(ii) An area of a farm that was only profitable through irrigation that is now unused because the cost of electricity to operate the irrigation pumps increases expenses beyond the income that can be derived from that area of land.

(C) Wasteland caused by the taxpayer, owner, or person in control of the property is not entitled to special farm use assessment. Examples of taxpayer-created wasteland include "mined out" land where gravel, soil, or other minerals have been extracted, and mine tailing refuse areas.

(3)(a) The law seeks to give the benefits of ORS 308A.062 and 308A.068 to that farmland which is operated primarily for the purpose of obtaining a profit in money.

(b) The assessor must consider all requirements of ORS 308A.056 and be convinced that the land is used in a manner that is reasonably designed and intended to obtain a profit in money by accepted farming practices. If the primary purpose of the current use of the land is not to obtain a profit in money, the land is not farm use land. This primary purpose of the land must be ascertained from overt acts. All pertinent facts will be considered to determine if property qualifies as farm use land. Pertinent information may include:

(A) Present and past use of the land.

(B) If the farming operation is conducted by another for the owner, the provisions of the oral or written agreement including the term, area let, consideration, and provisions for termination.

(C) Participation in governmental or private agricultural programs or activities.

(D) Productivity of the land.

(E) Number of livestock or poultry (by type).

(F) Amount of last harvest of each crop.

(G) Gross income from crops, livestock, and livestock products.

(H) Uses of the land for other than farming operation.

(I) Ratio of farm or agricultural use as against other uses of the land.

(4)(a) Farm inactivity for one year or less due to illness of the farmer or an immediate family member does not disqualify the property from farm use special assessment or continuation of abatement.

(A) Proof of illness must be provided to the assessor by a written statement from a licensed medical practitioner. The statement must identify the nature of the illness, the onset of the illness, and the extent of its debilitating nature.

(B) The timing of the illness must prevent farming practices.

(b) For meeting the farm income requirements of ORS 308A.071 and 308A.119, the year of farm inactivity due to illness is not counted as one of the five years for income or abatement determination.

(5) Notwithstanding section (3), any part of a farm unit that is employed in or supports a non-farm use does not qualify for special assessment. Examples of non-farm use include, but are not limited to:

(a) Land under retail stores, except for farm stands offering agricultural products for sale as described in ORS 215.213 and 215.283.

(b) Land under processing facilities, except as allowed by ORS 215.213 and 215.283.

(c) Land under areas used to encourage the use or enjoyment of agricultural products such as tasting rooms, banquet halls, public gathering areas, or public entertainment.

(d) Land under structures such as communication towers, and improvements that support the structures.

(e) Land under structures used for power generation or transmission such as wind turbines, substations, crane pads, and improvements that support the structures.

(f) Private roads not used primarily to support the farming operation such as those used to access structures listed in subsections (d) and (e).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.380 & 308A.056

Hist.: RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.380-(C); REV 17-2008, f. 12-26-08, cert. ef. 1-1-09

150-308A.062 Assessment of Farmlands Within Exclusive Farm Use (EFU) Zones

(1)(a) Zoned farm use land means land that is zoned as farm use land pursuant to ORS 215.010 to 215.190.

(b) Real market value is the basis for the assessment of farmland not qualified to be assessed at farm use value. Real market value is defined in ORS 308.205.

(2) Qualification and Disqualification Dates:

(a) To be entitled to farm use assessment, land must be qualified as of January 1 each year. Often, qualifying farm use land is not farmed during the winter months which include the qualifying date of January 1. If land is not employed in farm use on January 1, the assessor may look at the prior year's usage of the land to determine qualification for January 1.

(b) Farm use disqualifications take effect July 1 following the disqualification.

(3) Appeal on the question of qualification for special assessment as farm use land: An appeal from a decision of the assessor concerning qualification for special assessment as farmland under ORS Ch. 308A is made directly to the Magistrate Division of the Tax Court under ORS 305.275(1) (also see 305.280). It is not made through an appeal to the county Board of Property Tax Appeals.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.370 & 308A.062

Hist.: 12-63; 1-66; 2-68; 3-70; 9-71; 11-73; 12-75; 12-31-77; TC 17-1979, f. 12-20-79, cert. ef. 12-31-79; RD 9-1983, f. 12-20-83, cert. ef. 12-31-83; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.370

150-308A.068 Assessment of Farmlands Outside of Exclusive Farm Use (EFU) Zones

(1)(a) To qualify for assessment at its farm use value, land not within an exclusive farm use zone:

(A) Must be currently employed in a qualifying farm use;

(B) Must have been used for farm use for the two years preceding the current assessment year;

(C) Must have met the income requirement for three out of the last five years and;

(D) Must have an application filed with the assessor meeting the requirements of ORS 308A.077.

(b) Real market value is the basis for the assessment of farmland not qualified to be specially assessed at farm use value. Real market value is defined in ORS 308.205.

(2) Qualification and Disqualification Dates:

(a) To be entitled to farm use assessment, land must be qualified as of January 1 each year. Most land is not farmed during the winter months including January 1. If land is not employed in farm use on January 1, the assessor may look at the prior year's usage of the land to determine qualification for January 1.

(b) All farm use disqualification takes effect July 1 following the disqualification.

(3) Effect of lease or option to buy surface rights. If any owner of land outside an EFU zone grants and has outstanding a lease or option to buy surface rights of such land that permits other than farm use of all or a portion of the land, that land subject to such other use is not qualified for special farm use assessment under ORS Ch. 308A. Leases for hunting, fishing, camping or other recreational use or the exploration of geothermal, mineral or other subsurface resources will not disqualify the land if the exploration, use, or possession does not interfere with the farm use of the farmland. The income derived from such leases will not be included for the income test.

(4) Appeal on the question of qualification for special assessment as farm use land: An appeal from a decision of the assessor concerning qualification for special farm use assessment under ORS Ch. 308A is made directly to the Magistrate Division of the Tax Court under 305.275(1) (also see 305.280). It is not made through an appeal to the county Board of Property Tax Appeals.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.380 & 308A.068

Hist.: 12-63; 1-66; 2-68; 3-70; 9-71; 11-73; 3-76; 12-31-77; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 2-1997(Temp), f. & cert. ef. 9-15-97 thru 3-9-98; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.380-(B)

150-308A.071 Gross Income Requirement

(1) Income From Consumed Products. For purposes of the income requirement for farmland or a farm parcel outside an exclusive farm use zone, gross income includes the value of any crop or livestock used by the owner personally or in the farming operation. The owner must keep records accurately reflecting both the value and the use of the crop or livestock in a manner consistent with generally accepted accounting practices. The value of any crop or livestock used by the owner personally or in the farming operation is the amount of money the product would have been sold for in the normal marketing of the crop or livestock by the taxpayer. However,

the value of products consumed, by the owner personally or in the farming operation, must constitute no more than 49 percent of gross income as required under ORS 308A.071.

(2) Adjusted Gross Income From Livestock. In determining gross income from livestock, the purchase cost must be deducted from the gross sales price.

(3) Burden of Proving Income. The burden of proving that property that is not within an exclusive farm use zone meets the gross income requirements of ORS 308A.071 is upon the owner or person claiming special assessment. This burden l is met if information establishing sufficient gross income is supplied to the county assessor as provided below. A failure to provide the required income information to the county assessor constitutes grounds for disqualification under 308A.116(1)(c).

(4) Income Information. The following procedures apply if the assessor lacks sufficient information on March 1 to support a determination that land not in an EFU zone qualifies for special farm use assessment.

(a) On or before March 1, the assessor must send notice to the owner or person claiming special assessment of the need to provide income information for property subject to special assessment. The assessor must include an income information questionnaire with the notice. The property owner must use the questionnaire to provide income information to the county assessor. The property owner must provide the income information to the county assessor no later than April 15.

(b) The assessor must send the notice and the questionnaire to the last known address of record of the owner or person claiming special assessment for the subject property. The notice and questionnaire must be in a form approved by the Department of Revenue.

(c) If the information provided to the county assessor is sufficient to determine whether or not the subject property is qualified for special assessment, the assessor must take the appropriate action.

(d) If the information provided to the county assessor is insufficient to make a determination as to the qualification of the subject property for special assessment, or if no information is provided, the assessor must send a notice to the last known address of record for the owner or person claiming special assessment. The notice must be in a form approved by the Department of Revenue and must include:

(A) A statement of the assessor's intent to disqualify the subject property; and

(B) A statement that within 30 days after the date of the mailing of the notice, the owner or person claiming special assessment may appear and show cause why the property should not be disqualified.

(e) In determining whether the subject property qualifies for special assessment, the assessor must take into consideration information obtained through the income information questionnaire, the show cause hearing and the county assessor's records.

(f) If property is disqualified from special assessment solely because no income information was provided by April 15, or within the 30 days of assessor's notice of intent to disqualify, the property owner may file an appeal with the Magistrate Division of the Tax Court.

(A) "Good and sufficient cause" has the meaning given in OAR 150-307.475. The failure of the county assessor to provide the notice required in subsection (a) of this rule on or before March 1 constitutes good and sufficient cause for the owner's failure to provide timely income information.

(B) The procedural requirements contained in this rule are in addition to the requirements of ORS 308A.718.

(C) Nothing contained in this rule alters the right of a person claiming special assessment to deferral and abatement of additional tax, pursuant to ORS 308A.119.

(D) Nothing contained in this rule precludes the assessor from continuing special assessment on farmland if the assessor determines that the property meets the qualifications.

(5) The assessor may send a copy of the income information received by the assessor under subsection (3) of this rule to the Department of Revenue.

(6) Examples: Satisfying income requirements:

(a) A ten acre parcel in an area not zoned EFU has never been used for farm purposes. For this parcel to qualify for special farm use assessment, the owner must develop an income history from farm uses of the parcel. The parcel will meet the income requirements of ORS 308A.071(2)(a) if it produces at least $1,000 gross income in each of the last three consecutive years or in any three of the last five consecutive years.

(b) A ten acre parcel was segregated from a larger farm one year ago. The land was not farmed during the year following segregation. In order to qualify for farm use assessment, the parcel must be farmed for two successive years (ORS 308A.068(1)) and meet the income requirement of at least $1,000 in one of the two years (assuming the large farm met the income requirement before the ten acre parcel was segregated).

(c) A four acre parcel in an area not zoned EFU has been farmed continually. The income has never exceeded $300. In order to qualify for special farm use assessment, the parcel must produce at least $650 in gross income per year for any three years during any consecutive five year period.

(d) A twenty two acre parcel in an area not zoned EFU includes a ten acre farm woodlot, four and one-half acres of three year old cherry trees, five acres of pasture, two acres of wasteland and a one-half acre non-farm homesite. The five acres of pasture must have produced at least $650 gross income in one of the last three years (assuming the property met the income requirement in the two years preceding the planting of the cherry trees) to remain qualified for special assessment. The one-half acre non-farm homesite (at market), the immature cherry orchard (see ORS 308A.056(3)(d)), the farm woodlot (see 308A.056(3)(h), and the wasteland (see 308A.074)) are not counted in determining the number of acres to be considered under 308A.071(2)(a). The wasteland in a non-EFU zone does not qualify because it is not currently employed under 308A.056(3), and should not be in the calculation for the income test.

NOTE: In order for the two acres of wasteland to be assessed at its farm use value under ORS 308A.074, and the homesite to be valued under ORS 308A.256, the owners must meet an adjusted gross income test and file an annual application.

(7) The farmland owner or the operator of the farm unit must file the required excise or income tax returns including a Schedule F or a schedule showing rental income or expenses of each farmland owner or the operator of the farm unit.

(a) The assessor may require the farmland owner or farm unit operator provide a copy of the income tax returns and schedules showing farm income. Failure to provide required income information including copies of the required tax returns and schedules is grounds for disqualification.

(b) Copies of income tax returns and schedules of farm income are confidential and must be safeguarded in accordance with OAR 150-192.501.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.372 & 308A.071

Hist.: RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 2-1997(Temp), f. & cert. ef. 9-15-97 thru 3-9-98; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.372

150-308A.074 Wasteland

"Wasteland" has the same meaning as defined in OAR 150-308A.056(1)(b).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.074

Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

150-308A.080 Acquired Land as Part of Farming Unit

Land not in an exclusive farm use zone (non-EFU) that is acquired by an owner of a qualifying farm unit may be added to the farm unit if:

(1) Newly acquired land is put to a farm use in a timely manner consistent with accepted farming practices. There is no requirement that a previous owner used the land for farming.

(2) The owner, described in ORS 308A.077(2)(b), files an application with the county assessor on or before April 1 preceding the first tax year for which special farm use assessment is requested.

(a) The first year the acquired property may be eligible for special assessment is the calendar year following acquisition.

Example: Non-EFU property acquired February 10, 1999. Calendar year 2000 is the first year after acquisition. Therefore, the first year that this property could receive special assessment is tax year 2000-01 and applications for tax year 2000-01 special farm use assessment are due April 1, 2000.

(b) There is no requirement that the taxpayer seek or receive special farm use assessment for the property for its first eligible tax year.

Example: Non-EFU property acquired February 10, 1999. Although the acquired property was put into farm use immediately after purchase, the owner decided to wait three years before applying for special assessment. For this property to be placed under special assessment for tax year 2003-04, the taxpayer must apply by April 1, 2003.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.374 & 308A.080

Hist.: RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.374

150-308A.092 Valuation of Certain Agricultural Land to Reflect Value for Farm Use Only

(1) Certain farm properties are set aside under a government payment program such as the federally administered Conservation Reserve Program (CRP). The payments received for farmlands placed in these conservation programs must not be used as income for computing farm use values. Income data from similar lands that are not included in the conservation programs should be used instead to compute farm use values. New farm use values must be computed each year as though the land in the conservation programs was being used for a farm use.

NOTE: Acreage that is not in an exclusive farm use zone, and is under a farm-related government conservation program, is not subject to the gross income requirements.

(2) Values for farm use are to be determined on the basis of highest and best agriculture use, regardless of how the land is currently used and employed in agriculture.

Example 1: The land is capable of raising wheat, but the owner elects to pasture the property. The highest and best agricultural use of the property is as wheat land, so the farm use value would be based on wheat land.

Example 2: The land is capable of raising wheat, but the owner adds site improvements to enable the planting of an orchard. The highest and best agricultural use is now as orchard land, so the farm use value would be based on orchard land.

(3) If the owner of land assessed as farm use land contends the assessor's farm use value is not correct, the value may be appealed to the county Board of Property Tax Appeals as provided by ORS 309.100. An appeal from an adverse decision of the board may be filed with the Magistrate Division of the Tax Court as provided by 305.275(2) (also see 305.280). If the board has determined the farm use value is not in excess of $250,000, the owner may elect small claims treatment in the Magistrate Division.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.345 & 308A.092

Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.345

150-308A.107 Calculation of MSAV When SAV Soil Classification is Changed

(1) Definitions:

(a) "MSAV" means maximum assessed value for property subject to special assessment (maximum specially assessed value).

(b) "SAV" means specially assessed value.

(c) "MSAV tables" are the tables that provide a maximum assessed value per acre equal to 103% of the maximum assessed value per acre from the previous assessment year. The county assessor is required to develop these tables for each assessment year under ORS 308A.107(3)(b).

(2) When an SAV soil classification as provided by the assessor in each county is changed, the MSAV must use corresponding soil classification values from the MSAV Table if:

(a) There is a physical change such as, but not limited to:

(A) Irrigation is added.

(B) Irrigation is removed.

(C) Soil movement caused by slides, erosion, flooding, wind, etc.

(D) Soil is depleted indefinitely due to extended over use of crop.

(E) Soil is enhanced due to extensive additives to the soil.

(F) Trees are removed so that cultivation can take place and previous classification was based in part on the inability to cultivate.

(G) Rocks and other debris are removed to enhance cultivation.

(H) Site improvements are added including but not limited to drainage system, fill, contouring, leveling, and diking.

(b) There are specific non-physical changes such as:

(A) Comprehensive soil reclassification due to a new published government agency soil survey.

(B) Land class acreage adjustments to implement a GIS mapping system.

(C) The assessor reasonably determines that a property's land is no longer in the same land class that it was in during the prior assessment year. The assessor's determination that the land is no longer in the same land class cannot be arbitrary, but must be based on preexisting criteria for the respective land classes. The preexisting criteria for the respective land classes must be clear, objective, consistently applied and uniform within the county. Land classification changes must be the result of the reasonable application of the preexisting criteria to the actual condition of the land.

(3) The assessor must calculate the corresponding MSAV for new SAV soil classes using the following procedure:

(a) Divide the average MSAV for all soil types by the average SAV for all soil types to derive a changed property ratio.

(b) Multiply the SAV value of the new soil type by the changed property ratio to obtain the MSAV for the new soil class.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.370 & 308A.107

Hist.: REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.370(5)

150-308A.113 Disqualification of Exclusive Farm Use Farmland; Site Inspection and Notation

(1)(a) Before Exclusive Farm Use (EFU) land is disqualified from farm use assessment due to discovery by the assessor that the land is no longer being devoted to a farm use, the assessor must:

(A) Make a reasonable effort to contact the owner, owner's agent or person using the land;

(B) Make a site inspection of the property; and

(C) Request the recent history of the property's use.

(b) The assessor must make a record of the inspection that includes when the inspection was made, who made the inspection, copy of contact letter(s) or record of other means of contact, information from the person contacted, and notations of the conditions found. Notations about the conditions found may include the farm uses being made of the property, areas having no apparent farm use, vegetation on the property and its condition, whether the property is fenced and the fence's condition, and other conditions of the property that indicate a farm use or lack of farm use. The record of inspection must be retained in the assessor's office for at least three years.

(2) If property disqualification is effective after June 30, the EFU property will remain valued for farm use on the assessment and tax roll until the following July 1.

(a) Disqualification for non-farm use occurs as of the January 1 assessment date and is effective as of June 30 if the disqualification notice is mailed on or before August 14.

(b) If EFU property disqualification is effective on or before June 30 for any reason other than for non-farm use, to be valid the notice must be mailed within 30 days after the date that land is disqualified.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.397 & 308A.113

Hist.: RD 10-1985, f. 12-26-85, cert. ef. 12-31-85; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.397

150-308A.116 Disqualification of Non-Exclusive Farm Use (Non-EFU) Farmland; Site Inspection and Notation

(1)(a) Before non-EFU land is disqualified from farm use assessment due to discovery by the assessor that the land is no longer being devoted to a farm use, the assessor must;

(A) Make a reasonable effort to contact the owner, owner's agent or person using the land;

(B) Make a site inspection of the property; and

(C) Request the recent history of the property's use.

(b) The assessor must make a record of the inspection that includes when the inspection was made, who made the inspection, copy of contact letter(s) or record of other means of contact, information from the person contacted, and notations of the conditions found. Notations about the conditions found may include the farm uses being made of the property, areas having no apparent farm use, vegetation on the property and its condition, whether the property is fenced and the fence's condition, and other conditions of the property that indicate a farm use or lack of farm use. The record of inspection must be retained in the assessor's office for at least three years.

(c) If the inspection indicates a farm activity being conducted which may not provide sufficient income to satisfy the income test, the assessor must demand that the landowner complete an income questionnaire.

(2) If property disqualification is effective after June 30, the non-EFU property will remain valued for farm use on the assessment and tax roll until the following July 1.

(a) Disqualification for non-farm use occurs as of the January 1 assessment date and is effective as of June 30 if the disqualification notice is mailed on or before August 14.

(b) If non-EFU property disqualification is effective on or before June 30 for any reason other than for non-farm use, to be valid the notice must be mailed within 30 days after the date that land is disqualified.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.390 & 308A.116

Hist.: 8/64, 1/66; 2/68; 3/70; 9/71; 11/73; 12/31/77; TC 17-1979, f. 12-20-79, cert. ef. 12-31-79; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 10-1985, f. 12-26-85, cert. ef. 12-31-85; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.390

150-308A.250 Definition of Specially Assessed Homesites

(1) "Homesite" as defined in ORS 308A.250(3) includes site developments as defined in OAR 150-307.010(1)(2)(a)(A)and amenities associated with the raw, undeveloped land such as topography that affords the site a particular view, river frontage, property access, and utility access.

(2) A forest homesite qualified under ORS 308A.253(1) must be located on a parcel of land with greater than 10 acres of specially assessed forestland, that is zoned exclusive farm use (EFU), forest use, or farm and forest use.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.229 & 308A.250

Hist.: RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.229

150-308A.253 Application for Specially Assessed Homesite

(1) An annual application must be filed with the assessor on or before April 15 of each year to receive the special assessment on a qualified homesite associated with a farm lot or parcel in a non-exclusive farm use (non-EFU) zone.

(2) An application is not required to receive the special assessment on a qualified homesite situated on:

(a) A farm use lot or parcel in an exclusive farm use (EFU) zone;

(b) A forestland lot or parcel in an EFU, forest use, or mixed farm and forest use zone and classified by the assessor as highest and best use forestland, designated forestland, or small tract forestland (STF); or

(c) A lot or parcel that is subject to a wildlife habitat special assessment.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.253

Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07

150-308A.256 Qualified Specially Assessed Homesite Valuation

(1) Definitions:

(a) "Parcel" is a quantity of land that is capable of being described in a single description by a closed traverse, or as one of a number of subsections or sections in a township(s), or as lots, blocks, or tracts in a subdivision. A "parcel" may consist of one or more tax lots.

(b) "Contiguous" means having a common boundary to some extent greater than a point. Parcels are contiguous if separated by public or county roads, state highways, or non-navigable streams or rivers. Parcels are not contiguous if they are separated by interstate freeways, or navigable streams or rivers, except where there is direct connecting access, such as an underpass, for property separated by an interstate freeway.

(c) "Site Developments" has the same meaning as in OAR 150-307.010(1)(2)(a)(A).

(d) "Land Improvements" is synonymous with "site developments."

(e) "Same Ownership" -- to be considered the "same ownership," separate land accounts (tax lots) must have a common name in the property title. For example, a parcel owned by a wife just in her name is under the same ownership as a parcel she owns jointly with her husband. Properties do not have the "same ownership" if one parcel is owned by a husband and wife and the other parcel is owned by a corporation even though the corporation is owned by the husband and wife.

(f) "MSAV" means maximum assessed value for property subject to special assessment (maximum specially assessed value).

(2) Land comprising homesites for dwellings being used in conjunction with farm use in EFU zones, qualifying homesites outside the EFU zones, and qualified forest homesites must be valued at the special value provided by ORS 308A.256. Land comprising a non-qualifying homesite must be assessed at its real market value as defined in 308.205 pursuant to 308A.259.

(3) The method for determining the value for a qualified homesite is the same whether the homesite is located within an exclusive farm use (EFU) zone, an area not zoned for exclusive farm use (non-EFU), or for forest homesites as defined in ORS 308A.253(1).

(a) The first step in valuing a qualified homesite is to determine the total number of acres of the "parcel" and contiguous acres under the same ownership.

(b) The second step is to determine the bare land average per acre real market value (RMV) of the parcel. To do this:

(A) First, determine the total bare land RMV (including riverfront, view, etc.) for the parcel and contiguous acres under the same ownership on which the homesite is located.

(B) Second, divide the total bare land RMV of the parcel and contiguous acres under the same ownership by the total number of acres in the parcel and contiguous acres under the same ownership.

(C) The result is the average RMV for one acre of the parcel and contiguous acres under the same ownership.

(c) The third step is to determine the specially assessed value (SAV) of the "land improvements." The SAV of land improvements are to be valued at $4,000, or the depreciated replacement cost of the items that make up the land improvements, whichever is less.

(d) The average RMV of one acre of the land plus the land improvement SAV equals the total "homesite" SAV. However, the land improvement value must be carried as a separate item on the land record as specified in OAR 150-307.010(1)(2)(a)(B).

(4) Calculation of homesite MSAV.

(a) For the 1997-98 tax year, the MSAV on homesites qualified for the 1995-96 tax year and before equals the homesite's SAV for the 1995-96 tax year reduced by 10 percent.

(b) For the 1997-98 and subsequent tax years, the MSAV of any newly qualified homesite equals the product of the residential rural property class 4-X-X changed property ratio multiplied by the farm or forest homesite SAV. The MSAV for a homesite first qualified for the 1996-97 tax year is calculated under this subsection for the 1997-98 tax year.

(c) Once the MSAV of a homesite has been established by subsection (a) or (b) above, the MSAV increases 3% each year thereafter.

(5) The assessed value of a qualified farm or forest homesite equals the lesser of the homesite's SAV or the homesite's MSAV.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.377 & 308A.256

Hist.: RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.377

150-308A.315(4) Ratio Calculation for Open Space Lands

(1) An open space ratio must be applied to the open space special assessed value of newly designated open space lands to determine a maximum specially assessed value. The Department of Revenue will annually calculate a statewide ratio for open space lands.

(a) Counties with 10 or more open space accounts must develop and apply their own ratio.

(b) Counties having less than 10 open space accounts must use the statewide ratio.

(2) The ratio is calculated by dividing:

(a) The total current year maximum specially assessed value of land for all open space accounts (prior year's maximum specially assessed value multiplied by 103 percent), by

(b) The total current year specially assessed value of land for the same open space accounts.

(3) Only land that is specially assessed as open space may be used in the open space ratio calculation.

(4) Property that may not be used in developing the open space ratio calculation includes:

(a) Land that is valued under another special assessment program;

(b) Land that does not qualify for open space assessment;

(c) Any portion of an account that is assessed at market value, such as buildings;

(d) New open space accounts; and

(e) Disqualified accounts.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.315

Hist.: RD 9-1997, f. & cert. ef. 12-31-97; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02, Renumbered from 150-308.765

150-308A.703 When to Impose Additional Tax

(1) Additional Tax Computation:

(a) Additional taxes computed for 1991-92 tax year and thereafter equal the difference between the taxes assessed against the land in that year and the taxes that would have been assessed against the land had the land not been in farm use.

(b) Additional taxes computed for the years of special assessment prior to the 1991-92 tax year equal the difference between the real market value and the specially assessed value for the last year of special assessment

prior to the 1991-92 tax year times the tax rate for that tax year times the number of remaining years the special assessment was in effect.

(2) Under certain circumstances, farm use special assessment may be disqualified after July 1 and advance collection of additional taxes made. Disqualifications made under these circumstances are for the next tax year, therefore, the property will remain at its value for farm use on the tax roll until the following July 1. The collection of the additional tax is provided for in subsection (3). The specific circumstances for this type of disqualification are as follows:

(a) For non exclusive farm use (Non-EFU) zoned farmland:

(A) Subdivision plats under Chapter 92;

(B) At the owner's request.

(b) For exclusive farm use (EFU) zoned farmland, a non-farm dwelling under ORS 215.236.

(3)(a) Collection of Additional Tax: Advance collections of the additional tax made under the provisions of ORS 311.370 are entitled to the discount allowed by 311.505 if the assessor can compute the exact amount of the additional tax at the time the taxes are paid. If the assessor is unable to determine the exact amount due, the discount is allowed when final settlement is made at the time taxes are regularly due, as provided by 311.370.

(b) Any additional tax entered on the tax roll becomes part of the tax extended against the property and is collected in the same manner as other real property taxes. ORS 311.505 governs whether a discount is allowed or interest is charged.

(4) Distribution of Additional Tax: The total amount of the additional tax added to the tax roll must be apportioned between the taxing districts in which the property is located.

(a) The apportionment must be based on the ratio that the billing tax rate of each district bears to the total billing tax rates on the property, as shown on the tax roll on which the additional tax is entered.

(b) In preparing the certificate of the tax roll under ORS 311.105, the assessor must add the additional tax due to each taxing district to the total amount to be raised for each district under 311.105. The amount of additional tax due to each taxing district must be included in the percentage distribution schedule computed by the tax collector under 311.390.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.703

Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

150-308A.706 No Additional Tax; Notation Remains

(1) In any case where additional tax is deferred under ORS 308A.706, the assessor must continue to enter the notation "potential additional tax liability" on the assessment and tax roll.

(2)(a) When specially assessed farmland situated within an exclusive farm use (EFU) zone is transferred to a government ownership making it exempt, the assessor must continue to enter the notation "potential additional tax liability" on the assessment and tax roll.

(b) If the use of the land changes to a use inconsistent with a purpose to returning the land to farm use, the additional tax will not be imposed but will remain a lien since the government owner is exempt from taxation.

(3) If the disqualification results from the failure of the land to meet the gross income requirement, the additional taxes will not be imposed as long as the land continues to be used as farmland.

(4) If disqualification results solely because the land is no longer being devoted to a farm use and if the land is not being used for another use, the additional tax will not be imposed and the assessor must continue to enter the notation "potential additional tax liability" on the assessment and tax roll.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.706

Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

150-308A.712 Deferred Additional Tax (ORS 308A.706); When to Collect

(1)(a) When a non-exempt owner acquires exclusive farm use (EFU) farmland that was exempt because it was government owned, any amount designated by the county assessor as potential additional taxes must be added to the next general tax roll by the tax collector if the land is used for purposes inconsistent with returning the land to farm use.

(b) Non-EFU farmland liens are collected regardless of use when a non-exempt owner acquires farmland that was disqualified under ORS 308A.116(1)(b) and had liens attached under 308A.703(5).

(2) For additional information on collection and distribution of additional tax, see OAR 150-308A.703(3) and (4).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.712
Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

150-308A.718 Disqualification Notification Procedures

(1) Notice of Disqualification:

(a) A notation must be made on the assessment and tax roll on or before June 30 to indicate that a disqualification of farmland, forestland, or a homesite as listed in ORS 308A.718 has taken place. The assessor must mail notice to the owner or person claiming special assessment within 30 days after the date that land is disqualified.

(b) If the disqualification occurs because the land is no longer in farm or forest use, as described under ORS 308A.113(3) (Exclusive Farm Use), 308A.116(6) (Non-Exclusive Farm Use), 321.366 (Western Oregon forestland), or 321.845 (Eastern Oregon forestland), the disqualification is effective only if the notice of disqualification is mailed on or before August 14.

(2) The notice to the person claiming special assessment must state:

(a) That the subject property has been disqualified from special assessment;

(b) That the property will be assessed under ORS 308.156;

(c) The amount of the additional tax liability that will be imposed or if the land is not used for another use the amount of the potential additional tax liability (ORS 308A.706(1));

(d) Provisions and timing for change of type of special assessment under ORS 308A.724; and

(e) Appeal rights.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.399 & 308A.718
Hist.: RD 9-1984, f. 12-5-84, cert. ef. 12-31-84; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.399; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-308A.724 Owner Requests Change to a Different Special Assessment

The filing date provisions of ORS 308A.724 only apply to an owner of property which has either been disqualified by the assessor or declassified by the State Forester under 321.760. When such land is changed to a different special assessment that is a part of 308A.706(1)(d) at the request of the owner, the provisions and filing dates of the special assessment requested by the owner apply.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.960 & 308A.724
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-321.960-(B)

Laws—Chapter 321

2011 EDITION
TIMBER AND FORESTLAND TAXATION
REVENUE AND TAXATION

FOREST PRODUCTS HARVEST TAX

321.005 Definitions for ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460
321.011 Policy
321.012 Public to share cost of suppressing fires caused by public
321.015 Levy of privilege tax upon harvest of timber for forest research, fire suppression and administering Oregon Forest Practices Act; exclusion
321.017 Levy of additional privilege tax; distribution to Oregon Forest Resources Institute Fund
321.035 Determination of moneys available in Oregon Forest Land Protection Fund
321.045 Payment of tax; returns; estimated tax; payment
321.145 Tax revenue credited to suspense account; refunds
321.152 Distribution of tax revenue to Forest Research and Experiment Account, State Forestry Department Account and Oregon Forest Land Protection Fund
321.185 Forest Research and Experiment Account; appropriation

FORESTLAND VALUATION

321.201 Definition of "forestland" for ORS 321.201 to 321.222
321.204 Legislative findings and declarations
321.207 Valuation models; rules
321.210 Proposed specially assessed values; notice; comments; hearing
321.213 Forestland value advisory committee
321.216 Certified specially assessed values
321.219 Appeal of certified specially assessed values; notice; effect of decision modifying values; rules
321.222 Jurisdiction of board of property tax appeals

SPECIAL ASSESSMENT OF WESTERN OREGON FORESTLAND

321.257 Definitions for ORS 321.257 to 321.390
321.259 Legislative findings
321.262 Purposes
321.267 Lands not eligible for special assessment
321.272 Exemption of timber from property taxation
321.347 Land designations; classifications; certain election by landowners
321.348 Assignment of forestland to land classes; change in class
321.349 Valuation of certain forestland at farm use value
321.354 Common ownership minimum acreage requirements; specially assessed value and maximum assessed value of forestland of large landowners
321.358 Application for designation as forestland; special filing date for change in highest and best use; contents; approval
321.359 Removal of designation; appeal from reassessment or denial; requalification
321.362 Notation of forestland on tax roll for potential additional tax liability
321.366 Date on which removal of forestland designation is effective; notice of removal
321.367 Forestland management; effect of failure to manage forestland in accordance with management plan; rules
321.390 Land used to grow certain hardwood to be assessed as farm use land; application required for unzoned land

GENERALLY

321.550 Notice of intent to harvest; rules; effect of failure to file notice
321.560 Audit of returns; interest and penalties upon failure to file return or pay tax
321.570 Warrant for collection of delinquent taxes

321.580 Effect of failure or refusal to make return
321.600 Tax as debt; collection; limitation
321.609 Enforcement of certain statutes by department; rules
321.682 Confidentiality of reports, returns and appraisal data
321.684 Authority of department to make certain disclosures
321.686 Penalty for violation of ORS 321.682

SMALL TRACT FORESTLAND PROGRAM

321.700 Definitions for ORS 321.700 to 321.754
321.703 Legislative findings and declarations
321.706 Application for small tract forestland qualification; contents; filing deadlines; review; appeal
321.709 Small tract forestland qualification requirements
321.712 Circumstances under which notification is required; disqualification for failure to notify
321.716 Disqualification; requalification under certain circumstances; notice; automatic qualification as forestland
321.719 Continued qualification as small tract forestland following sale or transfer; requirements; late filing procedure and fee
321.722 Valuation
321.726 Severance tax upon harvest from small tract forestland
321.733 Severance tax returns
321.741 Due dates for severance tax return and payment
321.746 Severance tax revenues
321.751 Western Oregon Timber Severance Tax Fund; revenue distribution
321.754 Eastern Oregon Timber Severance Tax Fund; revenue distribution

SPECIAL ASSESSMENT OF EASTERN OREGON FORESTLAND

321.805 Definitions for ORS 321.805 to 321.855
321.808 Purposes
321.817 Legislative findings
321.824 Lands not eligible for special assessment
321.829 Exemption of timber from property taxation
321.833 Common ownership minimum acreage requirements; specially assessed value and maximum assessed value of forestland of large landowners
321.839 Application for forestland designation; special filing date for change in highest and best use; contents; approval
321.842 Removal of forestland designation; appeal; requalification
321.845 Disqualification of land no longer forestland to occur only if assessor mails notice before August 15
321.848 Disqualification
321.855 Land used to grow certain hardwood to be assessed as farm use land; application required for unzoned land

PENALTY

321.991 Penalty

FOREST PRODUCTS HARVEST TAX

321.005 Definitions for ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460. As used in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460, unless the context requires otherwise:

(1) "Board" means the State Board of Forestry.

(2) "Protected forestlands" means those lands which are protected from the starting or spread of fire thereon or therefrom by:

(a) The State Forester, with the approval of the board;

(b) The United States of America through contract with the State Forester;

(c) Any forest protective agency under contract with the State Forester or the board pursuant to ORS 477.406; or

(d) Any forest protective agency, described in paragraph (c) of this subsection, under an agreement with the United States of America wherein such agency agrees to protect specific federal forestlands and, in return, the United States of America agrees to protect specific lands of such agency.

(3) "Department" means the Department of Revenue.

(4) "Committee" means the Emergency Fire Cost Committee.

(5) "Forestland" means any land producing forest products.

(6) "Forest products" means products from harvested timber, but does not include products from short rotation fiber grown under agricultural conditions as described in ORS 321.267 (3) or 321.824 (3), western juniper or products from harvested western juniper.

(7) "Harvest" means the point at which timber that has been cut, severed, or removed for purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.

(8) "Merchantable stand of timber" means any stand on forestlands containing living or dead timber which is being or can be harvested.

(9) "Taxpayer" means the owner of timber at time of harvest.

(10) "Taxes" means the taxes provided for in ORS 321.015.

(11) "Owner of timber" means any individual or combination of individuals, partnership, firm, corporation or association of whatever nature holding title to harvested timber by virtue of:

(a) An instrument of conveyance;

(b) The harvesting of the timber; or

(c) The harvesting of the timber and payment therefor.

(12) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule. [1953 c.375 §1; 1957 c.309 §3; 1961 c.726 §412; 1965 c.253 §139; 1967 c.429 §38; 1981 c.321 §9; 1983 c.539 §1; 1985 c.759 §5; 1993 c.653 §1; 1995 c.132 §1; 1999 c.631 §2; 2003 c.454 §125; 2003 c.621 §100a]

321.010 [Repealed by 1953 c.375 §38]

321.011 Policy. The prevention and suppression of forest fires on forestlands for the preservation of forest resources and the continuous growth of timber on lands suitable therefor are declared to be the public policy of the State of Oregon. The Legislative Assembly recognizes that:

(1) The forested areas situated within eastern Oregon predominate in Ponderosa pine trees and associated species, and that the forested areas situated within western Oregon predominate in Douglas fir and associated species;

(2) Because of this difference in species, different forest fire protection problems exist in eastern and western Oregon, and different logging conditions and circumstances in each necessitate varied forest practices in the disposal of forest slashings and debris; and

(3) Therefore, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in this section, certain classifications of forestlands within the State of Oregon are established by ORS 321.005 to 321.185 and 321.560 to 321.600. [1957 c.309 §2; 2005 c.94 §100]

321.012 Public to share cost of suppressing fires caused by public. The Legislative Assembly finds that it is in the interest of the State of Oregon that the public as a whole share responsibility for protecting the forests of this state, by making funds available from time to time for suppression of fires caused by the public. [1967 c.429 §60]

321.015 Levy of privilege tax upon harvest of timber for forest research, fire suppression and administering Oregon Forest Practices Act; exclusion. (1) For the calendar years beginning January 1, 2012, and January

1, 2013, there is levied a privilege tax of 87.39 cents per thousand feet, board measure, upon taxpayers for the privilege of harvesting of all merchantable forest products harvested on forestlands. Subject to ORS 321.145, the proceeds of the tax shall be transferred as provided in ORS 321.152 (2) to the Forest Research and Experiment Account for use for the forest resource research, experimentation and studies described in ORS 526.215 and for the Forest Research Laboratory established under ORS 526.225.

(2) Except as provided in ORS 477.760, in addition to the tax levied by subsection (1) of this section, there is levied a forest products harvest tax upon taxpayers of 62.5 cents per thousand feet, board measure, for the privilege of harvesting all merchantable forest products harvested on forestlands for the payment of benefits related to fire suppression as provided in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

(3) For the calendar years beginning January 1, 2012, and January 1, 2013, in addition to the taxes levied under subsections (1) and (2) of this section, there is levied a privilege tax upon taxpayers for the privilege of harvesting all merchantable forest products harvested on forestlands in the amount of $1.2952 per thousand feet, board measure, for the purpose of administering the Oregon Forest Practices Act in an amount not to exceed 40 percent of the total expenditures approved by the Legislative Assembly for this purpose, including salary adjustments approved by the Legislative Assembly for fiscal years 2012 and 2013.

(4) Subject to subsection (5) of this section, the taxes shall be measured by and be applicable to each per thousand feet, board measure, on the total quantity of forest products harvested in this state measured by use of any log scale which is or may be in general use in the logging industry and which is designed to measure total volume of merchantable forest products in board feet. However, if the Department of Revenue finds that the scale used by any taxpayer in computing the taxes due under ORS 321.005 to 321.185 and 321.560 to 321.600 does not accurately reflect the total quantity of merchantable forest products harvested by the taxpayer, it may require the taxpayer to adopt another log scale in general use in the industry which in the department's opinion will accurately reflect merchantable harvest in board feet.

(5) The first 25,000 feet, board measure, of forest products harvested annually by any taxpayer during each calendar year shall be excluded from the total quantity of harvested forest products that constitutes the measure of the taxes under ORS 321.005 to 321.185 and 321.560 to 321.600. [1953 c.375 §2; 1957 c.309 §14; 1981 c.321 §10; 1985 c.759 §6; 1989 c.769 §1; 1991 c.459 §273; 1991 c.639 §1; 1993 c.653 §2; 1995 c.507 §1; 1997 c.519 §1; 1999 c.968 §§1,1a; 1999 c.1061 §1; 2001 c.872 §1; 2003 c.769 §1; 2005 c.796 §1; 2007 c.779 §1; 2007 c.852 §1; 2009 c.763 §1; 2011 c.594 §1]

Note: Section 2, chapter 594, Oregon Laws 2011, provides:

Sec. 2. The amendments to ORS 321.015 by section 1 of this 2011 Act apply to forest products harvest tax reporting periods beginning on or after January 1, 2012. [2011 c.594 §2]

321.016 [1991 c.919 §28; repealed by 1993 c.657 §6]

321.017 Levy of additional privilege tax; distribution to Oregon Forest Resources Institute Fund. (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestlands in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be established annually at the beginning of each calendar year by the board of directors of the institute, at a rate not to exceed 75 cents per thousand feet, board measure, on all merchantable forest products harvested on forestlands. The maximum tax rate prescribed by this subsection may be increased by the board of directors in an amount equal to the previous year's increase in the Consumer Price Index (Portland area -- all items) as published by the Bureau of Labor Statistics of the United States Department of Labor for the Portland, Oregon, area.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4) and (5).

(4) The tax levied by subsection (1) of this section shall be due and payable to the Department of Revenue in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1) of this section shall be deposited in the Oregon Forest Resources Institute Fund. [1991 c.949 §22; 1993 c.653 §4; 1999 c.968 §§2,2a; 2001 c.872 §2; 2003 c.769 §2]

321.020 [Repealed by 1953 c.375 §38]

321.025 [1953 c.375 §3; 1959 c.537 §1; 1961 c.242 §1; 1967 c.429 §11; 1977 c.182 §1; 1981 c.321 §1; repealed by 1985 c.759 §40]

321.027 [1977 c.172 §2; 1979 c.375 §1; 1981 c.348 §1; 1983 c.682 §1; repealed by 1985 c.746 §3 and 1985 c.759 §40]

321.028 [1977 c.172 §3; 1979 c.375 §2; 1981 c.348 §2; 1983 c.682 §2; 1985 c.759 §7; 1987 c.551 §3; 1989 c.766 §3; 1991 c.881 §3; 1993 c.657 §4; repealed by 1995 c.507 §6]

321.030 [Repealed by 1953 c.375 §38]

321.035 Determination of moneys available in Oregon Forest Land Protection Fund. (1) For purposes of determining the moneys available in the Oregon Forest Land Protection Fund described in ORS 477.750 as of February 16, such shall be the balance shown on such date less the total of:

(a) The unexpended balance as of February 16 of the amount budgeted to be expended from the account for the fiscal year in which the determination is made; and

(b) The amount budgeted to be expended from the account for the following fiscal year.

(2) The insurance principle is recognized in providing funds for emergency forest fire control. [1953 c.375 §4; 1961 c.297 §4; 1963 c.88 §1; 1967 c.429 §7; 1985 c.759 §8]

321.037 [1967 c.429 §9; repealed by 1985 c.759 §40]

321.040 [Repealed by 1953 c.375 §38]

321.042 [1967 c.429 §10; repealed by 1969 c.524 §15]

321.045 Payment of tax; returns; estimated tax; payment. (1) The taxes levied under ORS 321.015 shall be due and payable annually, on or before the last day of January, for the preceding year. The tax shall be delinquent if not paid by the due date, which shall be determined without regard to any extension of time for filing the return.

(2) Subject to the provisions relating to estimated tax payments provided in subsections (4) and (5) of this section, on or before the last day of January, each taxpayer shall make out a return on the form prescribed by the Department of Revenue showing the amount of the tax for which the taxpayer is liable for the preceding year and the other information the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department. The return shall be signed and verified by the taxpayer or a duly authorized agent of the taxpayer. Whenever in its judgment good cause exists, the department may allow upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 shall be credited, first, to penalty and interest accrued, and then to tax due.

(4) Each taxpayer expecting to incur a liability pursuant to this section in excess of $1,500 for any calendar year shall, on forms prescribed by the Department of Revenue, make and file with the department on or before the last day of the month following the end of each calendar quarter an estimate of the taxpayer's tax liability for the year. At least one-quarter of the estimated tax shall be remitted to the department with each estimated tax report and the balance shall be remitted to the department on or before the due date of the tax return required by subsection (2) of this section, without regard for any extension of the due date thereof.

(5) If the amount remitted with an estimated tax report filed on or before the due date thereof is at least 25 percent of the tax of the taxpayer as due for the calendar year preceding the year for which the report is made or at least 20 percent of the taxpayer's tax liability as due for the year for which the report is made, or 100 percent of the tax liability on the actual merchantable forest products harvested for the calendar quarter preceding the due date of the estimated tax report, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate established under ORS 305.220 for each month or fraction thereof shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment that would have been due had the taxpayer estimated the liability for the quarter in an amount equal to the liability as due for such quarter. The provisions of ORS chapters 305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section. [1953 c.375 §§5,6; 1965 c.331 §1; 1981 c.363 §1; 1982 s.s.1 c.16 §12; 1989 c.588 §1; 1991 c.459 §274; 1993 c.653 §5; 2005 c.94 §101]

321.050 [Repealed by 1953 c.375 §38]

321.055 [1953 c.375 §7; 1975 c.593 §19; 1977 c.870 §45; 1981 c.706 §8; 1982 s.s.1 c.16 §13; 1985 c.759 §10; renumbered 321.560]

321.060 [Repealed by 1953 c.375 §38]

321.065 [1953 c.375 §8; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.065)]

321.070 [Repealed by 1953 c.375 §38]

321.075 [1953 c.375 §9; 1981 c.706 §9; 1983 c.696 §14; 1985 c.759 §11; 1985 c.761 §17; renumbered 321.570]

321.080 [Repealed by 1953 c.375 §38]

321.085 [1953 c.375 §10; repealed by 1961 c.573 §2 (305.140 enacted in lieu of 314.435, 315.635 and 321.085)]

321.090 [Repealed by 1953 c.375 §38]

321.092 [1981 c.706 §2; 1985 c.759 §12; renumbered 321.580]

321.095 [1953 c.375 §11; 1983 c.740 §92; 1985 c.759 §13; renumbered 321.590]

321.100 [Repealed by 1953 c.375 §38]

321.105 [1953 c.375 §12; 1985 c.759 §14; renumbered 321.600]

321.110 [Repealed by 1953 c.375 §38]

321.115 [1953 c.375 §13; 1961 c.533 §55; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.115)]

321.120 [Repealed by 1953 c.375 §38]

321.125 [1953 c.375 §14; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.125)]

321.126 [1977 c.870 §25 (enacted in lieu of 321.065, 321.115 and 321.125); repealed by 1981 c.706 §16]

321.130 [Repealed by 1953 c.375 §38]

321.135 [1953 c.375 §15; 1985 c.759 §15; renumbered 321.609]

321.140 [Repealed by 1953 c.375 §38]

321.145 Tax revenue credited to suspense account; refunds. (1) The revenue from the taxes levied by ORS 321.005 to 321.185 and 321.560 to 321.600 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied under ORS 321.015 (1) to (3) hereby is appropriated continuously to the Department of Revenue from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of taxes levied under ORS 321.015 (1) to (3) that have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded. The department shall on its records charge each refund against the revenue from the tax with respect to which the refund is made. [1953 c.375 §16; 1957 c.309 §4; 1957 c.528 §6; 1961 c.270 §1; 1985 c.759 §16; 1999 c.968 §3; 2003 c.769 §3]

321.150 [Repealed by 1953 c.375 §38]

321.152 Distribution of tax revenue to Forest Research and Experiment Account, State Forestry Department Account and Oregon Forest Land Protection Fund. (1) Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue's suspense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of each year shall be transferred to the various appropriation accounts described in subsections (2), (3) and (4) of this section.

(2) That part of the moneys derived from taxes levied by ORS 321.015 (1) shall be transferred to the Forest Research and Experiment Account described in ORS 321.185.

(3) That part of the moneys derived from taxes levied by ORS 321.015 (3) shall be transferred to the State Forestry Department Account referred to in ORS 526.060. Notwithstanding ORS 291.238, the moneys transferred to the State Forestry Department Account under this section are appropriated continuously for and shall be used by the State Forester, under the supervision and direction of the State Board of Forestry, for the purposes of administering the Oregon Forest Practices Act and the forest practices monitoring program.

(4) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be transferred to the Oregon Forest Land Protection Fund described in ORS 477.750. [1985 c.759 §3; 1995 c.507 §2; 1999 c.968 §4; 2003 c.769 §4]

Note: 321.152 was added to and made a part of ORS chapter 321 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

321.155 [1953 c.375 §17; repealed by 1957 c.309 §15]

321.160 [Repealed by 1953 c.375 §38]

321.165 [1953 c.375 §19; 1957 c.309 §5; 1961 c.297 §5; 1965 c.253 §140; 1967 c.429 §12; 1981 c.321 §11; repealed by 1985 c.759 §40]

321.170 [Repealed by 1953 c.375 §38]

321.175 [1953 c.375 §20; 1965 c.253 §141; repealed by 1967 c.429 §61]

321.180 [Repealed by 1953 c.375 §38]

321.185 Forest Research and Experiment Account; appropriation. (1) There hereby is established in the State Treasury in the General Fund an account to be known as the Forest Research and Experiment Account, which account hereby is appropriated continuously to the State Board of Higher Education for the purposes of ORS 526.215 and 526.225.

(2) The Forest Research and Experiment Account shall consist of allocations from harvest taxes as provided in ORS 321.015 (1). [1953 c.375 §21; 1957 c.309 §6; 1961 c.297 §6; 1985 c.759 §17; 2003 c.46 §46]

321.190 [Repealed by 1953 c.375 §38]

321.195 [1953 c.375 §22; repealed by 1957 c.309 §15]

321.200 [Repealed by 1953 c.375 §38]

FORESTLAND VALUATION

321.201 Definition of "forestland" for ORS 321.201 to 321.222. As used in ORS 321.201 to 321.222, "forestland" means either forestland, as defined in ORS 321.257, that is located in western Oregon or forestland, as defined in ORS 321.805, that is located in eastern Oregon. [2001 c.860 §13]

321.204 Legislative findings and declarations. The Legislative Assembly finds that an accurate system of annually determining forestland values in this state is vital to achieving a fair and equitable system of taxing the forest resources of this state. The Legislative Assembly declares that an annual determination of forestland values is the process that best achieves an accurate assessment of forestland in this state. [2001 c.860 §14]

321.205 [1953 c.375 §23; repealed by 1961 c.297 §12]

321.207 Valuation models; rules. (1) The Department of Revenue by rule shall develop valuation models to be used to value forestland in western Oregon and eastern Oregon.

(2) The valuation models may consider forestland sales, stumpage values, immediate harvest values, log prices or other commercially reasonable factors or data that promote real market value analysis of forestland. [2001 c.860 §15]

321.210 Proposed specially assessed values; notice; comments; hearing. (1) Pursuant to the valuation models adopted by the Department of Revenue under ORS 321.207 and for the purpose of certifying specially assessed values of forestland under ORS 321.354 and 321.833, for each tax year the Department of Revenue shall give notice of proposed specially assessed values of forestland. The values shall be proposed by the department on or before April 1 of the assessment year.

(2) The specially assessed values proposed under this section and certified under ORS 321.216 for forestland in western Oregon shall be for land classes FA, FB, FC, FD, FE, FF, FG and FX. Specially assessed values also shall be proposed under this section and certified under ORS 321.216 for forestland in eastern Oregon.

(3) The department shall give notice of the proposed specially assessed values to:

(a) County assessors and associations, trade organizations and other persons that the department, in its discretion, finds represent forestland owners; and

(b) Any other person that has made a written request to the department to be given notice of proposed specially assessed values.

(4) The notice required under subsection (3) of this section must contain:

(a) The proposed specially assessed values;

(b) A description of the valuation model employed in determining the proposed specially assessed values;

(c) A summary of the market data used to determine the proposed specially assessed values; and

(d) The date, time and location of the public hearing described in subsection (6) of this section.

(5) Following the giving of notice required under this section, members of the public may submit written comments on the proposed specially assessed values to the department. Written comments received by the department on or before May 1 of the assessment year for which the specially assessed values are proposed shall be considered by the department prior to the department certifying specially assessed values to the county assessors under ORS 321.216.

(6) Prior to adopting specially assessed values of forestland for a tax year, the department shall conduct a public hearing on the proposed specially assessed values. Any person interested in providing testimony on the proposed specially assessed values shall be given the opportunity to do so at the hearing. [2001 c.860 §16]

321.213 Forestland value advisory committee. (1) At any time, the Department of Revenue may convene a forestland value advisory committee to assist the department in developing a valuation model under ORS 321.207 or in determining specially assessed values of forestland. If the department convenes a committee, it shall be composed of members appointed by the Director of the Department of Revenue. In appointing members, the director shall strive to include representation of counties, the State Forestry Department and large and small forestland owners from western Oregon and eastern Oregon.

(2) The Department of Revenue shall provide staff and administrative support to facilitate the work of a committee convened by the department. [2001 c.860 §17]

321.215 [1953 c.375 §18; 1957 c.309 §7; 1961 c.297 §7; repealed by 1985 c.759 §40]

321.216 Certified specially assessed values. (1) On or before June 1 of each assessment year, the Department of Revenue shall adopt specially assessed values of forestland, as of the assessment date for that year. The department shall certify the specially assessed values of forestland in eastern Oregon to the county assessors of eastern Oregon and the specially assessed values of forestland in western Oregon to the county assessors of western Oregon.

(2) The certified specially assessed values constitute:

(a) The department's determination of the real market value, as of the assessment date for the tax year, of highest and best use forestland in the land class for which the certification is being made; and

(b) The specially assessed values, as of the assessment date for the tax year, of designated forestland that is assessed under ORS 321.354 and 321.833 in the land class for which the certification is being made.

(3) Upon receipt of the certified values, the county assessors shall develop tables for each assessment year that reflect, for each class and area, the values determined under this section and that express the values as values per acre. [2001 c.860 §18]

321.219 Appeal of certified specially assessed values; notice; effect of decision modifying values; rules. (1) At any time following certification of the specially assessed values under ORS 321.216 and before July 1 of the tax year, five or more taxpayers owning in the aggregate not less than five percent of the total forestland in a single land market area may appeal any or all of the specially assessed values so certified.

(2) Appeals under this section shall be made to the Oregon Tax Court by filing a joint petition with the tax court in the manner provided for appeals from orders of the county boards of property tax appeals. The petition shall designate one of the taxpayers as the representative of all of the taxpayers, and all proceedings before the tax court and any appeal from its determination shall be conducted procedurally as though the designated representative were the only petitioner.

(3) Notice of the appeal shall be made in the manner prescribed by the Department of Revenue by rule. The notice shall designate the specially assessed values appealed and include a statement of the provisions of subsections (4) and (5) of this section.

(4) Unless an appeal is resolved prior to September 15 of the tax year and results in a change in a specially assessed value that was certified under ORS 321.216, then notwithstanding the appeal of a certified specially assessed value, the certified specially assessed values shall be entered on the assessment and tax roll for the year and the property taxes for the tax year shall be imposed on those values.

(5) If a decision by the tax court, or by the Oregon Supreme Court following an appeal of a tax court decision:

(a) Results in a decrease in a specially assessed value certified under ORS 321.216, any refund of tax arising as a result of the decision shall be made by reducing the tax imposed on forestland affected by the decision in the first tax year following the decision.

(b) Results in an increase in a specially assessed value certified under ORS 321.216, any additional taxes becoming due shall be payable without interest if paid prior to the 16th day of the month following the month in which the final order of the court is issued. If the additional taxes are not paid within this period, the additional taxes shall thereafter be considered delinquent and shall bear interest at the rate provided in ORS 311.505. [2001 c.860 §19; 2011 c.204 §11]

321.222 Jurisdiction of board of property tax appeals. Any appeal of forestland value that does not involve an appeal of a specially assessed value certified under ORS 321.216 shall be made to the board of property tax appeals in the manner prescribed in ORS 309.100. [2001 c.860 §20]

321.225 [1953 c.375 §33; repealed by 1985 c.759 §40]

321.255 [Formerly 528.010; 1973 c.348 §1; repealed by 1977 c.892 §51]

SPECIAL ASSESSMENT OF WESTERN OREGON FORESTLAND

321.257 Definitions for ORS 321.257 to 321.390. As used in ORS 321.257 to 321.390, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Forestland" means land in western Oregon that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forestland or land in western Oregon, the highest and best use of which is the growing and harvesting of such trees. Trees of a marketable species may vary in different areas in western Oregon and may change as the utilization of forest trees changes. The size, age, location, quality and condition of trees do not necessarily determine marketable species. Forestland often contains isolated openings which because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If the openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, the openings are deemed forestland. Forestland does not include buildings, structures, machinery, equipment or fixtures erected upon, under or above the soil. Forestland includes roads described in ORS 308.236.

(3) "Land class" or "land classes" means one of the eight classifications of forestland, used for assessment purposes by the department, based upon State Tax Commission Valuation Division Supplements published in 1967, and identified in ORS 321.210.

(4) "State Forester" means the State Forester or the authorized representative of the State Forester.

(5) "Sustained yield management" means the growing and harvesting of timber crops on a continuous basis on land that is primarily dedicated to timber production.

(6) "Taxing district" or "district" means each county, city, school district and other corporation vested with the power to levy property taxes in western Oregon.

(7) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule.

(8) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [1977 c.892 §1; 1983 c.539 §2; 1985 c.759 §18; 1989 c.1083 §1; 1993 c.653 §6; 1993 c.801 §1; 1999 c.1078 §12; 2003 c.621 §1]

321.259 Legislative findings. The Legislative Assembly finds that:

(1) Multiple taxation through a yearly ad valorem levy on both trees and forestland managed in sustained yield timber operations discourages conservation, private ownership and investment of capital.

(2) The interests of the state, its citizens and future citizens are best served by sustained yield practices and taxing policies that encourage production of forest resources for commerce, recreation and watersheds, stabilize employment levels, prevent large population shifts and encourage millage of timber products within Oregon.

(3) Timber on private lands managed on a sustained yield basis should be treated as a crop and not taxed as real property.

(4) Forestland should be taxed based on the value of the forestland in timber production. [1993 c.801 §3; 2003 c.621 §2]

321.260 [Formerly 528.020; repealed by 1977 c.892 §51]

321.262 Purposes. The purposes of ORS 321.257 to 321.390 are:

(1) To impose with respect to forestlands in western Oregon a special assessment program whereby the value of forestland is determined as prescribed in ORS 321.201 to 321.222.

(2) To establish a special assessment program as a means of:

(a) Recognizing the long-term nature of the forest crop and fostering the public policy of Oregon to encourage the growing and harvesting of timber.

(b) Protecting the public welfare by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from private forestlands.

(c) Promoting the state's policy of encouraging forestry and the restocking of forestlands to provide present and future benefits by enhancing the water supply, preventing erosion, providing habitat for wildlife, providing scenic and recreational opportunities and providing for needed products. [1977 c.892 §2; 1993 c.801 §4; 2003 c.621 §3]

321.265 [Formerly 528.025; repealed by 1977 c.892 §51]

321.267 Lands not eligible for special assessment. The following forestland may not be assessed under ORS 321.257 to 321.390:

(1) Forestland assessed by the Department of Revenue pursuant to ORS 308.505 to 308.665, 308.805 to 308.820 and 308.990.

(2) Except as provided in ORS 321.347, land that is prepared using intensive cultivation and tilling and on which all unwanted plant growth is controlled continuously for the exclusive purpose of growing Christmas trees.

(3) Land used for the purpose of growing hardwood timber, including but not limited to hybrid cottonwood, if:

(a) The land is prepared using intensive cultivation methods and is cleared of competing vegetation for at least three years after tree planting;

(b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(c) The timber is harvested on a rotation cycle within 12 years after planting; and

(d) The land and timber are subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation and irrigation.

(4) Small tract forestland qualified under ORS 321.700 to 321.754 and timber harvested from small tract forestland qualified under ORS 321.700 to 321.754. [1977 c.892 §3; 1989 c.887 §5; 1991 c.459 §278; 1991 c.714 §10; 1993 c.801 §5; 1997 c.154 §51; 1999 c.19 §1; 1999 c.1078 §17; 2001 c.46 §1; 2001 c.114 §44; 2003 c.454 §§108,110; 2003 c.621 §4a]

321.270 [Formerly 528.030; 1973 c.348 §2; repealed by 1977 c.892 §51]

321.272 Exemption of timber from property taxation. All timber in western Oregon shall be exempt from ad valorem property taxation. [1977 c.892 §4; 1993 c.801 §6; 1999 c.1078 §19; 2003 c.621 §5]

321.273 [1993 c.801 §8; 1999 c.1078 §§21,23; repealed by 2003 c.621 §22b]

321.274 [1989 c.887 §7b; 1991 c.459 §279; 1993 c.801 §38; 2003 c.454 §114; repealed by 2003 c.621 §§22b,22c]

321.275 [Formerly 528.040; repealed by 1973 c.348 §12]

321.277 [1977 c.892 §5; repealed by 1993 c.801 §43]

321.279 [1977 c.892 §50a; repealed by 1983 c.740 §92a]

321.280 [Formerly 528.050; 1973 c.348 §3; repealed by 1977 c.892 §51]

321.282 [1977 c.892 §6; 1979 c.454 §1; 1983 c.563 §1; 1985 c.759 §19; 1989 c.1083 §2; 1991 c.459 §280; 1993 c.653 §§8,8a; 1999 c.1078 §25; 2003 c.454 §62a; repealed by 2003 c.621 §§22b,22c]

321.284 [1989 c.1083 §4; 1991 c.459 §281; 1993 c.653 §9; 1995 c.650 §92; 1999 c.1078 §26a; repealed by 2003 c.621 §22]

321.285 [Formerly 528.060; 1973 c.348 §4; repealed by 1977 c.892 §51]

321.287 [1977 c.892 §7; 1979 c.454 §2; 1993 c.653 §§10,10a; repealed by 2003 c.621 §22b]

321.290 [Formerly 528.070; repealed by 1973 c.348 §5 (321.291 enacted in lieu of 321.290)]

321.291 [1973 c.348 §6 (enacted in lieu of 321.290); repealed by 1977 c.892 §51]

321.292 [1977 c.892 §7a; repealed by 1985 c.759 §40]

321.295 [Formerly 528.080; 1963 c.109 §1; 1967 c.59 §1; 1973 c.348 §7; repealed by 1977 c.892 §51]

321.297 [1977 c.892 §8; 1979 c.438 §1; 1981 c.623 §7; repealed by 1985 c.759 §40]

321.299 [1985 c.759 §21b; 1989 c.966 §23; 1991 c.459 §282; 1993 c.801 §11; repealed by 1999 c.1078 §86]

321.300 [Formerly 528.090; 1967 c.105 §7; repealed by 1977 c.892 §51]

321.302 [1977 c.892 §9; 1981 s.s. c.3 §144; 1983 c.763 §25; 1985 c.759 §21; repealed by 1991 c.459 §321]

321.305 [Formerly 528.095; repealed by 1977 c.892 §51]

321.307 [1977 c.892 §10; 1979 c.438 §7; 1981 c.623 §9; 1985 c.759 §22; 1989 c.966 §24; 1989 c.1083 §16; 1991 c.854 §6; 1993 c.653 §1a; 1993 c.801 §12; 1995 c.143 §1; 1997 c.586 §1; 1999 c.968 §6; 1999 c.1078 §29; 2001 c.816 §1; 2001 c.860 §11a; 2003 c.454 §63; 2003 c.621 §6a; repealed by 2003 c.621 §26]

321.308 [1989 c.1083 §14; repealed by 1993 c.801 §43]

321.309 [1989 c.1083 §13; 1991 c.162 §10; 1991 c.780 §33; repealed by 1993 c.801 §43]

321.310 [Formerly 528.100; repealed by 1977 c.892 §51]

321.311 [1989 c.1083 §15; 1991 c.459 §285; repealed by 1999 c.1078 §85]

321.312 [1977 c.892 §11; 1979 c.438 §2; 1985 c.759 §23; 1991 c.459 §286; 1993 c.801 §13; 1999 c.1078 §30; 2001 c.509 §4; repealed by 2003 c.621 §26]

321.315 [Formerly 528.110; 1967 c.105 §8; repealed by 1977 c.892 §51]

321.317 [1977 c.892 §12; 1979 c.438 §3; 1981 c.677 §1; 1981 c.804 §90; 1983 s.s. c.5 §23; 1985 c.613 §15; 1985 c.759 §24; 1991 c.459 §287; 1991 c.780 §19; 1993 c.801 §14; repealed by 1999 c.1078 §85]

321.320 [Formerly 528.115; repealed by 1977 c.892 §51]

321.322 [1977 c.892 §13; 1979 c.454 §3; 1981 c.706 §10; 1989 c.588 §3; 1991 c.459 §288; 1993 c.653 §11; 1993 c.801 §15; repealed by 2003 c.621 §22b]

321.325 [Formerly 528.120; repealed by 1977 c.892 §51]

321.327 [1977 c.892 §14; 1981 c.706 §11; 1982 s.s.1 c.16 §14; repealed by 1985 c.759 §40]

321.330 [Formerly 528.140; repealed by 1969 c.595 §17]

321.332 [1977 c.892 §18; repealed by 1985 c.759 §40]

321.335 [Formerly 528.150; repealed by 1977 c.892 §51]

321.337 [1977 c.892 §19; repealed by 1985 c.759 §40]

321.340 [Formerly 528.160; 1973 c.348 §8; repealed by 1977 c.892 §51]

321.342 [1977 c.892 §22; repealed by 1985 c.759 §40]

321.344 [1981 c.706 §4; 1983 c.740 §93; repealed by 1985 c.759 §40]

321.345 [Formerly 528.170; 1973 c.348 §9; repealed by 1977 c.892 §51]

321.346 [1981 c.706 §5; 1983 c.696 §15; 1983 c.740 §94; repealed by 1985 c.759 §40]

321.347 Land designations; classifications; certain election by landowners. For the purposes of ORS 321.257 to 321.390:

(1) All land in western Oregon valued as forestland for ad valorem property tax purposes on January 1, 1977, shall retain that classification for the purposes of ORS 321.257 to 321.390 unless it is specifically excluded from the provisions thereof or unless it is removed from that classification as provided in ORS 321.359 or is no longer land the highest and best use of which is forestland.

(2) Land designated as forestland pursuant to ORS 321.605 to 321.680 (1975 Replacement Part) shall retain the original date of such designation.

(3) Lands classified as reforestation lands as of July 1, 1977, pursuant to ORS 321.255 to 321.360 (1975 Replacement Part) shall be considered to have been designated as forestland from the date of original classification as reforestation lands. Any lands so classified prior to February 1, 1972, shall be presumed to have been designated not earlier than February 1, 1972.

(4) Pursuant to the election of the owner, as provided in section 45, chapter 892, Oregon Laws 1977, land which, as of January 1, 1977, was designated under the provisions of ORS 321.705 to 321.765 (2001 Edition) shall be considered to have been designated as forestland for the purposes of ORS 321.257 to 321.390 from the date of the original designation under those provisions. Any lands so designated prior to January 1, 1972, shall be presumed to have been designated not earlier than January 1, 1972, for the purposes of additional taxes imposed by ORS 308A.700 to 308A.733. [1977 c.892 §23; 1979 c.553 §10; 1981 c.419 §7; 1991 c.459 §289; 1999 c.19 §5; 1999 c.314 §§68,68a; 2003 c.454 §115; 2003 c.621 §7a]

321.348 Assignment of forestland to land classes; change in class. (1) For each tax year, forestland shall be assigned by the Department of Revenue to land classes as defined in ORS 321.257.

(2) Land classes assigned under subsection (1) of this section may be changed thereafter by the department upon the initiative of the department, or upon the request of an owner, if further investigation reveals that the basis for the land class determination was inaccurate. Any such redetermination of land class shall be certified immediately to the county assessor. [1993 c.801 §17; 2003 c.621 §8]

321.349 Valuation of certain forestland at farm use value. (1) Subject to subsection (2) of this section, land that is changed from farm use special assessment under ORS 308A.050 to 308A.128 to special assessment as forestland under ORS 321.257 to 321.390, at the election of the owner made under rules adopted by the Department of Revenue, shall not be valued under ORS 308.205, 308.232 and 321.257 to 321.390 for the tax year of the change and years thereafter in which such special forestland assessment is in effect for the land, but shall be valued under ORS 308A.050 to 308A.128, if:

(a) The land has been assessed under ORS 308A.050 to 308A.128 for at least the 10 consecutive years immediately prior to the year for which the change is first effective;

(b) The planting of the timber takes place after October 15, 1983, and qualifies for the current tax year for special assessment as forestland under ORS 321.257 to 321.390;

(c) The timber on the land is of an average age of less than 40 years; and

(d) The land is held by an owner having a total ownership of forestland in western Oregon not in excess of 2,000 acres, as determined under subsection (3) of this section.

(2) If timber on land valued under subsection (1) of this section reaches, for any tax year, an average age of 40 years or more, this section shall cease to apply. However, without application and without any additional tax, interest or penalty, the land shall for that tax year and for each year thereafter for which the land is qualified, be valued under ORS 308.205, 308.232 and 321.257 to 321.390.

(3) In computing a forestland owner's acreage for purposes of subsection (1) of this section, total ownership of the owner's forestland, as defined in ORS 321.257, in western Oregon shall be included.

(4)(a) An owner may not have forestland valued under subsection (1) of this section if the owner, or any individual having a share in the owner, has a spouse, brother, sister, ancestor or lineal descendant who is an owner, or who holds a share in an owner having forestland valued under subsection (1) of this section.

(b) The county assessor may grant exceptions to paragraph (a) of this subsection if the owner satisfactorily demonstrates that the combination of ownership with the indicated relatives arose from bona fide business reasons other than a desire to circumvent the 2,000 acre limitation imposed under subsection (1) of this section.

(5) As used in this section, "total ownership" includes:

(a) Forestland owned by an owner individually; and

(b) Forestland owned by any corporate or other group or entity in which an owner of the corporation, group or entity owns a 10 percent or greater interest, directly or indirectly, in the corporation, group or entity. [1983 c.657 §8; 1991 c.459 §290; 1993 c.801 §38a; 1999 c.19 §6; 1999 c.314 §66; 1999 c.1078 §79; 2005 c.94 §102]

321.350 [Formerly 528.180; 1973 c.348 §10; repealed by 1977 c.892 §51]

321.351 [1993 c.801 §21a; 1999 c.21 §51; repealed by 2003 c.621 §22]

321.352 [1977 c.892 §24; 1979 c.437 §1; 1981 c.428 §1; 1981 c.804 §91; 1985 c.613 §16; 1991 c.459 §291; 1993 c.270 §65; 1993 c.653 §12; 1993 c.801 §18; 1995 c.650 §93; 1999 c.21 §52; repealed by 2003 c.621 §22b]

321.353 [1993 c.801 §§17a,20; 1995 c.79 §174; 1997 c.541 §391; 1999 c.19 §7; 1999 c.21 §53; 1999 c.1078 §14; 2001 c.816 §3; 2001 c.860 §1; 2003 c.454 §65; repealed by 2003 c.621 §§22b,22c]

321.354 Common ownership minimum acreage requirements; specially assessed value and maximum assessed value of forestland of large landowners. (1)(a) The Department of Revenue shall identify the forestland that is held in common ownership of 5,000 acres or more as of the assessment date for each tax year.

(b) Forestland that the department has identified under paragraph (a) of this subsection that, for the previous tax year, was subject to small tract forestland assessment shall be disqualified from small tract forestland assessment and shall be subject to special assessment as provided in this section as of the first tax year the forestland is held in common ownership of 5,000 acres or more.

(c) For purposes of this subsection, "forestland" includes land that meets the definition of forestland under ORS 321.805.

(2) Forestland assessed under this section shall have a specially assessed value per acre equal to the value certified to the county assessor for the tax year under ORS 321.216 for the applicable land class of the forestland.

(3) For each land class described in ORS 321.210, the forestland maximum assessed value per acre shall equal 103 percent of the forestland assessed value per acre for the preceding tax year or 100 percent of the forestland maximum assessed value per acre for the preceding tax year, whichever is greater.

(4)(a) The assessor shall compute the assessed value of forestland by multiplying the acreage of the forestland in each land class by the lesser of:

(A) The specially assessed value per acre; or

(B) The maximum assessed value per acre.

(b) If the forestland being assessed consists of different land classes, the assessed value of the forestland shall be the sum of the assessed values computed for each land class under paragraph (a) of this subsection.

(5) Notwithstanding subsection (4) of this section, the forestland shall be assessed as provided in ORS 308.232 if the real market value of the forestland is less than the value established under subsection (4) of this section.

(6) For purposes of this section:

(a) The department shall certify to the county assessor of a county in which forestland identified in subsection (1) of this section is located a list of the property tax accounts containing forestland so identified.

(b) Forestland shall be considered to be in common ownership if the forestland is owned by the person directly or is owned by a corporation, partnership, association or other entity in which the person owns a majority interest.

(c) Additional taxes may not be imposed as a result of a disqualification under subsection (1) of this section.

(d) The notification requirements and other procedures that the county assessor must follow in disqualifying forestland do not apply to a disqualification occurring under subsection (1) of this section.

(e) The department shall notify the county assessor of forestland identified under subsection (1)(a) of this section that is located in that county. [1999 c.1078 §§2,7; 2001 c.860 §2; 2003 c.454 §67]

321.355 [Formerly 528.190; 1973 c.348 §11; repealed by 1977 c.892 §51]

321.356 [1999 c.1078 §9; 2001 c.816 §4; 2001 c.860 §5; 2003 c.454 §71; 2003 c.621 §16; repealed by 2003 c.621 §24]

321.357 [1977 c.892 §24a; 1981 c.804 §92; 1991 c.459 §292; 1993 c.801 §21; 1995 c.79 §175; repealed by 1999 c.19 §12]

321.358 Application for designation as forestland; special filing date for change in highest and best use; contents; approval. (1) An owner of land desiring that it be designated as forestland shall make application to the county assessor on or before April 1 of the assessment year for which special assessment as forestland is first desired, and the owner may also do so within 30 days of receipt of notice of its assessment as omitted property.

(2) Notwithstanding subsection (1) of this section, an owner of land may apply to the county assessor by December 15 to have the land designated as forestland for the assessment year if:

(a) For the prior assessment year the land had been forestland by reason of the land being highest and best use forestland; and

(b) For the current assessment year the land is being assessed at a value reflecting a use other than highest and best use forestland.

(3) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor, and shall include the following:

(a) A description of all land the applicant desires to be designated as forestland.

(b) Date of acquisition.

(c) Whether the land is being held or used for the predominant purpose of growing and harvesting trees of marketable species.

(d) Whether there is a forest management plan for it.

(e) If so, whether the plan is being implemented, and the nature and extent of implementation.

(f) Whether the land is used for grazing.

(g) Whether the land has been platted under ORS chapter 92.

(h) Whether the land is timberland subject to ORS chapter 477, and if it is not, the reasons therefor.

(i) Whether the land, or any of it, is subject to a lease or option which permits it to be used for any purpose other than the growing and harvesting of trees.

(j) A summary of past experience and activity of the applicant in growing and harvesting trees.

(k) A summary of current and continuing activity of the applicant in growing and harvesting trees.

(L) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be designated as forestland.

(m) An affirmation that the statements contained in the application are true.

(4) The county assessor shall approve an application for forestland designation if the assessor finds that the land is properly classifiable as forestland. The county assessor shall not find land properly classifiable as forestland if:

(a) The application states the land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species; or

(b) Subject to the provisions of ORS 321.257, the land does not substantially meet minimum stocking or acreage requirements under rules adopted by the department. Otherwise, the determination whether the land is properly classifiable as forestland shall be made with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative.

(5) The application shall be deemed to have been approved unless, within three months of the date such application was delivered to the assessor or prior to August 15, whichever is later, the assessor shall notify the applicant in writing of the extent to which the application is denied. [Formerly 321.618; 1981 c.804 §93; 1983 c.462 §5; 1983 c.657 §2; 1989 c.1083 §9; 1991 c.459 §293; 1997 c.541 §§392,392a; 1999 c.314 §92; 1999 c.1078 §74; 2003 c.621 §17]

321.359 Removal of designation; appeal from reassessment or denial; requalification. (1)(a) When land has once been designated as forestland either as a result of an application being filed therefor or through the application of ORS 321.347 (3) or (4), it shall be valued as such until the assessor removes the forestland designation under paragraph (b) of this subsection.

(b) The county assessor shall remove the forestland designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation;

(B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(C) Discovery by the assessor that the land is no longer forestland; or

(D) The act of recording a subdivision plat under ORS chapter 92.

(2) A taxpayer whose application filed under ORS 321.358 has been denied in whole or in part, or a taxpayer whose forestland has had the designation thereof removed in whole or in part, may appeal to the tax court within the time and in the manner provided in ORS 305.404 to 305.560.

(3) If, under subsection (1)(b)(D) of this section, the county assessor removes the forestland designation upon the act of recording a subdivision plat, the land, or a part of the land, may be requalified for forestland designation upon:

(a) Payment of all additional tax and applicable interest that remains due and owing on the land;

(b) Submission by the owner of an application for designation as forestland;

(c) Meeting all of the qualifications for designation as forestland; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use. [Formerly 321.619; 1983 c.462 §6; 1983 c.563 §2; 1985 c.759 §24a; 1987 c.158 §52; 1991 c.459 §294; 1995 c.650 §94; 1999 c.314 §51; 2003 c.621 §18]

321.360 [1963 c.606 §10; 1969 c.595 §15; 1973 c.305 §13; repealed by 1977 c.892 §51]

321.361 [1983 c.462 §8; repealed by 1991 c.459 §321]

321.362 Notation of forestland on tax roll for potential additional tax liability. The tax roll shall show the notation "Forest Land-Potential Additional Tax Liability" for each parcel of land designated as forestland by the assessor upon application of the owner or by the application of ORS 321.347 (3) or (4). That notation shall not be made with respect to parcels of undesignated forestland. [1977 c.892 §28]

321.363 [1991 c.459 §295a; repealed by 1991 c.459 §295a(2)]

321.364 [1993 c.5 §4; 1997 c.541 §396; 1999 c.314 §84; repealed by 1999 c.314 §94]

321.365 [1999 c.1078 §10; 2001 c.860 §11b; repealed by 2003 c.621 §22b]

321.366 Date on which removal of forestland designation is effective; notice of removal. (1) Notwithstanding ORS 308.210, 311.405 or 311.410, but subject to subsection (2) of this section, the removal under ORS 321.359 (1)(b)(C) of land from designation as forestland because the land is no longer forestland shall occur as of the January 1 assessment date for the tax year in which the county assessor discovers that the land is no longer forestland.

(2) Subsection (1) of this section applies only if notice of the removal is mailed by the county assessor prior to August 15 of the tax year for which the removal of the land is asserted. [2003 c.621 §15]

321.367 Forestland management; effect of failure to manage forestland in accordance with management plan; rules. (1) The State Forester shall identify all of the forestlands that fail to meet the minimum stocking required under ORS 527.610 to 527.770 and that are therefore underproductive as described under ORS 526.455.

(2) At any time the State Forester has reason to believe that forestland is not being managed as forestland, the State Forester shall review the owner's management plan, if any, and inspect the property. Subject to subsection (5) of this section, the State Forester shall advise the owner as prescribed in subsection (3) of this section if the State Forester determines the land is not being managed in accordance with a plan that provides for:

(a) Regeneration of all suitable nonstocked land;

(b) Maintenance of a free-to-grow condition;

(c) Protection from fire, insects, disease, animal damage, undesirable vegetative competition; and

(d) Final harvest.

(3)(a) The State Forester shall advise the owner that the land is not being managed in accordance with a plan that meets the criteria set forth in subsection (2) of this section and that a plan for the land that does meet the criteria must be developed and activated within one year after the date of the advisement.

(b) At the request of the owner, the State Forester shall assign a forester or provide a listing of foresters to assist the owner in developing and implementing an appropriate management plan for the land.

(c) As soon as practicable after the time indicated in the advisement has expired, the State Forester shall view the land to determine if the land is being managed in accordance with a plan that meets the criteria set forth in subsection (2) of this section. If, upon inspection, the State Forester finds that the land is not being so managed, the State Forester shall notify the owner and the county assessor.

(4) The county assessor, upon receipt of the notice from the State Forester, shall cease to treat that land as forestland under ORS 321.257 to 321.390 and shall value the land as prescribed under ORS 308.146 and 308.232.

(5) If at the time that the State Forester views the land under subsection (3)(c) of this section, it is determined that a change in ownership has occurred, the State Forester shall notify the new owner as required under subsection (3) of this section in the manner of the original notification.

(6) When the owner of land disqualified from forestland assessment provides satisfactory information to the State Forester of subsequent action taken to correct the deficiency resulting in the disqualification of land, or provides an acceptable management plan to correct such deficiency, the State Forester shall so indicate to the county assessor. The assessor shall then assess the land under ORS 321.257 to 321.390, if the land is otherwise qualified for such assessment.

(7) The State Forester shall adopt rules necessary to carry out the purposes of this section. [1977 c.892 §28a; 1979 c.454 §5; 1983 c.669 §1; 1987 c.158 §53; 1991 c.854 §7; 1993 c.801 §38b; 2003 c.621 §19; 2005 c.94 §103]

321.372 [1977 c.892 §29; 1979 c.350 §15; 1983 c.462 §16; 1985 c.759 §25; 1991 c.459 §296; repealed by 1999 c.314 §94]

321.375 [1981 c.428 §3; 1985 c.759 §26; 1991 c.459 §297; 1993 c.270 §72; repealed by 2003 c.621 §22]

321.377 [1977 c.892 §53; repealed by 1985 c.759 §40]

321.379 [1989 c.1083 §5; 1993 c.653 §14; 1995 c.350 §3; 1999 c.1078 §27; repealed by 2003 c.621 §22]

321.381 [1989 c.1083 §6; 1999 c.1078 §72; repealed by 2003 c.621 §22]

321.390 Land used to grow certain hardwood to be assessed as farm use land; application required for unzoned land. (1) Land described in ORS 321.267 (3) (relating to hardwood timberland, including hybrid cottonwood timberland) shall be assessed as farm use land under ORS 308A.050 to 308A.128.

(2)(a) If land is or becomes land described under ORS 321.267 (3) and the land is not located within an exclusive farm use zone, the owner shall make application for special valuation as farm use land in the manner provided under ORS 308A.077, as follows:

(A) If the change in use takes place on or after July 1, the owner shall file the application on or before April 1 of the following year.

(B) If the change in use takes place prior to July 1, the owner shall file the application on or before August 1 of the same year.

(b) If an application is filed as provided under this subsection, the owner shall have seven years beginning with the first year of classification to meet the income requirements of ORS 308A.071 and need not meet the two-year farm use requirements of ORS 308A.068. [1989 c.887 §8; 1991 c.459 §298; 1999 c.314 §52; 2003 c.454 §126; 2003 c.621 §20a]

321.405 [1961 c.627 §1; 1971 c.654 §7; 1983 c.539 §3; 1985 c.759 §27; 1993 c.653 §15; 1993 c.801 §22; 1999 c.631 §3; repealed by 2003 c.621 §35b]

321.408 [1993 c.801 §25; 2003 c.621 §29; renumbered 321.808 in 2003]

321.410 [1961 c.627 §2; 1993 c.801 §23; 2003 c.621 §30; renumbered 321.817 in 2003]

321.415 [1961 c.627 §5; 1963 c.60 §1; 1977 c.892 §39; 1983 c.657 §3; 1991 c.714 §1; 1993 c.801 §26; 1995 c.79 §176; 1997 c.154 §52; 1999 c.1078 §49; 2001 c.46 §2; 2001 c.114 §45; 2003 c.454 §112; 2003 c.621 §31; renumbered 321.824 in 2003]

321.420 [1961 c.627 §3; 1963 c.225 §1; 1971 c.654 §8; 1993 c.801 §27; 1999 c.19 §8; 1999 c.1078 §51; 2003 c.621 §32; renumbered 321.829 in 2003]

321.421 [1993 c.801 §29; 1999 c.1078 §53; repealed by 2003 c.621 §35b]

321.425 [1961 c.627 §4; 1977 c.892 §39a; repealed by 1993 c.801 §43]

321.426 [1991 c.714 §3; 1993 c.801 §39; repealed by 2003 c.621 §35b]

321.430 [1961 c.627 §4a; 1983 c.563 §3; 1985 c.761 §19; 1993 c.98 §15; 1993 c.653 §17; 1993 c.801 §30; 1995 c.350 §4; repealed by 2003 c.621 §35b]

321.432 [1987 c.551 §5; 1991 c.459 §302; 1993 c.801 §31; 2003 c.454 §71a; repealed by 2003 c.621 §§35b,35c]

321.434 [1995 c.350 §2; repealed by 2003 c.621 §35]

321.435 [1961 c.627 §6; 1963 c.86 §1; 1979 c.454 §6; 1981 c.706 §12; 1989 c.588 §2; 1991 c.459 §303; 1993 c.653 §18; repealed by 2003 c.621 §35b]

321.440 [1961 c.627 §7; 1975 c.593 §20; 1977 c.870 §49; 1981 c.706 §13; 1982 s.s.1 c.16 §15; 1983 c.563 §4; repealed by 1985 c.759 §40]

321.445 [1961 c.627 §8; 1981 c.706 §14; repealed by 1985 c.759 §40]

321.450 [1961 c.627 §9; 1981 c.706 §15; 1983 c.696 §16; 1983 c.740 §96; repealed by 1985 c.759 §40]

321.455 [1961 c.627 §10; repealed by 1981 c.706 §16]

321.460 [1961 c.627 §11; 1977 c.892 §40; repealed by 1985 c.759 §40]

321.465 [1961 c.627 §12; 1983 c.740 §97; repealed by 1985 c.759 §40]

321.470 [1961 c.627 §13; 1965 c.6 §13; 1967 c.115 §1; repealed by 1977 c.870 §59]

321.475 [1961 c.627 §14; repealed by 2003 c.621 §35b]

321.480 [1961 c.627 §15; repealed by 1985 c.759 §40]

321.485 [1961 c.627 §16(1),(2),(3) and (5); 1963 c.86 §2; 1971 c.408 §2; 1981 c.623 §8; 1985 c.759 §28; 1989 c.966 §25; 1993 c.801 §40; 1997 c.586 §2; 1999 c.19 §10; 1999 c.1078 §55; 2003 c.454 §72; 2003 c.621 §34; 2005 c.94 §104; repealed by 2003 c.621 §37]

321.487 [1999 c.1078 §57; 2001 c.114 §46; 2001 c.509 §5; repealed by 2003 c.621 §37]

321.490 [1961 c.627 §16(4); 1963 c.86 §3; 1979 c.438 §6; repealed by 1985 c.759 §40]

321.495 [1961 c.627 §17; repealed by 1971 c.408 §4]

321.500 [1961 c.627 §18; repealed by 1971 c.408 §4]

321.505 [1961 c.627 §19; 1963 c.86 §4; repealed by 1971 c.408 §4]

321.510 [1961 c.627 §20; 1965 c.326 §1; repealed by 1971 c.408 §4]

321.515 [1961 c.627 §21; 1971 c.408 §3; 1991 c.459 §304; 1993 c.801 §32; repealed by 1999 c.1078 §86]

321.520 [1961 c.627 §22; repealed by 1999 c.1078 §85]

321.525 [1961 c.627 §23; 1963 c.86 §5; repealed by 1971 c.408 §4]

321.530 [1961 c.627 §24; 1967 c.335 §37; repealed by 1971 c.408 §4]

GENERALLY

321.550 Notice of intent to harvest; rules; effect of failure to file notice. (1) No person shall harvest or cause to be harvested any timber from land in Oregon without first having notified the State Forester in writing with a copy to the Department of Revenue on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.

(2) The notification shall specify where and when the harvest will take place and the nature of the harvest and shall include maps and other data as required by the State Forester and the department. The department shall establish by rule procedures to assure the receipt of the tax returns sent out or a report of nonharvest from the person. The department shall conduct field and office audits to ascertain the correctness of any timber tax return.

(3)(a) If a person fails to file a written notice as required in subsection (1) of this section with respect to any harvest over 5,000 board feet, the department shall notify the person. If, after the person has been notified, the person fails to file a written notice as required in subsection (1) of this section with respect to any subsequent harvest over 5,000 board feet, there shall be added to the amount of the timber tax required to be shown on the return as a result of the subsequent harvest a delinquency penalty of $250 for each violation occurring within a calendar year. The department shall collect the penalty in the same manner as taxes are collected.

(b) No penalty shall be imposed under this subsection if a penalty for failure to file the notice with the State Forester has been imposed under ORS 527.992.

(c) The delinquency penalty shall first be added to the small tract forestland timber severance tax imposed under ORS 321.700 to 321.754, if applicable to the harvest. If the small tract forestland timber severance tax is not applicable, the delinquency penalty shall be added to the forest products harvest tax imposed under ORS 321.005 to 321.185. [1985 c.759 §2; 1989 c.588 §4; 1991 c.459 §305; 1993 c.801 §41; 2003 c.454 §54; 2003 c.621 §39a]

321.560 Audit of returns; interest and penalties upon failure to file return or pay tax. (1) The provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, determination of deficiencies, liens, assessments, claims for refund, conferences and appeals to the Oregon Tax Court, and the procedures relating thereto, apply to the determination of taxes, penalties and interest imposed under ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754, except where the context requires otherwise.

(2) If a taxpayer fails to file a return required by ORS 321.045 or 321.700 to 321.754, or fails to pay a tax at the time the tax becomes due, there shall be added to the amount of tax required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(3) If the failure to file a return continues for a period in excess of three months after the due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of such tax. This penalty is in addition to the delinquency penalty imposed by subsection (2) of this section.

(4) If all or any part of the delinquency or deficiency for which a determination is made is due to fraud or an intent to evade the provisions of ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754, or the rules

adopted thereunder, a penalty of 100 percent of such delinquency or deficiency shall be added, plus interest at the rate established under ORS 305.220 for each month, or any fraction thereof, computed on the full amount of the delinquency or deficiency plus penalty, from the time the return was due.

(5) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax that may be lawfully claimed upon the return.

(6) A delinquent tax or a deficiency shall bear interest at the rate established under ORS 305.220 for each month, or any fraction thereof, from the time the return was due. [Formerly 321.055; 1991 c.459 §306; 1995 c.53 §4; 1995 c.350 §5; 1995 c.650 §95; 2003 c.454 §55; 2003 c.621 §40a]

321.570 Warrant for collection of delinquent taxes. (1) If any tax imposed by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754, or any portion of the tax, is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed, the Department of Revenue may issue a warrant for the payment of the amount of the tax, with the added penalties, interest and cost of executing the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer found within that county, and to levy upon any currency of the taxpayer found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect this tax. In the execution of the warrant the agent has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes against the taxpayer as if the state had recovered judgment against the taxpayer for the amount of the tax. [Formerly 321.075; 1989 c.625 §78; 2003 c.454 §56; 2003 c.576 §203; 2003 c.621 §41a; 2011 c.389 §3; 2011 c.661 §6]

321.580 Effect of failure or refusal to make return. If any taxpayer neglects or refuses to make a return required to be made by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754, the Department of Revenue is authorized to determine the tax due, based upon any information in its possession or that may come into its possession. The department shall give the taxpayer written notice of the tax and delinquency charges and the tax and delinquency charges shall be a lien from the time of severance. If the tax and delinquency charges are not paid within 30 days from the mailing of the notice, the department shall proceed to collect the tax in the manner provided in ORS 321.570. [Formerly 321.092; 2003 c.454 §57; 2003 c.621 §42a]

321.590 [Formerly 321.095; repealed by 1993 c.801 §43]

321.600 Tax as debt; collection; limitation. All taxes, interest and penalties due and unpaid under ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754 constitute a debt due the State of Oregon and may be collected, together with interest, penalty and costs, by appropriate judicial proceeding, which remedy is in addition to all other existing remedies. However, no proceeding for the collection of taxes under ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754 shall be instituted after the expiration of six years from the date the taxes were due. [Formerly 321.105; 2003 c.454 §58; 2003 c.621 §43a]

321.605 [1961 c.659 §2; 1963 c.60 §2; 1967 c.543 §1; 1975 c.745 §1; repealed by 1977 c.892 §51]

321.609 Enforcement of certain statutes by department; rules. (1) ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754 shall be enforced and the taxes imposed by ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754 shall be collected by the Department of Revenue, which shall have the power to prescribe

forms and to adopt rules for the ascertainment, assessment and collection of the taxes imposed by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754.

(2) For the purpose of determining the taxes imposed by ORS 321.005 to 321.185, 321.560 to 321.600 or 321.700 to 321.754, the department may:

(a) Require any person to furnish any information deemed necessary.

(b) Examine the books, records and files of such person.

(c) Subpoena and examine witnesses and administer oaths.

(d) Enter upon and inspect the land of any owner of the land from which any timber has been harvested. [Formerly 321.135; 1999 c.21 §55; 2003 c.454 §59; 2003 c.621 §44a]

321.610 [1961 c.659 §1; repealed by 1977 c.892 §51]

321.615 [1961 c.659 §3; repealed by 1977 c.892 §51]

321.617 [Formerly part of 321.620; repealed by 1977 c.892 §51]

321.618 [Formerly part of 321.620; 1973 c.237 §1; 1977 c.884 §21; 1977 c.892 §54b; renumbered 321.358]

321.619 [Formerly part of 321.620; 1971 c.684 §5; 1977 c.870 §50; 1977 c.892 §27; 1977 c.893 §20c; renumbered 321.359]

321.620 [1961 c.659 §4; 1965 c.191 §1; 1967 c.93 §4; 1967 c.543 §2; renumbered 321.617, 321.618, 321.619 and 321.621]

321.621 [Formerly part of 321.620; repealed by 1977 c.892 §51]

321.622 [1961 c.659 §7(1),(3); repealed by 1977 c.892 §51]

321.625 [1961 c.659 §6(1); repealed by 1977 c.892 §51]

321.630 [1961 c.659 §6(2); repealed by 1977 c.892 §51]

321.635 [1961 c.659 §7(2); repealed by 1977 c.884 §32; 1977 c.892 §51]

321.640 [1961 c.659 §8; repealed by 1977 c.892 §51]

321.645 [1961 c.659 §5(1),(2),(3),(4) and (5); repealed by 1977 c.892 §51]

321.650 [1961 c.659 §5(6); 1975 c.636 §1; repealed by 1977 c.892 §51]

321.655 [1961 c.659 §5(7),(8); 1967 c.78 §6; repealed by 1977 c.892 §51]

321.660 [1961 c.659 §5(9); 1965 c.6 §14; 1967 c.78 §7; repealed by 1977 c.892 §51]

321.665 [1961 c.659 §5(10); 1963 c.60 §3; repealed by 1977 c.892 §51]

321.670 [1961 c.659 §5(11); repealed by 1977 c.892 §51]

321.675 [1961 c.659 §5(12); repealed by 1977 c.892 §51]

321.680 [1961 c.659 §5(13); 1963 c.576 §39; repealed by 1977 c.892 §51]

321.682 Confidentiality of reports, returns and appraisal data. (1) Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045 or 321.741 or any appraisal data collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 321.684 (2)

or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues.

(2) As used in this section, "officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person. [1989 c.1083 §18; 2001 c.860 §26; 2003 c.454 §60; 2003 c.621 §45a]

321.684 Authority of department to make certain disclosures. (1) The Department of Revenue may:

(a) Furnish to any taxpayer or authorized representative, upon request of the taxpayer or authorized representative, a copy of the taxpayer's forest products harvest tax report or return required by ORS 321.045 or 321.741 that is filed with the department for any year, or a copy of any report filed by the taxpayer in connection with the return.

(b) Publish a list of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics classified so as to prevent the identification of taxable value or any particulars contained in any report or return.

(d) Disclose a taxpayer's name, address and Social Security number or employer identification number to the extent necessary in connection with the processing and mailing of forms for any report or return required in the administration of ORS 321.045 and 321.741.

(e) Disclose to the State Forester, upon request of the forester, for the purpose of soliciting nominations and recommendations referred to in ORS 526.610, the names of producers meeting producer class qualifications established under ORS 526.610 who filed forest products harvest tax returns.

(f) Disclose appraisal data collected to make determinations of specially assessed value of forestland under ORS 321.201 to 321.222 to any member of a forestland value advisory committee the department has convened under ORS 321.213.

(2) The department also may disclose and give access to information described in ORS 321.682 to:

(a) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

(b) The United States Forest Service, Bureau of Land Management and the State Forestry Department pursuant to their regulatory programs and for investigative purposes related to timber theft.

(c) The Attorney General, assistants and employees in the Department of Justice or other legal representative of the State of Oregon, to the extent the department considers disclosure or access necessary for the performance of the duties of advising or representing the department pursuant to ORS 321.045 and 321.741.

(d) Employees of the State of Oregon, other than the Department of Revenue or Department of Justice, to the extent the department considers disclosure or access necessary for such employees to perform their duties under contracts or agreements between the department and any other department, agency or subdivision of the State of Oregon in the department's administration of the tax laws.

(e) The Legislative Revenue Officer or the authorized representative of the Legislative Revenue Officer upon compliance with ORS 173.850. The officer or representative may not remove from the premises of the department any materials that would reveal the identity of any taxpayer or any other person or the volume of harvest and value reported on individual returns and reports.

(f) Any agency of the State of Oregon, or any person, or any officer or employee of the agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State as Auditor of Public Accounts under section 2, Article VI of the Constitution of the State of Oregon.

(3) Each officer or employee of the department and each person described or referred to in subsection (2)(b) to (f) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 321.682 and 321.686 relating to penalties for the violation of ORS 321.682, and shall, as a condition of employment or performance of duties, execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of ORS 321.682. [1989 c.1083 §19; 1991 c.949 §24; 1993 c.653 §22; 1995 c.225 §1; 1999 c.1078 §81; 2001 c.860 §27; 2003 c.423 §8; 2003 c.454 §61; 2003 c.621 §46; 2005 c.94 §105]

321.686 Penalty for violation of ORS 321.682. Violation of ORS 321.682 is subject to a fine not exceeding $5,000 or, if committed by an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment. [1989 c.1083 §20; 2005 c.94 §106]

SMALL TRACT FORESTLAND PROGRAM

321.700 Definitions for ORS 321.700 to 321.754. As used in ORS 321.700 to 321.754:

(1) "Common ownership" means direct ownership by one or more individuals or ownership by a corporation, partnership, association or other entity in which an individual owns a majority interest.

(2) "Contiguous" means having a common boundary that is greater than a single point.

(3) "Contiguous parcels":

(a) Includes parcels separated by public or county roads, state highways, nonnavigable streams or nonnavigable rivers.

(b) Does not include parcels that are separated by an interstate highway, a navigable stream or a navigable river, unless there is an underpass, a bridge or another direct access between the separated parcels.

(4) "Department" means the Department of Revenue.

(5) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

(6) "Forestland" means land that meets the definition of forestland under ORS 321.257 if the land is located in western Oregon or land that meets the definition of forestland in ORS 321.805 if located in eastern Oregon.

(7) "Harvest" means the point at which timber that has been cut, severed or removed for purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.

(8) "Land class" means a forestland land class described in ORS 321.210 or eastern Oregon forestland.

(9) "Owner of timber" has the meaning given that term in ORS 321.005.

(10) "Parcel" means a quantity of land that is capable of being described in a single description by a closed traverse, as one or more subsections or sections of a township, as one or more lots, blocks or tracts in a subdivision or as one or more tax lots.

(11) "Small tract forestland" means forestland subject to assessment under ORS 321.700 to 321.754 and from which the harvesting of timber is subject to severance taxation under ORS 321.700 to 321.754.

(12) "Taxpayer" means the owner of timber at time of harvest.

(13) "Timber" includes logs that are capable of being measured in board feet and that meet or exceed minimum sawmill grade and other forest products determined by the Department of Revenue by rule.

(14) "Unit of proper measurement" means any unit of measurement commonly used in the timber industry for measuring timber and harvested timber products.

(15) "Western Oregon" means that portion of the State of Oregon lying west of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state. [2003 c.454 §1]

321.703 Legislative findings and declarations. (1) The Legislative Assembly finds that:

(a) Oregon forests are dynamic ecosystems that make vital contributions to all Oregonians. Environmental benefits of forests include habitats for diverse life forms, clean and oxygenated air, clean, filtered and recycled water and stabilized productive soil. Economic benefits of forests include renewable raw material for paper and wood products used by everyone in daily living. Social benefits of forests include scenic landscapes and vistas, open space, solitude and outdoor recreation.

(b) Healthy productive forests provide a sustainable flow of goods, services, values and products.

(c) Private family and nonindustrial forestlands are important parts of the forest resource base of this state. Private family and nonindustrial forestlands make major contributions to the economy of this state and provide many other social and environmental benefits.

(d) Because of the wide array of management goals and objectives that apply to private family and nonindustrial forestlands, these forestlands provide a great range of valuable forest diversity across the landscape of this state.

(e) Many lower gradient streams, which are key components of numerous watersheds and are extremely important for some aquatic species, flow through private family and nonindustrial forestlands.

(f) The interests of this state, its citizens and future citizens are best served by sustainable forest practices and taxing policies that encourage maintaining and establishing diverse forest resources for watersheds, commerce, recreation and stabilized employment levels. These practices and policies prevent shifts in population and encourage the processing of forest products within Oregon.

(g) Timber on private land that is managed on a sustainable basis should be treated as a crop and not taxed as real property.

(h) A tax imposed at the time of harvest coincides with the cash flow of small timber operations and recognizes the hazards and uncertainties involved in growing a long-term timber crop on a sustainable basis.

(2) The Legislative Assembly declares the purposes of the small tract forestland tax option program established under ORS 321.700 to 321.754 are to:

(a) Impose property taxes on forestland values that are annually determined and adjusted as described in ORS 321.201 to 321.222 and then specially assessed; and

(b) Impose a severance tax on the harvesting of timber from small tract forestland in order to:

(A) Recognize the long-term nature of the forest crop and foster the public policy of this state to encourage the growing and harvesting of timber;

(B) Protect the public welfare by ensuring that the citizens of this state and future generations will have the benefits to be derived from the continuous production of forest products from privately held small tract forestland;

(C) Promote the public policy of this state to encourage forestry and the restocking of forestlands in order to provide present and future benefits, including but not limited to water supply enhancement, erosion prevention, wildlife habitat, scenic and recreational opportunities and needed forest products;

(D) Produce revenues for local taxing districts;

(E) Match the incidence of taxation with the realization of the economic benefits of harvest; and

(F) Encourage the establishment of new forests on denuded, nonstocked or underproducing forestland. [2003 c.454 §2]

321.705 [1961 c.714 §1; 1977 c.892 §41; 1977 c.893 §1a; 1979 c.553 §1; 1997 c.586 §3; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.706 Application for small tract forestland qualification; contents; filing deadlines; review; appeal. (1) An owner of forestland seeking to have the forestland qualified under ORS 321.700 to 321.754 shall apply to the county assessor of the county in which the forestland is located for qualification of the forestland as small tract forestland. If the forestland to be qualified is located in more than one county, the owner shall apply for qualification to the county assessor of each county in which the forestland is located.

(2) An application shall be made on a form prescribed by the Department of Revenue and supplied by the county assessor that contains:

(a) The name and address of the forestland owner;

(b) The taxpayer identification number of the forestland owner;

(c) A statement listing the county and containing a description sufficient to identify the location of all land for which small tract forestland qualification is sought;

(d) A statement describing the uses of the land for which qualification as small tract forestland is sought;

(e) A statement indicating the extent to which the land that has been the subject of the application has been platted under ORS chapter 92;

(f) The total acreage of Oregon forestland owned or held in common ownership by the owner;

(g) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.707 upon disqualification of small tract forestland;

(h) An affirmation that the statements contained in the application are true; and

(i) Any other relevant information the department may prescribe.

(3) The applicant shall file the application with the county assessor on or before the later of:

(a) April 1 of the first assessment year for which the forestland is to be qualified as small tract forestland;

(b) In the case of land that is omitted property, within 30 days of the notice of assessment of the property as omitted property; or

(c) December 15 of the first assessment year for which the forestland is to be qualified as small tract forestland if:

(A) For the prior assessment year the land was highest and best use forestland; and

(B) For the current assessment year the land is being assessed at a value reflecting a use other than highest and best use forestland.

(4) The county assessor shall review an application and qualify the forestland under ORS 321.700 to 321.754 if the land meets the qualifications for small tract forestland under ORS 321.709.

(5) Land that qualifies as small tract forestland is also disqualified from any other special assessment program as of the tax year for which the land first qualifies as small tract forestland.

(6) An application shall be deemed approved unless, within three months of the date the application was made or before August 15 of the year in which the application was filed, whichever is later, the county assessor notifies the applicant in writing that the application has been wholly or partially denied.

(7) A taxpayer may appeal the decision of the county assessor to wholly or partially deny an application for small tract forestland qualification to the tax court in the time and manner prescribed under ORS 305.404 to 305.560.

(8) In the case of property that qualifies as small tract forestland, the county assessor shall send to the department a written notification of the qualification and a copy of the application. [2003 c.454 §3; 2005 c.400 §5]

321.709 Small tract forestland qualification requirements. (1) To qualify for small tract forestland assessment under ORS 321.700 to 321.754 for each tax year:

(a) The owner of the land that is the subject of an application filed under ORS 321.706 must own or hold common ownership interest in at least 10 acres of Oregon forestland but less than 5,000 acres of Oregon forestland;

(b) The land that is the subject of the application must constitute all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner; and

(c) The forestland that is the subject of the application must meet minimal stocking and species requirements applicable to forestland under rules adopted by the Department of Revenue.

(2)(a) Whether land qualifies for small tract forestland assessment shall be determined as of January 1 of each assessment year.

(b) If land qualified for small tract forestland assessment under this section as of January 1 of an assessment year but is disqualified from small tract forestland assessment prior to July 1 of the same assessment year, the land shall be assessed as provided under ORS 308.146 or as otherwise provided by law.

(c) If land qualified for small tract forestland assessment under this section as of January 1 of an assessment year but ceases to meet the qualifications for small tract forestland assessment on or after July 1, the land shall continue to be assessed as small tract forestland for the current tax year.

(d) The land that is the subject of the application must not have been disqualified from small tract forestland assessment under ORS 321.700 to 321.754 for any of the five tax years preceding the year for which small tract forestland assessment is sought under this section.

(3) For each year that land qualifies for small tract forestland assessment, the county assessor shall enter the notation "potential additional tax liability" on the assessment and tax roll. [2003 c.454 §4]

321.710 [1961 c.714 §2; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.712 Circumstances under which notification is required; disqualification for failure to notify. (1) An owner of small tract forestland shall notify the county assessor:

(a) When the owner acquires, either directly or through common ownership, one or more tax lots that are contiguous to small tract forestland owned or held in common ownership by the owner;

(b) When the owner acquires, either directly or through common ownership, additional forestland that results in the owner's owning or holding in common ownership more than 5,000 acres of Oregon forestland;

(c) When the owner sells, either directly or through common ownership, small tract forestland that results in the owner's owning or holding in common ownership less than 10 acres of Oregon forestland; or

(d) When there is a change in use of any portion of small tract forestland to a use that is not a forestland use.

(2) The notification under subsection (1) of this section must be made in writing.

(3) The county assessor may disqualify small tract forestland if the assessor discovers an acquisition, sale or change in use described in subsection (1) of this section for which the owner did not give written notification as required under this section.

(4) The county assessor shall send a copy of any notification made under this section and received by the assessor to the Department of Revenue. [2003 c.454 §5]

321.715 [1961 c.714 §9; 1975 c.617 §3; 1997 c.541 §400; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.716 Disqualification; requalification under certain circumstances; notice; automatic qualification as forestland. (1) The county assessor shall disqualify land as small tract forestland upon:

(a) Sale or transfer of the small tract forestland;

(b) Discovery by the assessor that the land is no longer forestland;

(c) The owner's owning or holding in common ownership more than 5,000 acres of Oregon forestland;

(d) The owner's owning or holding in common ownership less than 10 acres of Oregon forestland;

(e) Written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to small tract forestland under rules adopted by the Department of Revenue;

(f) The land's qualifying for another special assessment listed in ORS 308A.706 (1)(d)(A), (B), (F) or (G); or

(g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land.

(2) If, pursuant to subsection (1)(g) of this section, the county assessor disqualifies small tract forestland upon the recording of a subdivision plat, the land may requalify for small tract forestland assessment upon:

(a) Payment of all additional tax and interest that remains due and owing as a result of the disqualification;

(b) Submission of an application for small tract forestland assessment under ORS 321.706 and approval of the application by the county assessor; and

(c) Compliance with any applicable local government zoning ordinances governing minimum lot or parcel acreage for forest use.

(3)(a) If a sale or transfer of small tract forestland is the basis for disqualification under subsection (1)(a) of this section, the land may not be disqualified until 30 days after the county assessor issues a notice of intent to disqualify to the purchaser or transferee of the small tract forestland. The assessor shall issue a notice of intent to disqualify within 15 months after the date of the sale or transfer.

(b) The land shall automatically qualify for special assessment under ORS 321.257 to 321.390 or 321.805 to 321.855, whichever is applicable, unless the assessor determines that the land does not constitute forestland.

(4) Upon disqualification of land under subsection (1) of this section, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [2003 c.454 §6; 2005 c.400 §1; 2007 c.809 §20]

321.719 Continued qualification as small tract forestland following sale or transfer; requirements; late filing procedure and fee. (1) Notwithstanding ORS 321.716 (1)(a), if the sale or transfer of small tract forestland is to a person who, following the date of the sale or transfer, does not own or hold in common ownership less than 10 acres or 5,000 acres or more of forestland in Oregon, the sold or transferred forestland may remain small tract forestland, if:

(a) Within 30 days after the date the county assessor issues the notice of intent to disqualify under ORS 321.716, the purchaser or transferee has applied for continued qualification of the small tract forestland;

(b) The purchaser or transferee is otherwise eligible to be an owner of small tract forestland under ORS 321.700 to 321.754; and

(c) Any forestland owned or held in common ownership by the purchaser or transferee that is a contiguous parcel to the purchased or transferred forestland is:

(A) Qualified as small tract forestland or is the subject of an application for qualification under ORS 321.706; or

(B) Included as part of the application for continued qualification filed under this section, and the additional information required in an application for qualification of small tract forestland under ORS 321.706 is included in the application for continued qualification filed under this section.

(2)(a) A purchaser or transferee described in subsection (1) of this section shall apply for continued qualification to the county assessor of the county in which the forestland that is the subject of the sale or transfer is located. If the forestland is located in more than one county, the purchaser or transferee shall apply for continued qualification to the county assessor of each county in which the forestland is located.

(b) The application shall be on a form prescribed by the Department of Revenue and supplied by the county assessor that contains:

(A) The name and address of the seller or transferor of the small tract forestland;

(B) The name, address and taxpayer identification number of the purchaser or transferee of the small tract forestland;

(C) A statement listing the county and containing a description sufficient to identify the location of the small tract forestland being purchased or transferred;

(D) A statement listing the county and containing a description sufficient to identify the location of all parcels of land owned or held in common ownership by the purchaser or transferee that are contiguous to the small tract forestland that is being purchased or transferred;

(E) The total acreage of Oregon forestland owned or held in common ownership by the purchaser or transferee;

(F) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.707;

(G) An affirmation that the statements contained in the application are true; and

(H) Any other relevant information the department may prescribe.

(3) The assessor shall review the application and grant the continued qualification of the land as small tract forestland following the sale or transfer if the purchaser or transferee satisfies the requirements of subsection (1) of this section.

(4)(a) If the application for continued qualification is filed prior to July 1 of the assessment year, the assessor shall process the application for continued qualification for the tax year beginning that July 1.

(b) If the notice of intent to disqualify is issued on or after June 1 of the assessment year, the assessor may not disqualify the land as small tract forestland for the tax year beginning July 1, and shall process the application for continued qualification for the tax year beginning the next succeeding July 1.

(c) An application for continued qualification shall be deemed approved unless, within three months of the date the application was made or before August 15 of the year in which the application was filed, whichever is later, the county assessor notifies the purchaser or transferee in writing that the application has been wholly or partially denied.

(5) A purchaser or transferee may appeal the decision of the county assessor to wholly or partially deny an application for continued qualification to the tax court in the time and manner prescribed under ORS 305.404 to 305.560.

(6) In the case of an application for continued qualification that is approved by the county assessor, the assessor shall send a written notification of the approval and a copy of the application to the department.

(7) For purposes of computing additional taxes under ORS 308A.707, upon a subsequent disqualification of small tract forestland that is granted continued qualification under this section, the small tract forestland is considered to have been subject to small tract forestland assessment without interruption from the period before the sale or transfer to the date of subsequent disqualification from small tract forestland assessment.

(8) Notwithstanding subsection (1) of this section, a purchaser or transferee of small tract forestland may file an application for continued qualification of the small tract forestland after the date prescribed in subsection (1) of this section if:

(a) The application is filed on or before December 15 of the first tax year for which the forestland would otherwise be disqualified from small tract forestland assessment; and

(b) The applicant pays a $200 late filing fee at the time the application is filed. [2003 c.621 §109; 2005 c.400 §2]

321.720 [1961 c.714 §3; 1969 c.326 §5; 1975 c.617 §1; 1977 c.892 §42; 1977 c.893 §3; 1979 c.787 §1; 1985 c.157 §2; 1991 c.459 §307; 1997 c.541 §397; 1997 c.586 §4; 2001 c.816 §5; 2001 c.860 §6; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.721 [1975 c.617 §2; repealed by 1991 c.459 §321]

321.722 Valuation. (1) Small tract forestland shall have a specially assessed value per acre:

(a) Equal to 20 percent of the specially assessed value per acre determined under ORS 321.354, if located in western Oregon; or

(b) Equal to 20 percent of the specially assessed value per acre determined under ORS 321.833, if located in eastern Oregon.

(2) For each land class, the maximum assessed value per acre of small tract forestland shall equal 103 percent of the small tract forestland assessed value per acre for the preceding tax year or 100 percent of the small tract forestland maximum assessed value per acre for the preceding tax year, whichever is greater.

(3) The county assessor shall compute the assessed value of small tract forestland by multiplying the acreage of the small tract forestland in each land class by the lesser of:

(a) The specially assessed value per acre; or

(b) The maximum assessed value per acre.

(4) If the small tract forestland being assessed consists of different land classes, the assessed value of the small tract forestland shall be the sum of the assessed values computed for each land class under subsection (3) of this section. [2003 c.454 §7]

321.725 [1961 c.714 §4; 1969 c.326 §1; 1971 c.684 §1; 1975 c.617 §6; 1977 c.893 §6; 1979 c.553 §2; 1983 c.745 §1; 1997 c.586 §5; repealed by 2003 c.454 §81 and 2003 c.621 §49]

3**21.726 Severance tax upon harvest from small tract forestland.** (1) A severance tax is imposed at the time of the harvest of timber from small tract forestland.

(2) The tax is imposed on the owner of timber at the time of harvest, and remains a liability of the owner of timber until paid.

(3) The tax is imposed at the rate of:

(a) $3.89 per thousand feet, board measure, of timber harvested in western Oregon; or

(b) $3.03 per thousand feet, board measure, of timber harvested in eastern Oregon.

(4) The tax shall be imposed on the net volume of timber harvested, determined by unit of proper measurement for the kind of timber, species, quality class, grade or product harvested.

(5) For calendar years beginning on or after January 1, 2005, the tax rates imposed under subsection (3) of this section shall be indexed as follows:

(a) For the rate that applies to the harvest of timber from small tract forestland in western Oregon, the tax rate applicable to the harvest of timber from small tract forestland in western Oregon for the previous calendar year shall be multiplied by the ratio of the average assessed value per acre of small tract forestland in western Oregon for the property tax year in which the current calendar year begins over the average assessed value per acre of small tract forestland in western Oregon for the previous property tax year. For purposes of this paragraph, the average assessed value per acre of small tract forestland in western Oregon is determined by adding the assessed values per acre of small tract forestland for each land class in western Oregon and dividing that number by the number of land classes in western Oregon.

(b) For the rate that applies to the harvest of timber from small tract forestland in eastern Oregon, the tax rate applicable to the harvest of timber from small tract forestland in eastern Oregon for the previous calendar year shall be multiplied by the ratio of the assessed value per acre of small tract forestland in eastern Oregon for the property tax year in which the current calendar year begins over the assessed value per acre of small tract forestland in eastern Oregon for the previous property tax year.

(6) The tax imposed under this section does not apply to an owner of forestland totaling 5,000 acres or more that, on or after July 1 of an assessment year, acquires ownership of small tract forestland and harvests timber from the acquired small tract forestland. [2003 c.454 §9]

321.727 [1977 c.893 §8; 1997 c.586 §6; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.730 [1961 c.714 §§6,14; 1967 c.619 §1; 1969 c.326 §2; 1971 c.684 §2; 1977 c.893 §9; 1979 c.553 §3; 1985 c.157 §3; 1991 c.459 §308; 1991 c.854 §1; 1997 c.541 §402; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.731 [1991 c.854 §2; repealed by 2001 c.114 §47]

321.732 [1977 c.893 §12; 1979 c.553 §4; 1991 c.854 §3; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.733 Severance tax returns. (1) The Department of Revenue shall mail a severance tax return form to an owner of timber harvested from lands assessed as small tract forestland, as shown on a State Forestry Department Notification of Operations permit issued during a calendar year.

(2) Any owner of timber receiving a severance tax return mailed by the Department of Revenue shall complete the return and submit the return to the department within the time prescribed in ORS 321.741, even if the owner of timber has not incurred severance tax liability during the calendar year. [2003 c.454 §11]

321.735 [1961 c.714 §5; 1963 c.582 §1; 1965 c.371 §1; 1967 c.619 §2; 1969 c.326 §3; repealed by 1979 c.553 §11]

321.737 [1979 c.553 §4b; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.740 [1961 c.714 §7; 1967 c.34 §3; repealed by 1991 c.854 §5]

321.741 Due dates for severance tax return and payment. (1) The severance tax imposed under ORS 321.726 is due and payable annually on or before the last day of January of each year with respect to all timber harvested during the previous calendar year.

(2) At the time at which the severance tax is paid and on or before the last day of January of each year, each taxpayer who has harvested any timber during the previous calendar year shall prepare a return on a form prescribed by the Department of Revenue showing the amounts and kinds of timber harvested for the previous calendar year, the amount of tax for which the taxpayer is liable for harvesting during the previous calendar year and any other information that the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the unpaid balance of the tax, to the department.

The return shall be signed and certified by the taxpayer or a duly authorized agent of the taxpayer, as provided in ORS 305.810. The department may allow, upon written application made on or before the last day of January, further time not exceeding 30 days for filing a return. The tax shall be delinquent if not paid by the last day of January, regardless of any extension of time for filing the return.

(3) All severance tax payments received under ORS 321.700 to 321.754 shall be credited first to penalty and then to interest accrued on the tax being paid and then to the tax.

(4) A taxpayer incurring less than $10 total severance tax liability under ORS 321.700 to 321.754 in any calendar year is excused from the payment of the tax but is required to file a return. [2003 c.454 §10]

321.745 [1961 c.714 §8; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.746 Severance tax revenues. (1) Revenue from the severance tax imposed in western Oregon under ORS 321.726 shall be paid over by the Department of Revenue to the State Treasurer and deposited in a suspense account established under ORS 293.445. After the payment of refunds, the balance of the suspense account shall be transferred to the Western Oregon Timber Severance Tax Fund established under ORS 321.751.

(2) Revenue from the severance tax imposed in eastern Oregon under ORS 321.726 shall be paid over by the Department of Revenue to the State Treasurer and deposited in a suspense account established under ORS 293.445. After the payment of refunds, the balance of the suspense account shall be transferred to the Eastern Oregon Timber Severance Tax Fund established under ORS 321.754. [2003 c.454 §12]

321.747 [1983 c.745 §4; 1991 c.459 §310; 1997 c.541 §397a; 1997 c.586 §7; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.750 [1961 c.714 §11; 1963 c.582 §2; 1965 c.371 §2; 1971 c.684 §3; 1977 c.892 §43; repealed by 1979 c.553 §11]

321.751 Western Oregon Timber Severance Tax Fund; revenue distribution. (1) The Western Oregon Timber Severance Tax Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Western Oregon Timber Severance Tax Fund shall be retained by the Western Oregon Timber Severance Tax Fund.

(2) Moneys are continuously appropriated from the Western Oregon Timber Severance Tax Fund for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed under ORS 321.700 to 321.754.

(3) A working balance may be retained in the Western Oregon Timber Severance Tax Fund for the payment of expenses described in subsection (2) of this section. The balance of the Western Oregon Timber Severance Tax Fund, as of May 1 of each calendar year, shall be distributed as follows:

(a) 60.5 percent to the State School Fund established under ORS 327.008. A distribution made under this paragraph shall be made on or before May 15 of the year.

(b) 4.5 percent to the Community College Support Fund established under ORS 341.620. A distribution made under this paragraph shall be made on or before May 15 of the year.

(c) 35 percent to the Department of Revenue for further distribution to the counties of this state that are located in western Oregon. Moneys distributed to the department under this paragraph are continuously appropriated to the department for the purpose of making the payments to counties described in this paragraph. A distribution to the department made under this paragraph shall be made on or before August 15 of the year. Each county's share of the distribution made under this paragraph shall equal the proportion of the assessed value of all small tract forestland in western Oregon that is located in that county. A distribution made by the department to a county under this paragraph shall be deposited in the county general fund. [2003 c.454 §13]

321.754 Eastern Oregon Timber Severance Tax Fund; revenue distribution. (1) The Eastern Oregon Timber Severance Tax Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Eastern Oregon Timber Severance Tax Fund shall be retained by the Eastern Oregon Timber Severance Tax Fund.

(2) Moneys are continuously appropriated from the Eastern Oregon Timber Severance Tax Fund for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed under ORS 321.700 to 321.754.

(3) A working balance may be retained in the Eastern Oregon Timber Severance Tax Fund for the payment of expenses described in subsection (2) of this section. The balance of the Eastern Oregon Timber Severance Tax Fund, as of May 1 of each calendar year, shall be distributed as follows:

(a) 60.5 percent to the State School Fund established under ORS 327.008. A distribution made under this paragraph shall be made on or before May 15 of the year.

(b) 4.5 percent to the Community College Support Fund established under ORS 341.620. A distribution made under this paragraph shall be made on or before May 15 of the year.

(c) 35 percent to the Department of Revenue for further distribution to the counties of this state that are located in eastern Oregon. Moneys distributed to the department under this paragraph are continuously appropriated to the department for the purpose of making the payments to counties described in this paragraph. A distribution to the department made under this paragraph shall be made on or before August 15 of the year. Each county's share of the distribution made under this paragraph shall equal the proportion of the assessed value of all small tract forestland in eastern Oregon that is located in that county. A distribution made by the department to a county under this paragraph shall be deposited in the county general fund. [2003 c.454 §14]

321.755 [1961 c.714 §12; 1963 c.576 §40; repealed by 1979 c.553 §11]

321.760 [1961 c.714 §10; 1969 c.326 §4; 1971 c.684 §4; 1975 c.617 §7; 1977 c.892 §44; 1977 c.893 §10a; 1979 c.350 §16; 1979 c.553 §5a; 1981 c.419 §8; 1981 c.791 §11; 1983 c.745 §2; 1985 c.157 §1; 1991 c.459 §311; 1991 c.854 §4; 1993 c.801 §42; 1995 c.79 §177; 1997 c.586 §8; 1999 c.314 §69; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.761 [1991 c.459 §311b; repealed by 1991 c.459 §311b(2)]

321.763 [2001 c.816 §7; 2003 c.454 §80; 2003 c.621 §48a; repealed by 2003 c.454 §83 and 2003 c.621 §51]

321.765 [1961 c.714 §13; 1965 c.6 §15; 1977 c.870 §60; 1977 c.893 §13a; 1979 c.553 §6; 1991 c.459 §312; 1997 c.541 §401; repealed by 2003 c.454 §81 and 2003 c.621 §49]

321.770 [1975 c.617 §5; repealed by 1977 c.893 §19]

321.795 [1983 c.543 §1; 1991 c.459 §313; 1999 c.314 §42; renumbered 308A.727 in 1999]

SPECIAL ASSESSMENT OF EASTERN OREGON FORESTLAND

321.805 Definitions for ORS 321.805 to 321.855. As used in ORS 321.805 to 321.855, unless the context requires otherwise:

(1) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control, and basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation or irrigation.

(2) "Department" means the Department of Revenue.

(3) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(4) "Forestland" means land in eastern Oregon that is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and that has been designated as forestland under ORS 321.805 to 321.855 or land in eastern Oregon, the highest and best use of which is the growing and harvesting of such trees. Forestland is the land alone. Forestland often contains isolated openings that because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If such openings in their natural state are necessary to hold the surrounding forestland in forest use through sound management practices, the openings are deemed forestland.

(5) "State Forester" means the State Forester or the authorized representative of the State Forester.

(6) "Summit of the Cascade Mountains" means a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(7) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule, but does not include western juniper or products from harvested western juniper. [1971 c.654 §2; 1977 c.892 §46; 1983 c.539 §4; 1995 c.79 §178; 1997 c.154 §53; 1999 c.314 §55; 1999 c.1078 §45; 2003 c.621 §53]

321.808 Purposes. The purposes of ORS 321.805 to 321.855 are:

(1) To impose with respect to forestland in eastern Oregon a special assessment program whereby the assessed value of forestland is determined as prescribed in ORS 321.201 to 321.222.

(2) To establish a special assessment program as a means of:

(a) Recognizing the findings in ORS 321.817 without discriminating in favor of either eastern or western Oregon.

(b) Recognizing the long-term nature of the forest crop and fostering the public policy of Oregon to encourage the growing and harvesting of timber.

(c) Protecting the public welfare by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from private forestland.

(d) Promoting the state's policy of encouraging forestry and the restocking of forestland to provide present and future benefits by enhancing the water supply, preventing erosion, providing habitat for wildlife, providing scenic and recreational opportunities and providing for needed products. [Formerly 321.408]

321.810 [1971 c.654 §3; 1981 c.337 §1; 1985 c.759 §31; 1991 c.459 §314; 1993 c.270 §66; 1993 c.653 §19; 1993 c.801 §35; 1995 c.650 §97; 1999 c.21 §56; 1999 c.314 §70; repealed by 2003 c.621 §63]

321.811 [1993 c.801 §§33a,34; 1997 c.541 §404; 1999 c.21 §57; 1999 c.314 §71; 1999 c.1078 §46; 2001 c.816 §8; 2001 c.860 §7; 2003 c.454 §74; repealed by 2003 c.621 §63]

321.812 [1999 c.1078 §35; 1999 c.1078 §40; 2001 c.860 §8; 2003 c.454 §75; renumbered 321.833 in 2003]

321.814 [1999 c.1078 §42; 2001 c.816 §9; 2001 c.860 §11; 2003 c.454 §79; 2003 c.621 §58; renumbered 321.836 in 2003]

321.815 [1971 c.654 §4; 1977 c.884 §24; 1981 c.804 §94; 1983 c.462 §9; 1983 c.657 §1; 1991 c.459 §315; 1993 c.801 §35a; 1997 c.541 §§408,408a; 1999 c.314 §93; 1999 c.1078 §76; 2003 c.621 §59; renumbered 321.839 in 2003]

321.816 [1999 c.1078 §43; repealed by 2003 c.621 §63]

321.817 Legislative findings. It is hereby found that:

(1) Multiple taxation through a yearly ad valorem levy on both trees and forestland managed in sustained yield timber operations discourages conservation, private ownership and investment of capital.

(2) The interests of the state, its citizens and future citizens are best served by sustained yield practices and tax policies that encourage production of forest resources for commerce, recreation and watersheds, stabilize employment levels, prevent large population shifts and encourage millage of timber products within Oregon.

(3) Timber on private lands managed on a sustained yield basis should be treated as a crop and not taxed as real property.

(4) That portion of our state lying east of the summit of the Cascade Mountains differs greatly in forest tree types, soils, climate, growing conditions and topography from western Oregon.

(5) Eastern Oregon forests predominate in Ponderosa pine and associated species, while western Oregon forests predominate in Douglas fir and associated species. [Formerly 321.410]

321.820 [1971 c.654 §5; 1973 c.296 §1; 1977 c.870 §53; 1977 c.893 §21a; 1983 c.462 §10; 1983 c.563 §5; 1987 c.158 §54; 1991 c.459 §316; 1995 c.650 §98; 1999 c.314 §53; renumbered 321.842 in 2003]

321.821 [1991 c.459 §316b; repealed by 1991 c.459 §316b(2)]

321.822 [1993 c.5 §6; 1999 c.314 §54; renumbered 321.845 in 2003]

321.823 [1983 c.462 §12; repealed by 2003 c.621 §63]

321.824 Lands not eligible for special assessment. (1) Lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.665 or 308.805 to 308.820 may not be assessed under ORS 321.805 to 321.855.

(2) Land used exclusively for growing cultured Christmas trees may not be assessed under ORS 321.805 to 321.855.

(3) Land that is used to grow hardwood timber, including but not limited to hybrid cottonwood, may not be assessed under ORS 321.805 to 321.855 if:

(a) The land is prepared using intensive cultivation methods and is cleared of competing vegetation for at least three years after tree planting;

(b) The timber is of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(c) The timber is harvested on a rotation cycle within 12 years after planting; and

(d) The land and timber are subject to intensive agricultural practices such as fertilization, insect and disease control, cultivation and irrigation.

(4) Nothing contained in ORS 321.805 to 321.855 shall prevent:

(a) The collection of ad valorem property taxes that became a lien against timber prior to July 1, 1962.

(b) The collection of taxes, charges or assessments made pursuant to law for protection.

(c) The collection of taxes levied under the provisions of ORS 321.005 to 321.185 and 321.560 to 321.600. [Formerly 321.415; 2005 c.94 §107]

321.825 [1971 c.654 §6; 1977 c.893 §24; 1979 c.350 §17; 1981 c.791 §6; 1983 c.462 §17; 1991 c.459 §317; 1999 c.314 §85; renumbered 321.848 in 2003]

321.829 Exemption of timber from property taxation. All timber in eastern Oregon shall be exempt from ad valorem property taxation. [Formerly 321.420]

321.830 [1991 c.714 §8; 1997 c.541 §409; 1999 c.314 §72; 2003 c.621 §60; renumbered 321.855 in 2003]

321.833 Common ownership minimum acreage requirements; specially assessed value and maximum assessed value of forestland of large landowners. (1)(a) The Department of Revenue shall identify the forestland that is held in common ownership of 5,000 acres or more as of the assessment date for each tax year.

(b) Forestland that the department has identified under paragraph (a) of this subsection that, for the previous tax year, was subject to small tract forestland assessment shall be disqualified from any small tract forestland assessment and shall be subject to special assessment as provided in this section as of the first tax year the forestland is held in common ownership of 5,000 acres or more.

(c) For purposes of this subsection, "forestland" includes land that meets the definition of forestland under ORS 321.257.

(2) Forestland assessed under this section shall have a specially assessed value per acre equal to the value certified to the county assessor for the tax year under ORS 321.216.

(3) Forestland assessed under this section shall have a maximum assessed value per acre equal to 103 percent of the forestland assessed value per acre for the preceding tax year or 100 percent of the forestland maximum assessed value per acre for the preceding tax year, whichever is greater.

(4)(a) The assessor shall compute the assessed value of forestland by multiplying the acreage of the forestland by the lesser of:

(A) The specially assessed value per acre; or

(B) The maximum assessed value per acre.

(b) Notwithstanding paragraph (a) of this subsection, the forestland shall be assessed as provided in ORS 308.232 if the real market value of the forestland is less than the value established under paragraph (a) of this subsection.

(5) For purposes of this section:

(a) The department shall certify to the county assessor of a county in which forestland identified in subsection (1) of this section is located a list of the property tax accounts containing forestland so identified.

(b) Forestland shall be considered to be in common ownership if the forestland is owned by the person directly or is owned by a corporation, partnership, association or other entity in which the person owns a majority interest.

(c) Additional taxes may not be imposed as a result of a disqualification under subsection (1) of this section.

(d) The notification requirements and other procedures that the county assessor must follow in disqualifying forestland do not apply to a disqualification occurring under subsection (1) of this section.

(e) The department shall notify the county assessor of forestland identified under subsection (1)(a) of this section that is located in that county. [Formerly 321.812]

321.836 [Formerly 321.814; repealed by 2003 c.621 §65]

321.839 Application for forestland designation; special filing date for change in highest and best use; contents; approval. (1) An owner of land desiring that it be designated as forestland for purposes of ORS 321.805 to 321.855 shall make application to the county assessor on or before April 1 of the assessment year for which special assessment as forestland is first desired, and the owner may also do so within 30 days of receipt of notice of its assessment as omitted property.

(2) Notwithstanding subsection (1) of this section, an owner of land may apply to the county assessor by December 15 to have the land designated as forestland for the assessment year if:

(a) For the prior assessment year the land had been forestland by reason of the land being highest and best use forestland; and

(b) For the current assessment year the land is being assessed at a value reflecting a use other than highest and best use forestland.

(3) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor, and shall include the following:

(a) A description of all land the applicant desires to be designated as forestland.

(b) Date of acquisition.

(c) Whether the land is being held or used for the predominant purpose of growing and harvesting trees of marketable species.

(d) Whether there is a forest management plan for it.

(e) If so, whether the plan is being implemented, and the nature and extent of implementation.

(f) Whether the land is being held or used for the predominant purpose of grazing or raising of livestock.

(g) Whether the land has been platted under ORS chapter 92.

(h) Whether a permit has been granted for harvesting for excepted purposes under the Oregon Forest Practices Act.

(i) Whether the land is timberland subject to ORS chapter 477, and if it is not, the reasons therefor.

(j) Whether the land, or any of it, is subject to a lease or option which permits it to be used for any purpose other than the growing and harvesting of trees.

(k) A summary of past experience and activity of the applicant in growing and harvesting trees.

(L) A summary of current and continuing activity of the applicant in growing and harvesting trees.

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be designated as forestland.

(n) An affirmation that the statements contained in the application are true.

(4) The county assessor shall approve an application for forestland designation if the assessor finds that the land is properly classifiable as forestland. The county assessor shall not find land properly classifiable as forestland if the application states the land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species. Otherwise, the determination whether the land is properly classifiable as forestland shall be made with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative.

(5) The application shall be considered to have been approved unless, within three months of the date such application was delivered to the assessor or prior to August 15, whichever is later, the assessor shall notify the applicant in writing of the extent to which the application is denied. [Formerly 321.815]

321.842 Removal of forestland designation; appeal; requalification. (1)(a) When land has once been designated as forestland as a result of an application being filed therefor it shall be valued as such until the county assessor removes the forestland designation under paragraph (b) of this subsection.

(b) The county assessor shall remove the forestland designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation;

(B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(C) Discovery by the assessor that the land is no longer forestland; or

(D) The act of recording a subdivision plat under ORS chapter 92.

(2) A taxpayer whose application filed under ORS 321.839 has been denied in whole or in part, or a taxpayer whose forestland has had the designation thereof removed in whole or in part, may appeal to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(3) If, under subsection (1)(b)(D) of this section, the county assessor removes the forestland designation upon the act of recording a subdivision plat, the land, or a part of the land, may be requalified for forestland designation upon:

(a) Payment of all additional tax and interest that remains due and owing with respect to the land;

(b) Submission by the owner of an application for designation as forestland as provided in this section;

(c) Meeting all of the qualifications for designation as forestland as provided in ORS 321.805 to 321.855; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use. [Formerly 321.820]

321.845 Disqualification of land no longer forestland to occur only if assessor mails notice before August 15. (1) Notwithstanding ORS 308.210, 311.405 or 311.410 but subject to subsection (2) of this section, removal under ORS 321.842 (1)(b)(C) by the county assessor of land from designation as forestland for the reason that the land is no longer forestland shall occur as of the January 1 assessment date of the tax year in which the county assessor discovers that the land is no longer forestland.

(2) This section shall apply only if notice of removal is mailed by the county assessor prior to August 15 of the tax year for which the removal of the land is asserted. [Formerly 321.822]

321.848 Disqualification. ORS 308A.700 to 308A.733 apply whenever land designated as forestland as a result of an application being filed therefor under ORS 321.805 to 321.855 thereafter becomes disqualified. [Formerly 321.825]

321.855 Land used to grow certain hardwood to be assessed as farm use land; application required for unzoned land. (1) Land described in ORS 321.824 (3) (relating to hardwood timberland, including hybrid cottonwood timberland) shall be assessed as farm use land under ORS 308A.050 to 308A.128.

(2)(a) If land is or becomes land described under ORS 321.824 (3) and the land is not located within an exclusive farm use zone, the owner shall make application for special valuation in the manner provided under ORS 308A.077, as follows:

(A) If the change in use takes place on or after July 1, the owner shall file the application on or before April 1 of the following tax year.

(B) If the change in use takes place prior to July 1, the owner shall file the application on or before August 1 of the tax year.

(b) If an application is filed as provided under this subsection, the owner shall have seven years beginning with the first year of classification to meet the income requirements of ORS 308A.071 and need not meet the two-year farm use requirements of ORS 308A.068. [Formerly 321.830]

321.950 [1979 c.454 §4; 1982 s.s.1 c.16 §16; 1987 c.551 §6; 1991 c.459 §318; 1993 c.653 §§20,20a; 1999 c.1078 §64; repealed by 2003 c.621 §22b]

321.955 [Formerly 308.309; 1965 c.412 §1; 1971 c.272 §1; 1975 c.636 §2; repealed by 1977 c.892 §51]

321.960 [1975 c.617 §4; 1977 c.892 §47; 1979 c.553 §7; 1981 c.419 §1; 1981 c.791 §9; 1985 c.607 §3; 1991 c.459 §319; 1993 c.270 §66a; 1997 c.586 §9; repealed by 1999 c.314 §94]

321.970 [1983 c.773 §4; 1985 c.607 §4; 1989 c.904 §33; 1991 c.459 §320; 1997 c.217 §1; repealed by 1999 c.314 §94]

PENALTY

321.990 [Repealed by 1953 c.375 §38]

321.991 Penalty. Violation of any provision of ORS 321.005 to 321.185 and 321.560 to 321.600 is a Class A misdemeanor. [1953 c.375 §35; subsections (2) and (3) formerly 528.990; subsection (4) enacted as 1961 c.659 §9; subsection (5) enacted as 1961 c.714 §15; subsections (6) and (7) formerly part of 308.990; 1977 c.892 §50; 2003 c.454 §116; 2003 c.621 §101; 2011 c.597 §183]

Rules—Chapter 321

DIVISION 321
TIMBER TAXES

150-321.005(12)	Timber Subject to the Forest Products Harvest Tax: Measurement Standards
150-321.005(9)	Establishing Legal Taxpayer for FPHT
150-321.045	Estimated Tax Payments for FPHT
150-321.045(2)	Mailing Forest Product Harvest Tax Returns
150-321.207(1)	Forestland Valuation Rule
150-321.257(3)	Forestland Classification
150-321.307(4)	Distribution of Western Oregon Timber Tax Account Receipts
150-321.348(2)	Redetermination of Forestland Land Classes
150-321.349	Requirements to Qualify Certain Forestland for Special Assessment at Farm Use Values under ORS 308A.092
150-321.354	Common Ownership
150-321.358(3)(b)-(A)	Date of Acquisition
150-321.358(4)	Minimum Stocking and Acreage Requirements for Designation as Forestland in Western Oregon
150-321.358(4)(b)	Acceptable Uses of Western Oregon Forestland
150-321.358(5)	Notification by Assessor of Denial of Application
150-321.485(4)	Distribution of Eastern Oregon Privilege Tax Account Receipts
150-321.550	Procedure to Ensure Timber Tax Return Filing
150-321.550(1)	Notice of Intent to Harvest
150-321.550(3)(a)	Penalty for Failure to Obtain Notification of Operations
150-321.560(2)	Prescribed Forms for Reporting Timber Harvest
150-321.609(1)	Check Scaling at the Point of First Measurement
150-321.609(1)-(A)	Measuring Harvested Timber
150-321.609(2)-(A)	Timber Harvest Records
150-321.609(2)-(B)	Use of Microfilm and Microfiche Records
150-321.609(2)-(C)	Records Kept by Automated Data Processing
150-321.609(2)-(D)	Preservation of Records and Their Reproductions
150-321.684-(A)	Requests for Confidential Information
150-321.684(1)	Information Which May be Furnished
150-321.700(1)	Common Ownership
150-321.700(12)	Establishing the Identity of the Taxpayer for Severance Tax
150-321.700(13)	Timber Subject to the Small Tract Forestland Severance Tax
150-321.706	Definition of Owner for Small Tract Forestland Purposes
150-321.706(2)	Required Signatures for Small Tract Forestland Application
150-321.706(4)	Powers Delegated to County Assessor
150-321.706(7)	Definition of Taxpayer for Appeal of Small Tract Forestland Application Denial
150-321.709(1)(b)	Contiguous Parcels Held in Common Ownership
150-321.709(1)(c)	Minimal Stocking and Species Requirements for Small Tract Forestland Assessment
150-321.709(3)	Notation on Assessment and Tax Roll
150-321.712(1)	Notification to County Assessor by Small Tract Forestland Owner
150-321.719(1)	Common Ownership
150-321.741(2)	Due Date for Filing Severance Tax Returns and Requesting an Extension
150-321.751(3)	Distribution of Severance Tax Receipts for Western Oregon
150-321.754(3)	Distribution of Severance Tax Receipts for Eastern Oregon
150-321.805(4)	Definition of “Sound Management Practices”
150-321.812	Common Ownership
150-321.815(3)(b)	Date of Acquisition
150-321.815(5)	Notification by Assessor of Denial of Application
150-321.833	Common Ownership
150-321.839	Notation on Tax Roll: “Forestland -- Potential Additional Tax Liability”
150-321.839(3)(b)	Date of Acquisition

150-321.839(4) Minimum Stocking and Acreage Requirements for Designation as Forestland in Eastern Oregon
150-321.839(5) Notification by Assessor of Denial of Application

DIVISION 321
TIMBER TAXES

150-321.005(9) Establishing Legal Taxpayer for FPHT

(1) It is the policy of the department to use the following sequential criteria to establish the identity of the taxpayer responsible for the Forest Products Harvest Tax (FPHT):

(a) The party holding title to timber as evidenced in a written agreement.

(b) If the element of (a) is not present, the party indicated on the "Notification of Operations" as the timber owner.

(c) If the elements of (a) and (b) are not present, then the party receiving payment for logs delivered to a conversion center.

(d) If the elements of (a), (b), and (c) are not present, then the owner of land from which harvest occurred is the responsible taxpayer.

(2) The following examples of transactions are a guide in determining the responsible taxpayer: [Table not included. See ED. NOTE.]

(3) The department will consider the following elements when it is necessary to interpret a written agreement in order to establish identity of the taxpayer:

(a) Type of agreement -- i.e., a contract for the performance of services vs. a contract that transfers the ownership of property.

(b) The intent of the agreement.

(c) Which party enjoys the "benefit of ownership"?

(d) Which party bears the loss in a catastrophic event?

(e) The timing of and manner of payment.

(4) Whenever an agreement is so ambiguous that identity of the taxpayer cannot be reasonably determined, the last party known to hold title to timber or logs will be deemed the taxpayer.

[ED. NOTE: Table referenced is not included in rule text. Click here for PDF copy of table.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.005

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 6-2009, f. & cert. ef. 7-31-09

150-321.005(12) Timber Subject to the Forest Products Harvest Tax: Measurement Standards

(1) Timber subject to the Forest Products Harvest Tax is the following:

(a) All logs which can be measured in board feet and meet the requirements of utility cull or better.

(A) Logs must be measured in western Oregon by the current edition of Official Rules for the following Log Scaling and Grading Bureaus: Columbia River, Northern California, Pacific Rim, Southern Oregon, Yamhill, developed by the Northwest Log Rules Advisory Group (NWLRAG). All sections of the publication are recognized including the Appendix.

(B) Logs must be measured in eastern Oregon by the Scribner Decimal "C" Eastside Short Log Rule, using the NWLRAG Eastside Log Scaling Handbook, First Edition 2003.

(b) Logs chipped in the woods, except chips produced from material not meeting log merchantability standards in subsection (a) above and used as hog fuel.

(c) Loads of logs measured in tons and sold by the weight that contain utility grade and better logs. Logs must be reported on the timber tax return by thousand board feet (MBF). Logs must be converted from tons to MBF using conversion factors established by the Department of Revenue. These conversion factors are listed on the tax forms and instructions sent out annually by the department:

(A) When less than 10 percent of the load's log count comes from logs that have an 8-inch or larger scaling diameter, the "Chip Log" conversion factor will be used for converting tons to MBF for tax reporting.

(B) When 10 percent or more of the load's log count comes from logs that have an 8-inch or larger scaling diameter, the "Small Saw Logs" conversion factor will be used for converting tons to MBF for tax reporting.

(2) Timber not subject to Forest Products Harvest Tax is secondary products, other than chips, manufactured in the woods and produced from logs normally left in the forest or burned as slash. Examples are shake or shingle bolts, fence posts, firewood, and arrow bolts.

(3) When timber is harvested from the eastside, but scaled using westside log scaling rule, the volume must be adjusted to reflect the eastside log scaling rule volume. Taxpayers may use their own conversion factors if they are supported by statistically sound sample data; otherwise, the westside volume must be multiplied by 1.28 to get the equivalent eastside scaled volume.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.005

Hist.: 10-7-85, 12-31-85; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321-005, REV 2-2005, f. 6-27-05, cert. ef 6-30-05

150-321.045 Estimated Tax Payments for FPHT

(1) Any taxpayer required to report and pay estimated tax as determined by ORS 321.045(4) must file a return and pay a tax of at least 25 percent of the estimated liability for the calendar year for which the report is made.

(2) The provisions of ORS 321.045(5) are not elections or alternate methods of determining the amount of estimated tax liability, but rather standards against which estimated payments are tested for adequacy with respect to application of penalty in the form of interest.

(3) A taxpayer not required to file a return or to pay a tax for the prior calendar year is not relieved of the responsibility to pay an estimated tax. Such taxpayers must make payment equal to 100 percent of the actual liability on the timber harvested during the calendar quarter for which the report is made or at least 20 percent of the liability due for the calendar year for which the report is made.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 312.045

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 6-2003, f. & cert. ef. 12-31-03

150-321.045(2) Mailing Forest Product Harvest Tax Returns

(1) Whenever tax returns are mailed by the department less than ten (10) business days prior to the last day of January, for the preceding reporting period, the department shall waive penalty on the amount of tax due provided the tax is paid within twenty (20) calendar days of the mailing date of the return.

Example 1: Returns are mailed January 18, ten business days prior to the last day of the month, so the due date of the tax payment and return is January 31.

Example 2: Returns are mailed January 19. This is less than ten business days from the last day of month, so the deadline for filing and paying becomes February 7.

(2) Taxpayers may request an extension of time to file returns. All requests shall be:

(a) Submitted to the department in writing stating the reason for the request.

(b) Postmarked no later than the due date of the return.

(3) The department may grant up to thirty days from the due date in which to file the return. Extensions only affect the filing of the return and do not extend the time in which the tax must be paid.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.045

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 6-1994, f. 12-15-94, cert. ef. 12-30-94

150-321.207(1) Forestland Valuation Rule

(1) Purpose: The purpose of this rule is to describe the modeling process used to annually develop preliminary forestland values and to clarify the role of the models in the establishment of the final certified forestland values (ORS 321.216).

(2) General Concepts:

(a) Values to be developed by this rule are the values of bare forestland.

(b) Models will be developed to determine the statistical relationship between market sales of highest and best use forestland and reasonable indicators of value related to the forest industry in Oregon.

(c) The relationship between market sales and the indicators that best reflect the changes in forestland value over time will be used to establish the preliminary values.

(d) Separate models will be developed for Eastern Oregon and Western Oregon.

(3) Forestland Sales Data:

(a) The department will collect and verify forestland sales data. Only sales with the following characteristics will be considered:

(A) The current or immediate future use of the land is the growing and harvesting of timber;

(B) The improvement values and other nonforestland values can be accurately extracted from the sale price;

(C) The transaction is at arm's-length;

(D) The purchase consideration is cash or a financing method standard to the real estate market;

(E) The allocated bare land value is greater than $0, except for the FX productivity class in Western Oregon; and

(F) For Western Oregon sales, the value relationship between acres of each productivity class occurring on the property and sales price is identifiable.

(b) The department will compile the sales data in a forestland sales database.

(c) The department will analyze fiscal year (July 1 to June 30) data to determine a bare land value for each productivity class in Western Oregon and one value for Eastern Oregon. In doing so, the department will:

(A) Exclude individual forestland sales data that indicates values more than two standard deviations from the arithmetic mean of the forestland values for each Western Oregon productivity class or the arithmetic mean of all of the value of sales in Eastern Oregon. The department will apply this exclusion only once, either to all sales data within a productivity class on a fiscal year basis or on all sales over all years (1993 to current). If a sale is excluded for three consecutive appraisal cycles, it will be permanently excluded.

(B) Calculate the fiscal year forestland value for each productivity class as the arithmetic mean of individual sales data occurring during the fiscal year for classes FA-FX in Western Oregon and for Eastern Oregon as a whole. Only those sales remaining after elimination of any outlying sales as provided in paragraph (3)(c)(A) of this rule will be used to create the average.

(C) Replace fiscal year forestland value data that is unavailable for any of the Western Oregon classes or Eastern Oregon values due to lack of sales or after the application of paragraph (3)(c)(A). The missing data will be replaced as follows:

(i) If the missing data occurs for the first or last fiscal year, then the values will be replaced by the arithmetic average of the two closest available years for the same class.

(ii) If the missing data occurs in the intervening years, then the missing data will be replaced with the arithmetic average of the preceding and following years of the missing data for the same class.

(D) Develop acreage weighted average forestland value for Western Oregon (WAVWOR) from sales data for the current appraisal year. The acreage weights used in the WAVWOR calculation are: [Table not included. See ED. NOTE.]

(E) Develop average forestland value for Eastern Oregon.

(4) Forestland Models:

(a) Generally:

(A) The modeling process is intended to find statistical relationships between the WAVWORs for Western Oregon or the average forestland value for Eastern Oregon for the period 1993 to present and leading or coincident indicators of forestland value (such as log price trends, stumpage price trends, lumber price trends, and other indicators to be determined by the Department of Revenue).

(B) Indicators of forestland value suitable for use as inputs in the models to obtain forestland values must be:

(i) Developed based on calculation methods and assumptions that are consistent over time,

(ii) Commonly used by the forest industry as indicators of the economic potential for the production of forest products,

(iii) Readily available and verifiable, and

(iv) Relevant to the operation of the forest products industry in Oregon.

(C) The models will be based on statistically significant structural relationships between historical forestland values and leading or coincident indicators of forestland value. If such a structural model cannot be found, then appropriate time series models may be substituted for the structural models.

(D) The relationships between economic variables in the models may not be contradicted by generally accepted economic theories.

(E) The models may be amended and new models may be added in the future if a more statistically significant correlation becomes evident after the addition of subsequent years' sales data.

(F) The models will be re-estimated in each future year after the addition of the subsequent year's sales data. Re-estimation may include changes to the specification of the error or lag structure.

(G) Forecasts of forestland value will be based on a single model and not the average forecasts of several models.

(b) Model Selection Criteria:

(A) Tentative models will be estimated with stumpage, delivered log prices, dimension lumber prices, or other relevant market data at lags of zero to four years to determine the best explanatory variable for inclusion in the final model.

(B) In determining the explanatory variables to be included in the final model, both in- and out-of-sample forecasts will be compared as well as the ability to forecast turning points in forestland values.

(C) The model that displays the best correlation between the WAVWORs or average forestland value for Eastern Oregon over time and the trends in the indicators will be selected to determine the annual average forestland values (AAFV). "Best" means that the resulting statistical analysis shows major turning points in values while maintaining a close statistical relationship between the forestland values and the indicators.

(5) Determination of Preliminary Forestland Values:

(a) Western Oregon Model:

(A) The selected Western Oregon model will determine AAFV to be used as the basis for the preliminary values.

(B) Western Forestland Class Spread (WFCS) is the percentage of initial value by productivity class, FA through FX, as it relates to the acreage weighted average of these values. This spread is shown below: [Table not included. See ED. NOTE.]

(C) The WFCS will be used to transform AAFV into preliminary forestland class, FA through FX, values. This will be accomplished by multiplying the AAFV by the WFCS percentage for each individual productivity class.

(b) Eastern Oregon Model: The selected Eastern Oregon model will determine the AAFV to be used as the preliminary value for Eastern Oregon.

(6) Response to Preliminary Values:

(a) Data pertinent to the forestland valuation process that was not evaluated previously may be collected during a review by the Forestland Value Advisory Committee (ORS 321.213) or through written comments submitted during the public hearing on proposed specially assessed forestland values (ORS 321.210). The pertinent data that meets the standards in subsection 3(a) of this rule will be added to the forestland sales database.

(b) The forestland database will be re-analyzed as in subsection 3(c). This includes screening of any outlying sales data as provided in paragraph (3)(c)(A).

(c) Models will be re-evaluated considering the new forestland sales data and pertinent input on indicators that have met the standards of section (3).

(d) The process in sections (4) and (5) will be used to create revised preliminary values.

(7) Final Values: The Department of Revenue will use the revised preliminary values and any other information provided by additional research by the agency, the Forestland Value Advisory Committee, submitted written comments, or the hearing process to determine the final values to be certified under ORS 321.216.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.257

Hist.: REV 10-2002, f. & cert. ef. 12-31-02; REV 6-2003, f. & cert. ef. 12-31-03; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.257(3) Forestland Classification

The forestland classification for western Oregon is as follows: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.257(3)

Hist.: RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; Renumbered from 150-321.353(1), REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.348(2) Redetermination of Forestland Land Classes

(1) The department will change forestland land classes described under ORS 321.348(1) upon the request of an owner of forestland if the department's investigation reveals that the land class is now inaccurate.

(2) If an owner of forestland believes his or her property is not classed correctly, the owner may request a review by the department.

(a) The request must be submitted to the department in writing stating the basis of the request. Information that may be submitted as a basis for the request includes, but is not limited to:

(A) A third party evaluation;

(B) Soil surveys;

(C) Aerial photos or contour maps;

(D) Narrative that describes geographical characteristics that influence site class.

(b) The request must identify the property, including:

(A) County;
(B) Property tax account number;
(C) Legal description;
(D) Total forestland acres; and
(E) Physical location and number of forestland acres to be reviewed.

(3) The department must receive requests by April 1 in order to have a redetermination of land classes reflected on the tax roll for the tax year beginning the following July 1. If the department receives the request after April 1, any resulting redetermination will take effect with respect to the tax year commencing July 1 of the following calendar year.

(4) The department will review the information submitted, other reference materials (contour maps, aerial photos, soil surveys, land class cards, or site tree data), and may conduct a field inspection of the property.

(5) The department will send written notice of its decision to the owner. Any redetermination of land class will be immediately certified to the county assessor. This will be done prior to July 15 of the tax year for which the review decision first applies.

(6) Pursuant to ORS 305.275, the owner may appeal the department's determination described in section (5) to the Magistrate Division of the Oregon Tax Court. This appeal must be made within 90 days of the date of the written notice.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.348
Hist.: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.349 Requirements to Qualify Certain Forestland for Special Assessment at Farm Use Values Under ORS 308A.092

(1) For forestland to qualify for special farm use assessment valuation under ORS 308A.092, the following conditions must be met:

(a) The owner must request the land be changed from a farm use to forestland designation by filing an application under ORS 308A.724 with the county assessor;

(b) Trees must have been planted after October 15, 1983;

(c) The owner must state the average age of timber upon the land involved on the application;

(d) The average age of the timber on the land must be less than 40 years;

(e) The land must have been specially assessed under ORS 308A.092 for at least 10 consecutive years before the request for special assessment as forestland;

(f) The owner of land applying for this special assessment may not own more than 2,000 acres of forestland in Western Oregon.

(2) Application forms for this special assessment program shall must be designed by the Department of Revenue. A copy of the prescribed form shall be distributed to each county assessor for in-county duplication as needed.

(3) Planting defined - planting is defined as the setting of young plants or seeds in the ground. Timber stands established naturally do not qualify as "planted."

(4) The time for filing an application for this special assessment is governed by ORS 308A.077.

(5) The farm use value for the land must be based on land class irrespective of any vegetation cover.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.349
Hist.: RD 9-1983, f. 12-20-83, cert. ef. 12-31-83; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

150-321.353(1) [Renumbered to 150-321.257(3)]

150-321.354 Common Ownership

Definitions:

(1) "Person" means an individual, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, a government or a governmental instrumentality.

(2) "Majority interest" means an interest of greater than 50 percent.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.354
Hist.: Renumbered from 150-Ch. 1078 Sec. 2 & 35 1999 by REV 6-2003, f. & cert. ef. 12-31-03

150-321.358(2) [Renumbered to 150-321.258(4)]

150-321.358(3)(b)-(A) Date of Acquisition

In answering the question on the application for designation as forestland concerning date of acquisition, the applicant must list the exact date of acquisition if the forestland was acquired within the five year period immediately preceding the date of the application. If the forestland was acquired more than five years before the date of the application, that fact must be stated, but dates are not required.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.358

Hist.: 2-68; 3-70; 3-16-78, Renumbered from 150-321.358(2)(b) by REV 6-2003, f. & cert. ef. 12-31-03

150-321.358(4) Minimum Stocking and Acreage Requirements for Designation as Forestland in Western Oregon

(1) To qualify, the land must have growing upon it at least the number of established trees per acre set by the state forester in OAR 629-610-0020. The established trees must be of a marketable species acceptable to the state forester as described or set forth in OAR 629-610-0050.

(2) If the land does not meet the minimum requirements of section (1) of this rule, the owner must give the assessor a written management plan for establishing trees to meet the minimum stocking requirements. The plan must contain and meet the following requirements:

(a) A description of the area that states the location, number of acres, ground cover, present stocking, steepness of slope, and aspect (the direction the slope faces.)

(b) A list of needed site preparation requirements prior to planting. Examples include brush or grass removal, rodent eradication, disease and insect problem resolution, slash disposal, protection from grazing or browsing animals, and tillage of soil.

(c) Planting information that lists the species to be planted, time of year that planting will take place, number of trees per acre to be planted, and method of planting.

(d) At least 20 percent, but not less than two acres, of the area in the plan must be planted by December 31 of the first assessment year that the land is designated as forestland. Each additional year thereafter, a minimum of 20 percent of the area must be planted. At the end of the fifth year after the assessor approves the designation, 100 percent of the area in the plan must be planted. The assessor may grant extensions to fulfilling planting requirements if a loss of planted stock occurs due to conditions beyond the control of the landowner.

(3) To qualify, the area to be designated must be at least two contiguous acres in one ownership.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.358

Hist.: 12-6-82, 12-31-82; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; Renumbered from 150-321.358(2), REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.358(4)(b) Acceptable Uses of Western Oregon Forestland

Certain lands do not support sufficient minimum stocking of trees to qualify for designation as forestland. However, when the use of these lands supports desirable forestry management practices on surrounding lands to promote the state policy of encouraging forestry, they may be designated as forestland.

(1) Rock Pits. Forest roads, except principal exterior access roads, are recognized as forestland under ORS 308.236. Fills, ballast, bridges, culverts, drains, and surfacing are included in the definition of forest roads. Since rock is necessary to maintain or improve the usefulness of these roads, rock pits and adjacent rock storage areas are an acceptable use and are eligible for designation as forestland under the following conditions:

(a) The rock pit comprises less than 5 percent of the total forestland of the owner in the area served by the pit.

(b) The rock from the pit is used on land defined as forestland under ORS 321.257(2).

(c) The rock produced from the pit is not commercially sold, but is used on forestland of the owner of the pit, or traded to other forestland owners in the area for in-kind products to be used at economically distant locations.

(d) The forestland owner maintains appropriate records to be available at the request of the Assessor to substantiate forest management use of rock pits and other similar items.

(2) Easements. Some lands are encumbered by easements for road or transmission line rights-of-way which prohibit establishment of commercial forests. Such lands may be valued and assessed as forestland when:

(a) Application for designation as forestland has been made.

(b) The lands are adjacent to, and an integral part of, the forest property of the owner.

(c) The lands would otherwise qualify for designation as forestland, if sufficient stocking of trees was permitted.

(d) Not more than 20 percent of the forestland of the owner is encumbered by easements.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.358
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; Renumbered from 150-321.358(3)(b) by REV 6-2003, f. & cert. ef. 12-31-03

150-321.358(5) Notification by Assessor of Denial of Application
The assessor will send the written notice denying the application, in whole or in part, for designation of forestland to the applicant by certified mail.
Stat. Auth.: ORS 305.100
Stat. Implemented: ORS 321.358
Hist.: 2-68; 3-70; 3-16-78; Renumbered from 150-321.358(4) by REV 6-2003, f. & cert. ef. 12-31-03

150-321.485(3) [Renumbered to 150-321.485(4)]

150-321.550 Procedure to Ensure Timber Tax Return Filing
(1) As used in this rule, "owner" shall have the meaning given in ORS 321.005.
(2) The Department of Revenue shall mail timber tax returns to timber owners as identified on Notification of Operations received from the Department of Forestry. It is the responsibility of the timber owner to assure that the correct timber owner is listed on the notification.
(3) The Department of Revenue shall document by tax program and reporting period:
(a) Which taxpayers were sent timber tax returns.
(b) Receipt of tax returns filed.
(4) Taxpayers who fail to file a timber tax return will be mailed a Notice of Failure to File which will include:
(a) Timber tax program(s) for which taxpayer has failed to file.
(b) Statement that tax return is due even if no harvest occurred.
(c) Explanation of delinquent return penalties.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.550
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89

150-321.550(1) Notice of Intent to Harvest
(1) The owner of timber before it is cut, severed or removed, is required to give notice of intent to harvest.
(2) Notice is given to the Oregon State Department of Forestry which then issues a "Notification of Operations" -- commonly called a "logging permit."
(3) Whenever title to timber is transferred to a new owner prior to being cut, severed or removed, the new owner is required to give notice of intent to harvest.
Example 1: Landowner "A" logs timber on the owner's property and decks the logs at roadside. Trucker "B" buys "A"s logs for $10,000 then hauls and sells the logs to a mill.
"B" acquired the title to logs still on "A"s property prior to removal, therefore "B" must give notice of intent to harvest.
Example 2: Owner "A" sells standing timber to "B" on a recovery basis. "B" agrees to pay "A" $125/Net MBF for all timber removed. In the contract for the sale of the timber "A" agrees to pay any tax due as the result of the harvest.
"B" acquired title to the timber and must give notice of intent to harvest before cutting, severing or removing the timber. The fact that "A" agreed to pay the taxes has no bearing on who must give notice.
(4) Once made, the notification expires on the last day of December in the year taken. Any continuation of harvest in a new calendar year requires renewal of the notification.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.550
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89

150-321.550(3)(a) Penalty for Failure to Obtain Notification of Operations
(1) The penalty shall be applied for each violation occurring.
(2) The penalty shall be assessed against the owner of the timber at the time the return is filed.
(3) No violation occurs if the volume cut is less than 5000 board feet.
(4) A violation occurs if separate notice is not given for cutting operations on private lands when:

(a) The operations are on noncontiguous parcels under the same ownership or;
(b) The operations are on parcels under different ownership or;
(c) The operations are greater than one mile apart regardless of ownership or;
(d) The operations are conducted by different loggers.
(5) Each sale harvested from public lands shall be considered a single cutting operation.
(6) The department shall not impose a penalty under this section without first having notified an owner by letter, sent to the most current known address, of a violation. Subsequent violations occurring after the date the notice has been sent by the department will be subject to the penalty provided under this section.
(7) The penalty provided under this section shall first apply to violations occurring on or after January 1, 1990.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.550
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89

150-321.560(2) Prescribed Forms for Reporting Timber Harvest
(1) Owners must file a harvest return on forms prescribed by the department.
(2) Owners may report on magnetic tape or their own forms provided they meet the prescribed format, and approval is obtained from the department prior to filing.
(3) The department may reject and return to the taxpayer forms which do not meet the requirements of this rule.
(4) A taxpayer shall refile on prescribed forms if the original filing was rejected and returned by the department. A taxpayer is considered not to have filed a tax return until an approved form is filed.
(5) The taxpayer may be assessed penalty for failure to file a tax return as provided under ORS 321.560(2) and (3).
(6) If the department receives payment with a form which does not meet the requirements of this rule, the payment shall be banked and credited to the taxpayer's account for the timber tax program indicated on the taxpayer's remittance or submitted form.
(7) Effective Date: The provisions set forth in this rule shall apply to tax returns required to be filed by or after January 31, 1988.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.560
Hist.: RD 16-1987, f. 12-10-87, cert. ef. 12-31-87

150-321.609(1) Check Scaling at the Point of First Measurement
(1) The department must be given access to any location where timber is first measured at any time the site is open for business in order to inspect or check scale the grading and measuring practices for timber subject to ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.
(2) Scalers or companies controlling the sites must make all pertinent information for the check scale available to the department.
Stat. Auth.: ORS 305.100 & ORS 321.609
Stats. Implemented: ORS 321.609
Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(1)-(A) Measuring Harvested Timber
(1) Definitions for purposes of this rule:
(a) "Check Scaling" is the procedure for verifying that an entity's scaling practices comply with the Official Log Scaling Rules.
(b) "Grading" means determining the quality of logs, considering such factors as gross diameter, length of log, surface characteristics, annual ring count, slope of grain and other factors as reflected in the Official Log Scaling Rules.
(c) "Harvest Unit" is a contiguous geographical area from which timber is harvested that has the following characteristics:
(A) The unit is entirely within one county;
(B) The unit is not larger than 320 acres;
(C) The unit is under one ownership;
(D) The unit is limited to harvest by one method (e.g., clearcut, thinning); and
(E) Operations within a harvest unit may not be farther than one mile apart.

(F) The department may grant exceptions to these criteria upon written request.

(d) "Measuring" means the determination of the quantity and quality of logs. Measuring must happen at the time of transfer of ownership of the logs and is the responsibility of the timber owner.

(e) "Official Log Scaling Rules" are those rules developed by the Northwest Log Rules Advisory Group as reflected in the most current edition of Official Rules for the following Log Scaling and Grading Bureaus: Columbia River, Northern California, Pacific Rim, Southern Oregon, Yamhill.

(f) "Sample Scaling" means to measure a portion of a weighed log inventory and apply the statistical information of the selection to the entire inventory.

(g) "Scaling" means the measurement of the gross and net volume of logs as determined by using the Official Log Scaling Rules.

(2) Measurement of scaled logs must:

(a) Be done using the Official Log Scaling Rules and must be determined by one of the following persons:

(A) Scalers of third party scaling organizations that:

(i) Assure its scalers produce consistent scaling results;

(ii) Assure its scalers will exercise independent judgment;

(iii) Have a training and certification program for its scalers;

(iv) Check scale a minimum of eight loads every two months for each employee scaling and grading logs subject to timber taxes under ORS 321.005-185, 321.700-754, and 321.805-855 within a 5 percent tolerance of the log volumes; and

(v) Make check-scale records available to the department upon request.

(B) Scalers employed by companies who are check scaled by a third-party scaling organization, or company check scalers employed by a company that:

(i) Meets all the requirements listed in paragraph (2)(a)(A) of this rule; and

(ii) Provides a rescale and training in the event of an unsatisfactory check scale;

(iii) Provides total volume by grade and species by harvest unit for the period between an unsatisfactory check scale and the next satisfactory check scale at the request of the department; and

(iv) Allows the department to independently check scale.

(C) Scalers employed by companies with less than four scalers who each scale less than 50 thousand board feet per week if approved by the department. The company must:

(i) Make a written request to the department which includes:

(I) Name, duties and experience of the scaler;

(II) Type of logs scaled;

(III) Scaling instructions;

(IV) A description of the scaling location;

(V) An explanation of how the scaling information is secured to prevent loss or tampering of information; and

(VI) Provisions for check scaling.

(ii) If requested by the department, provide training specific to the type of logs delivered to the scaling point.

(D) Check scalers who meet the following qualifications:

(i) Be a qualified scaler with five plus years experience scaling logs,

(ii) Participate in an effective training and certification program that is recognized by one of the bureaus that is a member of the Northwest Log Rules Advisory Group,

(iii) Demonstrate proficiency with the Official Log Scaling Rules, and

(iv) Makes record of qualifications, training and certification available upon request.

(b) Be recorded on original scaling and grading load tickets that contain the following information:

(A) Name of log seller (taxpayer),

(B) Date of measurement,

(C) Name of log purchaser,

(D) Log brand,

(E) Log species,

(F) Log Grade,

(G) Number of logs,

(H) Gross log measurements, deductions and net volume, and

(I) Trip ticket number.

(3) Measurement of weighed logs must:

(a) Be done by an employee of a delivery facility who has been instructed on the proper use of the equipment listed in subsection (3)(b) of this rule.

(b) Use weigh instruments or devices that are tested, certified or licensed by the Oregon State Department of Agriculture under ORS 618.020, 618.016, 618.121 and 618.151.

(c) Be recorded on original load tickets which contain the following information:

(A) Name of log seller (taxpayer);

(B) Name of log purchaser;

(C) State Forestry (harvest) permit number;

(D) Trip ticket (or woods trip receipt number);

(E) Date of measurement;

(F) Location of measurement;

(G) Scaling organization or company doing the weighing;

(H) Weight ticket number;

(I) Gross, tare and net weights.

(4) A taxpayer may use "sample scaling" to determine the volume and grade of logs harvested.

(a) Sample scaling must be done on a harvest unit basis and the following criteria must be met:

(A) Must meet the criteria of section (2) of this rule;

(B) The number of loads scaled (the sample intensity) must ensure that 95 percent of the time the average volume of a scaled load falls within 5 percent of the average volume of all sampled loads for the harvest unit.

(C) Samples must be selected through a random, unbiased method.

(D) Samples must be taken over the entire period of harvest.

(E) Once a load has been selected for the sample, it cannot be removed.

(b) Sampling methodology that does not meet the criteria of subsection (4)(a) of this rule may be used if submitted in writing and approved by the department prior to use.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.609

Hist.: REV 2-2005, f. 6-27-05, cert. ef 6-30-05

150-321.609(2)-(A) Timber Harvest Records

Every owner must keep records of harvested timber that is subject to the Small Tract Forestland Severance Tax and the Forest Products Harvest Tax. These records must be retained as described in OAR 150-321.609(2)-(D). Timber harvest records required to be retained include:

(1) Contractual or financial agreements relative to the ownership and harvest of timber.

(2) Location of the harvest unit, including a map of the unit.

(3) The quantity of harvested timber .

(4) Log brands used by location and date.

(5) Log load trip tickets by harvest unit by accounting period.

(6) Original records of scaling, measuring, and grading of forest products harvested.

(7) Any other bills, receipts, invoices, data processing tapes, or other documents of original entry supporting the entries in the books of account, as well as all schedules and work papers used in the preparation of the tax returns.

Stat. Auth.: ORS 305.100 & ORS 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342; 12-31-80, Renumbered from 150-321.342(2)-(A); RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(2)-(B) Use of Microfilm and Microfiche Records

Microfilm and microfiche records of original records and supporting data are acceptable provided the following conditions are met:

(1) Microfilm and microfiche show beginning and ending numbers and be indexed, cross referenced and labeled as to contents.

(2) The microfilm or microfiche contain the complete original records and identification can be made in respect to time of harvest and harvest area.

(3) Proper facilities including modern projectors for viewing and copying are provided during regular business hours for the ready inspection and location of the particular records. Otherwise, the microfilm or microfiche shall be made available at the Department's facilities for inspection.

(4) The taxpayer agrees to provide access to any information contained on the film or fiche which may be required for purposes of verification of the tax liability.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342; TC 7-1980, f. 11-28-80, cert. ef. 12-31-80; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88, Renumbered from 150-321.342(2)-(B)

150-321.609(2)-(C) Records Kept by Automated Data Processing

(1) The Department of Revenue will accept records kept by automated data processing systems if:

(a) Supporting source documents are identified and kept on file so that a complete audit of the automated data processing records can be performed.

(b) Computer programs, program documentation, and program flow charts showing embedded formulas and the resulting computations are available for examination by the department.

(2) The department may verify the accuracy of any automated data processing programs used for computing log grading and scaling volumes for timber subject to ORS 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.

(3) The department may perform tests to verify the accuracy of automated data processing programs using the equipment used to supply the service.

(a) Tests will consist of mock scale tickets prepared by the department with a maximum of 500 logs for each scaling method.

(b) Test printouts will be in scale ticket form, individual log detail form and in load summary form as produced for the timber owner.

(c) The test data must be run and the information sent to the department within thirty days after the date that the department sends the mock scale tickets.

(d) All testing will be at the expense of the party using automated data processing for log grading and scaling.

(4) Automated data processing records are to be retained as prescribed in OAR 150-321.609(2)-(D).

Stat. Auth.: ORS 305.100 & 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342; TC 7-1980, f. 11-28-80, cert. ef. 12-31-80; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88, Renumbered from 150-321.243(2)-(C); RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.609(2)-(D) Preservation of Records and Their Reproductions

All records or reproductions of records pertaining to scaling, measuring, grading and reporting of a timber harvest(s) subject to the Small Tract Forestland Severance Tax and the Forest Products Harvest Tax must be maintained for inspection. These records must be maintained for six years from the completion of a harvest or until final resolution of an appeal from an assessment relating to such harvest, whichever is later.

Stat. Auth.: ORS 305.100 & 321.609

Stats. Implemented: ORS 321.609

Hist.: 12-31-77, 12-31-79, Renumbered from 150-321.342 to 150-321.342(2)-(D); 12-31-80, Renumbered from 150-321.342(2)-(D); RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.684-(A) Requests for Confidential Information

(1) Request for information under ORS 321.684(1)(a) must:

(a) Be made in writing.

(b) Identify the type of return or report and the year or years requested.

(c) Include formal authorization if the request is from a representative of the taxpayer.

(2) Request for information under ORS 321.684(2) must:

(a) Be made in writing including a statement:

(A) Describing the records and information in detail reasonably sufficient to enable the department to identify and locate the information.

(B) Agreeing that the information requested will not be divulged or used for any purpose other than that authorized in ORS 321.684.

(b) Describe the intended use of the reports or returns requested.

(3) Requests for information made under ORS 321.684(2)(b) through (f) will be provided only upon receipt of a statement certifying that requestor has read and had explained to them the provisions of ORS 321.682 and is aware of the penalty provisions imposed under ORS 321.686.

(4) Charges for copies of records requested under this rule will be handled as set out in OAR 150-192.440.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.684
Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96

150-321.684(1) Information Which May Be Furnished

A taxpayer or authorized representative will be permitted to inspect any return or report filed by the taxpayer in connection with the return.

(1) Information can be provided by telephone by an employee of the department regarding a pending refund claim, an audit report, the status of an account, a general inquiry from a taxpayer, or a request from the department, if the caller clearly establishes identification as the taxpayer or an authorized representative of the taxpayer. If a caller cannot establish a right to information, the information shall not be provided except upon receipt of a written request, and the information shall then only be provided by mail addressed to the taxpayer or other persons who have filed with the department, a general power of attorney, a special power of attorney that authorizes the disclosure of information related to the tax period or periods and tax programs, or the Department of Revenue's form titled "Authorization to Represent the Taxpayer."

(2) An "authorized representative" as used in this rule is a person designated in a written authorization executed by a taxpayer, to receive tax information on behalf of the taxpayer. The department must receive the authorization before tax information will be released to the representative.

(3) A person who is "recognized" as being authorized under ORS 305.230 to represent a taxpayer in a proceeding before a tax court magistrate or in a conference before the department may receive confidential information related to the taxpayer and to the proceeding or conference, unless otherwise prohibited by an Internal Revenue Service agreement. A person shall be "recognized" as being authorized to represent the taxpayer upon:

(a) The filing with the tax magistrate division or with the department of a document apparently signed by the taxpayer clearly authorizing such representation; or

(b) The filing with the tax magistrate division of a document signed by the representative that clearly states that the representative is authorized to represent the taxpayer with respect to the particular proceeding, and to receive from the department confidential records of the taxpayer relating to the proceeding, provided that such a statement also is in accordance with a rule of the tax magistrate division that is consistent with this rule; or

(c) The issuance by a tax court magistrate of an order declaring that such representation is authorized.

(4) In case of audit or compliance activity, a written authorization is required unless it appears to the satisfaction of the department that the representative does in fact have authority to represent the taxpayer.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.684
Hist.: REV 9-1998, f. 12-11-98, cert. ef. 12-31-98; REV 12-1998, f. 12-29-98, cert. ef. 12-31-98

150-321.700(1) Common Ownership

(1) For purposes of ORS 321.700(1), "Direct ownership" means ownership of forestland by one or more individuals or control of property rights in forestland granted under a real estate contract, trust or other written agreement.

(2) "Majority interest" means an interest greater than 50 percent.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.700(1)
Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from OL 2003, Ch 454, Sec. 1(1) by REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.700(12) Establishing the Identity of the Taxpayer for Severance Tax

For purposes of establishing the identity of the taxpayer for the severance tax, OAR 150-321.005(9) applies.

Stat. Auth.: ORS 305.100; 321.609
Stats. Implemented: ORS 321.700
Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-Oregon Laws 2003, Ch. 454, Section 1(12); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.700(13) Timber Subject to the Small Tract Forestland Severance Tax

(1) Timber subject to the Small Tract Forestland Severance Tax is the following:

(a) All logs that can be measured in board feet and meet the requirements of sawmill grades or better.

(A) Logs must be measured in western Oregon by the current edition of Official Rules for the following Log Scaling and Grading Bureaus: Columbia River, Northern California, Pacific Rim, Southern Oregon, Yamhill, developed by the Northwest Log Rules Advisory Group (NWLRAG). All sections of the publication are recognized including the Appendix.

(B) Logs must be measured in eastern Oregon by the Scribner Decimal "C" Eastside Short Log Rule, using the NWLRAG Eastside Log Scaling Handbook, First Edition 2003.

(b) Logs measured in tons and sold by the weight when they meet the conditions of (A) or (B) below. Logs must be reported on the timber tax return by thousand board feet (MBF). Logs must be converted from tons to MBF using conversion factors established by the Department of Revenue. These conversion factors are listed on the tax forms & instructions sent out annually by the department.

(A) The loads of logs contain a minimum of 20 percent of the log count at 5-inch, 6-inch and 7-inch scaling diameter. The "Chip Logs" conversion factor will be used to convert this type of load from tons to thousand board feet (MBF) for tax reporting.

(B) Loads of logs in which all logs measure 5-inch scaling diameter and larger, or the load contains three or more logs with 8-inch or larger scaling diameter. The "Small Saw Logs" conversion factor will be used to convert this type of load from tons to MBF for tax reporting.

(c) Logs chipped in the woods, except chips produced from material not meeting log merchantability standards in subsection (a) above and used as hog fuel.

(2) Timber not subject to Small Tract Forestland Severance Tax is secondary products, other than chips, manufactured in the woods and produced from logs normally left in the forest or burned as slash. Examples are shake or shingle bolts, fence posts, firewood and arrow bolts.

(3) When timber is harvested from the eastside, but scaled using westside log scaling rule, the volume must be adjusted to reflect the eastside log scaling rule volume. Taxpayers may use their own conversion factors if they are supported by statistically sound sample data; otherwise, the westside volume must be multiplied by 1.28 to get the equivalent eastside scaled volume.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 321.609 & 321.700

Stats. Implemented: ORS 321.700

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-Oregon Laws 2003, Ch. 454, Section 1(13); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04; REV 2-2005, f. 6-27-05, cert. ef 6-30-05

150-321.706 Definition of Owner for Small Tract Forestland Purposes

"Owner" as used in ORS 321.706 to 321.716 means one or more individuals, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, an estate, a trust, a government, a governmental instrumentality, or any combination of these or similar entities.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.706

Hist: REV 8-2004, f. & cert. ef. 9-15-04

150-321.706(2) Required Signatures for Small Tract Forestland Application

(1) Small Tract Forestland applications must be signed by all owners, as defined by OAR 150-321.706, that hold the land that is the subject of the application in common ownership, as defined in ORS 321.700(1).

(2) Acceptable signatures of the forestland owner(s) are as follows:

(a) For an individual, every person with an ownership interest must sign. If applicable, a person with legal guardianship or power of attorney to represent an individual may sign.

(b) For a partnership, a general partner designated by the partnership as authorized to represent the partnership.

(c) For an S corporation, a shareholder designated by the S corporation as authorized to represent the S corporation.

(d) For an estate or trust, the trustee, executor, or other authorized representative.

(e) For a C corporation, an officer of the corporation authorized to represent the C corporation.

(f) For a limited liability company (LLC) or limited liability partnership (LLP), a member designated by the LLC or LLP as authorized to represent the LLC or LLP.

(3) A contract purchaser(s) may sign if they have authority to make the application under the terms of the purchase contract.

Stat. Auth.: ORS 305.100, 321.609

Stats. Implemented: ORS 321.706(2)

Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04; REV 7-2005, f. 12-30-05, cert. ef. 1-1-06

150-321.706(4) Powers Delegated to County Assessor

Pursuant to ORS 321.706(4) the department delegates to the county assessor the authority to:

(1) Require any person to furnish any information the assessor deems necessary to determine whether forestland is qualified for small tract forestland designation.

(2) Enter upon and inspect the land included in a small tract forestland application and any contiguous parcels under common ownership as identified in ORS 321.700(3).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.706

Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.706(7) Definition of Taxpayer for Appeal of Small Tract Forestland Application Denial

"Taxpayer," as used in ORS 321.706(7), means an owner of forestland that is the subject of an application for qualification as small tract forestland.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.706(7)

Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.709(1)(b) Contiguous Parcels Held in Common Ownership

The following examples illustrate when contiguous parcels under common ownership must be included in an application for small tract forestland assessment as required by ORS 321.709(1)(b). For purposes of this rule, all parcels are designated forestland or highest and best use forestland.

(1) Example 1: Parcel # 1 is owned by three individuals, Bob, John and Greg. Parcel # 2 is contiguous to Parcel # 1 and is owned by husband and wife (Bob and Julie). Parcel # 3 is contiguous to Parcel # 2 and is owned by Julie. Parcels # 1 and # 3 are not contiguous.

(a) Parcel # 1 is the subject of an application for small tract forestland. Parcel # 2 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in both parcels. Parcel # 3 is not required to be included in the application, since Julie does not have an ownership interest as an individual in Parcel # 1.

(b) Parcel # 2 is the subject of an application for small tract forestland. Parcel # 1 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 1 and # 2. Parcel # 3 must also be included in the application as a contiguous parcel, since Julie has an ownership interest as an individual in Parcels # 2 and # 3.

(c) Parcel # 3 is the subject of an application for small tract forestland. Parcel # 2 must be included in the application as a contiguous parcel, since Julie has an ownership interest as an individual in Parcels # 2 and # 3. Parcel # 1 is not required to be included in the application, since Julie does not have an ownership interest as an individual in Parcel # 1.

(2) Example 2: Parcel # 4 is owned by a partnership, 3 J's Partnership. The three partners, Bob, John and Greg, each have a 1/3 ownership interest. Parcel # 5 is contiguous to Parcel # 4 and is owned by husband and wife (Bob and Julie). Parcel # 6 is contiguous to Parcel # 5 and is owned by Bob. Parcels # 6 and # 4 are not contiguous.

(a) Parcel # 4 is the subject of an application for small tract forestland. Parcels # 5 and # 6 are not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(b) Parcel # 5 is the subject of an application for small tract forestland. Parcel # 6 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 5 and # 6. Parcel # 4 is not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(c) Parcel # 6 is the subject of an application for small tract forestland. Parcel # 5 must be included in the application as a contiguous parcel, since Bob has an ownership interest as an individual in Parcels # 5 and # 6. Parcel # 4 is not required to be included in the application, since Bob does not own a majority interest in 3 J's Partnership.

(3) Example 3: Parcel # 7 is owned by a corporation, Bob and Julie Inc. Bob has a 60 percent interest in the corporation. Parcel # 8 is contiguous to Parcel # 7 and is owned by a partnership, 3 J's Partnership. Bob has a 2/3 ownership interest in the partnership. John and Greg each have a 1/6 interest. Parcel # 9 is contiguous to Parcel # 8 and is owned by 2 J's LLC. Bob and Julie each have a 50 percent interest in the LLC. Parcels # 9 and # 7 are not contiguous.

(a) Parcel # 7 is the subject of an application for small tract forestland. Parcel # 8 must be included in the application as a contiguous parcel, since Bob owns a majority interest in both Bob and Julie Inc. and 3 J's Partnership. Parcel # 9 is not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC.

(b) Parcel # 8 is the subject of an application for small tract forestland. Parcel # 7 must be included in the application as a contiguous parcel, since Bob owns a majority interest in both Bob and Julie Inc. and 3 J's Partnership. Parcel # 9 is not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC.

(c) Parcel # 9 is the subject of an application for small tract forestland. Parcels # 7 and # 8 are not required to be included in the application, since Bob does not own a majority interest in 2 J's LLC. If Bob owned a majority interest in 2 J's LLC, Parcel # 8 and Parcel # 7 would be deemed held in common ownership and contiguous because Bob would have owned a majority interest in all three parcels.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.709 (1)(b)

Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.709(1)(c) Minimal Stocking and Species Requirements for Small Tract Forestland Assessment

(1) To qualify, the land must have growing upon it at least the number of established trees per acre according to OAR 629-610-0020(4)-(8) established by the state forester. Also, for the land to qualify, the established trees must be of a marketable species acceptable to the state forester as established in OAR 629-610-0050.

(2) If the land does not meet the minimum requirements of subsection (1), the owner must present to the assessor a written plan for establishing trees to meet the minimum requirements for stocking. The plan must contain and meet the following requirements:

(a) A description of the area that shows the location, number of acres, ground cover, present stocking, steepness of slope, and direction slope faces.

(b) A list of needed site preparation requirements prior to planting. An example would be brush or grass removal, rodent eradication, disease and insect problems, slash disposal, protection from grazing or browsing animals, and tillage of soil.

(c) Planting information that lists the species to be planted, time of year that planting will take place, number of trees per acre to be planted, and method of planting.

(d) At least one-fifth (20 percent), but not less than two acres, of the area in the plan must be planted by December 31 of the first assessment year that the land is designated as forestland. Each additional year thereafter a minimum of one-fifth (20 percent) of the area must be planted, in addition to the previous year's requirements. At the end of the fifth year after the assessor approves designation, 100 percent of the area in the plan must be planted. Extensions to planting requirements may be granted by the assessor if a loss of planted stock occurs due to conditions beyond the control of the landowner.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 321.609, 321.709

Stats. Implemented: ORS 321.709

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-Oregon Laws 2003, Ch. 454, Sec. 4 (1)(c); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.709(3) Notation on Assessment and Tax Roll

The assessment and tax roll must show the notation "Small Tract Forestland -- Potential Additional Tax Liability" for each parcel of land that is assessed as small tract forestland.

Stat. Auth.: ORS 305.100, 321.609

Stats. Implemented: ORS 321.709

Hist: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 454, Section 4(3); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.712(1) Notification to County Assessor by Small Tract Forestland Owner

(1) ORS 321.712(1) requires a small tract forestland owner(s) to give written notice to the county assessor when:

(a) The owner acquires tax lots that are contiguous to small tract forestland they own, or

(b) The owner acquires or sells forestland that results in their owning less than 10 or more than 5,000 acres of Oregon forestland, or

(c) There is a change in use of any portion of their small tract forestland to a use that is not a forestland use.

(2) This written notification must be made within 90 days of the date of acquisition, sale or change of use.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.712(1)
Hist.: REV 4-2004, f. 7-30-04 cert. ef. 7-31-04

150-321.719(1) Common Ownership

"Person" means an individual, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, a government, or a governmental instrumentality.
Stat. Auth.: ORS 305.100, 321.609
Stats. Implemented: ORS 321.719
Hist: Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-OL 2003, Ch. 621, Sec. 109(1), REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.741(2) Due Date for Filing Severance Tax Returns and Requesting an Extension

(1) The department will mail severance tax returns to owners of timber, as shown on the Notification of Operations (permit) issued by the Department of Forestry, from lands assessed as small tract forestland.
(a) The returns and tax are due on or before the last day of January following the year of harvest.
(b) When the department mails the returns less than ten business days prior to the last day of January, the department will not impose any penalty on the tax due provided that the taxpayer files the return and pays the tax within twenty calendar days of the mailing date of the return.
(2) The department may grant an extension of time to file a return upon receipt of a written request for extension from the taxpayer. The department may grant up to thirty days from the due date in which to file. The extension only pertains to the filing of the return and does not extend the time in which the tax must be paid. A request for extension must be:
(a) Submitted to the department in writing, stating the reason for the request and
(b) Postmarked no later than the due date of the return.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.741
Hist: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04.

150-321.751(3) Distribution of Severance Tax Receipts for Western Oregon

Monies distributed under ORS 321.751(3) are distributed to each Western Oregon county in the same proportion that the assessed value of small tract forestland in that county bears to the total assessed value of small tract forestland in Western Oregon. The department will use the small tract forestland values reported by the county assessors or information supplied on the most recent Summary of Assessment and Levies (SAL) report to make this computation.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.751
Hist: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.754(3) Distribution of Severance Tax Receipts for Eastern Oregon

Monies distributed under ORS 321.754(3) are distributed to each Eastern Oregon county in the same proportion that the assessed value of small tract forestland in that county bears to the total assessed value of small tract forestland in Eastern Oregon. The department will use the small tract forestland values reported by the county assessors or information supplied on the most recent Summary of Assessment and Levies (SAL) report to make this computation.
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.754
Hist: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.805 [Renumbered to 150-321.839(4)]

150-321.805(4) Definition of "Sound Management Practices"

For the purpose of ORS 321.805(4), "Sound management practices," in addition to growing trees may include but are not limited to: range management, fire protection, soil erosion control, stream protection, cooperative wildlife management, and road access control.
Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.805
Hist.: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.812 [Renumbered to 150-321.833]

150-321.815(2)(b) [Renumbered to 150-321.839(3)(b)]

150-321.815(3)(b) [Renumbered to 150-321.839(3)(b)]

150-321.815(4) [Renumbered to 150-321.815(5)]

150-321.815(5) [Renumbered to 150-321.839(5)]

150-321.833 Common Ownership

Definitions:

(1) "Person" means an individual, a public or private corporation, a limited liability company, a limited liability partnership, an unincorporated association, a partnership, a government or a governmental instrumentality.

(2) "Majority interest" means an interest of greater than 50 percent.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.833
Hist.: Renumbered from 150-Ch. 1078 Sec. 2 & 35 1999 Session by REV 6-2003, f. & cert. ef. 12-31-031999 Session to OAR 150-321.812, 12/31/03; Renumbered from 150-321.812; REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.839 Notation on Tax Roll: "Forestland - Potential Additional Tax Liability"

The county assessor must make the notation "Forestland - Potential Additional Tax Liability" on the tax roll for each parcel of land the assessor approved as designated forestland under ORS 321.839. The notation is not made with respect to parcels classified by the county assessor as highest and best use forestland.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.839
Hist.: REV 4-2006, f. & cert .ef. 7-31-06

150-321.839(3)(b) Date of Acquisition

In answering the question on the application for designation as forestland concerning date of acquisition, the applicant must list the exact date of acquisition if the forestland was acquired within the five year period immediately preceding the date of the application. If the forestland was acquired more than five years before the date of the application, that fact must be stated, but dates are not required.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 321.839
Hist.: 11-71; Renumbered from 150-321.815(2)(b) by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321.815(3)-(b); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04

150-321.839(4) Minimum Stocking and Acreage Requirements for Designation as Forestland in Eastern Oregon

(1) To qualify, the land must have growing upon it at least the number of established trees per acre set by the state forester in OAR 629-610-0020. The established trees must be of a marketable species acceptable to the state forester as described or set forth in OAR 629-610-0050.

(2) If the land does not meet the minimum requirements of section (1) of this rule, the owner must give the assessor a written management plan for establishing trees to meet the minimum stocking requirements. The plan must contain and meet the following requirements:

(a) A description of the area that states the location, number of acres, ground cover, present stocking, steepness of slope, and aspect (the direction the slope faces.)

(b) A list of needed site preparation requirements prior to planting. Examples include brush or grass removal, rodent eradication, disease and insect problem resolution, slash disposal, protection from grazing or browsing animals, and tillage of soil.

(c) Planting information that lists the species to be planted, time of year that planting will take place, number of trees per acre to be planted, and method of planting.

(d) At least 20 percent, but not less than two acres, of the area in the plan must be planted by December 31 of the first assessment year that the land is designated as forestland. Each additional year thereafter, a minimum of 20 percent of the area must be planted. At the end of the fifth year after the assessor approves the designation, 100 percent of the area in the plan must be planted. The assessor may grant extensions to planting requirements if a loss of planted stock occurs due to conditions beyond the control of the landowner.

(3) Certain lands do not support sufficient stocking requirements; however, when the use of these lands supports sound management practices and the harvest of forest crops on surrounding lands, these lands may be designated as forestland. Examples of such lands include:

(a) Roads, landings, and rock pits used for forest roads that are necessary for forest management and the harvest of forest crops.

(b) Land that is subject to power transmission and distribution easements or gas line easements that are not centrally assessed under ORS 308.505-308.665 or 308.805-308.820 if the lands would otherwise qualify for designation as forestland if, but for the easement, sufficient stocking of trees would be permitted.

(4) To qualify for designation, the land must meet the minimum stocking requirements of sections (1) or (2) of this rule. However, when the circumstances listed in section (3) of this rule are present, and at least 80 percent of the total area applied for meets the minimum stocking requirements, the total area of the application will be assessed as designated forestland.

(5) To qualify, the area to be designated must be at least two contiguous acres in one ownership.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.805

Hist.: 11-71; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; RD 15-1982, f. 12-6-82, cert. ef. 12-31-82; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 3-1996, f. 12-23-96, cert. ef. 12-31-96; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; Renumbered from 150-321.805, REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-321.839(5) Notification by Assessor of Denial of Application

The assessor will send the written notice denying the application, in whole or in part, for designation of forestland to the applicant by certified mail.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.839

Hist.: 11-71; Renumbered from 150-321.815(4) by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-321.815(5); REV 5-2004, f. 7-30-04, cert. ef. 7-31-04