



# Farm Use Manual



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## Foreword

The purpose of *Farm Use Manual* is to develop a uniform approach for the special assessment of farm properties. The manual serves as a guide to assist counties with interpretation of farm use laws and administrative rules.

An internal group of Department of Revenue property tax specialists and an external group of county assessor property tax specialists have developed this manual. The manual is designed so that it can be modified or updated on an ongoing basis.

*Farm Use Manual* is organized into sections that follow the statutes. A table of contents identifies each section. A tab identifies each section. The Appendix contain supporting information such as charts, forms, diagrams, and examples to assist in interpreting statutes and processing accounts.

If you have any comments concerning this manual or questions on farm use assessment, please contact:

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## Introduction

In 1961, the Oregon Legislature began to adopt farm use special assessment laws. The Oregon Legislature, administrative rules, and Tax Court, Attorney General, and the Department of Revenue decisions have modified or clarified these special assessment laws during the last 45 years. This comprehensive manual details the complexities of this program.

The legislative intent can be found in ORS 308A.050 and is summarized as follows:

ORS 308A.050: The Legislative Assembly recognizes that agriculture and related land uses contribute significantly to Oregon's character and economy and is in the interest of all citizens of this state. Valuation of farm properties is based on 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.

Qualification, valuation, and disqualification statutes regulate farm use special assessments. The following is a brief discussion on each of these categories:

**Qualification.** Land within an exclusive farm use (EFU) zone automatically qualifies for farm use special assessment if there is an active bona fide farm use with an intent to make a profit from farming as defined under ORS 308A.056.

Land not within an EFU zone is called Non-Exclusive Farm Use (Non-EFU) land. Non-EFU land must also meet the same qualifications of ORS 308A.056. However, Non-EFU land can only qualify by application and must meet minimum income requirements outlined in ORS 308A.071. "Gross Income Questionnaires" are periodically mailed to Non-EFU landowners to verify that these requirements continue to be met.

The statutes for EFU and Non-EFU land are to be interpreted and addressed separately from each other. Any portion of land may qualify for special assessment while other portions may be assessed under different assessments or exemptions. It is possible to have any combination of portions of a property under EFU, Non-EFU, or a different special assessment such as forestland or portions not under special assessment. Portions not under special assessment such as dwellings, buildings, equipment, or land not under special assessment may be assessed based on market value or some other assessment or exemption. Qualification requirements apply only to the land, homesite, or onsite developments that are being specially assessed.

**Valuation.** Under ORS 308A.092, the counties shall use a legislated income approach when valuing qualified land as follows:

The legislated income approach consists of dividing the net income of the land by a capitalization rate to calculate a farm use value.

Annually, the assessor is responsible for conducting farm income studies for each land class and area. The assessor utilizes the Department of Revenue certified interest rate and the local property tax rate to calculate the specially assessed value (SAV).

The maximum special assessed value (MSAV) limitations of Measure 50 apply to both EFU and Non-EFU. MSAV valuation tables for each land class and area are required to have a Measure 50 calculation each year under ORS 308A.107. Each MSAV table matches with a corresponding SAV table.

Valuation of farmland is complex in Oregon due to the wide variety of climates, rainfall, soil capabilities, farming operations, and land uses. In the valuation section of this manual, there

are several basic examples for the various farm land uses around the state. Specialized farms are beyond the scope of this manual. Future manuals or workshops will address specialized farms.

Homesites, which include domestic onsite developments, are valued separately using a different valuation procedure under ORS 308A.256.

Any portion of the land that qualifies can receive farm use value. Any portion that does not qualify is assessed based on real market value under ORS 308.146, unless the land is in a different assessment program or is exempt from property taxes.

**Disqualification.** EFU and Non-EFU statutes are to be interpreted separately when considering the disqualification of farmland or homesites. There are many reasons for disqualification. Any portion of a property not maintaining farm use may be disqualified. It is also possible that a portion of a property may be disqualified and a portion may continue special assessment. One cannot go back in time to correct the roll for a disqualification so it is important to be sure the disqualification of EFU or Non-EFU land is time-

ly. If the disqualification timelines are missed, the change in assessment will occur for the next assessment and tax year and if in the next assessment and tax year the land meets qualification requirements the disqualification will be invalid.

Once land has been disqualified, the notification procedures under ORS 308A.718 and 308A.724 must be strictly followed. For procedures following a disqualification see the Disqualification Notification Procedures in the Appendix of this procedure manual. The Disqualification Notification Procedures addresses procedures following a disqualification from EFU, Non-EFU, Wildlife Habitat, and all Forestland assessment programs.

## Summary

This manual is designed to help you interpret the statutes in a uniform, consistent manner. Additional charts and information have been included in the Appendix as a quick reference to assist in understanding qualification, valuation, and disqualification procedures. While processing farm properties can be accomplished in mass, some properties may need to be considered on their individual merits.

# Qualification

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## Introduction

Exclusive farm use (EFU) zoned land qualifies for “farm use” special assessment provided the owner maintains an acceptable farm practice with the intent to make a profit as defined by ORS 308A.056. Landowners do not need to apply for land to be qualified and assessed as farm use.

Exclusive Farm Use zones are regulated by zoning and planning statutes and local zoning ordinances. Allowable and conditional uses in an EFU zone are defined in ORS 215.213 or 215.283.

Non-Exclusive Farm Use (Non-EFU) land must also maintain an acceptable farm practice with the intent to make a profit as defined by ORS 308A.056. Additionally, Non-EFU landowners must file an application with the county assessor in the first year the property qualifies for special assessment. Each year after the initial application, the farm operation must meet minimum gross income requirements by responding to the assessor’s request for an income questionnaire. As part of meeting the gross income requirements of an application or questionnaire, land owners should be informed that they must file a Schedule F or other appropriate income tax reporting annually for their farm operation as specified in ORS 308A.071(3) and (4).

Non-EFU special assessment can be in any zone, except EFU zones. Parcels of land in zones other than EFU often have a mix of uses such as residential subdivisions, forestland, commercial, or industrial.

EFU or Non-EFU land identified with an approved measure 37 claim are not necessarily restricted to current planning or zoning ordinances depending on the terms of the measure 37 claim. The terms of the approved measure 37 claim override or waive any land use regulations that the land would otherwise be subject to without necessarily changing the zone.

Some EFU or Non-EFU parcels may have a mix of special assessments. For example, a portion may be in forestland or wildlife habitat special assessment, while other land area portions may be assessed based on market value. **Only the land area that is actively farmed as specified in ORS 308A.056(1) and (2), or land identified for current employment for farm use under ORS 308A.056(3) qualifies for farm use.** EFU wasteland qualifies for farm use special assessment under ORS 308A.056(3) and Non-EFU wasteland may qualify for farm use special assessment by a special annual application under ORS 308A.074. Each portion of a parcel is identified for its qualifying land uses. While a parcel or tax account may be assessed under

several different special assessments or exemptions at the same time, no area within the parcel or tax account may have more than one special assessment or exemption on the same land at the same time.

EFU and Non-EFU homesites used in conjunction with a farm operation may qualify for a separate special assessment under ORS 308A.250 to 308A.259. By definition under ORS 308A.253, the homesite is defined as only the land area under the dwelling and domestic onsite improvements. The homesite dwelling, even though it is used for farming purposes, is assessed based on real market value. Few Non-EFU homesites receive special assessment because of strict qualification requirements of ORS 308A.253(3).

Real property improvements such as dwellings, farm buildings, farm processing equipment, automatic feeders, and irrigation equipment do not qualify for special assessment and are assessed based on their real market value.

Personal property improvements such as farm machinery, farm equipment, irrigation equipment, crops, and livestock are exempt from property taxation.

In summary, only land can qualify for “farm use” special assessment. Only qualified homesites used in conjunction with specially assessed farmland receive “homesite special assessment.” Qualified farm use land and qualified homesites are valued separately and differently. A parcel can have portions that are under farm use special assessment with different portions of the same parcel under a different special assessment, portions of the same parcel not under special assessment can be assessed based on market value, or portions may be exempt from property taxes.

## Farm Use

### Farm Use Defined (ORS 308A.056(1))

Oregon Revised Statute 308A.056(1) defines “farm use” in part, as follows:

**“Farm use” means the current employment of land for the primary purpose of obtaining a profit in money by:**

- Raising, harvesting, and selling crops;
- Feeding, breeding, management, and sale of, or the production of, livestock, poultry, fur-bearing animals, or honeybees;
- Dairying and selling dairy products;
- Stabling or training equines;



- Breeding, raising, kenneling, or training greyhounds;
- Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species allowed by rules adopted by the State Fish and Wildlife Commission;
- On-site construction and maintenance of equipment and facilities used for qualifying farm activities.
- Preparation, storage, and disposal by marketing or otherwise, of the products or by-products raised on such land for human or animal use;
- Any other agricultural or horticultural use, animal husbandry, or any combination thereof; or
- Growing cultured Christmas trees and hybrid hardwoods (cottonwoods) on cropland under intensive cultivation.
- Land under farm related buildings and certain farm processing facilities in EFU zones.

Note: Does not include the homesite area. Qualified farm homesites are not assessed using land class tables. Homesites receive a different type of special assessment.

- Water impoundments lying in or adjacent to and in common ownership with the farm-use land;
- Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the land specially valued for farm use;
- Land lying idle for no more than a year due to the illness of the farmer or member of the farmers immediate family; (See OAR 150-308A.056)
- Land used to grow certain cottonwood timber described under ORS 321.267(3) or 321.824(3);
- Land used to breed, raise, kennel or train greyhounds for racing.

### **Additional Qualifying Uses defined as “Current Employment” (ORS 308A.056(3))**

Current employment activities identified under ORS 308A.056(3) qualify for “farm use” even if the land is not used with the intent to make a profit from agricultural production as required by ORS 308A.056(1). Also, as specified in ORS 308A.071(2)(b), land qualifying for current employment under ORS 308A.056(3) is not tested for Non-EFU income requirements. Land that meets the definition of current employment receives farm use special assessment the same as any other farmland using the appropriate value classification under ORS 308A.107 as if the land was employed for its highest and best farm use.

#### **As specified in ORS 308A.056(3) land is currently employed for “farm use” if the land is:**

- Farmland subject to any farm-related government program;
- Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- Land planted in orchards, cultured Christmas trees or other perennials prior to maturity; (See also Non-EFU Applications) (See ORS 308A.056(4) for Christmas tree growing requirements) (See addenda for “List of Perennial Crops and First Year They Should Meet Requirements”);
- Wasteland in an EFU zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to, and in common ownership with the farm-use land;

Note: Non-EFU wasteland requires an annual application as specified in ORS 308A.074.

### **Additional Discussion of “farm use” definitions under ORS 308A.056(1) and (3).**

#### **Intent for Profit**

The Oregon tax court in *Everhart*, provides in-depth information for the interpretation of intent for profit when qualifying land for farm use special assessment. Following are some of the main points of the *Everhart* case:

“Farm use is not required to actually result in a money profit. Undoubtedly, the legislature recognized the risks of farming. It has not imposed any specific income requirements for land in an EFU zone. It merely requires that the person engage in farm activities with the primary purpose of obtaining a profit. It is also clear that the legislature viewed bona fide farms as those farms that produced products or crops sold in the open market. Small operations such as raising chickens for family use or a few pigs to trade with a neighbor for some other product or service do not qualify. The legislature’s intent is to grant the special assessment to farmers who exchange their crops for “money.”

The court further stated that “the context in which the word profit is used indicates that the legislature was concerned with measurable direct expenditures and income from the use of the land. Indirect profits, such as savings on family food budgets, and indirect expenses, such as invested capital, are excluded from consideration”.

*Everhart v. Dept. of Rev., TC No. 4380 WL 1062132 (Nov. 17, 1999).*



## Stabling or training equines

Farm use includes the stabling and training of equines (horses) for profit under ORS 308A.056(1)(d). Stabling connotes the presence of a building, stall or structure that provides shelter or housing for horses. Boarding (or care) involves the giving of some level of care for horses, such as food or supervision. If the boarding care involved shelter or housing it can qualify for farm use. The use of land by an operator that is in the business of pasturing of others' pleasure horses for profit qualifies as the feeding of livestock under ORS 308A.056(1)(b). The personal use of land primarily for pleasure horses does not qualify for farm use, although some incidental personal use for pleasure horses is allowable on land that qualifies for farm use.

Note: The breeding and selling of horses qualifies under ORS 308A.056(1)(b) the same as cattle or any other livestock operation when there is intent for profit.

## Land lying fallow

For land lying idle use the "farm use" land classification tables that would be appropriate for the land as if the land were in "farm use" production. Follow land is currently employed in a farm use if it is "lying fallow for one year as a normal and regular requirement of good agricultural husbandry." ORS 308A.056(3)(b).

"Letting land lie fallow is not an excuse, but a decision to be made before not after the fact".

Jenkins v. Dept. of Rev., TC No. 3544, WL 468070 at \*2 (Aug 24, 1994).

See also Meyer v. Wasco Co. Magistrate case TC-MD 050682E dated 1-17-06

## Land under Processing Facilities in EFU zones—ORS 308A.056, 215.213, and 215.283

Land under processing facilities in EFU zones qualifies for farm use special assessment if the facility for the processing of farm crops is **located on a farm operation** and at least one-quarter of the farm crops are processed at the facility. To receive farm use special assessment for the land under the facility **each building established for the facility must not exceed a total of 10,000 square feet of processing floor area** exclusive of the floor area designated for preparation, storage, or other farm use.

(See OAR 150-307.394 for a definition of farm processing)

Example 1: A facility that has five buildings can have up to 50,000 square feet of processing area provided any one building does not exceed 10,000 square feet of processing area. Once the process-

ing area has been qualified the land under the entire processing facility qualifies for farm use special assessment.

Example 2: The above five-building facility has one building with multiple floors. It is a gravity operation with a 2,000-square-foot processing area on the upper floor, 5,000 square feet on the main floor, and 5,000 square feet in the basement. This building exceeds 10,000 square feet of processing area, so the entire five-building processing facility will be denied or disqualified.

The 10,000 square foot measurement for each building applies only to the processing area(s) within the building. Any processing that occurs outside a building is not included in the 10,000 square foot measurement. Once it is determined the processing area meets the 10,000 square foot measurement per building, then the land under the entire processing facility qualifies. Generally, this can be broken down into three areas as follows:

1. Any land under supporting buildings or structures associated with the processing area such as maintenance, office, cold storage, warehousing, shipping and receiving areas also qualify for farm use special assessment if the processing facility continues to qualify.
2. Any land area necessary for the functional operation of the processing facility such as parking, loading, or storage areas also qualifies for farm use special assessment as long as the processing facility continues to qualify.
3. Land under any non-farm areas such as public tasting rooms and retail sales or non-farm buildings not used in conjunction with the processing facility will not receive farm use special assessment.

For land under processing facilities, use the farm use land classification tables that would be appropriate for the land as if the land were in "farm use" production.

## Land under buildings supporting accepted farm practices (ORS 308A.056(3)(f))

Land under farm related buildings such as barns, machine sheds, general or special purpose buildings, etc., qualify for EFU or Non-EFU special assessment if the buildings are used to support accepted farming practices of the farm unit receiving special assessment. Land under farm related buildings shall include the area around the buildings for access and parking, which is a necessary function for the farm operation.

For land under buildings supporting accepted farm practices, use the "farm use" land classification tables

that would be appropriate for the land as if the land were in “farm use” production.

### **Woodlots (apply to both eastern and western Oregon)**

No application is necessary to assess up to a maximum of 20 woodlot acres for “farm use” under ORS 308A.056(3) current employment statutes. Any acres EFU or Non-EFU that meet the following criteria may qualify:

The woodlot must be contiguous to the acres receiving farm use special assessment and the woodlot must also be owned by the owner of the contiguous land specially assessed for farm use. For purposes of ownership, all owners of the farm unit are considered to be the owner.

A maximum of 20 acres of woodlot is allowed per farm unit. The 20 woodlot acres can be comprised of one woodlot or may be in several different locations and parcels miles apart as long as the woodlot acres are on the owners land and are contiguous to land being specially assessed for farm use.

Any land constituting a woodlot that meets the above criteria may qualify.

No definition exists to define the type and volume of wood necessary to identify land qualifying for woodlot. As long as the land has potential useful wood volume up to 20 acres per farm unit can qualify. Woodlot acres may have sufficient stocking to qualify for “Forestland” special assessment, but if the owner chooses to have the land specially assessed as a farm woodlot they may do so and receive up to 20 acres as farm woodlot.

For woodlots use the “farm use” land classification tables that would be appropriate for the land as if the land were in “farm use” production.

### **Accepted Farming Practice (ORS 308A.056(4)(a))**

The farming activity needs to be in accordance with an “accepted farming practice,” which means the farming is conducted in a “mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.” This definition not only defines what would qualify for “farm use,” but is also basic to the Income Approach when analyzing land classification tables for their “highest and best use.” The highest and best use for land use classification tables needs to represent what would qualify for “farm use” special assessment.

(See ORS 308A.056(1) for a definition of qualifying “farm use” activities).

“Accepted farming practice” varies widely depending on the farming activity being conducted and geographical differences. An excellent source of information is the county’s Oregon State University Extension Service.

## **Zoning and Planning Statutes**

Zoning and planning statutes regulate land use. They are not property tax assessment statutes. While there may occasionally be similarities between zoning and planning land use laws, do not use these statutes to regulate property tax assessment. Always process the qualification of the land under Chapter 308A special assessment statutes. If the zoning or planning statute instructs you to disqualify land that is currently qualified, then process the account under Chapter 308A disqualification procedures.

The following planning statutes regulate rural land uses:

### **Zoning ordinances establishing exclusive farm use zones and definitions (ORS 215.203)**

This statute defines “farm use” for the purposes of regulating farm use activities within an exclusive farm use zone. The statutory language is very similar to the “farm use” definitions of ORS 308A.056. Historically, ORS 215.203 defined “farm use” to qualify land for farm use special assessment. This caused confusion, because property tax statutes and planning statutes are often different. In 1999 when the farm use special assessment statutes were reorganized, the definition of “farm use” for special assessment purposes moved to its own statute under ORS 308A.056. Beginning with the 1999 reorganization, ORS 215.203 “farm use” language can no longer be used to qualify land for special assessment, instead ORS 215.203 is only used to identify farm uses for zoning and planning purposes.

### **Permitted uses in an exclusive farm use zone (ORS 215.213 & 215.283)**

Both ORS 215.213 and 215.283 regulate uses that are permitted in an exclusive farm use zone. Originally, ORS 215.283 was the primary statute to regulate exclusive farm use zones. In the 1980s, planning concepts were developed to regulate “marginal lands.” For counties that adopted marginal land concepts, ORS 215.213 was created to allow changes for marginal lands. Counties that did not adopt marginal land concepts remained under ORS 215.283.

The first paragraph (ORS 215.213(1) and 215.283(1)) identifies land uses that may be established in any area zoned for exclusive farm use. The second paragraph (ORS 215.213(2) and 215.283(2)) identifies non-

farm uses that require approval from a local governing body or its designee.

A zone not in compliance with these permitted or conditional uses may have to be specially assessed as a Non-EFU zone. If you are uncertain whether a zone qualifies as EFU, it is recommended you contact your local planning office and carefully review the details of the zoning ordinance with ORS 215.213 if your county has adopted marginal lands or ORS 215.283 if your county is a non-marginal lands county.

### **Non-farm dwelling in an exclusive farm use zone (ORS 215.236)**

This statute only applies to land in EFU zones. It is a very complex statute that affects the qualification of land for EFU farm use, forestland, open space, and wildlife habitat special assessment programs.

When an owner of the land obtains a permit to construct a “non-farm dwelling” from the local planning department, then under ORS 215.236(4), the lot or parcel where the dwelling will be located is required to be disqualified and additional taxes paid prior to final approval of the non-farm dwelling land use application for any land under EFU farm use, forestland, and open space special assessment programs. A lot or parcel disqualified from one of these special assessments listed in ORS 215.236(4) must remain disqualified from special assessment unless it can meet the requirements of ORS 215.236(5) or 215.236(6).

#### **ORS 215.236(5) (Requalification Statute)**

To satisfy ORS 215.236(5) the local planning department will combine a contiguous lot or parcel with the parcel subject to ORS 215.236 into one legal parcel. The acquisition of a lot line adjustment is a portion of a parcel and will not meet the requirements of ORS 215.236(5). An entire lot or parcel must be combined. When two parcels are combined to satisfy ORS 215.236(5) it is not necessary for the newly combined lot or parcel to meet or exceed farm-related dwelling requirements such as the minimum zoning parcel size requirements. ORS 215.236(5) only requires the combining of contiguous parcels to requalify the land for EFU farm use or other special assessments.

Sometimes the dwelling parcel will be partitioned from a larger parcel so it is important to identify the lot or parcel the dwelling will be located on. Only the lot or parcel the dwelling is physically located on will be subject to the requirements of ORS 215.236. Any contiguous parcels not subject to ORS 215.236 may continue to receive EFU farm use or other types of special assessment.

#### **ORS 215.236(6) (Only applies in counties that allow WLH)**

If land is already in Wildlife Habitat (WLH) special assessment at the time an owner applies for a non-farm dwelling the special assessment restrictions of ORS 215.236 do not apply. WLH land that is later disqualified will be subject to ORS 215.236(5).

The special assessment restrictions of ORS 215.236 only apply to the special assessment programs identified under ORS 215.236(4). As specified in ORS 215.236(6) land that has been disqualified under ORS 215.236(4) may qualify for wildlife habitat special assessment without having to meet the combining of land requirements of ORS 215.236(5).

After the land has been disqualified and any additional taxes paid under ORS 215.236(4) the land may requalify for wildlife habitat special assessment under ORS 215.236(6), provided the county allows wildlife habitat special assessment. If the land requalifies under ORS 215.236(6) for wildlife habitat special assessment, the account will be subject to ORS 308A.724(4). ORS 308A.724(4) specifies any wildlife habitat special assessment land that was previously subject to ORS 215.236(5) may not apply for a different special assessment without first satisfying the requirements of ORS 215.236(5).

(See Disqualification section of this manual for the disqualification criteria of ORS 215.236.)

An owner of land cannot apply for Non-EFU farm use special assessment as long as the land remains located in an EFU zone. If the Urban Growth Boundary (UGB) changes, the zone will remain EFU until the city rezones it. EFU land within a UGB is subject to ORS 215.236.

Any land that a city or county governing body changes under ORS 308A.709(6) or owner-initiated change to other than an EFU zone is no longer subject to ORS 215.236 and may requalify for special assessment upon meeting special assessment requirements the same as any other land newly qualifying.

ORS 215.236 is a very strict statute that may leave the land disqualified from special assessment indefinitely until the requalification requirements of ORS 215.236(5) are satisfied. Often, owners continue to farm the land or engage in forest practices for years on land that is subject to ORS 215.236 that would otherwise meet farm use or forest use special assessment qualification requirements. There is no time limit.

#### **Land Zoned for Urban Uses (ORS 197.754)**

A local government may identify land inside an urban growth boundary for which the local government



intends to provide urban services within the next five to seven years.

Upon adopting a capital improvement plan the governing body may zone the area for urban uses.

On the date the zone for urban uses is established the Assessor must no longer qualify any more land under EFU or Non-EFU special assessment. Since this is a zone change existing EFU land must be disqualified under ORS 308A.113 and may be requalified as Non-EFU special assessment under ORS 308A.077. Following the change in special assessment under ORS 308A.706(1)(d) as specified in ORS 308A.724 the owners will have five years to meet the use requirements of ORS 308A.068 and income requirements of ORS 308A.071.

Any land that ceases to be used for farm use following the date the area is zoned for urban uses may not requalify for EFU or Non-EFU special assessment as long as the land continues to be zoned for urban uses. Any land that has statutory requalification special provisions such as ORS 308A.089 Non-EFU income disqualifications may requalify if the land was in farm use special assessment at the time the area was zoned for urban uses. Disqualified land may not qualify for farm use special assessment (rollover) from a different special assessment listed in ORS 308A.706(1)(d) if the land was not in farm use special assessment at the time the land was zoned for urban uses.

(See also Disqualification and Additional Tax sections of this farm manual.)

## Farmland Qualification

It is important to make a distinction between qualified farmland and land that does not qualify for farm use. In a parcel of land, only the area of land that meets the farm use qualification requirements will qualify for farm use special assessment. So there may be areas within a parcel that are being farmed, but are not in a qualifying farm use special assessment such as Non-EFU land that is being developed for farm use in phases. At the time of application for Non-EFU, some of the land may have a three-year farm use history while other portions have just been put to farm use within the last year or two and will need an additional application when the land use can meet the minimum three of five year gross income test. There may also be land areas that are lying idle while other land areas are in production and under farm use special assessment. Portions that do not qualify for farm use special assessment or a different special assessment or exemption, will be assessed based on market value unless the law specifies otherwise.

Any qualified farm use land located in an exclusive farm use zone (EFU) must be assessed following EFU

statutory criteria. Any qualified farm use land in all other zones must be assessed following Non-Exclusive Farm Use (Non-EFU) statutory criteria.

(See also the "Introduction" of this manual for interpreting EFU and Non-EFU statutory criteria).

### Farmland within an EFU zone (ORS 308A.062)

No application is required to qualify and assess land for farm use special assessment in an EFU zone when the owner is using the land exclusively for "**farm use**" with the intent to make a profit as defined and specified in ORS 308A.056. Exclusive use does not mean only use. Incidental non-farm uses are allowed provided the non-farm uses do not interfere or preclude the land from meeting farm use requirements. If incidental uses become the predominant use of the land, the land or any portion may be subject to disqualification.

Qualification for special assessment is determined as of the January 1 assessment date. Land beginning a qualifying farm use on January 1 or later of an assessment year will be qualified in the next assessment year provided the land continues in a qualifying "**farm use**." Each acre of land in a tax account is reviewed for qualification. Any acres not being used for farm use defined under ORS 308A.056 will not be included in farm use special assessment.

The statutes do not have a provision for the owner to request disqualification of EFU land from farm use special assessment when the owner is using the land for "**farm use**" with the intent to make a profit. If the assessor discovers EFU land being used for a qualifying "**farm use**" with the intent to make a profit, the land must be placed under EFU farmland special assessment, unless otherwise required by statute.

### Non-EFU Farmland (ORS 308A.068)

Non-EFU land requires an application under ORS 308A.077 and must meet the same ORS 308A.056 "farm use" criteria as EFU farmland. In addition, non-EFU land must meet minimum income requirements of ORS 308A.071. Qualification for special assessment is determined as of the January 1 assessment date. Once qualified, Non-EFU land is valued at its value for farm use in accordance with ORS 308A.107 using the same valuation tables and land classification system as EFU land. Each acre of land in an application is identified by tax account and is reviewed for qualification. Any acres not being used for a qualifying farm use will not be included in farm use special assessment.

# Non-EFU Income Requirements

## Non-EFU minimum income requirements (ORS 308A.071(2)(a))

Farmland is not used exclusively for farm use unless in three out of the five non-flood and non-drought calendar years immediately preceding the January 1 assessment date the farmland was operated as a part of a farm unit that has produced a gross income from farm uses in the amount applicable to the following unit sizes:

- Farm unit of **6 1/2 acres or less.**  
—Gross farm income shall be at least \$650.
- Farm unit of **more than 6 1/2 acres, but less than 30 acres.**  
—Gross farm income shall be at least equal to the product of \$100 multiplied by the number of acres and any fraction of an acre of land included.  
Example: 25.83 acres x \$100 = \$2,583 minimum required gross farm income.
- Farm unit of **30 acres or more.**  
—Gross farm income shall be at least \$3,000.

OAR 150-308A.059(1) defines a farm unit as a farming enterprise, which includes all parcels being farmed by a single operator, whether the operator owns or leases the farmland. The land in a farm unit is not required to be contiguous and may be located anywhere in Oregon.

Non-Flood and Non-Drought years need to meet the criteria of ORS 308A.071(6). The landowner needs to skip over any years that meet the criteria of ORS 308A.071(6) and still report five full calendar years of farm income. Each year is determined separately. Income cannot be carried over or averaged with other years.

As part of meeting the gross income requirements, land owners should be informed they must annually file a Schedule “F” or other appropriate income tax reporting for their farm operation. (ORS 308A.071(3) and (4))

### Determining the Required Gross Income

To arrive at the number of acres for purposes of determining the required gross farm income amount, the acres devoted to farm uses under ORS 308A.056(1) are subject to the income test.

(See “Farm Use Defined (ORS 308A.056(1))” in this section of the manual for a list of qualifying farm uses).

To arrive at the number of acres for purposes of determining the required gross farm income amount, ORS 308A.071(2)(b) requires any acres devoted to “current employment” under ORS 308A.056(3) and the land, not exceeding 1 acre, used as a homestead shall not be included in the income test.

(See Additional Qualifying Uses defined as “Current Employment” (ORS 308A.056(3) in this section of the manual for a list of qualifying current employment uses).

Example: A 100-acre parcel with a 1-acre homesite has 20 acres in woodlot, 50 acres in forestland, 20 acres in cropland, and the rest is wasteland. The income requirement is \$2,000 for the 20 acres identified as cropland under ORS 308A.056(1). All of the other acres are excluded from the acres subject to income testing for the following reasons:

The Non-EFU homesite is specifically excluded from acres subject to the income test under ORS 308A.071(2)(b). The Non-EFU homesite may qualify for homesite special assessment by separate application if the owner can meet the qualification requirements of ORS 308A.253.

The 20-acre woodlot is currently employed under ORS 308A.056(3). Any land currently employed under ORS 308A.056(3) is specifically excluded as specified in ORS 308A.071(2)(b).

The 50 acres of forestland is a different special assessment and is specifically excluded from farm use under ORS 308A.056(2).

Non-EFU wasteland may qualify for farm use special assessment only by separate application under ORS 308A.074 and is not included in the number of acres to be tested for farm use income.

(For more examples, see “Additional Examples of Income Requirements” in this section of the manual).

### Reviewing the Reported Income

To determine the required gross income amount, use \$100 per acre, but once the required income amount has been determined, it is not required that each acre must produce \$100. To maintain qualification for farm use, all acres are required to produce farm income. Some acres may be marginal and produce much less than \$100; while it is possible that 1 acre may produce all of the required gross income. **All that is required is that the total income from the “farm unit” produces at least the required gross income amount.** (See OAR 150-308A.059 for definition of “farm unit”).

The farm income that can be used to satisfy the required gross income must come from farm production or acceptable farm use activities.

Farm production is the use of the farm land to produce income from the sale of farm products or farm by-products.

Farm use activities may include, but is not limited to, farm related service income such as stud fees, bee pollination, stabling, or training horses.

**For purposes of testing, the following types of income is not farm income:**

1. Income from the sale of wood products from the farm woodlot.
2. Income from the sale of harvested forest products.

Note: Christmas trees are a farm product and the income from these trees qualify as farm income. Income from the sale of forest products grown in a farm nursery operation qualify as farm income from the sale of nursery stock.

3. Government payments are not income produced from the sale of farm products.

These are often payments to subsidize farm income or may be payments not to grow certain farm crops. Land in farm related government programs qualify for "current employment" under ORS 308A.056(3) and these acres are not included in the required gross income test.

Any income from actual farm production or farm use activities on land receiving government payments or in a farm related government program can be used as part of the income for the "farm unit." Just the government payments cannot be used to satisfy the required gross income test.

4. Custom hiring such as leasing out farm equipment or income from custom farm labor does not qualify as income from farm use activities. These are incomes received for services and not from the production of the farmland being qualified.
5. Any farm income not from the production of the farmland of the farm unit being tested.

**Testing of Non-EFU land owned separately (ORS 308A.071(2)(c))**

**Farm unit** means a farming enterprise which includes all parcels being farmed by a single operator, whether the operator owns or leases the farmland. (OAR 150-308A.059)

The assessor shall consider the "farm use" of the land by the owner, renter or operator together with any other lands that are a part of one farming unit being operated by such owner, renter or operator (ORS 308A.059). The land in a farm unit is not required to be contiguous and may be located anywhere in Oregon.

**Farm parcel** means the contiguous land under the same ownership whether it is assessed as one or more than one tax lot (ORS 308A.071(7)(a)).

**Net share crop rental** is the value of any crop or farm product the landowner receives for the payment of leasing or renting land for farm use production. This value is further reduced for any expenses the land owner may have incurred as part of farm production cost associated with the crop or farm product received for land payment. The resulting net value of the farm crop or farm product share is a net return to the land for farm use production.

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 following gross income requirements must be met (ORS 308A.071(2)(c)):

**Example:** A farm unit is 100 acres, which includes a 20-acre parcel owned separately that is leased or rented. To test the 20-acre parcel, ORS 308A.071(2)(c) requires a two-part test.

**Test 1:** ORS 308A.071(2)(c) first requires the 20-acre parcel to be tested under ORS 308A.071(2)(a). ORS 308A.071(2)(a) provides instructions to test the parcel as part of a farm unit. The farm unit of 100 acres is required to produce at least \$3,000 gross farm income in three of the five preceding calendar years.

**Test 2:** ORS 308A.071(2)(c) states that, "in addition," the gross income from farm use of the 20-acre parcel owned separately must be at least one of the following:

(A) One-half of the gross income requirement for ORS 308A.071(1)(a):

$$20 \text{ acres} \times \$100 / 2 = \$1,000$$

This is satisfied by the 100-acre farm operator being able to demonstrate that he or she produces at least \$1,000 gross farm income from farming the 20 acres being tested.

No farm income for the remainder of the 100 acre farm unit can be used to qualify the 20-acre parcel for Test 2.

(B) One quarter of the gross income requirement for ORS 308A.071(1)(a) in cash or net crop share rent.  $20 \text{ acres} \times \$100 / 4 = \$500$ .

This is satisfied by the 100-acre farm operator paying the landowner of the 20-acre parcel \$500 in cash rent for the calendar year being tested. Or it may be satisfied by the owner of the 20-acre parcel receiving a portion of the farm income produced on the 20 acres, which is commonly called a crop share. The crop share pay-



ment is from the land owner's share of the sale of crops or cattle, or any other qualifying farm use income produced on the 20 acres being tested. Any farming expenses incurred by the 20-acre landowner must be deducted to arrive at a net income of \$500 attributable to the 20 acres under production.

See OAR 150-308A.071 for additional examples of income requirements.

### **Income from consumed products— ORS 308A.071 and OAR 150-308A.071**

1. The value of **products consumed by the owner personally or in the farm operation shall constitute no more than 49 percent of the required gross income.** The farm value of any crop or livestock (less cost of livestock) used by the owner or in the farming operation is the amount of money the crop or livestock would have sold for in normal marketing conditions.
2. **In determining gross income from livestock, the purchase cost must be deducted from the gross sales price.**
3. **The burden of proving "farm income" under ORS 308A.071 is upon the owner or person claiming special assessment.** Failure to provide income information may result in disqualification under ORS 308A.116.

## **Non-EFU Applications**

### **"Non-EFU Wasteland" application requirements (ORS 308A.074)**

**Wasteland, dry or covered with water, lying in or adjacent to and in common ownership with farmland shall be specially assessed at "farm use" value under ORS 308A.068, if the farmland was operated as part of a farm unit that produced over one half of the adjusted gross income of the owner or owners, in the year prior to the year an application is filed under ORS 308A.074. If both husband and wife are common owners of the farmland, their total personal income must be considered. A new application must be filed by April 15 each year that such assessment is desired.**

(EFU wasteland does not require an application, see ORS 308A.056(3) for EFU wasteland).

### **"Non-EFU Farmland" application requirements (ORS 308A.077)**

ORS 308A.077 requires that any owner of farmland seeking to qualify for Non-EFU farm use special

assessment under ORS 308A.068 must make application to the assessor on or before April 1 preceding the first year in which such assessment is desired.

The application shall be on forms the Department of Revenue prepares and the assessor supplies.

One of the following may sign the application :

- a. The owner in fee simple or for life.
- b. Any one of tenants in common or tenants by the entirety in fee simple or for life.
- c. Any person of legal age, authorized in writing to sign an application on behalf of any person described in "a" or "b."
- 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.

### **"Acquired Non-EFU Farmland as Part of a Farming Unit" application requirements (ORS 308A.080)**

**ORS 308A.080 applies to the acquisition of Non-EFU farmland by farm units having any combination of EFU or Non-EFU land.**

Upon application under ORS 308A.077, acquired Non-EFU land shall be valued at farm use values if all of the following criteria are met:

1. Acquired land is **put into farm use immediately upon acquisition.** The newly acquired land must be put to a qualifying farm use in a timely manner consistent with accepted farming practices.

Example: For cropland or any other farm practices that are seasonal, if the land is acquired after the season has begun and there is not a growing crop, it is recommended to require immediate farm use in the next available season.

2. Acquired land is **operated as part of the total farming unit** with the original land. The original land does not have to be contiguous with the Non-EFU land being acquired. (See OAR 150-308A.059 for definition of a "farm unit.")
3. Acquired land owner **must file an application on or before April 1** preceding the first year special farm use assessment is desired. This can be any number of years beyond the date of acquisition, provided the land was immediately put into farm use upon acquisition. The first year the acquired property may be eligible for special assessment is the calendar year following acquisition. Any land acquired January 1 or later must wait until

April 1 of the next calendar year. (See OAR 150-308A.080)

4. The purchaser of the acquired land owns the original land.
5. Original land is in farm use.
6. Original land is specially **assessed as EFU or Non-EFU under ORS 308A.107**.
7. Original land **produced gross income of at least \$10,000** in the calendar year prior to acquisition.

Non-EFU land acquired under ORS 308A.080 that qualifies for farm use special assessment shall be added to and treated as part of the entire farming unit upon acquisition for purposes of meeting the gross income requirements of ORS 308A.071.

### Reviewing Non-EFU Applications

Reviewing applications for Non-EFU farmland requires a careful review of the application to determine which tax year the land first qualifies. Upon review of the history of the account the land may qualify in the current tax year or portions of the application may have to wait until the land can meet minimum farm use and/or income requirements. If the land is involved in a change of special assessment under ORS 308A.706(1)(d) roll over provisions the land will qualify immediately and the owner will have five years to meet minimum farm use and income requirements as specified in ORS 308A.724.

The following discussion provides information to determine qualification criteria under varying circumstances. (See also "Requalification" in this section of the manual)

**New Applications:** New applications must meet both the "farm use" requirements of ORS 308A.068(1) and the "farm income" requirements of ORS 308A.071 as follows:

**"Farm use"** requirements: ORS 308A.068(1) requires new applications of land to demonstrate current farm use at the time of application, and farm use for the immediate two years preceding the year of application for each acre under application.

**"Farm Income"** requirements: ORS 308A.071 specifies at the time of application the farm unit must meet minimum farm use income requirements for three of the five immediate preceding non-flood, non-drought years. This is commonly called the "farm income test."

(See ORS 308A.071 in this section for more information).

Non-EFU land under a new application takes at least two years if the land use is part of a farm unit within the past five non-flood, non-drought calendar years and will likely require three years if the land is not part of an existing farm unit.

**Example of two years to qualify:** Sometimes land may have been disqualified from farm use within the preceding five years. At the time of application if the owner can prove qualifying income history within the preceding five years, it is possible to meet the three of five year income test and have an application approved with just the preceding two years "farm use" requirement of ORS 308A.068(1).

**Example of three years or more to qualify:** Non-EFU land that has not been farmed in the past five years or more will need to be farmed at least three years before it can meet the three of five year "farm income" test. The "farm use" requirement for current use and two preceding years of "farm use" as specified in ORS 308A.068 will also need to be met at the time the application is submitted.

Each acre of land under application is reviewed for farm use. Farm use activities may change from year to year so the acres in use on an application may need to be qualified separately.

#### **Acres requiring a separate application:**

Sometimes, an owner may already have a portion of his or her land in Non-EFU special assessment and subsequently decides to clear additional land that has not been recently farmed. The cleared land will require a separate application and because this land has not been farmed in the past five years, it will take at least three years to meet both the "farm use" and "farm income" requirements.

When reviewing a new application, it may be discovered that not all of the acres under the application have been used for "farm use" for at least the two preceding years. The acres that can meet both "farm use" and "farm income" will qualify. Those acres that do not meet either the "farm use" or "farm income" requirements will require a separate application at a future date when both the "farm use" and "farm income" requirements can be satisfied.

**Example:** An owner acquires land that has not been farmed for several years and begins developing the land into a vineyard in phases of 5 acres each year. After three years the owner submits an application with no farm use in prior years four and five. As specified in ORS 308A.056(3), all acres planted into vineyard will qualify as immature perennials three years after being planted. Immature perennials do not have to meet income requirements as specified in ORS 308A.071(2)(b).

The 5 acres that are three years old will qualify. The 5 acres that are two years old will qualify by separate application next year. The 5 acres that are one year old will qualify by separate application in two years. Any land that is planted in the current year will need to qualify by separate application in three years. Any land that has not been planted in the current year will require a minimum of three years following the year of planting. This is a good illustration why each acre needs to be reviewed separately for qualification.

When reviewing applications, often land uses may involve several different types of farm activities and some acres may have breaks in farm use or may have been used within the prior five years at the time of application. The important thing to remember is that each acre must be in a qualifying farm use under ORS 308A.056(1) or (3) for the two preceding years as required by ORS 308A.068(1) and must also meet the income requirements of ORS 308A.071. Any acres not qualifying may qualify by separate application when they can meet both the “farm use” and “farm income” requirements.

Note: These application requirements are for landowners who are submitting a timely April 1 application under ORS 308A.068, 308A.071 and 308A.077. If land has been disqualified from a different special assessment and is changing to Non-EFU special assessment under ORS 308A.706(1)(d) and ORS 308A.724(2) the qualification requirements for “farm use” and “farm income” are the same, but the owner has five years to meet them. (See ORS 308A.718 Disqualification, Notification Procedures in the addenda of this manual for additional information on change in special assessments.)

**(See “Non-EFU Income Requirements ” of this section for information when reviewing applications for compliance with ORS 308A.071 income requirements.)**

**Change in special assessment under ORS 308A.706(1)(d):** Following a disqualification, an owner may elect a “change in special assessment” and immediately qualify under ORS 308A.706(1)(d) to Non-EFU farm use special assessment and **will have up to five years to meet both the “farm use” and “farm income” requirements** as specified in ORS 308A.724.

Note: See ORS 308A.724 for application timelines for a change in special assessment following a disqualification. See also Disqualification Notification Procedures in the appendix for additional information on change in special assessments.

**Acquired Land under ORS 308A.080:** Newly acquired Non-EFU land can qualify for farm use

special assessment if an application is submitted by April 1 of any assessment year following acquisition. (See OAR 150.308A.080). The land under application must be immediately put into “farm use” following acquisition, but does not have to meet “farm income” requirements. The minimum \$10,000 gross income requirement for the existing farm unit will be used to meet the “farm income” requirement.

(See ORS 308A.080 in this section for additional information).

## Non-EFU “Gross Income Questionnaires”

The income requirements of ORS 308A.071 is required as part of the application for Non-EFU special assessment. In years following the year of application, the assessor is responsible to send “Gross Income Questionnaires” to assure the Non-EFU land under application continues to meet the “farm income” requirements of ORS 308A.071 meeting the same criteria as a new application.

The income questionnaire can also be used to verify the land continues in a qualifying “farm use,” but the two preceding years of farm use under ORS 308A.068(1) only applies for the initial application.

After initial application, continued “farm use” is required each year. However, because disqualifications are required to be timely, you may only use the current year or the entire prior calendar year to disqualify land no longer in farm use.

If the income questionnaire demonstrates any acres were not in a qualifying “farm use” in prior years two through five, you cannot disqualify for those years, but this may alert you to verify in future years that the land maintains a qualifying “farm use.”

If you discover land is no longer in farm use for the current year, it is recommended you notify the owner that he or she is in danger of losing the special assessment. If the owner continues to no longer use the land for the remainder of the current year, any portions of the land no longer in farm use should be timely disqualified in the next assessment year.

(See “Non-EFU Income Requirements” of this section for information when reviewing Gross Income Questionnaires for compliance with ORS 308A.071 income requirements.)



# Requalification

## Requalification Generally (ORS 308A.086(1) and (2))

ORS 308A.086 allows EFU or Non-EFU land that was previously in farm use special assessment to requalify provided the land can meet the EFU farm use requirements of ORS 308A.062, or in the case of Non-EFU, meet application requirements the same as any other land qualifying for Non-EFU special assessment under ORS 308A.068.

## Special requirements for requalification of EFU and Non-EFU land. (ORS 308A.086(3))

- **ORS 308A.086(3)(a) relating to non-farm dwellings in an EFU zone:** Any EFU land that is subject to non-farm dwelling restrictions of ORS 215.236 shall not requalify for farm use special assessment until the land is either no longer in an EFU zone or until the land owner combines the land with a contiguous parcel which satisfies ORS 215.236(5). (See disqualification section of this manual).
- **ORS 308A.086(3)(a) and (b) relating to compatible non use:** Any EFU or Non-EFU land previously disqualified that is lying idle or is not being used for a purpose incompatible with returning the land to a farm use is protected from collection of additional taxes under ORS 308A.706(1)(a). This land can requalify as long as there has not been a “changed of use” incompatible with returning the land back to farm use. If there has been a change in use incompatible with returning the land to farm use special assessment such as residential, commercial, industrial, or any other use incompatible with returning the land to farm use, then the protection under ORS 308A.706(1)(a) no longer applies and the account should be processed following the statutory instructions of ORS 308A.712(2). (See disqualification section of this manual).
- **ORS 308A.086(3)(b) relating to requalification of Non-EFU land under ORS 308A.089:** If Non-EFU land has been disqualified in the current year under ORS 308A.116(1)(c) for not meeting income requirements, it may requalify during the first year of disqualification under ORS 308A.089. If the land does not requalify for Non-EFU special assessment during the first year of disqualification, then it may requalify for Non-EFU special assessment in a future assessment and tax year as specified in ORS 308A.086(1) and (2). (See disqualification section of this manual).
- **ORS 308A.086(3)(b) relating to subdivisions on Non-EFU land:** When a subdivision plat is recorded on Non-EFU land, the land is required to be disqualified under ORS 308A.116(1)(d). The land

may requalify by meeting the requirements of ORS 308A.116(4). A new application under ORS 308A.077 is required to be submitted no later than April 1, so the timing of the subdivision recording and subsequent disqualification will determine which assessment year the land may requalify. It is recommended to be aware of this and to assist taxpayers to make the timeliest requalification.

- **ORS 308A.086(3)(b) relating to abatement for failure to meet Non-EFU income requirements:** Non-EFU land that has been disqualified under ORS 308A.116(1)(c) for failure to meet the income requirements of ORS 308A.071 may abate additional taxes provided the land is assessed based on market value and remains in limited farm use. For each year the land remains disqualified, but continues limited farm use practices, the oldest year of additional taxes will be abated. If during the abatement period, the land once again can meet the Non-EFU qualification requirements of ORS 308A.068 like any other land being qualified, the land may requalify as specified under ORS 308A.122. (See disqualification section of this manual).
- **ORS 308A.086(3)(c) relating to change in special assessment of EFU or Non-EFU land:** Following a disqualification from EFU or Non-EFU special assessment, or any other special assessment identified under ORS 308A.706(1)(d), the land owner may have an option to change to a different special assessment. This is a form of requalification into a different special assessment. (See disqualification section of this manual for timing and other information).

Note: Some disqualifications do not allow a change in special assessment under ORS 308A.706(1)(d). (See disqualification section of this manual).

## Exempt Farm Property

**Exempt agricultural products and equipment ORS 307.315, 307.320, 307.325 and 307.390 through 307.398 and OAR 150-307.394 and 150-307.397.**

Farm agricultural products, trees, shrub, plants, crops, fish, poultry, bi-valve mollusks (oysters), livestock, fir bearing animals, bees and vermiculture (worms) supplies and products defined in ORS 307.315 to 307.325 are exempt.

Farm machinery and equipment as defined in ORS 307.390 to 307.398 are exempt from property taxation:

- Farm machinery and equipment used **primarily:**
  - In the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm **crops**.

Per (OAR 150-307.394) machinery and equipment used to place a farm crop in storage are exempt from taxation. **However, once processing of the crop is begun, it is no longer a crop, but a product.**

Example: Apples are picked and go directly into cold storage. This would be considered “placing in storage of farm crops.” When these same apples are sorted, washed or boxed it becomes a product and placing it back into cold storage until sold is not considered “placing in storage of a farm crop.” At this point apples change from a crop to a product.

When the same machinery and equipment are used for both placing in storage a farm crop and processing a farm product, the primary use is what determines its assessment status.

Example: (OAR 150-307.394) An unlicensed farm vehicle is used 45 percent of the time to move cleaned, sorted, washed and bagged carrots ready for market (PRODUCT); 30 percent of the time to move freshly-picked carrots from the field to the warehouse or cold storage facility and sits idle 25 percent of the time. The vehicle is used primarily in a non-exempt status and is fully assessable, even though that use is not 50 percent or more of the time available.

—For the purpose of feeding, breeding, management and sale of or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products.

—In any other agricultural or horticultural use or animal husbandry or any combination thereof.

- Tools, machinery and equipment, owned by or in the possession or under the control of the taxpayer that are used by the taxpayer predominantly in the construction, reconstruction, maintenance, repair, support or operation of the farm machinery, equipment and other real and personal farm improvements.
- Center pivots, wheel lines, and movable set lines.
- Frost control systems. (For hoop houses as frost control systems see OAR 150-307.397.)
- Trellises used for hops, beans or fruit.
- Hop harvesting equipment.
- Oyster racks, trays, stakes and other in-water structures used to raise bivalve mollusks.
- Equipment used for the fresh shell egg industry that is directly related and reasonably necessary to produce, prepare, package and ship fresh shell eggs from the place of origin.

- Radio communications equipment, meteorological equipment and other personal property used in connection with the operation of the field burning smoke management program established under ORS 468A.555 to 468A.620 and 468A.992.

### **Exempt government farmland ORS 307.060 and 307.110**

Per ORS 307.060, leased real property of the United States held or occupied primarily for agricultural purposes under the authority of a federal wildlife conservation agency or held or occupied primarily for purposes of grazing livestock is exempt.

Per ORS 307.110(3)(b) real or personal property of this state or any institution or department thereof or of any county or city, town or other municipal corporation or political subdivision of this state leased to or rented by persons, other than sub-leases or sub-renters, for agricultural or grazing purposes and for other than a cash rental or a percentage of the crop is exempt. If the government agency charges a cash rent or receives a percentage of the crop then the land is assessable. If the use of the land meets farm use qualifications of ORS 308A.056, the land should be assessed at farm use values.

### **Homesites ORS 308A.253**

It is important to make a distinction between qualified homesites and homesites that do not qualify for homesite special assessment. Homesites that do not qualify for farm homesite special assessment are assessed based on market value the same as other rural lands as specified in OAR 150-308.205-(A).

“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 a dwelling. As specified in OAR 150-308A.250 “Homesite” 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.

A homesite may consist of more or less than one acre in size. The value of the homesite is the value of one acre of land regardless of the qualifying size of the homesite area. (See Valuation section)

EFU homesites used in conjunction with a farm operation do not require an application to qualify for special assessment under ORS 308A.253 and 308A.256.

Non-EFU homesites used in conjunction with a farm operation may qualify by annual application. To qualify the owner in the year prior to application must

obtain over one-half of their personal adjusted gross income from farming as specified in ORS 308A.253. If both husband and wife are owners of the land under the dwelling their total personal income must be considered. Due to the strict personal income requirements not many Non-EFU homesites qualify for homesite special assessment. Once qualified the homesite will be specially assessed the same as any other qualified homesite under ORS 308A.250 to 308A.259. To continue Non-EFU homesite qualification the owner will need to file a new application by April 15 each year homesite special assessment is desired.

Qualified homesites may be occupied by the farmer or anyone actively working the farm operation. Certain retired farmers may receive homesite special assessment provided they continue to meet the criteria under ORS 308A.253. Homesites that are vacant (including retired farmer homesites) continue to qualify as long as they are not rented or leased out for non-farm purposes. ORS 308A.259

Farm labor camps are not homesites. Any qualifying farm labor camp should be processed under ORS 307.480 to 307.510.

Picker cabins and other temporary farm worker shelters that do not qualify as farm labor camps or farm homesites may be considered farm related buildings as long as they are not rented or leased for non-farm purposes. The land under these facilities should be specially assessed under ORS 308A.107 according to their farm use productivity classification the same as any other farm related building.

## **Potential additional tax notation (ORS 308A.083)**

Once qualified the notation “potential additional tax liability” shall be entered on the assessment and tax roll until the property becomes disqualified for special assessment.

**Sometimes the notation will remain even if the land is no longer qualified. See Disqualification and Additional Tax sections for removal of the notation.**

## **Appeals—Magistrate Division**

An applicant may appeal an application that has been wholly or partially denied because the property failed to qualify for special assessment to the Magistrate Division of the Oregon Tax Court. A complaint filed with the Magistrate Division requires a filing fee of \$25. The appeal must be filed within 90 days of the knowledge of the denial, but not later than one year after the act. More information can be found in ORS 305.275, 305.280, 305.404 to 305.560, and 308A.718.

Complaints to the Magistrate Division should be mailed or delivered to the following addresses.

### **By mail:**

Oregon Tax Court,  
Magistrate Division  
1163 State Street  
Salem, OR 97301

### **In person:**

Clerk, Oregon Tax Court  
Magistrate Division  
1241 State Street NE  
Salem, OR 97310

Decisions of the Magistrate Division may be appealed to the Regular Division of the Oregon Tax Court within 60 days after the date of the decision.

## **Appeals—Oregon Department of Revenue**

When the county has denied an application due to late filing, the taxpayer may apply to the Department of Revenue for relief under ORS 307.475, the hardship statute. Petitions filed under the hardship statute may be filed through December 15 of the year in which the failure to apply timely for the special assessment occurred.

Petitions to the department should be mailed to:

Property Tax Division/Conference Unit  
Oregon Department of Revenue  
955 Center Street NE  
Salem, OR 97301-2555

If the department determines that the taxpayer had good and sufficient cause for not filing a timely application with the assessor, the department may send a written recommendation to the assessor to approve special assessment for any land that would qualify under the application.

If the department fails to find cause to issue a recommendation to the assessor, the petitioner may appeal the department’s order to the Magistrate Division within 90 days. The magistrate will review the case and determine whether the department abused its discretion when it declined to recommend the assessor accept the application.



# Valuation

## Introduction

Before 1963, assessments of Oregon farm properties were based on market data information that did not represent the sale of comparable property for comparable uses. ORS 308.345 (now under ORS 308A.092) was enacted to provide for the valuation of certain agricultural land to reflect value for farm use only.

The special assessment provided by ORS 308A.092 pertains to two categories of land:

1. Farm land located in an exclusive farm use zone. (EFU)
2. Farm land located outside an exclusive farm use zone, which is specially assessed because the owner's application for special assessment is approved. (Non-EFU)

Both categories of farmland must be primarily devoted to farm use as provided by ORS 308A.056 (farm use) to qualify for the special assessment.

If a farm is not within an exclusive farm use zone and the owner does not file an application for farm use assessment or qualify for another special assessment or exemption program, the appraisal, for assessment purposes, must be based on market value for highest and best use as provided by ORS 308.205 and 308.146.

## Farm Use Mass Appraisal Procedures

The basic procedure followed in the mass appraisal of properties that qualify for farm use special assessment is:

- Classify land and establish value zones under ORS 308A.107;
- Use an income approach under ORS 308A.092 to establish typical net incomes per acre for each land classification in each value zone;
- Capitalize farm use net income for each tax code area (ORS 308A.092);
- Complete valuation land card; and
- Assess each acre (or portion) of land using appropriate land classification tables and assessment valuation requirements of ORS 308A.107.

Any portions of a farm such as non-qualifying homesites, non-qualifying wasteland, non-qualifying farm land, real property improvements, buildings, fixtures (except property described in ORS 307.390 to 307.398), or taxable property that does not qualify for farm use special assessment valuation under ORS 308A.107 or homesite valuation ORS 308A.256 will be appraised

for its highest and best use based on real market value in accordance with ORS 308.205 and 308.146 unless it qualifies for exemption or other special assessment such as forest land, historic property, open space, riparian land, etc.

## Land Classification

The appraiser in the field classifies land by using aerial photographs. Classification lines are drawn directly on the photo as illustrated in the soil classification map example. Much of the land capabilities and usage can be identified by examination of the aerial photographs. Obvious physical features such as cultivated land, rock outcroppings, and wet spots can be identified on the photograph. However, a field inspection is necessary to determine things such as soil depth and texture, and to check the indications on the photo for any changes that may have occurred since the photo was taken, such as clearing, leveling, or irrigation. (See Addenda for land classifications and see "Accepted farming practice" in the Qualification chapter of this manual.)

## Value Zones

Land values are established on a per acre basis for each class of land. It is often necessary to divide the county into value areas or zones. Geological or economic conditions might change the value for the same class of soil in different areas. Variables such as rainfall, frost zones, and distance to market centers can result in different values for the same class of land. These value differences can be assessed using value zones.

## Land Classification and Appraisal Records

The land classification systems that most counties use recognize the productivity concept of value inherent in the income approach required by ORS 308A.092. To use the land classes, the assessor must develop the net income to be capitalized for each of the land classes. Once this has been done, the assessor can proceed to capitalize the net incomes to obtain the farm use values of the various land classes. An appraisal land card must be completed by extending the farm use value of each land class against the number of acres of the class in the tax lot. This procedure is the same as that followed in completing market value farm land appraisal cards. The homesite value, and any other land not qualifying for farm use assessment, even though it is appraised based on market value, should be carried on the farm use appraisal card.

Note that the computation of the farm use value does not in itself meet the requirements of ORS 308.234 (when the property was last appraised). To be considered as a current appraisal, the property must be visually inspected at the site to reflect any changes that have occurred since the last physical appraisal. In addition to changes in the specially assessed portions of the property, a current market value appraisal must be made. The current farm use record shall show the date the last physical appraisal of the property was made and the appraiser making the appraisal.

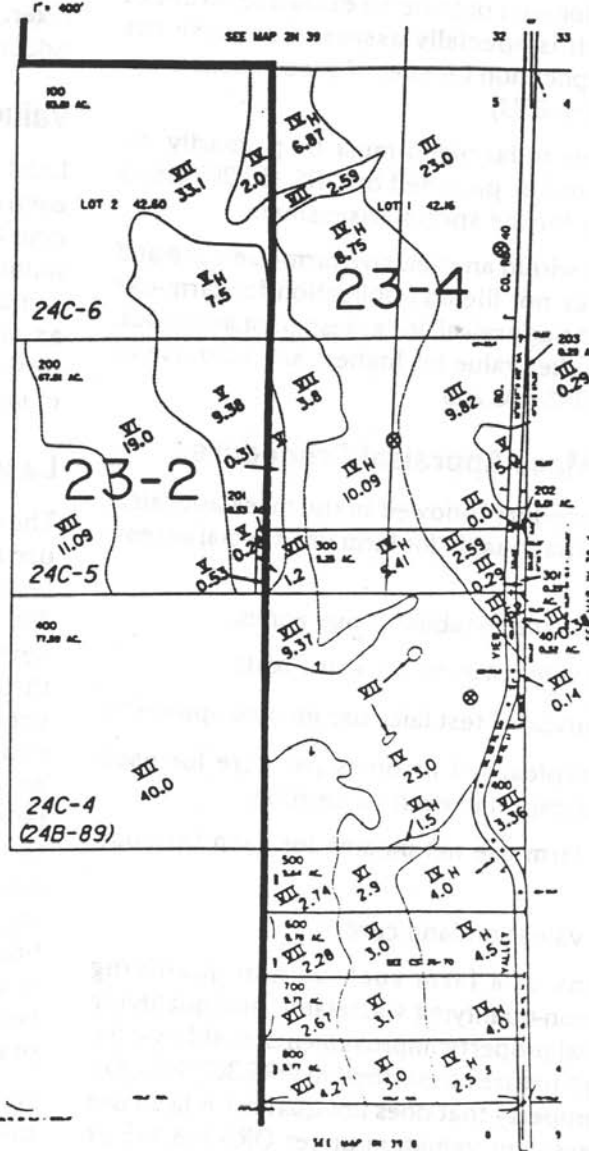
The assessor shall keep all data and the computations used in developing farm use values based on land class. This is done annually for each assessment roll.

A soil map identifies land productivity and classification. The soil map should identify the basic land class and number of acres in each land class for each tax lot or parcel. The land class acreage is then recorded onto the "Specially Assessed Land Appraisal" card. The following is an example of a soil map.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SECTION 5 T.5N R.39E. W.M.  
UNION COUNTY

IN 39 5  
SOIL MAP



SOIL MAP  
IN 39 5

## Farm Board of Review

ORS 308A.095 provides for a county board of review that is advisory in nature and is restricted to the review of the income and expense factors the assessor uses to appraise farm-use land.

The appraisal process can be lengthy and the board has a limited time to do its work. Therefore, the assessor is urged to provide the board with all information to be reviewed in a timely manner. Information submitted to the board should include all data considered in arriving at typical incomes and expenses.

By statute (ORS 308A.095), each county board has five members. Two members represent county business, are appointed by the county court, and serve two years. The county assessor appoints two members and they serve two years. One member is appointed by the four members appointed to the board and serves one year. All members must be knowledgeable and experienced in agricultural land values.

The board of review is subject to the "Public Meetings Laws" of ORS 192.610 to 192.690 and legal notice requirements of ORS Chapter 193. Therefore, meetings are open to the general public and a notice of time and place of the meetings must be given. Written minutes of all meetings must be kept and made available to the public.

## Income Approach to Farm Use Land Value

Each year the assessor shall determine farm use values by using the "income approach" in ORS 308A.092 and 308A.107.

The application of this statutory income approach requires the development of two basic components:

- Net income per acre (before local property taxes); and
- Capitalization rate (which includes a component for local property taxes).

The net income per acre is divided by the capitalization rate to arrive at a Specially Assessed Value (SAV) per acre for land qualifying for farm use special assessment.

The calculated SAV per acre for each class and area is then recorded into tables. Each SAV table has a corresponding Maximum Specially Assessed Value (MSAV) table.

Each year the MSAV table from the prior year for each class and area is adjusted in compliance with ORS 308A.107 and carried forward to create a corresponding MSAV table for the SAV tables created from the

current year farm income study. The Assessed Value (AV) for each land class in a tax account is then determined per acre by selecting the lesser of the SAV table or the MSAV table. (See also "Maximum Specially Assessed Value (MSAV) for Farmland" of this section of the manual).

## Net Income Per Acre (before local property tax)

The assessor has the responsibility to determine, by land class, the net income of farmland to be capitalized into a farm use value. To develop a net income the following farm income methods can be utilized:

- Cash Rent
- Crop Share
- Owner Operator

Note: For examples and an explanation of each of these methods, see "Farm Use Income Approach Examples" of this section of the manual.

Property tax expense is not deducted from the gross income, because the legislated capitalization rate includes an allowance for property taxes.

## Capitalization Rate (includes a component for local property taxes)

The capitalization rate shall be the effective rate of interest the Federal Farm Credit Bank System charges at the time of closing on loans for farm properties. This is estimated as an average over the immediate past five years, plus a component for the local tax code rate. The Oregon Department of Revenue will annually determine and certify to the county assessors the interest rate to be used. It shall be the responsibility of the assessor in each county to determine the tax rate for each tax code area in which farm use property is located. The appraiser adds this tax rate to the interest rate certified by the Oregon Department of Revenue to arrive at the capitalization rate to be used. (See Addenda for example of the DOR interest rate certification letter).

### Example of Farm Use Calculation:

Int. rate	Tax rate	Cap. rate
(7.11% +	1.62% =	8.73%)
Typical Rent/AC	=	\$50.00
Typical Expenses/AC	=	- 2.50
Typical Net Income/AC =		\$47.50 (before property tax)

$\frac{\text{Typical net income/AC}}{\text{Capitalization rate}} = \text{Farm use SAV per acre}$

$\frac{\$47.50/\text{AC}}{8.73\%} = \$544 \text{ Farm use SAV per acre}$

## Farm Use Income Approach Examples

This section provides examples of how income data can be used to estimate farm use value for land. The custom in the area and the availability of data will determine which method (cash rent, crop share, or owner operator) is best. The yields, prices, and other data used in the following examples illustrate the income technique and development of farm use value based on the assessor's land classification.

### General Farm Area

The typical rental agreement in the general farm area is a cash rent lease. Cash rents should be used to analyze land income in these areas. However, if you are unable to obtain sufficient cash rental data, it may be necessary to employ the crop share method.

Rent levels will vary depending on whether the land is irrigated or dry. In some instances, rent includes an amount for the irrigation system as well as for the land involved. In such cases, the gross rent must be reduced by the rent for the irrigation equipment to determine the amount of rent attributable to the land.

The following are examples of how to calculate and make the reduction to gross rents for irrigation equipment and other landlord expenses.

### Assessor's Class I Irrigated Land (Landlord Irrigation)

Valuation of Class I irrigated land with landlord furnishing the irrigation equipment.

Basic Data:

1. The irrigation development consists of a drilled well, electric motor and pump, electrical services, buried mainlines, and hand move laterals. The well is part of the land and its value will be included with the farm use value. The motor, pump, and buried mainlines are real property improvements and will be assessed based on real market value on an improvement appraisal card. The hand move laterals are personal property and are exempt from taxation pursuant to ORS 307.398.

2. The land and irrigation equipment are rented for a cash amount per acre with the landlord responsible for major repairs on the motor and pump. In addition, the landlord expenses are property taxes, liability insurance, and management of the investment (tenant manages the operations on the land). The tenant

is responsible for **all other maintenance and the electric power costs.**

3. An amount needs to be deducted from the landlord's gross income to satisfy the requirement of the investment in the irrigation equipment in addition to the above landlord costs. The amount deducted shall consider the return on the investment, return of the investment (depreciation), and an amount for property taxes on the equipment. The interest rate for the return on the investment will be the market rate on which the investment is made. Assume for the following example that the net income for the investment (land and equipment) is based on the same rents used for the farm use computation and recent sales reflects a 5 percent rate of return. In the example the irrigation equipment assessed as real property improvements (pump, motor, and underground mainline) has a remaining life of 15 years, and the personal property (sprinkler laterals) has a remaining life of 10 years. The tax rate for the code area in which the property is located was 1.62 percent for the past tax year.

4. Rent is for bare land; therefore, no deduction is required for ORS 307.320 (deciduous trees, etc.).

#### Valuation:

Landlord gross income per acre	\$110.00
Landlord expenses	
Management at 3%	\$3.30
Insurance—liability	1.00
Major repairs	3.00
Irrigation equipment	
Real, \$150 per acre @ 11.19%*	\$16.79
Irrigation equipment	
PP, \$35 per acre @ 12.9%**	<u>+ 4.52</u>
Total expenses	28.61
Landlord net income to land	<u>\$81.39</u>

Interest Rate	7.11%	Certified by DOR (2006)
Tax Rate	<u>+1.62%</u>	Estimated rate for the district in which the property is located.

Capitalization Rate 8.73%

$\$81.39 \div 8.73\% = \$932$  Farm use SAV per acre for assessor's class I irrigated land.

\*Interest 2.9% + Depreciation 6.67% + Taxes 1.62% = 11.19%

\*\*Interest 2.9% + Depreciation 10.0% = 12.9%

**Note:** For an explanation of interest, see "Developing Rate of Return."



## Assessor's Class I Row Crop Land (Crop Rotation)

### Basic Data:

1. Assessor's Class I irrigated land rents for different amounts, depending on the crops raised. The crops grown are fitted to a rotating pattern. Two years of potatoes are followed by two years of grain and then five years of alfalfa. After alfalfa, the land is put back in potatoes. In determining the typical rent, consideration must be given to the crops grown. The rents to be used are those received by owners for the various uses in the prior year. An example is:

2 years rented for potatoes at \$210 per acre	\$420
2 years rented for grain at \$80 per acre	160
5 years rented for alfalfa hay at \$100 per acre	<u>+ 500</u>
9 years	\$1,080

$\$1,080 \div 9 \text{ years} = \$120$  per year typical rent.

2. The land is irrigated with the tenant responsible for upkeep and cleaning of the ditches. If irrigation equipment is included, an extra amount is charged per acre.

3. The landlord is responsible for furnishing the alfalfa seed when the stand is established. The landlord's alfalfa stand costs and allowance per year is:

Cost of seed	\$35.00
Establishment risk*	<u>+ 3.50</u>
	$\$38.50 \div 5 \text{ years} = \$7.70$ per year

\*One out of 10 seedings will fail resulting in the additional cost of \$35 for seed. The tenant is still responsible for the cash rent and will normally plant a grain crop in the year of the seeding failure.

Seed  $\$35.00 \div 10 = \$3.50$

4. The landlord's other typical expenses include property taxes, liability insurance, management, and water charge. The expense for water is the operation and maintenance charge (O&M). Any payments for debt retirement and interest of the irrigation district are not deductible.

### Valuation:

Landlord gross income per acre	\$120.00
Landlord expenses	
Management at 3%	\$3.60
Insurance—liability	1.00
Water (O & M)	29.35
Power cost	10.40

Alfalfa stand	<u>+ 7.70</u>	
Total landlord expenses		<u>52.05</u>

Landlord net income to land before property taxes 67.95

Interest Rate 7.11% Certified by DOR (2006)

Tax Rate +1.62% Estimated rate for the district in which the property is located.

Capitalization Rate 8.73%

$\$67.95 \div 8.73\% = \$ 778$  Farm use SAV per acre for assessor's class I row crop land.

## Center Pivot Irrigated Lands (Crop Rotation)

### Basic Data:

The preferred method of determining farm use value for pivot irrigation systems uses current rents of developed pivot irrigation land. The rents usually reflect irrigated farm land being rented with an expectation of making a profit from raising cash crops.

Circle pivot irrigated lands rent for different amounts depending on the crops raised, soil productivity, and whether buildings and structures are included in the lease. The example shown is for a five year bare land lease. Pumping power costs or water charges will vary depending on the type of water source, the distance from the water source, and the depth of wells.

Example: The landlord has developed the pivot irrigation system, 135 acres are irrigated, and potatoes are the main cash crop in this five year rotation:

### 5-year lease with crop rotation

(potatoes are main cash crop)

1 year potatoes gross rent per acre	\$375.00
3 year alfalfa gross rent per acre (135 x 3)	405.00
1 year corn gross rent per acre	<u>+135.00</u>
	\$915.00

$\$915.00 \div 5 \text{ years} = \$183.00$  average gross rent

### Valuation:

Landlord gross income per acre	\$183.00
Landlord expenses	
Management at 5%	\$9.15/acre
Insurance liability	2.00/acre
Water (power/water cost)	60.00/acre
System repairs	20.00/acre

System charge*	13.43/acre
Pivot charge**	+ 25.20/acre
Total landlord expenses	<u>- 129.78</u>
Landlord net income to land	\$53.22
Interest Rate	7.11% Certified by DOR (2006)
Tax Rate	<u>+1.62%</u> Estimated rate for the district in which the property is located.
Capitalization Rate	8.73%
\$53.22 ÷ 8.73% = \$609	Farm use SAV per acre for row crop circle pivot irrigated lands.

**\*Assessed value of machinery and equipment**

	\$16,200
\$16,200 ÷ 135 acres =	\$120.00 per acre
Return on investment	2.90%
Return of investment	6.67%
Tax rate	<u>+1.62%</u>
	11.19%

\$120.00 × 11.19% = \$13.43 per acre system charge

Machinery and equipment consists of property improvements needed to support the operation of the center pivot such as motor, pumps, pumping station, pipe clusters, buried pipeline, and pivot pad.

**\*\*Market value of typically maintained center pivot**

	\$30,375
\$30,375 ÷ 135 acres =	\$225.00 per acre
Return on investment	2.90%
Return of investment	8.30%
Tax rate	<u>+0.00%</u> (exempt per ORS 307.398)
	11.20%

\$225.00 × 11.20% = \$25.20 per acre pivot charge

**Center pivot developed by lessee**

An alternate method of determining farm use value uses long term leases where the lessee installs the irrigation system. A disadvantage of this method is that it is hard to know if the contract rent of a long term lease is, in fact, current market rent.

**Example 1: Existing farmland conversion**

**(Landlord pays property taxes)**

A fairly flat dryland wheat field is a cash rent lease at \$45 per acre for 20 years with the tenant to install a center pivot irrigation system including the water delivery system to the field. The landlord pays taxes on the land and the tenant pays the taxes on the improvements. The landlord also pays liability insurance of \$2.00 per acre. The DOR interest rate is 7.11 percent and the tax rate is 1.62 percent.

**Valuation:**

Rent per acre	\$45.00
Insurance	<u>- 2.00</u>
Net Rent	\$43.00
Interest Rate	7.11% Certified by DOR (2006)
Tax Rate	<u>+1.62%</u> Estimated rate for the district in which the property is located.

Capitalization Rate	8.73%
\$43.00 ÷ 8.73% = \$492	Farm use SAV

**Example 2: Develops sagebrush land**

**(Lessee pays taxes)**

An uneven sagebrush patch is leased for 15 years at \$40 per acre. The tenant clears and levels the land, pays all taxes, and installs the irrigation system. The landlord pays only liability insurance at \$2.00 per acre. The DOR interest rate is 7.11 percent, the rate of return from sales of similar uneven sagebrush land is 2.9 percent, and the estimated tax code rate is 1.62 percent.

The clearing, land leveling, and soil preparation costs are \$17.50 per acre. This is an additional cost to the tenant and needs to be reflected in the rent paid.

**Valuation:**

Rent per acre	\$40.00
Insurance	<u>- 2.00</u>
Net rent	\$38.00
Tenant land preparation adjustment*	<u>+ 1.67</u>
Net rent after preparation adjustment	39.67

**Adjustment for tenant paying tax**

(Cap. rate ÷ DOR int. rate)

8.73% ÷ 7.11% = 122.8% (portion of capitalization rate attributed to property tax)

Adjusted Net Rent (122.8% × \$39.67) = \$48.71

\$48.71 net rent ÷ cap. rate of 8.73% =

\$557 Farm use value



**Note:** Dividing \$39.67 in Example 2 by the DOR rate of 7.11 percent achieves the same value. However, making the adjustment to \$48.71 allows this to be compared to rents where the landlord pays the land taxes to determine a typical rent. Using this method also fulfills ORS 308A.092, which says the capitalization rate must include the local tax rate.

**\*Adjustment for tenant land preparation**

Interest Rate of return	2.90%
Recapture (1 ÷ 15) of irrigation system	+ 6.67%
Cap. for Land Preparation	9.57%

Clearing, leveling, and soil preparation \$17.50

Land Preparation Adjustment

$$\$17.50 \times 9.57\% = \$1.67$$

If the landlord pays all taxes, the tax per acre on the improvements should be subtracted from the rent. Check the leases carefully. As indicated in Example 2, a small thing like who pays the land taxes can make a large difference in the net rent. Making no adjustment for clearing, leveling, and soil preparation or tenant paid taxes would have indicated a farm use SAV of only  $\$38.00 \div 8.73 = \$435$ .

**Valuation of Class III Non-irrigated Land**

**(Cash rent)**

Basic Data:

1. Cash rented for \$50 per acre for bare land.
2. Landlord's typical expenses include property taxes, liability insurance, and management of the investment.

**Valuation:**

Landlord gross income per acre		\$50.00
Landlord expenses		
Management at 3%	\$1.50	
Insurance liability	+ 1.00	
Total landlord expenses		- 2.50
Landlord net income to land before property taxes		\$47.50

Interest Rate	7.11%	Certified by DOR (2006)
Tax Rate	+1.62%	Estimated rate for the district in which the property is located.

Capitalization Rate	8.73%
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$$\$47.50 \div 8.73\% = \$544 \quad \text{Farm use SAV per acre for assessor's class III non-irrigated land.}$$

**Wheat Farm Area**

The crop share rental is the usual rental agreement in the wheat counties. For many years the typical crop share allocation was one third to the landlord and two thirds to the tenant. However, this allocation of the crop has been changing in recent years as leases are renewed to reflect changes in wheat prices, yields, cost of farming, and government programs. Some, but not necessarily all, of those variations are as follows:

1. Landlord receives one third of the crop; pays one third of the fertilizer and weed spray material; and pays all of the real property taxes.
2. Landlord receives one third of the crop; and the tenant pays for all of the fertilizer, weed spray material, and property taxes.
3. Landlord receives 40 percent of the crop and pays only the property taxes.

Because of variations, it is important that the rental data be obtained from the individual county as it is essential that rents be based on typical landlord/tenant agreements for the area involved.

The government farm programs change over time and may affect prices received for wheat and the number of acres that can be planted in wheat. Program controls may vary from year to year and from county to county, requiring that this data be obtained from the individual county United States Department of Agriculture Natural Resources Conservation Service (NRCS) office.

The past government program allowed the planting of wheat on a percentage of the total wheat base acres, which was considered in determining the cropping program. Under the 1965 and 1970 farm programs, when a certain number of acres had to be set aside, wheat growers were paid certificate payments for the part of the crop that went for domestic consumption. The certificate payment was added to the market price the grower received for wheat to arrive at the total wheat income. A later program did away with these certificate payments and was replaced by a target price for wheat. As long as the market price of wheat (five month average, July through November) was above the target price, no payments were normally received by the grower from the government.

The 1988 and 1989 farm programs required a certain number of acres to be diverted from wheat. Producers were paid a deficiency payment. The payments, when added to the market price the grower received for wheat, equaled the total wheat income. It was nec-

essary to convert these payments to an amount per bushel of wheat raised.

In today's market, the government continues to provide wheat and barley subsidies for price control and is more actively involved in crop insurance to minimize loss from crop failure not covered by private insurance.

To ensure that all the counties are using a similar base on which they compute farm use specially assessed values for wheat land, the market price of wheat will be determined annually by the Department of Revenue, and the expense period as shown in the following example will be used.

**Assessor's Class III Dryland Wheatland (Crop/share) (Summer Fallow Area)**

Basic Data:

1. The typical rental agreement is a crop/share rent with the landlord, who only furnishes land, receiving one third of the crop and paying one third of the cost of fertilizer, spray material and their application expense plus the cost of fire and hail crop insurance. In addition, the landlord pays all the property taxes and liability insurance.
2. Typically, 90 percent of the crop is planted in wheat and the 10 percent not in wheat is rotated into barley.
3. The price of wheat determined by the Department of Revenue for 2006 issued to the assessor is \$3.72 per bushel. This price is the average of the two preceding August 1 through December 31 dates, for No. 1 soft white wheat, adjusted for grades, at Portland, Oregon. Based on tenant delivery to the local elevator, the average marketing and storage costs the past two years has been \$.46 per bushel (storage .06, handling .12, transportation .25, and wheat growers tax .03). \$3.72 less \$.46 = \$3.26 net to the grower. The average government subsidy payments for the last two years is \$.52 for the bushels raised. The \$.52 added to the \$3.26 wheat price equals the total income from wheat—\$3.78 per bushel with typical yields of 55 bushels per acre. **NOTE:** Any other legitimate income or expenses may require an adjustment to the price.
4. For illustration purposes, the average price of fertilizer was \$.50 per pound of nitrogen and \$5.35 per acre for spray material for the past two years. One and one-quarter pound of nitrogen fertilizer is applied for each bushel of wheat production. One pound of nitrogen is applied for each bushel of barley production—with typical yields of 50 bushels per acre.

5. Crop insurance has been running \$1 (\$.70 for hail and \$.30 for fire) for each \$100.00 of insured value. Liability insurance based on the typical operation size has been \$.10 per \$100 gross income. Multi Peril Crop Insurance (MPCI) for uninsured crop losses such as drought or crop failure is typically \$5.00 per acre in the county. **Note:** CRC Federal Crop insurance for uninsured crop losses is another form of government crop insurance available but the typical grower in the county prefers MPCI.
6. The typical wheat farm in the county is not fenced. For those farms that are fenced only about one third of the landlords pay any of the fencing cost. (Tenant does not pay extra for any grazing.)

**Valuation:**

Gross Income per acre

55 bushels per acre yield at	
\$3.78 = \$207.90 x .9 =	\$187.11
50 bushels per acre yield at	
\$2.50 = \$125.00 x .1 =	<u>+12.50</u>
	\$199.61

Landlord receives 1/3 of crop every other year from each acre (1/3 ÷ 2 years = 1/6)

Annual landlord gross income

\$199.61 x 1/6	\$33.27
----------------	---------

Landlord Expenses:

Fertilizer (nitrogen):

Wheat 68.75 lbs. N x \$.50 = \$34.38 x .90	\$30.94
Barley 50 lbs. N x \$.50 = \$25.00 x .10	2.50
Weed spray	5.35
Crop ins. \$199.61 x \$1.00 per \$100	2.00
MPCI ins. \$5.00/acre	<u>+ 5.00</u>
	\$45.79

\$45.79 x 1/6 =	\$7.63
-----------------	--------

Management (\$33.27 x 5%)	1.66
---------------------------	------

Liability ins. \$199.61 x \$.10 per \$100	<u>+ .20</u>
---	--------------

Total landlord expenses	<u>- 9.49</u>
-------------------------	---------------

Annual net income	\$23.78
-------------------	---------

Interest Rate 7.11% Certified by DOR (2006)

Tax Rate +1.62% Estimated rate for the district in which the property is located.

Capitalization

Rate 8.73%

\$23.78 ÷ 8.73% = \$272 Farm Use SAV

### Livestock Area

The major rental data available in a livestock area will be in the form of pasture rentals. Landlords rent pasture land on an animal unit month (AUM) basis (for this example). An AUM is the total amount of feed needed by one mature beef cow for one month equivalent to a 1,000 pound animal. It furnishes about 400 pounds of total digestible nutrients (TDN) and is equivalent in feed value to about 800 pounds of hay.

Types of pasture will vary in carrying capacity and in rental rates from rangeland to irrigated meadows. The rental rates may vary from county to county and may vary within a county, depending on location and type of pasture available. Use the rental rate that is typical for the area and type of pasture.

### Assessor's Class III Meadow Hayland (Owner/Operator) (AUMs)

The following is an example using an owner/operator setup. The costs are for illustration only. Local costs and cultural practices must be used. Normally this method of computation of farm use values will be used only when there is no rental data available.

Basic Data:

- 300 acres of flood irrigated meadow hayland on a 10,000 acre ranch.
- Hay yield is 2 tons per acre and is valued at \$75 per ton.
- 1/2 AUM per acre of aftermath grazing having a value of \$10 per AUM.
- Labor is charged at \$7 per hour.
- 50 HP tractor at \$8 per hour.
- Self propelled swather at \$20 per hour.
- PTO twine baler at \$17 per hour.
- Machinery expenses of \$1.25 per hour for irrigation, \$3 per hour for stacking, and \$3 per hour for fencing.
- Other expenses such as custom fertilizing at \$15 per acre, baling twine at \$6 per acre, fence material at \$.50 per acre, interest on capital at \$3 per acre, general overhead at \$4 per acre, and typical management of 8 percent of gross income.

### Valuation:

Gross Income per acre

Hay—2 tons at \$75.....  
 \$150.00  
 Aftermath grazing—1/2 AUM at \$10.....  
5.00  
 Total gross income .....  
 \$155.00

### Owner/Operator Expenses

Operation	Hrs.	Labor Value	Machinery	Total Other	Cost
<b>Variable:</b>					
Harrow	.20	\$1.40	\$1.60		\$3.00
Fertilize				Custom \$15.00	15.00
Irrigate	2.00	14.00	2.50		16.50
Swathing	.25	1.75	5.00		6.75
Baling	.50	3.50	8.50	Twine 6.00	18.00
Stacking	1.50	10.50	4.50		15.00
Fences	.50	3.50	1.50	Material .50	5.50
Fixed: Interest on operating capital					3.00
General overhead					4.00
Management at 8% of gross*					+ 12.40
Total expense					<u>\$ 99.15</u>
				Gross income per acre	\$155.00

			Total expenses	- 99.15
			Net income	<u>\$ 55.85</u>
Interest rate	7.11%	Certified by DOR (2006)		
Tax rate	+ 1.62%	Estimated rate for the district in which the property is located.		
Capitalization rate	<u>8.73%</u>			
\$55.85 ÷ 8.73% =	\$639	per acre (includes growing crops)		
	- 64	value of plants at (10% of value based on sales)		
	<u>\$575</u>	Farm use value per acre for assessor's class III meadow hayland.		

\* Includes management of the ranch operation and management of the investment.

### Assessor's Class VII Rangeland (Crop value) (AUMs)

Usually it requires more than 1 acre of rangeland to provide the forage for one animal-unit-month (AUM). The number of acres required to provide an AUM may affect the rental rate.

Basic Data:

1. Six acres required to furnish one AUM of feed.
2. Land rents for \$12 per AUM.
3. The landlord expenses are management, material for fence maintenance, and liability insurance.

#### Valuation:

Landlord gross income per acre  
\$12 per AUM ÷ 6 acres per AUM

\$2.00

Landlord expenses

Management at 3%	\$0.06
Fence maintenance material	.10
Insurance	+ .05

Landlord net income to land before property taxes - .21  
\$1.79

Interest Rate 7.11% Certified by DOR (2006)  
Property Tax Rate +1.62% Estimated local tax rate for the district

Capitalization Rate 8.73%

\$1.79 ÷ 8.73% = \$20.50 per acre (includes growing crops)

Less value of growing crop - 2.05 (10% of value; ORS 307.320)  
\$ 18.45 (\$18 rounded) Farm use value per acre for assessor's class VII rangeland

It may be that rental data is too scarce on hay land to be used for arriving at farm use value. In such instances, it will be necessary to use the owner/operator's income method. The "Enterprise Data Sheets," developed by the Cooperative Extension Service, Oregon State University, will be helpful in analyzing the income and expenses of an owner/operator property.

### Developing Rate of Return

Sale No. 1 (\$300,000 down, balance @ 7%)		\$ 1,300,000
Improvements	\$220,000	
Personal Property	30,000	
Dwelling site 1 acre (+OSD)	<u>+ 50,000</u>	

- 300,000

Net to farm land

\$ 1,000,000

Acres	Land Class	Typical Rent/Acre	Property Expenses/Acre	Typical Tax/Acre	Net Income/Acre	Net Operating Income
700	III	\$50.00	\$2.50	\$8.82	\$38.68	\$27,076
160	V	17.50	1.53	2.97	13.00	<u>+ 2,080</u>
<b>Total Net Income to Farm Land</b>						\$29,156

\$29,156 ÷ \$1,000,000 = 2.9% rate of return (after property tax)

All usable sales are analyzed in the above manner and the indicated rates are tabulated into final rate of return estimates for each land class.

Rates of return are used to calculate return on investments. The previous example was non-irrigated farmland. When a sale of irrigated land includes the real and personal property irrigation equipment, a portion of the rent needs to be apportioned to allow the owner a return for the irrigation equipment investment. In the previous example, only the farmland was capitalized to develop a rate of return for the land. The examples in this manual use the same rate of return for land and irrigation improvements, however, in practice rates of return for irrigation equipment should be analyzed and capitalized separately from land.

## Other Considerations When Valuing Farm Properties

### Determine Crop Deduction

ORS 307.320 defines items grown on agriculture lands that are to be exempted. They include:

- Cultured Christmas trees
- Deciduous trees
- Shrubs
- Plants or crops (annual or perennial)
- Hardwood timber

To make sure the value of the plants and crops are not included in the appraised value of the land, deduct the value of any trees, plants and crops from sales before establishing base unit values.

1. For land in production (owner occupied), deduct the value of any plants or crops included in a sale.

Consider:

- a. The cost of the seed, shrub, nursery tree, or cutting.
- b. The cost of planting and establishing a crop.
- c. The risk involved in:
  - (1) Establishing the stand (loss implies replanting).
  - (2) Continuing the stand (loss of an annual harvest).
- d. The quality and quantity of the stand.

If you have enough sales of bare land to establish the base value, you will have met the statutory provisions. However, this probably won't occur except in areas that are primarily devoted to grain farming. In other areas, bare land sales may be only of sufficient quan-

tity to provide a check on the value of the growing crop arrived at by the cost of establishing the stand. You can get information about the cost of seed and planting costs from extension service offices, farmers, and others involved in agriculture.

2. For bare land not in production or leased land with no expenses to the owner, no crop deduction is warranted.

### Water Rights

Irrigation is an important addition to the land, provided the land can respond to the water. The same amount of water applied to two different types of soil can produce different benefits. This may result in different values to the water right.

Water right priorities are based on the date the water right was established. The earlier the water right is established, the greater the right to benefit from available water.

When a water right is secured for a parcel of land through the application and approval process, that right is adjudicated to the land. The value of the water is generally reflected in the land value. The exception is where the water is applied to different parcels of land within the ownership in different years. In these cases, and in areas where water rights can be sold separately, the water may be valued separately from the land. There are several sources from which water for irrigation can be obtained. Information regarding these sources or water rights in general is available from:

- Irrigation district offices
- District Water Master
- Oregon Water Resources Department

### Valuation of Water Rights

The value of water rights can be easily determined if sales of similar land exist, where one sale having water rights can be compared to another that does not. Also, in areas where water rights are sold separately from the land, the value of the water right will be found in sales of the water right only. In areas where the water rights are not sold separately, the value can be determined by capitalizing the added production from irrigation into an indication of value for the water.

### Applying Land Values

Record the number of acres. Apply the unit value for the class identified and compute a total value of all acres in each class. Adjustments for special considerations such as flooding or water right restrictions can be made as an adjustment to the land class value for the acres involved. Any increments to the land such



as water rights, natural resources and real property irrigation equipment should be documented as a comment on the “specially assessed land appraisal” card and recorded on the back side of the real market value “land appraisal” card.

## Homesites

Homesites that qualify for special assessment under ORS 308A.256 are to be valued at the average real market value of “one acre” of land for the total contiguous acres under the same ownership. EFU homesites automatically qualify if they are used in conjunction with an acceptable farming practice. Non-EFU homesites will be recorded on the “land appraisal” at real market value in accordance with ORS 308.205 and 308.146, unless they qualify by annual application under ORS 308A.253. The bare land value of the homesite is the average value of one acre of land as calculated under ORS 308A.256 even if the physical size of the homesite is more or less than one acre.

OAR 150-308A.256 onsite developments of a qualifying homesite are to be recorded on the “specially assessed land appraisal” card. The onsite developments are to be valued at \$4,000 or their depreciated replacement cost, whichever is less. Onsite developments are defined under OAR 150-307.010 (1). (See also

“Valuation of Farm and Rural Homesites” in this section of the manual.)

**Note:** For buildings that house farm workers see “Land Under Farm Buildings.”

## Woodlots

Woodlots up to 20 acres should be specially assessed using their underlying farm use land classification. Any woodlot acres over 20 acres will need to be recorded on the “land appraisal” card based on real market value, unless it qualifies as forestland. Any qualifying forestland will be recorded on the “specially assessed land appraisal” card. (See Qualification chapter of this manual for additional information).

## Wasteland

Wasteland is specially assessed by its underlying land classification which is generally class VII or VIII. EFU wasteland automatically qualifies for special assessment. Non-EFU wasteland will need to be recorded on the “land appraisal” card based on real market value, unless it qualifies by annual application under ORS 308A.074.

The following is an example of a “specially assessed land appraisal” card:



PROPERTY CLASS 551 SPECIALLY ASSESSED ACCT. NO. \_\_\_\_\_  
 VALUE ZONE LAND APPRAISAL CODE NO. \_\_\_\_\_

REMARKS: 78.5 Ac Sprinkle Irrigation  
 Burird main lines, pump, motor, utilities #125 Ac  
 RMI total land #350,000/200Ac = #1750/Ac

ACRES	LAND CLASS	1990		19__		19__		19__	
		UNIT VALUE	TOTAL VALUE	UNIT VALUE	TOTAL VALUE	UNIT VALUE	TOTAL VALUE	UNIT VALUE	TOTAL VALUE
1.00	HS	1,750	1,750						
78.50	IRR I	592	46,472						
20.60	III	346	7,128						
10.00	WL III	346	3,460						
42.24	VII	8	338						
10.00	WL VII	8	80						
11.66	Waste VIII	.62	7						
OSD			4,000						
200.00	← TOTAL ALL ACRES								
174.00	← TOTAL ACRES SPEC. ASSD.		63,235						
	INCREMENTS TO LAND								
	TOTAL WHEN SPECIALLY ASSESSED		63,235						

DATE OF APPR. ORS 308.345	APPR. BY	SUMMARY OF DESIGNATED FOREST LAND VALUES							
1/1/90	D. Wright	Acres Designated		Acres Designated		Acres Designated		Acres Designated	
		True Cash Value		True Cash Value		True Cash Value		True Cash Value	
		Designated Value		Designated Value		Designated Value		Designated Value	
		Deferred Value		Deferred Value		Deferred Value		Deferred Value	

## Valuation of Dwellings, Rural Buildings and Real Property Improvements

The valuation of dwellings, farm buildings and real property improvements are to be valued and assessed at the lesser of real market value or maximum assessed value (ORS 308.232 and 308.146).

### Dwellings

The residential buildings on farm properties are influenced by many of the same factors that determine value for single family dwellings. The best support for market indications and depreciation guides may be developed by using data gathered from sales of tract type properties in an area having similar amenities. Use the Department of Revenue Cost Factors for Residential Buildings to develop replacement cost values.

Record dwelling information on a "Residential Appraisal" card in the same way as for any residential appraisal.

### Land Under Farm Buildings

Farm buildings are defined by ORS 308A.056 as "buildings supporting accepted farm practices." The land under farm buildings supporting accepted farm practices is considered to be currently employed and is given the same special assessed farm use value as if the land were in production. Barns, machine sheds, shops, utility buildings, dairy buildings, egg production, seed cleaning/storage, potato sheds and buildings that house farm workers are examples of buildings supporting accepted farm practices. Land under farm-related buildings shall include the area around the buildings for access and parking, which is a necessary function for the farm operation.

### Land Under Farm Processing Facilities

EFU land under buildings used for processing or retailing other farmers products or changing a farm product to a different product must meet processing facility criteria of ORS 308A.056, otherwise the land does not qualify as a building supporting accepted farm practices and must be valued and assessed based on real market value in accordance with ORS 308.205 and 308.146. Non-EFU land under farm processing facilities is not identified as a farm use under ORS 308A.056 and therefore, cannot qualify and must be valued and assessed based on real market value in accordance with ORS 308.205 and 308.146. (See Qualification chapter of this manual for additional criteria.)

## Farm Buildings

Review the farming operations in the area and establish building benchmarks to indicate the types and sizes of the buildings that constitute functional improvements. With the typical types of farm buildings in mind, you can answer the following questions to develop a reasonable value estimate for farm buildings.

1. In your judgment, what is the estimated physical condition of the building?
2. Does the building now, or could it, provide practical shelter for livestock, grain, feed, machinery, or supplies on the subject property?
3. Does the building conform to the present farming systems of the area? If not, could it be economically altered to fit?
4. Does all or part of the building contribute to the value of the farm?
5. Is the building typical of the area?
6. If the building is destroyed, would it be replaced by the same building today?
7. Does the building add an aesthetic value that the market recognizes?

In most cases, answering these questions will help determine the amount of accrued depreciation that applies to a particular farm building. Farm buildings not used for their original purpose should be adjusted to reflect the present usefulness or aesthetic value, rather than the use intended by its original design.

Due to changing farming methods and/or crops, it is common to find farm buildings that are limited in use or completely unnecessary to the present farming operation. You must estimate the percent usefulness of the buildings. Often, buildings with little or no utility are given a value by appraisers merely because the building exists. However, your value estimate should reflect actual market value. If a particular building does not have value to purchasers it should not be included in the appraisal as a value item. It is correct, however, to note the existence of the building on the appraisal card and state a reason for zero value (if the account is an improvement only account, the overall value cannot be zero).

Example of Percent Useful: The subject building is a 3,000-square-foot loft barn in good physical condition. However, due to changing farming practices, it is now used as a machine and seed storage building. New construction in the area for the same use is typically a 2,000-square-foot utility building. The physical percent good of the subject is estimated at 75 percent. To find the percent useful, the cost new of the

replacement building is divided by the cost new for the subject building. The costs new are estimated by using the cost factors contained in the Department of Revenue's Cost Factors for Farm Buildings.

**Calculating Replacement Cost New:**

STEP 1

Class 5—utility building  
2000 sq. ft. x \$6.70 = \$13,400 (cost new)  
Class 5—loft barn  
3000 sq. ft. x \$10.40 = \$31,200 (cost new)

**Calculating the Percent Useful:**

STEP 2

Utility building/loft barn = percent useful  
\$13,400/\$31,000 = 43%

**Note:** Physically, the loft barn appears to be approximately 75 percent good.

**Calculating the Percent Good:**

STEP 3

75% physical x 43% useful = 32% good  
Depreciated replacement cost = \$31,200 x .32 = \$9,984

Other forms of functional obsolescence must be considered separately. The above technique does not measure obsolescence resulting from poor layout and design. Examples of these include low ceiling height, support posts set closely together, and other items that restrict use.

Another type of functional obsolescence is overimprovement caused by a super abundance of buildings. Each building may be typical of the building type needed for the present highest and best use of the land. Due to a surplus number of buildings, each building is assigned a portion of the obsolescence reflected in the total. For example, there are three hay storage barns on a property that needs only two. In such a case, each building suffers an equal amount of functional obsolescence. If one of the buildings is unfavorably located and is seldom used, most or all of the obsolescence would likely accrue to that building.

On the back side of the "Residential Appraisal" card, record the farm building inventory and complete the building diagram showing the location of the farm buildings in relation to the residence. The following is an example:

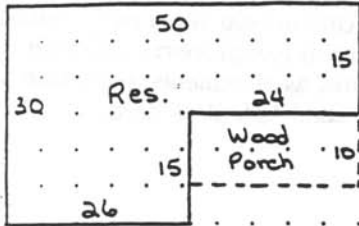
## BUILDING DIAGRAM AND OUTBUILDINGS

REMARKS:

2

1

Res :  $26 \times 30 = 780 \text{ sq}$   
 $15 \times 24 = 360 \text{ sq}$   
1140 sq



Primrose Lane

NO	TYPE USE	DESCRIPTION					DIMENSIONS	AREA S.F. BASE ADJ BASE	REPL. COST LUMP SUM TOTAL	QUAL INDEX % MDP.	REPL. COST	DEP. %		DEPRECIATED REPLACE- MENT COST
		FOUND	FLOOR	ROOF	WALLS	MISC.						PHYS % USE %	GOOD %	
	GARAGE						X							
	DET BMT						X							
							X							
1	Loft	Conc	Conc	Gamb.	B&B		40x75	3000				75		
				Comp			X	10.40		100		43		
	Barn	Cls 5					X		31200		31200	32	9980	
2	Utility	Pole	Conc	Gable	B-E		40x50	2000						
				B-E			X	6.70		100				
	Bldg	Cls 5					X		13400		13400	85	11390	
3							X							
							X							
							X							
4							X							
							X							
							X							
5							X							
							X							
							X							
6							X							
							X							
							X							
7							X							
							X							
							X							
8							X							
							X							
							X							
TOTAL DEPRECIATED REPLACEMENT COST—OUTBUILDINGS AND OTHER IMPROVEMENTS (TRANSFER TO VALUE SUMMARY)											21370			





## Valuation of Farm and Rural Homesites

### Farm Homesite Valuation and Assessment (Qualifying Homesite)

The valuation and assessment of the homesite is a different special assessment with different processes and procedures from the valuation and assessment of farmland. The qualification or disqualification of a homesite does not effect whether or not farmland continues to qualify for farm use special assessment. However, a farm use homesite may only qualify for homesite special assessment if it is used in conjunction with qualified farm use land. (See M-50 Calculation examples in the addenda of this manual.)

OAR 150-308A.256 defines a parcel 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. (See Forestland Special Assessment Procedures manual for additional information and examples defining a parcel)

OAR 150-308A.256 defines contiguous as having a common boundary to some extent greater than a point. When analyzing same ownership, go through one parcel to get to another parcel in all directions as long a thread of title ownership continues to be common with the specially assessed homesite parcel.

### Specially Assessed Value (SAV) Farm Homesite (Qualifying)

The valuation of a farm homesite acre for an EFU zoned parcel or qualified Non-EFU parcel is a special assessment and is found under Oregon Revised Statutes 308A.256.

A homesite may be of any size. Regardless of the size of the homesite, ORS 308A.256(3) requires the value of a qualifying homesite to be the value of 1 acre.

Under this statute the value of 1 acre of land for each homesite must be calculated as the average market value per acre for the total contiguous ownership plus the value of the onsite improvements (or OSD), limited to \$4,000.

To determine the value of a **qualifying** homesite:

1. **Total** the number of acres of bare land of the parcel and contiguous acres under the same ownership.
2. **Divide** the total real market value of the subject's bare land acreage by the total number of acres. The real market value is determined by compar-

ing the subject with parcels of similar size and amenities that have recently sold.

3. **Add** a maximum of **\$4,000** for the improvements necessary to establish the homesite. **OAR 150 308A.256.**

Land comprising homesites for dwellings being used in conjunction with farm use in EFU zones and Non-EFU qualifying homesites shall be valued at the special value provided by ORS 308A.256.

Land comprising a non-qualifying homesite shall be assessed based on its real market value as defined in ORS 308.146 pursuant to ORS 308A.259. See "Valuation of Rural Homesites (Non-qualifying)."

"Homesite" is the raw land, and improvements to the land, under and adjacent to a dwelling, and other structures if any, which are customarily provided in conjunction with the dwelling and are defined as site improvements by OAR 150 307.010(1),(2)(a)(A). Land comprising the homesite for qualifying farm use dwellings includes those amenities associated with the raw, undeveloped land. Examples include topography that afford the site a particular view, property access, and utilities access. **OAR 150 308A.250**

"Site Developments" are improvements to the land that become so intertwined with the land as to become inseparable. Examples of land improvements for on-site development for homesites include but are not limited to:

- (A) Domestic wells.
- (B) Domestic water supply systems.
- (C) Domestic sanitary disposal systems.
- (D) Gravel driveway and roads necessary for access to the dwelling.
- (E) Landscaping and related improvements.
- (F) Extension of utilities to the dwelling, and
- (G) Other offsite developments or onsite developments on or under the land created for the dwelling and associated buildings and structures.

"Onsite developments" are synonymous with site improvements, and site preparation. Site developments consist of both "offsite developments" and "onsite developments."

### **OAR 150-308A.256 and OAR 150 307.010(1),(2)(a)(A)**

The value of site development improvements shall be included as part of the land value. Site development value shall be carried as a separate item on the land record for specially assessed farm land.

"Other land improvements" may include such items as paved driveways, fencing, elaborate access entrance,

and landscaping that does not contribute to the home-site. These land improvements are not onsite developments and are to be assessed based on market value under ORS 308.146.

Buildings, structures, improvements, machinery, and equipment are not onsite developments and are to be assessed based on market value under ORS 308.146. These are improvements on the land are real property when erected upon or affixed to the land.

### **Valuation of Rural Homesites (Non-qualifying)**

Non-Qualifying homesites are valued and assessed based on rural land appraisal concepts under OAR150-308.205-(A) the same as any other rural homesite. The rural homesite value is a component of only the parcel the homesite is located on and an adjustment for utility shall be made to the homesite value for such amenities 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.

Oregon Administrative Rule 150-308.205-(A) 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 developments 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 or amenities. The value of the homesite, however, 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 qualifying EFU or qualifying Non-EFU has a \$4,000 OSD value limit, rural residential homesites are assessed based on market value and do not have an OSD limit.

(See Farm/Forest Specially Assessed RMV, SAV, MAV, & AV Calculation Matrix and M-50 Calculation Examples in the addenda of this manual).

## **Measure 50 Maximum Assessed Value Limitations**

### **Maximum Assessed Value (MAV) for the Account**

#### **ORS 308.146 (MAV for the Account)**

Property tax limitation Measure 50 requires that a maximum assessed value (MAV) be determined for all tax accounts. For the tax year beginning July 1, 1997, the MAV is the tax account's 1995 real market value minus 10 percent. For subsequent tax years, the MAV is equal to 103 percent of the assessed value (AV) for the preceding tax year or 100 percent of the MAV for the preceding tax year whichever is greater. The market value based MAV is allocable to all improvements, homesites and land.

### **Maximum Assessed Value (MAV) for the Market Portion**

#### **ORS 308.146 (MAV for the Market Portion)**

The market portion for a tax account is any land, homesites or improvements that do not qualify for special assessment, partial exemption or exemption and must be assessed based on market value as specified in ORS 308.146.

For the tax year beginning July 1, 1997, the Maximum Assessed Value (MAV) for the market portion of the account is the real market value determined under ORS 308.205 for the tax year beginning July 1, 1995, reduced by 10 percent.

For tax years beginning after July 1, 1997, the MAV for the market portion is equal to 103 percent of the assessed value (AV) for the preceding tax year or 100 percent of the MAV for the preceding tax year, whichever is greater.

### **Maximum Specially Assessed Value (MSAV) for Farmland Portion**

#### **ORS 308A.107 (MSAV for the Specially Assessed Portion)**

For the tax year beginning July 1, 1997, the farmland Maximum Specially Assessed Value (MSAV) per acre is the value per acre for each class and area determined under ORS 308.370 (now ORS 308A.107) for the tax year beginning July 1, 1995, reduced by 10 percent.

For tax years beginning after July 1, 1997, the MSAV per acre is 103 percent of the farmland MSAV per

acre for the previous assessment year. Thereafter, the farmland MSAV was increased by 103 percent annually through the 2001-02 tax year. Beginning July 1, 2002 and for each tax year thereafter, the farmland MSAV per acre for each class and area is equal to 103 percent of the assessed value (AV) per acre for the preceding tax year or 100 percent of the MSAV per acre for the preceding tax year, whichever is greater.

The MSAV on property that newly qualifies for the first tax year is calculated using a ratio per ORS 308.370(7) (Now codified under ORS 308A.107(6)).

### **Maximum Specially Assessed Value (MSAV) for Homesite Portion**

#### **ORS 308A.256 (MSAV for the Specially Assessed Portion)**

For the tax year beginning July 1, 1997, the homesite Maximum Specially Assessed Value (MSAV) is the value determined under ORS 308.377 (now codified under ORS 308A.256) for the tax year beginning July 1, 1995, reduced by 10 percent.

For tax years beginning after July 1, 1997, the homesite MSAV is 103 percent of the homesite MSAV for the previous assessment year. Thereafter, the homesite MSAV was increased by 103 percent annually through the 2003-04 tax year. Beginning July 1, 2004 and for each tax year thereafter, the homesite MSAV is equal to 103 percent of the homesite's assessed value (AV) for the previous tax year or 100 percent of the homesite's MSAV for the previous tax year, whichever is greater.

The homesite MSAV for homesite's that newly qualify for the first tax year is calculated using a ratio per ORS 308.377(6) (Now codified under ORS 308A.256(6)).

### **Assessed Values (AV) for the Account**

#### **ORS 308.146 (AV for the Market Portion)**

#### **ORS 308.156 (AV for disqualified Farmland or Homesites)**

#### **ORS 308A.107 (AV for the Specially Assessed Farmland Portion)**

#### **ORS 308A.256 (AV for Specially Assessed Homesite Portion)**

Measure 50 (M-50) tax limitation under ORS 308.146(4) requires any portions of an account that is specially assessed land or homesites for farm use to be processed to an assessed value under ORS 308A.107 (farmland) and 308A.256 (homesites). Any taxable portions (land and improvements) being assessed based on market value will be processed under ORS 308.146 or in the year of disqualification processed under ORS 308.156(4)(a) or (b).

In the first year specially assessed farmland or a homesite is disqualified the market based MAV is calculated as an exception as specified under ORS 308.156(4)(a) and the exception amount is added to the MAV market portion under ORS 308.146 in subsequent tax years. (See appendix for ORS 308.156 MAV exceptions following a disqualification)

As specified in ORS 308.156(4)(b) do not process the market based MAV if the land changes to a different type of special assessment, partial exemption or exemption. Process the M-50 limitation under the program granting the partial exemption or special assessment.

The Measure 50 value for the account is a sum of the assessed values under 308.146 for the market portion, 308.156(4)(a) for any disqualified portions, ORS 308A.107 for specially assessed farmland portions, and 308A.256 for specially assessed homesite portions. The Measure 50 value for the account may also include in the sum total other assessed values, such as forestland, wildlife habitat, or open space special assessments.

(See Specially Assessed RMV, SAV, MAV, & AV Calculation Matrix and M-50 Calculation Examples in the addenda of this manual for additional information.)



# Disqualification

## 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. The objective is to provide accurate administration of the special assessment programs.

## Disqualifications and Special Assessment Programs

Unless otherwise noted, disqualifications of qualified land and homesites in this farm procedures manual apply only to the following related special assessment programs. These are the programs that ORS 308A.706(1)(d) and ORS 308A.718 has paired together. A taxpayer can change to any one of these special assessment programs with a timely application or request following a disqualification provided the land can meet the qualification requirements.

(See “Hexagon Diagram” in the appendix.)

### Land

- Exclusive Farm Use (EFU) (ORS 308A.062)
- Non-exclusive Farm Use (Non-EFU) (ORS 308A.068)
- Designated Forestland (DFL) in Western Oregon (ORS 321.358)
- Designated Forestland (DFL) in Eastern Oregon (ORS 321.839)
- Small Tract Forestland (ORS 321.709)
- Wildlife Habitat (WLH) (ORS 308A.424)
- Open Space (OS) for certain golf courses (ORS 308A.727)

### Homesite

- Homesites used in conjunction with farm use, forest use, and wildlife habitat special assessment (ORS 308A.250 to 259)

## Types of Farm Use Disqualifications

### Exclusive Farm Use (EFU) (ORS 308A.113)

- No longer in farm use
- Land is removed from an EFU zone.

- Non-Farm dwelling (ORS 215.236)

### Non-exclusive Farm Use (Non-EFU) (ORS 308A.116)

- Taxpayer Request
- Land is sold or transferred to an ownership making the land exempt
- No longer in use
- No longer in use for failure to meet income requirements under ORS 308A.071
- Recording a subdivision plat

### Farm Homesite (ORS 308A.259)

### Government Exchange (ORS 308A.730)

## Reviewing an Account for Disqualification

Special assessments only apply to land and homesites. Improvements such as dwellings, barns, permanent structures, fixtures, automatic feeders, milking equipment, seed cleaning equipment, processing equipment are taxable based on market value and are not specially assessed or exempt unless otherwise required by law. (See Qualification Section for “Exempt Farm Property”)

Homesites are comprised of the bare land that is used for a residential dwelling and the onsite developments (OSDs) which support the residential dwelling. As specified in OAR 150-307.010 OSDs include but are not limited to items such as grading, fill, drainage, wells, water supply systems, septic systems, utility connections, extension of utilities to any structure(s), retaining walls, landscaping, graveled driveway area.

Generally, only EFU homesites that are used in conjunction with the farming activities in EFU zones qualify. Non-EFU homesites require an application that most taxpayers cannot meet (See ORS 308A.253(3)) so very few if any Non-EFU homesites in a county qualify for homesite special assessment even though the Non-EFU homesite may be used in conjunction with qualifying farm use land. Homesites that are rented out to someone not involved in farm use activities do not qualify and should be disqualified. Vacant homesites cannot be disqualified (ORS 308A.259). (See Homesite Disqualifications for additional information)

An account may be comprised of multi-uses and assessments. Often farm properties will have other types of special assessment such as a portion of the account will be in forestland or wildlife habitat spe-

cial assessment. Each special assessment program is assessed separately under their own statutes. While there may be several different special assessments in the same account there cannot be more than one special assessment on the same land at the same time. Special assessments cannot overlay or overlap one another. Any acres that do not maintain an acceptable farm use practice can be disqualified and still allow any remaining acres that do meet an acceptable farm use practice to remain qualified for special assessment. Qualification or disqualification is determined from year to year. At anytime the land no longer qualifies, it should be disqualified.

When reviewing an account over time from year to year portions of an account may change as other portions of the same account continue to qualify, or change to a different special assessment, or may be disqualified. When reviewing an account, look at each year and each acre of assessment individually for any changes that may have occurred.

When land is removed from special assessment the first step in the process is to determine what is to be disqualified and the reason for the disqualification. You need to go to the statutes that apply to the land use. If a portion of a property is EFU, and a portion is Non-EFU land, and a portion is forestland, then disqualify the EFU portions under the EFU statutes and the Non-EFU portions under the Non-EFU statutes and the forestland portions under the forest use statutes. Homesite disqualifications are also processed under different statutes than land use disqualifications. Homesites cannot continue to qualify if the land used in conjunction with the homesite is disqualified.

## Processing a Disqualification and Measure 50 Requirements

After determining the reason for the disqualification and the appropriate statutes to disqualify, process the disqualification under ORS 308A.718 taxpayer notification. In the event the land or a homesite is disqualified and then changes to another special assessment (roll-over under ORS 308A.706(1)(d)) or a new application is submitted (such as Non-EFU income re-qualification under ORS 308A.089) the land may continue to qualify without a break in special assessment, however, it is still processed as a disqualification for Measure 50 under ORS 308.156(4)(a) or (b) and the old application or special assessment classification is no longer valid.

(See “Disqualification Notification Procedures” and “ORS 308.156(4) MAV Exceptions following a Disqualification” in the appendix of this manual).

Measure 50 the 1997-98 tax reform bill allows the maximum assessed value (MAV) to be recalculated for specially assessed or exempt property upon disqualification (ORS 308.156(4)).

If the reason for the disqualification applies to ORS 308.156(4)(a) the disqualification is processed as a “Market MAV” exception under ORS 308.156(5) and (6). If the reason for the disqualification applies to ORS 308.156(4)(b) the disqualification is processed as a “Specially Assessed MSAV” exception under the special assessment or exemption program the land is changing to and the “Market MAV” is not processed.

(See appendix ORS 308.156(4) MAV Exceptions following a Disqualification)

Disqualifications involving new construction may require the Market MAV for the “land” to be calculated in a different year than the Market MAV for the “dwelling and onsite” improvements. The Market MAV for the “land” is calculated as a result of a disqualification under ORS 308.156(4)(a) when land is cleared and construction of the dwelling begins. If this disqualification occurs between January 1 and August 14 then ORS 308A.113 (EFU) and 308A.116 (Non-EFU) require the disqualification to be effective back the January 1 assessment date and the Market MAV for the land is calculated under ORS 308.156 (5) and (6). The dwelling improvements occurring January 1 or later in the same assessment year will receive a MAV calculation as new improvements under ORS 308.153 in the next January 1 assessment year. Even though both changes occurred at the same time the Market MAV for the land and improvements will be processed in different years by direction of statute.

In the event a special assessment is reinstated by the tax court, the disqualification is not processed as a MAV exception under ORS 308.156(4) and the old application or special assessment classification remains valid. **Once the disqualification is appealed the assessor cannot reinstate the disqualification, only the tax court can reinstate an account that is in the appeal process.**

Following a disqualification additional taxes are processed under separate statutes. If land or homesites are disqualified the additional taxes may or may not occur depending on the circumstances of the disqualification. (See Additional tax section of this manual).

(See also “Disqualification Notification Procedures” in the appendix of this manual).

## Effective date of disqualification

The disqualification is not effective until the assessment and tax rolls have been changed.

Reference: Oregon Tax Court opinion *Meeks v. DOR*, 7 OTR 113 (1977) 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.”

A “No longer in use” disqualification is not effective unless the ORS 308A.718 disqualification notification letter is mailed to the taxpayer no later than August 14, as specified by ORS 308A.113(EFU) and 308A.116 (Non-EFU). (See also Disqualification Timing – Special Provision for “no longer in use”).

Sale or transfer to an ownership making land exempt requires the land to be calculated for disqualification and additional taxes one day preceding the sale or transfer for land involving Non-EFU or Wildlife Habitat special assessments as specified under ORS 308A.703. Forestland special assessments are specifically excluded from this requirement under ORS 308A.709.

## Disqualification Timing—General Rule

### June 30 disqualifications: General Rule

The assessment year is the calendar year. ORS 308.007(1)(b). The assessment year beginning January 1 corresponds to the current tax year beginning July 1 of the same calendar year. ORS 308.007(2)(a). Changing the assessment and tax rolls is the overt act that proves and establishes the date of disqualification as having actually occurred. *Meeks v. Dept. of Revenue*, 7 OTR 113 (1977), page 117. A disqualification may be made anytime during the assessment year.

To be effective for the current tax year the disqualification date must occur between July 1 of the previous assessment year and no later than June 30 of the current assessment year, unless otherwise specified by law.

Example: A July 1, 2005 disqualification will be effective for the current July 1, 2006 tax year. The July 1, 2006 tax year is commonly called the 2006-07 or 06-07 tax year.

The disqualification notification letter required by ORS 308A.718 must be mailed to the taxpayer no later than 30 days following the date of disqualification. A disqualification letter mailed beyond the 30 day period required by ORS 308A.718 is not in compliance and is invalid.

**No longer in use disqualifications have special provisions and do not follow the general rule.**

## Disqualification Timing—Special Provision for “no longer in use”

### August 14 disqualification notification letter: Special Provisions

There is a special provision to allow discovery beyond June 30 for disqualifications under ORS 308A.113 for (EFU), and 308A.116 (Non-EFU) for “no longer in use” and “no longer in farm use for failure to meet the income requirements of ORS 308A.071”. The disqualification can occur at any time during the assessment year, but is effective for the current tax year only if the disqualification notification letter required by ORS 308A.718 is mailed to the taxpayer no later than August 14 of the assessment year. The disqualification is then processed as if the land was disqualified back in time to the January 1 assessment date.

## Disqualifications “After” the Current Tax Year Timelines

Disqualifications must be on time. Land disqualified after June 30 (General Rule) or if the taxpayer disqualification notification letter is sent after August 14 (Special Provisions for “no longer in use”) will remain specially assessed for the current tax year as specified in ORS 308A.062 (EFU) and 308A.068 (Non-EFU). All MAV calculations under ORS 308.156(4) are processed for a change in assessment occurring in the next tax year. **The notification letter to the taxpayer under ORS 308A.718 must appropriately use the next tax year for the change in assessment and additional tax calculations, otherwise the notification letter may be considered invalid in the event of a tax court appeal.**

### Disqualifications July 1 or after: General Rule

A disqualification that occurs between July 1 and December 31 of the assessment year shall continue to qualify for farm use special assessment for the current tax year as specified in ORS 308A.062 (EFU) and ORS 308A.068 (Non-EFU). Example: A July 1, 2007 disqualification will remain in farm use special assessment for the current tax year 2007-08. The disqualification notation on the assessment and tax rolls will remain in effect for the disqualification date of July 1, 2007 and the appropriate change in assessment, additional tax calculations, and all MAV calculations under ORS 308.156(4) will occur for the next tax year 2008-09.

### Disqualifications August 15 or after: Special Provision for “no longer in use”

**No longer in farm use for failure to meet the income requirements of ORS 308A.071:**

(ORS 308A.116 (Non-EFU))

If Non-EFU land is disqualified for failure to meet the income requirements of ORS 308A.071 the disqualification is invalid if it is mailed on or after August 15 of the assessment year. This type of disqualification requires current information and due process as specified in OAR 150-308A.071. Request another Non-EFU questionnaire on or before March 1 of the next assessment year to verify the land continues to be “no longer in use.” Land that returns to a qualifying use cannot be disqualified.

### **No longer in farm use:**

(ORS 308A.113 (EFU), 308A.116 (Non-EFU))

If the Assessor sends the taxpayer the ORS 308A.718 disqualification notice on or after August 15 for a “no longer in use” disqualification the farm use special assessment will continue to be assessed for the current tax year as specified in ORS 308A.062 (EFU) or 308A.068 (Non-EFU).

Example: An August 15, 2007 disqualification will remain in farm use special assessment for the current tax year 2007-08. The disqualification notation on the assessment and tax rolls will remain in effect for the disqualification date of August 15, 2007 and the appropriate change in assessment and additional tax calculations will occur for the next tax year 2008-09 if the “no longer in use” continues.

Any disqualification notification letter sent for “no longer in use” after the August 14 timeline will have to be reviewed for disqualification in the next assessment and tax year. If in the next assessment and tax year circumstances change where the land will again continue to qualify **the Assessor may not go back beyond the previous calendar year to disqualify for “no longer in use.”**

Example: “No longer in use” for calendar year 2006 (Taxpayer notification letter under ORS 308A.718 sent to the taxpayer after the August 14, 2007 timeline).

The disqualification becomes effective on the date the assessment and tax rolls are changed (August 15, 2007), however, the land will remain specially assessed until the next tax year 2008-09 as specified in ORS 308A.062 (EFU) and 308.068 (Non-EFU). **When reviewing the account for a disqualification for the next tax year (2008-09), evidence of “no longer in use” in the 2006 assessment year is not a valid reason to disqualify. The evidence for a change in special assessment for the 2008-09 tax year must come from the previous assessment year 2007.**

## **No Longer in Use Disqualifications**

Use “No longer in use” disqualification procedures under ORS 308A.113 (EFU) and ORS 308A.116 (Non-EFU) (See also OAR 150-308A.059)

Before a property is disqualified OAR 150-308A.113 (EFU) and 150-308A.116 (Non-EFU) requires the Assessor must:

- Make a reasonable effort to contact the owner, owner’s agent or person using the land;
- Make a site inspection of the property; and
- Request the recent history of the property’s use.
- Maintain a record of the inspection, any contact letters or other means of contact between the assessor and the taxpayer, and notations of the conditions found that indicate a lack of a qualifying farm use. This information must be maintained in the Assessor’s office for a minimum of three years.
- Request an income questionnaire if the land is being disqualified for failure to meet income requirements of ORS 308A.071.

Following are some considerations for “no longer in use” disqualifications:

### **1. Current use is compatible with returning the land to farm use special assessment.**

#### **A. Non-use.**

Idle or vacant land that is, otherwise economically feasible to engage in a qualifying farm use.

#### **B. Under-utilization.**

Land that is engaged in a farming practice, however, the farm use activity is insufficient to qualify the land for farm use as defined under ORS 308A.056.

Example: *Spooner v. DOR (4 OTR, Feb 70)* Only enough sheep were pastured to qualify 30 of 125 acres. In this example if any of the pasture was capable of being hayed and the owner or operator was haying the land it may justify that any acres being hayed would continue to qualify. Disqualification for under-utilization is a judgment call and will need to be researched and well documented.

#### **C. Unacceptable farm use practice.**

Land is engaged in a farming practice where the mode of operation is not common with farms of a similar nature. (ORS 308A.056)

Example: A low production orchard that is not pruned, fertilized, or maintained.



Example: *Anderson v. DOR (OTR 2617 Feb 88)*  
Minimal and casual use of a property that does not intend to give rise to a profit in money is not an acceptable farm use practice. In this case the pasture was over-grown with black berries, lack of fertilization, lack of weed control, inadequate fences, and exhibited minimal or casual management.

**D. Failure to meet farm income requirements under ORS 308A.071. (Non-EFU only)**

If there is not a break in farm use, as long as limited farm use continues, additional taxes may be abated for Non-EFU income disqualifications as specified in ORS 308A.119. There is not a definition for limited farm use. Limited farm use implies the land may be under-utilized. Only the land actually being used for limited farming will qualify for abatement of additional taxes. Limited farming must have evidence of an intent to make a profit from farm sales or services produced from land under abatement. Any acres not being used for limited farming will not qualify for abatement.

**E. Change to a different special assessment**

Farmland that changes to Forestland special assessment is “no longer in farm use.”

**F. Change to a non-farm use compatible with returning the land to farm use.**

Example: Farmland changes to a commercial rock quarry and the mining permit requires the land to be restored to farm use upon completion of the mining.

Example: A taxpayer makes a personal choice to discontinue farming to engage in a conservation easement. The conservation agreement does not prohibit the taxpayer from farming the land. (ORS 308A.743)

**G. Residential homesite not used in conjunction with a qualifying farm use.**

An EFU lot or parcel has farmable land that is not currently engaged in a qualifying farm use. The homesite will requalify at anytime a qualifying farm use continues.

**2. Current use is incompatible with returning the land to farm use.**

A. A lot or parcel in an EFU zone obtains a land use approval for the establishment of a nonfarm dwelling under ORS 215.236.

B. A taxpayer’s application is approved for an exemption program.

C. A taxpayer engages in a conservation easement. The conservation easement prohibits the taxpayer from farming the land. (ORS 308A.743)

D. An EFU lot or parcel is used entirely for residential purposes. The lot or parcel is approximately one acre or less and does not have any remaining acres that could engage in a qualifying farm use practice.

Residential, commercial, industrial or any other use that is incompatible with returning the land to farm use is not eligible for deferral of additional taxes under ORS 308A.706(1)(a). In some cases a taxpayer may have an option to defer additional taxes under a different section of ORS 308A.706 such as a change in special assessment or not be required to pay additional taxes under ORS 308A.709. Non-EFU land that is incompatible with a return to farm use is not eligible for abatement under ORS 308A.089 because abatement requires limited farming.

**3. Immediate Disqualification for “no longer in use.”**

A. No evidence of farm use in the entire previous calendar year; or

B. Anytime during the current assessment year the Assessor has a reason to believe the taxpayer will not continue to engage in a qualifying farm use for the entire current assessment year; or

C. There has been a change of use incompatible with returning the land to farm use such as residential, commercial, industrial, or other incompatible use.

**4. Disqualification after one full calendar year of “no longer in use.”**

If the farm use appears to no longer be in a qualifying use but is compatible with continuing farm use and it is anticipated the taxpayer could appeal or wants to continue farm use then the Assessor may want to wait until there is a full calendar year of non-qualifying farm use before proceeding with the disqualification. In this case it is recommended to notify and communicate with the taxpayer and if the use is questionable give the taxpayer an opportunity to bring the property into compliance. Flag the file and then disqualify when there is a full calendar year of non-qualifying farm use or when the Assessor is convinced the farm use will no longer continue to qualify.

In the event of an appeal the Assessor would then be able to demonstrate they have worked with the taxpayer and can support the reason for the disqualification.

## Removal of Land from an EFU Zone Disqualification

Zone changes often occur prior to land use changes such as the recording of a subdivision plat or the development of property for uses other than farm use.

Non-EFU land is not required to be disqualified when there is a zone change, unless the land is changed to an EFU zone. In the event Non-EFU land changes to an EFU zone all of the Non-EFU accounts will be disqualified and any land within the new EFU zone that is engaged in a qualifying farm use practice as specified under ORS 308A.056 will automatically qualify whether or not the land was previously specially assessed by Non-EFU application.

**All of the land area that is subject to a removal of an EFU zone must be disqualified under ORS 308A.113.** Following the disqualification the taxpayers may:

1. Change to a different special assessment. Applications for Non-EFU special assessment under ORS 308A.077 will have five years to meet the Non-EFU “use” and “income” requirements as specified in ORS 308A.724. The “Market MAV” is not adjusted when the land changes to a different special assessment as specified in ORS 308.156(4)(b). The “Specially Assessed MSAV” will be processed as new land for the program granting the special assessment. Additional taxes will be deferred under ORS 308A.706(1)(d).
2. If the taxpayer does not or cannot change to a different special assessment or exemption, the land will be assessed based on market value and the “Market MAV” will be processed as a measure 50 exception under ORS 308.156(4), (5) and (6). Additional taxes will be deferred under ORS 308A.706(1)(a) if the land use does not change incompatible with returning the land to farm use. (See Additional Tax section).

Additional tax considerations will depend on whether the zone change was initiated by the taxpayer or a governing body. (See Additional Tax section).

## Nonfarm Dwelling in Exclusive Farm Use Zone (ORS 215.236) Disqualifications

This law **only** applies to land within an exclusive farm zone.

ORS 215.236 is a land use approval for the establishment of a nonfarm dwelling within an EFU zone which meets a specified soil classification (ORS 215.213(3) and ORS 215.283(3)).

### Planning Department’s responsibilities:

- Tentative approval for the nonfarm dwelling.
- Final approval after the parcel is disqualified and additional taxes are paid.

### Owner’s responsibilities:

- Notify the Assessor the lot or parcel is no longer used as farmland; and
- Request Assessor to disqualify the parcel from any other special assessments listed in ORS 215.236(4). Taxpayer must pay additional taxes prior to final land use approval.

### Assessor’s responsibilities:

- Disqualify the lot or parcel from farm use and any other special assessments listed in ORS 215.236(4). ORS 215.236(4) requires disqualification from EFU, Designated Forestland, Small Tract Forestland and Open Space special assessments. ORS 215.236 (4) does require disqualification from Wildlife Habitat special assessment.
- Provide the owner with written notice of the disqualification. (See “Disqualification Notification Procedures” in the appendix of this manual).
- Impose additional taxes.
- Advance collection of the additional tax.
- Provide the owner with a statement of the disqualification and payment of additional taxes, if any.

The disqualified lot or parcel can only requalify for farm use or other special assessments identified in ORS 215.236(4) upon combining with a contiguous lot or parcel as specified in ORS 215.236(5). Combining a contiguous lot or parcel that is also subject to ORS 215.236 is not a qualifying parcel. A “lot line adjustment” is a portion of a parcel and is not a qualifying parcel.

For counties that have wildlife habitat special assessment ORS 215.236(6) allows land in a lot or parcel disqualified under ORS 215.236 to change to wildlife habitat special assessment. Upon future disqualification from wildlife habitat special assessment the land in the lot or parcel will once again be subject to the disqualification criteria of ORS 215.236(4) and requalification criteria of ORS 215.236(5). (ORS 308A.724)

ORS 215.236(4) does not include wildlife habitat as one of the special assessments to be disqualified. Land already in wildlife habitat special assessment at the time the owner informs the Assessor of the nonfarm dwelling application should not be disqualified.

### Department of Consumer and Business Services responsibilities:

- Responsible for the administration and enforcement of the state building code.
- May not issue a building permit for the construction of a nonfarm dwelling without evidence the owner of the lot or parcel has paid the additional tax, if any, imposed by the county Assessor.

### **Disqualification of Land Zoned for Urban Uses (ORS 197.754 and 197.756)**

On the date the zone for urban uses is established, the Assessor must no longer qualify any more land under EFU or Non-EFU special assessment. Because this is a zone change, existing EFU land must be disqualified under ORS 308A.113 and may be requalified as Non-EFU special assessment under ORS 308A.077. Following the change in special assessment under ORS 308A.706(1)(d) as specified in ORS 308A.724 the owners will have five years to meet the use requirements of ORS 308A.068 and income requirements of ORS 308A.071.

Any land that ceases to be used for farm use following the date the area is zoned for urban uses may not requalify for EFU or Non-EFU special assessment as long as the land continues to be zoned for urban uses. Any land that has statutory requalification special provisions such as ORS 308A.089 Non-EFU income disqualifications may requalify if the land was in farm use special assessment at the time the area was zoned for urban uses. Disqualified land may not qualify for farm use special assessment (rollover) from a different special assessment listed in ORS 308A.706(1)(d) if the land was not in farm use special assessment at the time the land was zoned for urban uses.

After the urban use zone is created, any **lots or parcels that are sold** in an urban uses zone will be subject to disqualification from farm use special assessment. A special provision under ORS 197.756 does not allow disqualification from farm use special assessment if any lots or parcels are sold to a relative of the owner or to a lessee conducting farm use defined under ORS 215.203 at the time of sale. Lot line adjustments are not subject to disqualification. A lot line adjustment is not the sale of a lot or parcel; it is the sale of a portion of a lot or parcel. (See also Qualification section and Additional Tax section of this Farm Use Manual).

### **Taxpayer Request Disqualifications**

EFU land does not have a provision to disqualify land at the taxpayer's request.

If the taxpayer request to have EFU land disqualified they must discontinue farming the land for profit. It is recommended to obtain a written request from the taxpayer stating they no longer intend to use the land for a qualifying farm use.

The land could then be disqualified for "no longer in use" and a notification letter with change in special assessment options under ORS 308A.718 would be required. If no change in special assessment occurs the land will be assessed based on market value and additional taxes will be deferred under ORS 308A.706(1)(a).

The "Market MAV" will be processed under ORS 308.156(4)(a), (5) and (6). Once the land is disqualified the taxpayer can request to pay the additional taxes under ORS 308A.715. If additional taxes are collected there is no statutory provision for a refunded in the event the taxpayer changes their mind. At any time the land continues farm use the land will once again qualify. Qualification will occur in the next or a future assessment year following the assessment year of disqualification.

Taxpayers in EFU zones that are involved in a nonfarm dwelling land use approval are not a disqualification at owner request. Process the disqualification for establishment of a nonfarm dwelling under ORS 308A.113. (See Nonfarm Dwelling in Exclusive Farm Use Zone (ORS 215.236).

**Non-EFU** land may be disqualified at anytime under ORS 308A.116 at the request of the taxpayer.

It is recommended the notification by the taxpayer be in writing. Unlike EFU the taxpayer may continue to farm the land for profit. The land will be assessed based on market value and the "Market MAV" will be processed as a measure 50 exception under ORS 308.156(4), (5) and (6). **ORS 308A.718(6) specifically does not require a disqualification notification letter or options to change to a different special assessment when the owner requests the disqualification.** To requalify the owner will need to submit a timely application and meet farm use qualification requirements following the provisions of the Non-EFU special assessment program under ORS 308A.077.

**If the owner is changing their operation to a different special assessment this is not an owner request disqualification. Disqualify for "no longer in use" as farmland, because the land qualifies for a change in special assessment, and send the owner an appropriate disqualification notification letter as required by ORS 308A.718.** (See Group C sample letter of the Disqualification Notification Procedures in the Appendix.)

### **Exempt Owner Disqualifications**

#### **"Ownership making land exempt" disqualifications**

As specified in ORS 307.090 all property of the state, counties, cities, towns, school districts, irrigation dis-



tricts, drainage districts, ports, water districts, housing authorities or other public or municipal corporations are exempt from property tax when used or intended for corporate purposes are exempt.

As specified in ORS 307.040 all property of the United States, its agencies or instrumentalities, is exempt from property tax to the extent that taxation is forbidden by law.

ORS 308A.116 (Non-EFU) and ORS 308A.430 (Wildlife Habitat) special assessments have special provisions for the sale or transfer of land to an ownership making the land exempt. Upon discovery, the disqualification and any additional taxes are calculated and determined one day preceding the sale or transfer to the ownership making the land exempt as specified in ORS 308A.703. There is no timeline for the discovery.

Note: As specified in ORS 308A.709 forestland acquired by a federal, state, or local governmental agency has been specifically eliminated from the additional tax provisions of ORS 308A.703(5).

If the exempt ownership continues agricultural practices or grazing uses by leasing or renting the land to a taxable owner for cash or crop share then continue farm use special assessment as specified in ORS 307.110. Upon termination of the lease or rental agreement the land will become disqualified and no additional tax is collectable as required by ORS 308A.709(5).

Because the land goes from specially assessed to exempt status the Measure 50 "Market MAV" is not calculated as specified by ORS 308.156(4)(b).

ORS 308A.718(6) does not require a disqualification notification letter for this type of disqualification.

#### **"Exempt by application" disqualifications**

The special provision for exempt ownership does not apply to owner's that are exempt by application (Institutional, Religious, Fraternal, Interment Properties, etc.). Owner's that are exempt by application are otherwise taxable owners that receive the exemption by submitting a qualifying application. When the exemption is approved the land will change use incompatible with returning the land to a farm use. Process the disqualification for "no longer in use" the same as any other taxpayer.

If not all of the land in a parcel is going to be under the exempt application it may continue to qualify for special assessment the same as any other taxpayer. If the owner does not continue special assessment on any non-exempt portion then disqualify the land for "no longer in use" and follow disqualification timing requirements and procedures the same as any other taxpayer.

The "Market MAV" for any land that is going from special assessment to exemption may not be processed as an exception under ORS 308.156(4)(a), (5) and (6) as specified in ORS 308.156(4)(b). Process the "Exemption MSAV" as an exception under the provisions of the exemption program, if applicable.

An application for exemption will be a change of use incompatible with returning the land to a farm use. **Disqualify either EFU or Non-EFU land for "no longer in use."**

(See "Disqualification Notification Procedures" in the appendix of this manual).

### **Non-EFU Income Disqualification**

**Land that initially qualifies** for Non-EFU special assessment must be able to demonstrate that each acre under application qualifies for "farm use" under ORS 308A.056. Once "farm use" is established the Non-EFU land identified in the application will be tested to meet the required minimum gross income test of ORS 308A.071. When determining the number of acres to be income tested, the land not exceeding one acre used for the homesite and any acres qualified under ORS 308A.056(3) current employment, will not be included as specified in ORS 308A.071(2)(b). Each acre being income tested must be used to produce gross income from the sale of farm products or services, however, the income from entire farm unit can be used to qualify the land being tested. The farm unit is all land in a farming enterprise which includes all parcels being farmed by a single operator, whether the operator owns or leases the farmland, OAR 150-308A.059.

(See Qualification Section for additional information).

**Each year after the initial qualification** for Non-EFU special assessment the land must continue to maintain the minimum gross income requirements of ORS 308A.071. Additionally, each acre must remain in a qualifying farm use. Any acreage should be considered for disqualification in any year the land fails to maintain either "farm use" under ORS 308A.056 or "minimum gross income requirements" under ORS 308A.071.

(See "Disqualification Timing – Special Provision for "no longer in use" ).

To maintain compliance with ORS 308A.071, the Assessor is required under OAR 150-308.071 to mail a "Gross Income Questionnaire" on or before March 1 of each assessment year. Because the income test is a 3 of 5 year test a questionnaire should be mailed out at least every third year to assure compliance with ORS 308A.071. Accounts that demonstrate a need for



more frequent testing should be flagged and sent a gross income questionnaire as needed to assure compliance.

Following the March 1 mailing the taxpayer has until April 15 of the assessment year to return the gross income questionnaire. The returned gross income questionnaire needs to be reviewed for both “use” and “gross income requirements”.

Any acres that do not meet “farm use” requirements in the previous calendar year may be subject to disqualification. Any acres not meeting farm use requirements in years prior to the previous calendar year cannot be disqualified for no longer in use, however, will be counted as one year of non-qualifying income for the 3 of 5 year income test.

Upon review of the “gross income questionnaire” any acres that do not meet the three of five-year “required minimum gross income” test may be subject to disqualification. Failure to return the gross income questionnaire does not result in a disqualification. In either case send the taxpayer a letter of intent to disqualify (commonly called a show cause letter). The taxpayer has 30 days from date of the show cause letter of intent to come into the office or demonstrate to the Assessor why the land should continue to qualify. The last day to send the disqualification notification letter required under ORS 308A.718 is August 14, so the intent to disqualify letter must precede the August 14 deadline, by more than 30 days. Otherwise, the taxpayer will not have received a full 30 days to show cause as specified in OAR 150-308A.071.

During the 30 day show cause period, the taxpayer must provide sufficient farm use income or information to avoid disqualification.

Note: Sometimes the required minimum gross income amount may need to be adjusted from one year to the next, such as, land that qualifies for current employment under ORS 308A.056(3) will not be included in the income requirement. Such as; land that has been converted to immature perennials, water impoundments are developed, or the land qualifies for a farm related government program.

Disqualify any acres not in compliance if the taxpayer does not respond within the 30 day show cause period, or fails to provide sufficient farm use income at the show cause hearing.

An ORS 308A.116 Non-EFU disqualification for “no longer in use for failure to meet income requirements under ORS 308A.071” has the following options:

1. **Requalification.** Following the disqualification ORS 308A.089 allows the owner to submit a new application and requalify for Non-EFU spe-

cial assessment by December 15 of the first year in which the disqualification is in effect. The application must meet all of the use and income requirements the same as any other property qualifying for Non-EFU special assessment. The taxpayer must also pay a requalification fee and submit a signed affidavit that the statements for the requalification are true. If the taxpayer requalifies under ORS 308A.089 then the Non-EFU special assessment will requalify for the current assessment and tax year. The old application remains disqualified and the special assessment is based on the new application. The “Market MAV” is processed as an measure 50 exception under ORS 308.156(4)(a), (5) and (6) because the land is not a change to a different special assessment. Process the “Specially Assessed MSAV” as newly qualified land under ORS 308A.107(6). The assessment and tax rolls will be corrected under ORS 311.205

2. **Changing to a different special assessment.** The disqualification notification letter under ORS 308A.718 will require the owner be given an option to change to a different special assessment. Additional taxes will be deferred for the change in special assessment. **The additional taxes cannot be abated** under ORS 308A.119 because the land is not going to be assessed based on Market Value under ORS 308.146. Process the “Specially Assessed MSAV” as newly qualified land under the program granting the special assessment.

3. **Abatement of additional taxes.** To qualify for abatement under ORS 308A.119 the disqualified Non-EFU land is assessed based on market value under ORS 308.146 or as otherwise provided by law without regard to any special assessment laws and “limited farm use” continues without a break in farm use. The “Market MAV” is processed as an measure 50 exception under ORS 308.156(4)(a), (5) and (6). (See additional tax section).

4. **Discontinue farm use.** If the taxpayer discontinues farm use and cannot or does not change to a different special assessment the additional taxes will be deferred under ORS 308A.706(1)(a). The land will be assessed under ORS 308.146 based on market value or as otherwise provided by law. The “Market MAV” is processed as an measure 50 exception under ORS 308.156(4)(a), (5) and (6).

## Subdivision Disqualifications

**EFU Subdivisions and Homesites:** To create a subdivision on EFU land usually requires a zone change. In the event of a zone change see disqualification for “removal of land from an EFU zone.”

Sometimes more intensive land uses are allowed in an EFU zone such as a "Destination Resort" overlay. If a "Destination Resort" overlay does not change the EFU zone status and the land continues to qualifying for farm use, then ORS 308A.113 does not have a provision to disqualify land partitions or subdivisions.

In 2005, legislative changes were implemented to accommodate 2004 voter land use reform measure 37. Under the provisions of law, most measure 37 claims are being processed as a waiver to an EFU zone. This EFU zone waiver allows an owner to subdivide the land under a measure 37 claim without changing the status of the EFU zone. If the subdivision is allowed to remain EFU, as the result of a Measure 37 waiver, then ORS 308A.113 does not have a provision to disqualify land for the recording of a subdivision plat in an EFU zone.

If the conditions of a measure 37 claim, changes the zoning from EFU to a zone other than EFU, then process a disqualification for "removal of land from an EFU zone."

Land involved in a "Destination Resort" or a "Measure 37 Claim" that remains EFU will continue to be specially assessed under farm use until the land is disqualified under ORS 308A.113 for:

- "no longer in use"; or
- "establishing a nonfarm dwelling on the land under ORS 215.236."

Disqualifications for the establishment of a nonfarm dwelling under ORS 215.236 will depend on whether the acquired ownership associated with a measure 37 claim occurred prior to ORS 215.236 becoming law. It is recommended to contact the local planning department to determine whether the subdivision or land partitions will be subject to nonfarm dwelling requirements under ORS 215.236 in either a "Destination Resort" or a "Measure 37 Claim."

Upon the recording of a subdivision plat or partitioning land (including a destination resort) the account must be processed as a "Market MAV" exception under ORS 308.156(1).

Prior to development of an EFU subdivision or destination resort if farm use discontinues and the land lays idle or otherwise is used compatible with returning the land to farm use the land will be disqualified for "no longer in use" and the additional taxes are deferred under ORS 308A.706(1)(a) until the land changes use incompatible with returning to farm use. Any undeveloped land may requalify at any time farm use continues.

As a subdivision or destination resort is developed, any land that is currently in special assessment will

be disqualified for "no longer in use" when any soil is disturbed for streets, roads, utility services, or commercial uses. These generally are a change of use incompatible with returning the land to a farm use and additional taxes cannot not be deferred under ORS 308A.706(1)(a). The land will be assessed based on market value and the "Market MAV" will also be processed under ORS 308.156(4)(a), (5) and (6). (See additional tax section).

As EFU parcels and lots within the subdivision or destination resort are developed for residential homesites, the disqualification for any land that is in current farm use special assessment will depend on the farm use capability of each individual lot or parcel on the date the soil is disturbed for a change to a residential homesite. EFU parcels or lots that are large enough to have acreage in excess of the homesite area are still EFU land that may qualify for EFU special assessment. By statute, disqualification of the homesite area (approximately one acre) will depend on whether:

**1. The homesite is used in conjunction with a qualifying farm use.**

If the EFU land is currently under EFU special assessment disqualify the land area being used for the homesite (approximately one acre) from special assessment for "no longer in use" and requalify the land for EFU homesite special assessment under ORS 308A.253. The "Market MAV" is not calculated because the land is going from one special assessment to another as specified in ORS 308.156(4)(b). Process the newly qualified "Homesite MSAV" under ORS 308A.256(6).

**2. The homesite is not used in conjunction with a qualifying farm use.**

If the EFU land is currently not under EFU special assessment, disqualify the land from special assessment for "no longer in use" and assess the non-qualifying homesite at market value under 308.146 and 308.205. Additional taxes are not collectable for the farmland developed for a residential homesite if the homesite is compatible with farm use. The remaining acres are deferred under ORS 308A.706(1)(a) because the land and homesite is zoned EFU and can be returned at anytime in the future to a qualifying use. The "Market MAV" for the disqualified farmland converted to a homesite and any disqualified remaining acres is processed under ORS 308.156(4)(a), (5) and (6) because the land will be assessed based on market value.

### 3. The homesite is an incompatible change of use to a residential use.

- Lots or parcels that are approximately one acre in size that have been entirely improved with landscaping and other onsite developments associated with a residential homesite with no excess land capable of a qualifying farm use are disqualified for “no longer in use” under ORS 308A.113. Additional taxes are not eligible for deferral under ORS 308A.706(1(a) for the residential incompatible change of use. Collect additional taxes as required under ORS 308A.703.
- The homesite lot or parcel is disqualified under ORS 308A.259 for establishing a nonfarm dwelling pursuant to ORS 215.236. Additional taxes are collectable as specified in ORS 215.236.
- Lots or parcels in an EFU “Subdivision” or “Destination Resort” that have restrictions that do not allow farming on lots or parcels used for residential development are disqualified for “no longer in use” under ORS 308A.113. Additional taxes cannot be deferred under ORS 308A.706(1(a) for the residential incompatible change of use. Collect additional taxes as required under ORS 308A.703.

**Non-EFU Subdivisions and Homesites:** When a subdivision plat is recorded on land that is specially assessed as Non-EFU farmland disqualify the land area in the subdivision for “recording of a subdivision plat” under ORS 308A.116. Wildlife Habitat, Designated Forestland, and Small Tract Forestland special assessments have similar statutory requirements for the recording of a subdivision plat involving those special assessments. Often counties coordinate with the planning department so the additional taxes are collected simultaneous on the same day of the subdivision plat recording.

If the tax and assessment rolls are changed for a subdivision **disqualification prior to July 1** of the assessment year the additional taxes will be collected for the current tax year and imposed for the current general tax roll.

Example: If the Assessor changes the assessment and tax rolls between January 1, 2007 and June 30, 2007 the disqualification will be effective for the 2007-08 tax roll. The additional taxes can be estimated and pre-collected for the current general tax roll. The additional taxes are required to be paid under ORS 308A.116 for this disqualification. After paying the additional taxes the land may requalify for Non-EFU special assessment in the current 2007-08 tax year if the taxpayer can meet the subdivision requalification criteria specified in ORS 308A.116. If the disqualification occurs

more than 30 days prior to April 1 of the current assessment year the taxpayer will have until April 1 to requalify of as specified in ORS 308A.077.

If the date of the disqualification notice is beyond the April 1 application period ORS 308A.724(3), allows the taxpayer 30 days from the date of the disqualification notice to reapply for Non-EFU special assessment. The old application is disqualified and since the land did not change to a different special assessment the “Market MAV” exception for the subdivided land area is processed under either ORS 308.156(1) or 308.156(4)(a). For any land the meets the requalification requirements of ORS 308A.116 process the “Specially Assessed MSAV” for the account as newly qualified land under ORS 308A.107(6).

If the tax and assessment rolls are changed for a subdivision **disqualification July 1 or after** of the assessment year the land will remain in special assessment and the additional taxes will be collected for the next tax year and imposed for the next years general tax roll.

Example: If the Assessor changes the assessment and tax rolls on or after July 1, 2007 as specified in ORS 308A.068, the land remains in Non-EFU special assessment for the current 2007-08 tax year and the disqualification becomes effective July 1, 2007 and the assessed value is changed for the next tax year 2008-09. If additional taxes are pre-collected they must be estimated and collected for the 2008-09 tax year general roll. The additional taxes are required to be paid under ORS 308A.116 for this disqualification. After paying the additional taxes the land may requalify for Non-EFU special assessment in the 2008-09 tax year if it can meet the subdivision requalification criteria specified in ORS 308A.116. Under ORS 308A.077 the taxpayer has until April 1 of the next assessment year to submit a new application for Non-EFU special assessment. The old application is disqualified and the “Market MAV” exception for the subdivided land area is processed under either ORS 308.156(1) or 308A.156(4)(a). Process the “Specially Assessed MSAV” on the account for any land that newly qualifies for farm use special assessment under ORS 308A.107(6). All MAV calculations are processed for a change in assessment occurring in the next tax year 2008-09. **The notification letter to the taxpayer under ORS 308A.718 must appropriately use the correct tax year (2008-09) for the change in assessment and additional tax calculations, otherwise the notification letter may be considered invalid in the event of a tax court appeal.**



**Partitioning:** The provisions of a subdivision disqualification do not apply to land partitions for either EFU or Non-EFU farmland. A land partition is a division of a legal lot or parcel into two or three parcels in a calendar year. A land partition will require processing the account for a Measure 50 MAV exception under ORS 308.156(1).

## Homesite Disqualifications

**Establishing a homesite** on land that is currently under a special assessment program, the land first must be disqualified for “no longer in use” from the special assessment program the homesite is being located on. If the homesite qualifies for homesite special assessment under ORS 308A.253 it will be processed as a newly qualified “Homesite MSAV” measure 50 exception under the provisions granting the new special assessment as specified in ORS 308.156 (4)(b). If the land use change does not qualify for homesite special assessment the disqualification will be assessed based on market value under ORS 308.146 and 308.205 and the “Market MAV” will be calculated as a measure 50 exception under ORS 308.156(4)(a), (5) and (6).

**Existing specially assessed farm homesites** can be disqualified at anytime the Assessor discovers the homesite is not being used in conjunction with farm use and is being used for a nonfarm purpose as specified in ORS 308A.259. Homesites that are rented out to someone not involved in farm use activities do not qualify and should be disqualified. A homesite used only a few times a year for farm use activities and then sets vacant the remaining time is considered to be used in conjunction with the farmland. Vacant homesites generally only apply to EFU zones unless the owner of Non-EFU land can qualify the homesite by application under ORS 308A.253. Existing specially assessed farm homesites that are vacant shall continue to qualify for special assessment as long as the homesite remains habitable. Land under homesites that are no longer habitable may be assessed as a farm related storage building if used as part of the farm operation. As specified in ORS 308A.056(3) land under a farm related building shall be assessed at farm use values under ORS 308A.107.

As specified in ORS 308A.259 additional taxes are not collectable for an existing homesite that is disqualified, unless the existing homesite is involved in a non-farm dwelling land use approval partition under ORS 215.236.

Homesites special assessments are separate programs from land use special assessments. Either the establishment or disqualification of a homesite will not affect any remaining qualifying portion of a lot or parcel from continuing to qualify for farm use or any

other special assessment. However, a farm homesite will not qualify for farm homesite special assessment unless it is used in conjunction with qualifying farm use land that is currently under farm use special assessment.

**Specially assessed land and homesites involved in subdivisions or EFU overlays** require special processing. See “Subdivision and Homesite Disqualifications” for additional information.

**Nonfarm dwellings in EFU zones** require special processing. See “Nonfarm Dwelling in Exclusive Farm Use Zone (ORS 215.236) Disqualifications.”

## Government Exchange of Land

A government exchange occurs when a taxable owner exchanges specially assessed land for land that is held by an exempt government body. The exchange must be of approximate equal value.

ORS 308A.730 requires a taxpayer to submit a timely application following the exchange of land with a government agency. With a qualifying application additional taxes are deferred under ORS 308A.706. Failure to meet the following application timelines will result in a disqualification and additional taxes under ORS 308A.703:

1. If the exchange takes place prior to July 1, the owner shall file the application on or before August 1.
2. 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.

(See “Disqualification Notification Procedures” in the appendix of this manual for processing the exchange).

Processing the Measure 50 MAV will depend on whether the taxable owner qualifies their acquired land for special assessment.

1. If the land owner does not or cannot qualify for a change to a different special assessment the land will be assessed based on market value and the “Market MAV” will be processed as an exception under ORS 308.156(4)(a), (5) and (6).
2. If the land owner successfully meets the application requirements and timelines for a change to a different special assessment the tax account acquired by the taxable owner will be processed as a “Specially Assessed MSAV” measure 50 exception under the provisions granting the new special assessment as specified in ORS 308.156 (4)(b).

If the land qualifies for the exchange there are specific additional tax instructions that must be followed. (See additional tax section).



## Conservation Management Effect on Disqualification (ORS 308A.743)

The existence of a recorded conservation easement or deed restriction on land specially assessed for farm use will not cause a disqualification, unless, the terms of the conservation easement or deed restriction prevent the land from continuing to qualify for special assessment.

If the conservation easement or deed restrictions prevents the land from being able to meet special assessment qualification requirements the land should be disqualified for “no longer in use” under ORS 308A.113 (EFU), 308A.116 (Non-EFU) or any other special assessment unable to continue qualification under the terms of the easement.

A conservation easement or deed restriction that does not interfere with the land continuing to qualify for special assessment may co-exist on the same land.

## Disqualification Notification Letter

There are specific statutory requirements under ORS 308A.718 regarding the information that must be sent to a taxpayer when land is disqualified from special assessment.

See “Disqualification Notification Procedures” in the appendix section of this manual.

The disqualification notification procedures in the appendix address disqualifications from all special assessments relating to forestland, farm use, and wildlife habitat special assessment programs. The notification procedures include sample letters that demonstrate statutory requirements and suggested language to use in the notification process.

The disqualification notification letter required by ORS 308A.718 must:

- have a valid date of disqualification; (See Effective Date of Disqualification)
- be sent to the taxpayer within 30 days after the date the land is disqualified;
- be in writing;
- state the subject property has been disqualified from special assessment;
- state the reason for disqualification;
- state that the property will be assessed under ORS 308.156;
- state the amount of additional tax liability that will be imposed or if the land is not used for another use the amount of potential additional tax liability (ORS 308A.706 (1))

- summarize options and have provisions to change (rollover) into another special assessment, if applicable, under ORS 308A.706(1)(d) or ORS 308.727 (Open space) as specified in ORS 308A.724;
- provide a statement of appeal rights within 90 days of date of disqualification.

**No disqualification notice under ORS 308A.718 is required if the disqualification is:**

- at the property owner’s request; or
- for acquisitions by government or tax exempt entities identified under ORS 307.040 or 307.090.

Note: If the acquisition is by a taxpayer that must submit an application to receive tax exemption, upon approval of the exemption, send the taxpayer a disqualification notification letter under ORS 308A.718 for an incompatible “no longer in use” change of assessment the same as any other taxpayer that discontinues farm use special assessment.

## Appeals—Magistrate Division

An applicant may appeal a disqualification to the Magistrate Division of the Oregon Tax Court. A complaint filed with the Magistrate Division requires a filing fee of \$25. The appeal must be filed within 90 days of the knowledge of the disqualification, but not later than one year after the act. More information can be found in ORS 305.275, 305.280, 305.404 to 305.560, and 308A.718.

Complaints to the Magistrate Division should be mailed or delivered to the following addresses.

### By mail:

Oregon Tax Court,  
Magistrate Division  
1163 State Street  
Salem, OR 97301

### In person:

Clerk, Oregon Tax Court  
Magistrate Division  
1241 State Street NE  
Salem, OR 97310

Decisions of the Magistrate Division may be appealed to the Regular Division of the Oregon Tax Court within 60 days after the date of the decision.



# Additional Tax

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## 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 dis-

qualification 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.

### 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).

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.

Land in an area zoned "urban uses" as specified in ORS 197.754 and 197.756 shall not be subject to additional taxes under ORS 308A.700 to 308A.733 if the land ceases to be used for farm use within the five years following the date the area is zoned for urban uses. After the five year time period any land disqualified from farm use special assessment will be subject to additional taxes as specified in ORS 308A.700 to 308A.733.

### 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 (See Forestland Manual for STF.)
- c) Eastern Oregon designated forestland (See Forestland Manual for STF.)
- 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 Forestland Manual for STF.)

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 F for "Additional Tax Diagram."

### 2C. 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.

### 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 following table shows the circumstance and corresponding additional tax statute for farmland special assessments.

#### 3B. Change to Other Special Assessment

The most common reason for deferring the additional taxes upon disqualification of farmland 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.

#### 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.

#### **Additional Tax Statutes**

<b>Reason For Deferral</b>	<b>Statute</b>	<b>Additional Taxes</b>	<b>Statute</b>
EFU or Non-EFU land is not being used as farmland and is not being used for a purpose incompatible with returning the land to farm use.	308A.706(1)(a)	Additional taxes imposed at the time land use changes to a use incompatible with returning the land to farm use.	308A.712(2)
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 and 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)
Non-EFU farmland fails to meet the income requirements of ORS 308A.071.	308A.706(1)(e)	Additional taxes are abated for each year of limited farm use. Unabated years remain a potential additional tax.	308A.119

**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 farmland 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 EFU farm use or wildlife habitat located in an EFU zone outside the urban growth boundary.

**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 had 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 inside UGB (ORS 308A.424)

**Example 1:** Farm land was under Non-EFU from 1996 through 2000. The owner let the land lay idle so the land was assessed based on market value, and the additional taxes were deferred under ORS 308A.706(1)(a). In 2004, the owner qualified the land for Wildlife Habitat special assessment. In 2006, the owner changed the use incompatible with returning the land to special assessment. Additional taxes are to be collected under ORS 308A.703 for the two years the land was in WLH, and the additional taxes deferred in 2001 are to be collected under ORS 308A.712(2). ORS 308A.712 requires the number of years to be collected shall be the total number of years (whether or not continuous) that the farm use was in effect for the land not to exceed five years for Non-EFU land and the EFU land inside the Urban Growth Boundary, and 10 years for EFU land outside the UGB.

In this example, three years of additional taxes, 1998-99 through 2000-01, can be collected because the number of years to be collected cannot exceed five years for Non-EFU land.

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		Based on MV			<---Non-EFU-->				
Years to Compute Add Tax		x	x				x	x	x		

**Example 2:** Land was under Non-EFU special assessment from 1996 through 2004. In 2005, the owner rolled the land over to wildlife habitat special assessment. In 2006, land was disqualified from special assessment for an incompatible 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	<----- Non-EFU ----->								
Years to Compute Add Tax		x	x	x	x	x					

**Example 3:** 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, and the land has been continuously in special assessment, 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

In the above example, the land must have been continuously subject to special assessment within the past 10 years, otherwise calculate five years additional tax [ORS 308A.712(5)(b)(A)].

**Example 4:** Assume same scenario as Example 3, only land was under EFU from 1996 through 1998 and under DFL from 1999 through 2005. Because land was disqualified from EFU outside the urban growth boundary within the last 10 years, and the land has been continuously in special assessment, 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.

**Example 4** (continued)

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 within the past 10 years, otherwise calculate five years additional tax [ORS 308A.712(5)(b)(A)].

**Example 5:** In 2002, the county governing body removed the land from an EFU zone and additional taxes were not imposed as specified in ORS 308A.709(6). Upon removal of the EFU zone, the land was disqualified and the owner rolled over into Non-EFU special assessment under ORS 308A.706(1)(d). In 2006, the owner changed the use of the land incompatible with returning the land to farm use.

Additional taxes are to be collected under ORS 308A.703 for the four years the land was in Non-EFU special assessment. The years the land was in EFU special assessment are not collectable due to the removal of the land from an EFU zone as specified in ORS 308A.709(6) and ORS 308A.712(6).

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		<-Non-EFU->				<----- EFU ----->					
Years to Compute Add Tax		x	x	x	x						

**4. No Additional Tax**

**4A. Statutes**

ORS 308A.709 and 197.754 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.

**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. Any land specially assessed for farm use as described in ORS 307.110 is not required to pay additional taxes if the land is disqualified due to termination of the lease. This statute only applies to farm special assessment. See “Exempt Owner Disqualification” in this manual.

#### **4B4. Removal of Land from EFU Zone**

ORS 308A.709(6) specifies additional taxes cannot be imposed for 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:

1. A governing body of a city or county that was not initiated by the owner of the land;
2. The State Parks and Recreation Department for public park purposes under ORS 390.121; or
3. The State Fish and Wildlife Commission for wildlife management purposes under ORS 496.146.

EFU zone changes that are initiated by an action of the land owner will have additional taxes deferred for any land meeting the criteria of ORS 308A.706.

Example: Following the zone change, if the owner lets the land lay idle, the additional taxes are deferred under ORS 308A.706(1)(a) as long as

the land use remains compatible with returning the land to a farm use.

Example: Following the zone change, the owner changes to Non-EFU special assessment. The additional taxes are deferred under ORS 308A.706(1)(d) for the change in special assessment. As specified in ORS 308A.724, the owner has five years to meet the Non-EFU farm use and income requirements of ORS 308A.068 and ORS 308A.071.

See also “Removal of Land from an EFU Zone” in this manual.

#### **4B5. Land Zoned for Urban Uses (ORS 197.754 and 197.756)**

Land in an area zoned “urban uses” as specified in ORS 197.754 and 197.756 shall not be subject to additional taxes under ORS 308A.700 to 308A.733 if the land ceases to be used for farm use within the five years following the date the area is zoned for urban uses. After the five-year time period any land disqualified from farm use special assessment will be subject to additional taxes as specified in ORS 308A.700 to 308A.733.

### **5. Non-EFU Abatement**

If, on July 1 of any year, farmland specially assessed as Non-EFU is disqualified from farm use special assessment due to any requirement of ORS 308A.071, the additional taxes can be abated. The abatement **only** applies to Non-EFU land that is disqualified under ORS 308A.116 for failure to meet the income requirements of ORS 308A.071.

To qualify for abatement, the land must not have discontinued farm use and must maintain a limited farm use for each year the abatement continues. If there is a break in farm use at any time, the abatement stops and there is no provision to requalify for continued abatement.

As limited use is completed, the assessor abates additional taxes beginning with the oldest year for which the additional taxes are due up to five years or the number of years the farm use was in effect, whichever is less.

The abatement **only** relieves the additional tax liability. If an owner discontinues the limited use or requalifies the land for farm use special assess-

ment or other special assessment, the abatement ends. Any abated years completed will reduce the potential additional tax liability.

Following are some abatement examples:

### Non-EFU Abatement Examples

- Codes:**
- PAT = Potential Additional Tax liability
  - FV = Farm Use Value assessment
  - MV = Real Market Value assessment
  - F = Farm Use
  - LF = Limited Farm Use
  - \$ = Minimum income requirement satisfied
  - A-1, 2, ...x = Abated (tax year abatement occurs)

#### Example #1: Disqualification due to lack of income—Abatement (308A.119)

Tax Year	03-04	04-05	05-06	06-07	07-08	08-09
Tax Status	PAT	PAT	PAT	PAT	PAT	
Value	FV	FV	FV	FV	FV	MV
Use	F	F	F	F	F	LF
Income		\$		\$		N/A

Disqualify  
(Lack of income)  
308A.116  
↑

#### Abatement Procedure

1. Calculate PAT liability (5 year maximum).
2. Abate year for year (oldest year first).
3. Must complete limited use for 08–09 before oldest year (03–04) can be abated.
4. Assess at RMV.
5. Qualifies automatically with limited farm use.
6. No income requirement during abatement.

#### Example #2: Owner abated 3 years then quit farming (308A.116)

Tax Year	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12
Tax Abated	(08-09)	(09-10)	(10-11)						
Tax Status	A-1	A-2	A-3	PAT	PAT				
Value	FV	FV	FV	FV	FV	MV	MV	MV	MV
Use	F	F	F	F	F	LF	LF	LF	Quit
Income		\$		\$		N/A	N/A	N/A	

Disqualify  
(Lack of income)  
308A.116  
↑

Disqualify  
No use  
308A.116  
↑

#### Abatement Procedure

1. Abatement terminates
  - a) 3 oldest years have been abated.

b) 2 unabated years (06–07 and 07–08) remain PAT. No additional tax until use change incompatible with farm use. 308A.706(1)(a).

2. Continue assessment @ RMV.

**Example #3: Requalification after 3 years on abatement (308A.122)**

	03-04 (08-09)	04-05 (09-10)	05-06 (10-11)	06-07	07-08	08-09	09-10	10-11	11-12
Tax Year									
Tax Abated	(08-09)	(09-10)	(10-11)						
Tax Status	A-1	A-2	A-3	PAT	PAT				PAT
Value	FV	FV	FV	FV	FV	MV	MV	MV	FV
Use	F	F	F	F	F	LF	LF	LF	F
Income		\$		\$			\$	\$	

Failed 3 of 5 years (Disqualify)
Passes 3 of 5 years (Requalify if owner applies)

**Abatement Procedure**

1. Abatement terminates
  - a) 3 oldest years have been abated.
  - b) 2 unabated years remain PAT. If requalified after 5 years the unabated years (06–07 and 07–08) will no longer apply due to 5 year maximum potential additional tax liability period.
2. Must submit new application (308A.077) for special assessment and continue to meet 3 of 5 year test the same as any qualifying farm.
3. Assess at Farm Use Value.

**Notes:**

Cannot discontinue Farm Use (must maintain limited use) (or abatement ends with no provision to get back on abatement).

Can only receive abatement on Non-EFU land from lack of income (no income requirement while in abatement). No abatement for EFU land.





## **Appendix A: Farm Use Legislation and History**

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# History of Farm Use Special Assessments

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## Purpose

This section will familiarize the reader with changes in farm laws since the inception of the farm use special assessment program enacted by the 1961 Legislature.

It's important to realize that a taxpayer or even a co-worker has heard the same terminology relating to different special assessment programs and does not realize that each program operates under its own set of laws. They may use one term when they mean something entirely different. These laws are not permanent. Through the years the laws have often changed. Many times people will refer to a law and think it still applies when changes have occurred to make it more or less restrictive. Therefore, there is a need to study the course of events to accurately relate to the changes and any misunderstandings over time. The purpose of this section is to help the reader relate to some of the farm use law changes that have occurred since the special assessment program as we know it today began in 1961.

## Brief Background

Farm use special assessment evolved after the state reappraisal program was created in the late 1950s and early 1960s. Farm reappraisal was mandated by the Farm use special assessment evolved after the state reappraisal program was created in the late 1950s and early 1960s. Farm reappraisal was mandated by the 1953 Legislature. Farm use zoning and farm use assessment came about as a result of legislative action because taxes on farmland were determined to be excessive compared to incomes, particularly in areas with urban influence. Therefore, a 1961 legislative change allowed for farm zone special assessments.

One of the shortcomings of the 1961 change was that it only allowed for special assessment in areas that had already been planned and zoned for farm use. At that time, less than 10 percent of the state of Oregon was zoned. That left the remaining 90 percent with no means of relief. The 1963 session of the Legislature then enacted ORS 308.370 that provided special assessment of EFU and non-EFU (unzoned) farmland (commonly called farm deferral). The 1963 legislation also enacted ORS 215.203 and 215.213 zoning laws to provide a definition for farm use and permitted uses in a farm use zone.

In 1965, the legislative assembly enacted ORS 308.239 (later codified ORS 308.345) to give assessors guidance to value land qualifying for farm use special assessment. Legislation required that only properties

sold from a farmer to a farmer would be considered a sale to use to establish values for farm use.

In 1967, ORS 308.345 introduced the prudent investor test. At that time, all real property was valued at 25 percent of market value and the laws were in the process of being changed to 100 percent of market value. The prudent investor test recognized that farm properties did not sell at a return commensurate with commercial interest rates. Since farm property sale prices are generally above a level that provides a sufficient return to a prudent investor, the Legislature required assessors to use a modified income approach with a capitalization rate that reflects prudent investment rates. Under this method, farm properties are assessed at a value according to their rate of return. Only if the rate of return becomes a prudent investment will farm sales be used to establish market value.

This sets up the basis for the special assessment program we have today. The following topics have been drafted to provide the reader with background information for the many changes to the farm use special assessment program.

## Topics

### Farm Use Definition (ORS 215.203)

Few changes have been made in the definition of farm use since 1963. Originally, the wording required the farm be a bona fide farm operation. However, for 10 years no one could agree on what a bona fide farm was, so the 1973 legislation included the definition of farm use as part of Senate Bill 101. Senate Bill 101 stated in more specific terms that property farmed in a manner normal for the particular area and the particular farming operation would be considered a valid farm use operation. Terms that did not have one meaning to all people, such as bona fide, were removed.

### Special Assessment (Greenbelt, Deferral)

Often, different terms have been used to mean the same thing, such as greenbelt or deferral. Today, the farm use special assessment program is called EFU or NON-EFU farmland.

“Greenbelt” is a term some people use in error synonymously with special EFU/Non-EFU assessment. Greenbelt at one time was a zoning term for providing urban containment by putting a farm zone band immediately surrounding an urban area. By establishing a greenbelt it would be too expensive to provide services from the urban area through the greenbelt zoned area with the idea that it would prevent the outlying lands from being developed.

In reality, as soon as the prices increased in the urban areas, buyers migrated to less expensive properties outside the urban zone, so it became necessary to zone the entire state.

“**Deferral**” is another name used for special EFU/Non-EFU assessment programs. This term was derived from the initial program statutes that referred to the “deferred tax liability.”

“**Greenways**” were created by the Legislature in the early 1970s. These were areas along our rivers and streams that were to be preserved for cleaning the water in the streams and to provide what was called the Willamette Greenway, which was the area where the development rights were to be acquired by the state. While land in a greenway may qualify for farm use special assessment, the term greenway is not a special EFU/Non-EFU assessment term. Along with the greenways, a term that we often hear is wetlands and riparian lands.

A “**wetland**” determination classifies wetlands on a farm according to requirements of the 1985 Food Security Act. Farm activities may be restricted for farmers to receive United States Department of Agriculture (USDA) benefits. While these restrictions may affect the income status of a farm account, the term wetland is not a special assessment term.

**Note:** Wetland status does not qualify as a government program defined under ORS 215.203 “current employment”. If farm land is taken out of production to become a wetland, that land will be assessed at market value. ORS 308.235 should be considered when land is subject to wetland restrictions to ensure that the wetland property is compared to similar wetland sales.

“**Riparian**” lands are those lands adjacent to a body of water that qualify for a property tax exemption under ORS 308.792 to 308.803. The Oregon State Department of Fish and Wildlife regulates riparian lands. Application for riparian land special assessment is filed with the county assessor.

**Other Special Assessment Programs**

Other special assessment programs have qualification and disqualification procedures similar to the language found in the farm use program. The following is a list of other property tax special assessment programs (reference ORS 308.025):

	<b>ORS</b>
Single family residence in commercial/industrial zone	308.670
Open space lands	308.740
Riparian lands	308.792
Western Oregon forestland	321.358

Western Oregon small tract	
Optional forestland	321.705
Eastern Oregon forestland	321.805
Historic property	358.475

**Land in a Subdivision**

When the special assessment program first began, land in a subdivision was not a criterion for disqualification. The 1971 Legislature provided that any Non-EFU property that was platted into a subdivision after September 9, 1971, would not be eligible for farm use special assessment. In the early 1980s during the recession, there were a lot of properties that had been platted but no change in use had occurred. There was no demand for the lots. Properties continued to be farmed, so the 1983 Legislature enacted ORS 308.387 (now 308A.116). ORS 308A.116 allows properties that have been platted to requalify for farm use special assessment. Upon requalification the property remains qualified until a change of use occurs or it no longer meets the farm use qualification. More recently, EFU zones are being subdivided.

**Minimum Acreage**

Originally the greenbelt law required there be at least five acres to qualify for farm zoning. Once the land was zoned for farming the assessor was required to assess the land at farm use value. The five acre requirement was replaced when gross income requirements were first introduced in ORS 215.203 in 1967.

**Homesite Special Assessment (ORS 308.377 & 308.378)**

Prior to 1980, farm homesites were not to exceed one acre and they were valued at market value for both EFU and Non-EFU. The 1979 Legislature created a special assessment for farm homesites which allowed the land portion of a qualifying homesite to be assessed at farm use land value. Special assessment of farm homesites in an EFU zone were automatic when farm-related dwellings occupied the homesite (see OAR 150-308.377 for definition of farm-related dwellings). Non-EFU homesites qualified if occupied by farm-related dwellings and an application was made to the county assessor on or before April 15 that showed over 50 percent of the dwelling’s occupants’ adjusted gross income was from farming. This program was in force between 1980 and 1987. ORS 308.395 (NON-EFU) and 308.399 (EFU) do not require additional tax for homesite disqualification. When homesite land no longer qualifies, it and any on-site improvements are assessed at market value.

In 1987, the Legislature created special provisions for the treatment of homesites under ORS 308.377 and ORS 308.378.



ORS 308.377 changed the homesite land value from farm use land value to average market value per acre of all contiguous acres plus a \$4,000 maximum on-site value for both EFU and NON-EFU qualifying homesites.

ORS 308.378 protects both EFU and NON-EFU qualified farm homesites from additional taxes in the event of disqualification from special assessment under ORS 308.377, except, if the homesite is involved in a land partition for a nonfarm parcel under ORS 215.263 (4). This allows a farmer to discontinue the use of a farm related dwelling and use it as a nonfarm related homesite without having to pay potential additional taxes even though the homesite is disqualified and assessed under ORS 308.205 (market value).

### **Non-Farm Dwellings (Additional Taxes)**

Sometimes there is confusion between ORS 308.378 and ORS 215.236 regarding additional taxes on non-farm dwellings.

ORS 308.378 prohibits additional taxes for the disqualification of a homesite qualified for valuation under ORS 308.377 except if the homesite is involved in a land partition under 215.263(4). This allows a farmer to change an existing farm related dwelling to a non-farm dwelling. There would be a disqualification but no additional tax (except if there is a partition) and it applies to both EFU and NON-EFU homesites.

ORS 215.236 passed by the 1981 Legislature requires disqualification and additional taxes be paid prior to the owner receiving a building permit for the establishment of a nonfarm dwelling in an EFU zone. The disqualification and additional taxes apply to the entire nonfarm parcel.

In 1985, ORS 215.236 was modified so that all EFU zoned farm and forest specially assessed land is required to follow the requirements of ORS 215.236. Previously, this law only included disqualification of farm-use assessment.

A parcel that has been partitioned for a nonfarm dwelling and disqualified can become a qualifying parcel if it is combined with an existing, contiguous, farm use "lot or parcel" (not a few users through a lot line adjustment) and is again devoted to farm use. The nonfarm dwelling will then become a farm dwelling entitled to its one-acre homesite assessment under ORS 308.377.

### **Application Required for Non-EFU Homesites and Wasteland**

Prior to the 1979 Legislature, homesites were assessed at market value for both EFU and NON-EFU farms. The 1979 Legislature created a special assessment which allowed the land portion of a qualifying homesite to be assessed at farm use land value. EFU home-

sites used in conjunction with the farm automatically qualify. However, an application by April 15 is required each year an applicant wishes to qualify for homesite and wasteland special assessment in a zone other than exclusive farm use. To qualify the applicant (and spouse) must earn at least 50 percent of their adjusted gross income from farming. A copy of their income tax return must be filed with the application.

Most of the large farms are in EFU farm zoned areas. However, some of the farmers who live closer to an urban area have their homesite located in a (NON-EFU) rural residential zone which is contiguous to their farming operation. Another common applicant is a farmer located in rangeland or timberland areas which are often zoned other than exclusive farm use.

### **Disqualification of Specially Assessed Farmland**

When the special assessment program began in 1964, ORS 308.390 required all the disqualification information—market value, farm use value, and additional tax years—to be on the tax roll and tax billing. Because this information was available, there was no formal disqualification procedure. The 1971 Legislature required the farm use value to be the only value on the tax bill. This 1971 change made it necessary to develop procedures which required the taxpayer be notified of the assessors' intent to disqualify and the amount of additional tax that would be placed on the next general tax roll.

Prior to the 1973 Legislature, there was no disqualification penalty (additional tax) on EFU farmland. The 1973 Legislature passed SB101, which provided a penalty (additional tax) for disqualification of EFU farmland with a maximum penalty of 10 years outside the urban growth boundary and five years inside the urban growth boundary.

Prior to the 1973 Legislature the disqualification penalty on NON-EFU farmland was a maximum of five years with six percent simple interest per year. The 1973 Legislature increased the number of years from five years to ten years. Each of those years had a 6 percent simple interest applied for each year from the day that tax would originally have been due. By 1979, the simple interest could have accumulated to a maximum of 60 percent for the oldest year.

In 1981, the Legislature changed the process for recalculating the disqualification penalty on farmland. A multiplier was used instead of figuring the difference in tax for each year. The Legislature also eliminated the 6 percent interest. The new maximum computation was five times the difference in value times the tax rate for the last year in which the property was specially assessed. The multiplier made the additional tax computation much easier for the assessors office. The law change had the overall effect of reduc-

ing the amount of liability for the average farm deferral property owner. However, property owners who had recent zone changes that upzoned their properties generally experienced a considerable increase in the amount of their additional tax liability (disqualification penalty).

1981 legislation also required disqualification of farm use assessment in order to get a final approval for nonfarm parcels or nonfarm homesites under ORS 215.236. This affected specially assessed EFU land only (see topic on nonfarm dwellings).

In 1985 ORS 215.236 was expanded to require disqualification and payment of additional taxes prior to receiving a nonfarm building permit on all farm, forest, or open space designations.

In 1987, ORS 308.382 (EFU) and ORS 308.384 (Non-EFU) provided for disqualification when the assessor discovered non-qualifying idle farmland. The additional taxes are computed, but, not extended to the tax roll until the farmland is disqualified under ORS 308.390 (Non-EFU) and ORS 308.397 (EFU). See "Additional taxes computed but not extended" below.

In 1990, Oregon voters passed Measure 5. In response to Measure 5, the 1991 Legislature passed HB2550 which eliminated the multiplier and required that additional taxes could only be imposed for each year under property tax limitation.

OAR 150-308.395 states in part:

*(3) Additional Tax Computation:*

(a) Additional taxes computed for 1991-92 tax year and thereafter shall be 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 exemption prior to the 1991-92 tax year shall be computed on the difference of value of the last year of special assessment prior to the 1991-92 tax year times the tax rate for that year times the number of remaining years the special assessment was in effect.

(c) 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 special assessment was in effect for the land, not to exceed five years.

OAR 150-308.399 states in part:

*(3) Additional Tax Computation:* Compute additional taxes in accordance with OAR 150-308.395(3)(a) and (b). The number of years the additional tax shall be collected shall be the total number of years (whether or not continuous) that the spe-

cial assessment was in effect for the land not to exceed ten years if the land is located outside an urban growth boundary and five years if the land is located within an urban growth boundary.

The above administrative rules provide that counties use the multiplier for years prior to the time of Measure 5, which would have been before the July 1, 1991 tax year. For the 1991-92 tax years and thereafter, the tax differences are figured separately for each year under the Measure 5 limitation up to a maximum of 5 years for Non-EFU or EFU within an urban growth boundary, and 10 years for EFU outside an urban growth boundary. This method will be phased in over the next few years until the additional tax computation (disqualification penalty) is no longer affected by the tax years prior to the 1991-92 tax year.

In 1990, Ballot Measure 5 changed the definition of market value for property taxation. The 1991 legislation passed House Bill 2550, which requires both the real market value and the special assessed value on the property tax notice to the taxpayer.

#### **Additional Taxes Computed but not Extended**

The 1987 Legislature enacted ORS 308.382 (EFU) and ORS 308.384 (Non-EFU) which provided a different treatment of idle farmland upon disqualification. Upon discovery idle farmland is disqualified, placed on the roll at market value, and the potential tax liability is calculated, but not extended to the tax roll. Calculating but not extending means that the additional tax is computed and the amount is displayed on both the assessment and tax roll but will not be extended to be collected. Prior to this legislation land that was discovered to be idle was disqualified and additional taxes were extended to the roll.

This may have also been an answer to part of the problem with financing properties under special assessment because many lenders ended up with additional tax bills when properties were no longer farmed. Many government guaranteed loans only applied to the residential portion so the lenders received the tax bill on the farm land. This law is now codified under ORS 308A.706(1)(a).

#### **Real Market Value Defined**

Below is Oregon statute 308.205, which defines real market value.

**308.205 Real market value defined.** (1) Real market value of all property, real and personal, as the property exists on the date of assessment, means the minimum amount in cash which could reasonably be expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm's-length transaction during the fiscal year.

(2) Real market value in all cases shall be determined by methods and procedures in accordance with rules adopted by the Department of Revenue and in accordance with the following:

(a) The minimum amount a typical seller would accept or the highest amount a typical buyer would offer which could reasonably be expected by a seller of property.

(b) An amount in cash shall be considered the equivalent of a financing method that is typical for a property.

(c) If the property has no immediate market value, its real market value is the amount of money that would justly compensate the owner for loss of the property.

(d) If the property is subject to governmental restriction as to use on the assessment date under applicable law or regulation, real market value shall not be based upon sales that reflect for the property a value that the property would have if the use of the property were not subject to the restriction unless adjustments in value are made reflecting the effect of the restrictions.





## History Timeline Chart

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1951						Statewide Reappraisal
1957		307.320				Deciduous tree exemption
1961	EFU	308.237	5 acres minimum must be farmed.	Farmland mkt. value w/o urban influence.		Green Belt Law
	EFU	308.238			July 1 if not in farm use.	
1963	EFU	215.203	Exclusive farm use	Farmland at mkt. value w/o urban influence.		Provides farm use zoning. Repealed ORS 308.237 (Green Law).
	NON-EFU	308.395				If not farmed property had up to 5 year liability for deferred taxes.
	EFU	308.370(1)	Exclusive farm use	Farmland at mkt. value w/o urban influence.		
	NON-EFU	308.370(2)	Farmed prior 2 years. Application prior to February 1 of each year	Farmland at mkt. value w/o urban influence.		
1965	EFU & NON-EFU	308.239 became 308.345		Farmland to be evaluated on basis of farm use value.		Expanded exemption to include agricultural products.
1967		308.345 (HB 1692) 308.375		Added prudent investor test.		Owner to be notified if application not made and could file w/late filing fee to avoid disqualification.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1967 (Cont.)	EFU & NON-EFU	215.203	Must meet \$500/year income requirement.			
		308.345 (HB 1808)		Values determined by capitalization included DOR interest rate & local tax rate.		
		308.232 (HB 1808)		Established assessment @ 100% of TCV (change from 25% of TCV).		
	EFU & NON-EFU	308.370 (HB 1808)		Amended "be assessed at its true cash value for farm use" to "its value for farm use."		
1969	EFU & NON-EFU	308.350				Board of Review Review members 2 years, submit income approach factor to Board of Review.
		308.380				Made farm use definition consistent with ORS 215.203. Considered farm until assessing farm use value. (Prior to this each tax lot stood on its own.)
	NON-EFU	308.375	Any dedeed or recorded contract buyer may apply. (Prior all owners had to apply.)			
		Amends 215.213				Establishing farm dwelling on lot or parcel that is part of farming operations.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1971	NON-EFU	308.375	Application made on or before April 1 of “ <b>first year</b> ” special assessment qualifies. (Prior applications were on an annual basis.) New owners must apply within 60 days of purchase.			
	NON-EFU & EFU	308.370			Does not disqualify if the farm use not interfered with.	Allowed exploration for geo-thermal resources without disqualifying property.
	NON-EFU	308.385 (Repealed)				Application no longer had to be recorded with county clerk by assessor.
	NON-EFU	308.390 (Amended)		Deleted carrying of market value on land card and tax roll.		Notation: “Potential additional tax liability” on tax and assessment rolls.
	NON-EFU	308.395			Assessor to notify owner of disqualification and amount of additional tax and interest if disqualified (5 years) maximum.	
1973	EFU	SB 101 215.203 215.213	Land under hired help dwellings and land under buildings supporting accepted farming practices.			Defines “accepted farming practices.”
	EFU	308.397	Removed income requirement.		Provide for additional tax liability. 5 years inside urban growth boundary — 10 outside.	

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1973 (Cont.)	EFU	SB 195 (308.403)				District Attorney to determine if zone qualifies as exclusive farm use zone. Assessor shall notify county governing body of non-qualified zone and possibly subject to additional tax liability.
	EFU & NON-EFU	HB 2144 (Amended 308.250)				Added mint to processor's exemption.
	EFU	HB 2220 (307.485)				Exempts farm labor camps.
	NON-EFU	HB 2317 (Amended 308.390 and 308.395)			Land no longer disqualified from farm use assessment due to change of ownership. Did away with need for new owner to apply.	
	EFU & NON-EFU	HB 3247 (Amended 310.608)				Adds farm machinery to inventory exemption.
	NON-EFU & EFU	HB 2304 (Amended 321.618)				Established minimum stocking for forest land @ 60% of minimum provided in forest practices act.
1975	EFU	SB 497 (Amended 215.213)				Additional non-farm use in farm zone (personal use airports)
	EFU & NON-EFU	HB 3015 (Amended 308.235)		Valuation of land based on land use plan and zoning. Capitalization rate to be used shall be average rate of interest for Federal Land Bank over past five years component for the tax rate.		
	EFU & NON-EFU	SB 783 (Amended 308.345)				



## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1975 (Cont.)	EFU & NON-EFU	SB 262 (Amended 215.203)	Farm wood lot qualified up to 20 acres. (Previously if over 20 acres, none qualified, now first 20 acres qualifies.)			
1977	NON-EFU	SB 200 (Amended 308.370)				Allows lease for use for fishing, hunting, camping or other recreational uses.
	NON-EFU	SB 468 (Amended 308.374)	Added income requirement to law. Income requirement: Under 5 acres — \$500 5 to 20 acres — \$100/acre Over 20 acres — \$2,000 +	If qualified, valued at farm use value.	Disqualified if does not meet income requirement. Special assessment becomes annotated lien.	
	EFU	SB 819 (215.213)		Land at market value.	Special assessment becomes annotated lien.	Abatement process. If not qualified for income but still being farmed, abate one year for each year farmed.  Allowed uses in EFU Zone added (home occupations, processing forest products, boarding of horses).
	EFU & NON-EFU	SB 829 (308.345)		Modified interest rate establishing farm use value (effective rate).		
1979	EFU	SB 437 (215.203)		Wasteland, home sites and land under farm buildings to be valued at farm use.		
1981	EFU & NON-EFU	SB 372 (308.350)				Staggered terms at farm board of review.
	EFU	SB 397 (Amended 308.025)				Designation of riparian lands.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1981 (Cont.)	EFU & NON-EFU	HB 2122 (321.960)				Allows rollover upon disqualification of zoned farmland, NON-EFU farmland, forest land and small woodlands.
	NON-EFU & EFU	HB 2182 (308.395)		Multiplier instead of individual year computation and interest.		Included EFU, NON-EFU, small woodlands, and designated forest land.
		HB 2225 (215.213)		Provided for removal of property from farm use assessment if non-farm parcel or non-farm homestead approved.		
1983	EFU	SB 237 (215.253)	Land must meet requirements of NON-EFU land to qualify for special assessment. Must meet income requirement.		Disqualify from automatic farm use assessment. Calculate and extend deferred taxes to roll. May reapply for NON-EFU.	This bill allowed marginal lands within EFU.
	EFU & NON-EFU	HB 2685 (308.396 Amended)				No additional tax on public land exchanged.
	EFU	215.203 (Amended)				Marginal land not restricting farm use or farm structures.
	EFU	SB 347 308.775 and 308.760				Farm or forest to open space. Applies to public golf course within or adjacent to Urban Growth Boundary.
	NON-EFU	HB 2824				Land can requalify for farm or forest special assessment after platting.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1985	EFU	SB 185 (308.403)				Notification of county and requalification of farm zone within six months, assessor shall continue assessment as EFU zoned farm land. Notation remains on tax roll — “potential additional tax liability.”
	EFU & NON-EFU	215.203	Allows farm use qualification for aquaculture.			
	NON-EFU	SB 212 (308.396)				Farm or forest additional tax not collected when property transfers to public park, DOT or Fish and Wildlife.
	EFU	SB 376 (215.213)				Residential properties for handicapped persons in EFU zone.
	EFU	HB 2381 (215.213)				Relates to partition of land zoned EFU.
	EFU	HB 2552 (215.213)				Allows racing dog kennels in counties over 200,000 population that have a dog racing track. Also allows them in adjoining counties with over 200,000 population.
	EFU	215.203				Continued qualification for flooded farm land.
1987	EFU & NON-EFU	SB 15 308.377	ORS 308.045 ORS 308.372			Changed land under homesite from farm land to average value of 1 acre plus 4,000 for on-site development.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1987 (Cont.)	EFU & NON-EFU	SB 199 (Follows 308.407)			Requires notice 1 year prior to disqualification of land financed by ODVA.	
	NON-EFU	HB 2485 (308.345 308.406)	Allows immediate qualification of NON-EFU land purchased and made part of farming operation that exceeded \$10,000 in prior year.			
	NON-EFU & EFU	HB 2664 (308.384 308.382)	If qualifies, farm use is reapplied and notation of lien amount is removed.	If land not farmed, put at market value. Compute deferred tax, post lien of amount of deferred tax but do not extend tax to roll.		Expires 1-1-97
	EFU	HB 2950 (215.213)				Allows replacement dwelling in farm use zones to be used in conjunction with farm use if original house is listed as a historic property. Allows breeding, boarding, and training of horses. Boarding is non-farm use.
	EFU	HB 3097 (215.213 215.283)				Allows destination resort in EFU zone.
	NON-EFU	308.372	In determining gross income purchase price of livestock to be deducted from gross income.			
1989	EFU & NON-EFU	308.396			308.399 308.395	Deferred liability not collected in certain cases.
1991	EFU & NON-EFU	HB 2550 (308.399 308.395)			Changed method of disqualification.	Provided for difference in tax for <b>each</b> of 5 to 10 years.

## History Timeline Chart (cont.)

Year	EFU or Non-EFU	Statute	Qualifications	Valuation	Disqualification	Other
1991 (Cont.)	NON-EFU	308.372 308.407	New income requirements for NON-EFU land starting in 1992.			Under 6 acres — \$650 6-30 acres — \$100/acre Over 30 acres — \$3,000 +
	NON-EFU	OAR 150-308.395			Allowed phase-in of new system and allowed multiplier for years prior to 1991.	
1992	EFU	OAR 150-308.399			Allowed phase-in of new system and allowed multiplier for years prior to 1991.	





# OREGON REVISED STATUTE CHART

	Qualification Statutes	Assessed Value Statutes	Disqualification Statutes
Assessment based on Market Value	<p><b>TAXABLE BASED ON RMV</b></p> <p>Dwellings                      Farm Related Buildings                      Other Buildings                      Non-Qualifying Land                      Non-Qualifying Homesite                      Improvements to the land                      Fixtures, Improvements not exempt                      — Processing Equipment                      — Milking Parlors                      — Automatic Feeders                      — Seed Cleaning Equipment                      — Buried and Real Property                      Irrigation Lines                      — Affixed Irrigation Pumps and Motors                      Non-EFU leased land OAR 150-308A.068</p>	<p><b>RMV / MAV</b></p> <p>308.146 (&lt;RMV or MAV)                      308.156(4)(a) (M-50 MAV)                      308.205 (RMV)                      308.232 (RMV / Assessment)                      308.235 (Land Valuation)                      308A.110 (Improvements and Machinery Valuation)</p>	<p><b>DISQUALIFICATION</b></p> <p>215.236 (EFU Nonfarm dwellings)                      308A.113 (EFU)                      308A.116 (Non-EFU)                      308A.259 (Homesites)                      308A.718 (Taxpayer Notification)                      708A.743 (Conservation Easements)</p> <p><b>ADDITIONAL TAX</b></p> <p>308A.119 (Non-EFU abatement of Additional Tax)                      308A.703 (Collect Additional Tax)                      308A.706 (Deferral of Additional Tax)                      308A.709 (No Additional Tax)                      308A.712 (Collection of Additional Tax Deferred)</p>
Special Assessment	<p><b>FARM USE SPECIAL ASSESSMENT</b></p> <p>308A.056 (Farm Use Defined)                      308A.062 (EFU Land Qualification)                      308A.068 (Non-EFU Land Qualification)                      308A.250 (Homesite Defined)                      308A.253 (Homesite Qualification)                      308A.071 (Non-EFU Income Requirements)                      308A.074 (Non-EFU Wasteland Application)                      308A.077 (Non-EFU Application)                      308A.080 (Acquired Land Qualifications)                      308A.083 (Potential Additional Tax Liability)</p>	<p><b>FARM USE SAV / MSAV</b></p> <p>308A.092 (Valuation Criteria)                      308A.095 (Farm Board)                      308A.107 (Land SAV / MSAV)                      308A.256 (HS SAV / MSAV)                      308.156(4)(b) (M-50 MSAV)</p>	<p><b>CHANGE SPECIAL ASSESSMENT</b></p> <p>308A.086 (Requalification Generally)                      308A.089 (Income Requalification)                      308A.122 (Abatement Requalification)                      308A.724 (Change Special Assessment)                      308A.730 (Government Exchange)                      308A.733 (Withdrawal of Change)</p>
No Assessment — No Tax	<p><b>EXEMPT</b></p> <p>307.060 (Leased Federal Government Land)                      307.110 (Leased Public Land)                      307.315 (Nursery Stock)                      307.320 (Trees, Shrubs, Plants, Crops)                      307.325 (Ag products in possession of farmer)                      307.390 (Mobile Field Incinerators)                      307.391 (Smoke Management Equipment)                      307.394 (Farm Machinery and Equipment)                      307.397 (Certain Machinery and Equipment)                      307.398 (Irrigation Equipment)</p>	<p><b>EXEMPT</b></p> <p>308.156(4)(b) (M-50 MSAV)</p>	



## **Appendix B: Resource Information**

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# Oregon Land Classification System

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Although land classes may vary somewhat from county to county, the following classing system is considered basic and will apply in most instances.

The major classes are identified by roman numerals I through VIII. Classes I through IV cover land which is, or could be, tilled. Classes V, VI, and VII cover land not tillable because of steep slopes, rocky soils, and other limiting factors. Class VIII is generally unusable land.

Following are descriptions of the eight classes:

## Class I

### 1. General productivity rating:

This is the best tillable land, expected to maintain at least better than average levels of productivity for most crops typical to the area. Good to excellent yields may be expected under typical management.

### 2. Physical factors in this rating:

- a. The soil would have to have at least medium usable depth and have good texture for tillage and water-holding capacity.
- b. The lay of the land should be nearly level. An exception to this rule would be wheat lands in eastern Oregon.
- c. This land should be quite well drained. Minor drainage problems might exist but these should not significantly restrict ability to grow adapted crops.
- d. This land should be situated as not to be subject to overflow under most flood conditions. Floods would occur rarely, but could be possible in unusual climatic disturbances.

### 3. Other factors in this rating:

- a. The nature of the cover must be considered by the appraiser. It should not be included in classification unless the condition appears to affect value significantly or when such limitation could not be removed except at great expense.
- b. Accessibility, irregularity, and size of the fields in the farm unit should be considered by the appraiser, but the classification of the land should not be lowered to make the adjustment. Land is classified without regard to the above factors. The appraiser allows for the condition by entering on the land card an adjustment factor for the acres involved.

## Class II

### 1. General productivity rating:

Good tillable land may often produce better than average yields of most crops typical to the area. The average manager would be expected to obtain good yields of most crops typical to the area. Diversification of this land would be expected to be somewhat limited.

### 2. Physical factors in this rating:

- a. This class of soil would have at least moderate depth, but tillage might be limited by occasional rocks. The soil might have moderately "light" or "heavy" texture which might limit its tillage or water holding capacity.
- b. The lay of this class of land in most cases should be fairly level. An exception would be wheat lands in eastern Oregon.
- c. This land might exhibit subsurface drainage problems, though no treatment would be necessary to grow most crops typical to the area.
- d. This land may be situated in areas of occasional overflow. These floods are usually expected only during certain months. However, they may destroy the crops or prevent the use of the land in isolated instances.

### 3. Other factors in this rating:

- a. The nature of the cover must always be noted by the appraiser. However, it must not be considered in this classification unless the condition appears to significantly affect value; for example, when the indicated limitation could not be removed except at a considerable expense. Occasional rose bushes would not warrant reclassification, whereas a growing reproduction of conifers might.
- b. Accessibility, irregularity, and size of the fields of the farm unit should be considered by the appraiser, but the classification of the land should not be lowered to make the adjustment. Land is classified without regard to the above factors. The appraiser allows for the adjustment by entering on the land card an adjustment factor for the acres involved.

## Class III

### 1. General productivity rating:

This class of land will have at least average yields of most crops typical to the area. The average manager would be expected to obtain typical yields of specially adapted crops typical to the area. Diversification of this land is limited.

2. Physical factors in this rating:
  - a. The soil should have at least fair depth. Many of these tracts, especially those which may be light or very heavy in texture, will require special tillage practices.
  - b. The lay of the land can be flat to fairly steep. If land is characterized by a single slope, it could be called moderately steep. If land is characterized by a complex slope, it could be called hilly.
  - c. This land often exhibits subsurface drainage problems. In some instances the growth of crops is severely restricted unless expensive drainage practices are provided.
  - d. This land may be in areas of frequent flooding. Soils may have limited use during some parts of the growing season.
3. Other factors in this rating:
  - a. The nature of the cover must always be noted by the appraiser. However, it must not be considered in this classification unless the condition appears to significantly affect value.
  - b. Accessibility, irregularity, and size of the fields of the farm unit should be considered by the appraiser, but the classification of the land should not be lowered to make the adjustment. The appraiser allows for the adjustment by entering an adjustment factor for the acres involved.

### **Class IV**

1. General productivity rating:

Class IV is the lowest class of tillable land. In many instances, it's questionable as to whether the land should be tilled. It will often be reverted to pasture, although it might occasionally be cultivated. This land has little or no diversification.

2. Physical factors in this rating:
  - a. The soil may be shallow, extreme in texture, very difficult to till, and contain frequent outcroppings of parent rock.
  - b. The lay of the land may be very rolling or steep. If land is characterized by a single slope, it could be called steep. If land is classified by a

complex slope, it could be called very rolling or hilly.

- c. This soil may be subject to serious draining problems. Surface water may lay in pools for long periods. The growth of most crops will be severely restricted due to drainage.
  - d. These lands are often subject to frequent and sporadic inundations. Consequently, any cropping is uncertain, often impractical.
3. Other factors in this rating:
    - a. The nature of cover will usually limit the use of this land to pasture, and it must be noted by the appraiser. However, it must not be considered as influencing classification unless the condition appears to significantly affect its value. This is seldom the case.
    - b. Accessibility, irregularity, and size of the fields of the farm unit should be considered by the appraiser, but the classification of the land should not be lowered to make the adjustment. The appraiser allows for the adjustment by entering an adjustment factor for the acres involved.

### **Class V**

This land is generally suited to grazing or forestry use with little limitation. It will run from fairly level to hilly and is generally used for pasture. The land may be too stony or wet or otherwise unsuited to cultivation. However, in some cases a cultivated crop may be grown. It would, under average management, yield a relatively good crop of grass forage.

### **Class VI**

This land is not suited to cultivation, though it is usually the better range land. It will often be under forest cover or wood lot. It is susceptible to erosion on unprotected slopes.

### **Class VII**

This land is not suited to cultivation. It is usually considered average range land or suitable for trees. The soil is shallow and has relatively steep slopes and is extremely susceptible to erosion.

### **Class VIII**

This land is generally not suited to cultivation, grazing, or forestry, but would have some use for wildlife or recreation, or for watershed protection. It may be used for limited grazing or forestry. It is usually very steep, rough, stony, sandy, wet, or severely eroded.

## Subsymbols

In addition to the eight major classes, eight subsymbols are also available to further classify the land. These are used in conjunction with the major class (example: ik).

- k river bottom soils
- b bench land
- h hill land
- of overflow
- f nontillable land—suitable for clearing
- cg clearing
- cd cleared
- rv reverted
- m meadow

To help the appraiser establish land classes, information can be obtained from soil surveys made by the soil conservation service (SCS) as to land capability. Also, in certain areas, the bureau of reclamation maps indicate irrigation potential, and army corps of engineers maps indicate drainage and related qualities. Guides to other sources of information about land capabilities and classes may be obtained from the county extension service.

The details of the land classification as established by the appraisers in the field are transferred from the aerial photos to the soil classification maps by the cartographers. In this way ownership lines, land classes, and acreage by land class for each ownership, as well as roads, ditches, streams, etc., are on each map.

## List of Perennial Crops and First Year They Should Meet Income Requirements

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Crop	Year West Side	Year East Side	
Cherries (sweet & sour)	4th	4th	
Grapes	3rd	3rd	
Peaches	3rd	3rd	
Apples	3rd	3rd	
Pears	3rd	3rd	
Apricots	3rd	3rd	
Plums	3rd	3rd	
Prunes	3rd	3rd	
Kiwi	3rd	*	
Filberts	5th	5th	(150-200 lbs/year, increase to age 14)
Walnuts	5th	5th	
Blueberries	3rd	*	
Cranberries	2nd	*	
Strawberries	2nd	*	
Caneberries	2nd	*	(incl. red & black raspberries, boysen, marion, evergreen)
Christmas Trees:			
Douglas Fir	5th	7th+	
Noble Fir	6th	*	
Scotch Pine	5th	*	
Nursery Stock:			
Shade trees & Bonsai	2nd+		(Different types of stock on east side—years vary)
Rhododendrons & Azaleas	3rd+		
Alfalfa	2nd	1st	Not 100% productive in 1st year, east side
Grass Seed	2nd	1st	East side: 1st year if planted in the fall, ready by summer
Cottonwoods	7th	6th	

\* Crops not typically grown here

# Resources in the Farm Use Mass Appraisal Process

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## **Cost Factor Books**

1. Residential cost factor book
2. Farm building cost factor book
3. Other State cost factors
4. Valuation services

## **Appraisal Cards**

1. Improvements
2. Land
3. Farm Use Special Assessment

## **Real Estate Sales**

1. Multiple Listing Service
2. Deeds and title company listings
3. Data analyst supplied lists
4. Commercially supplied sales listings
5. Lending institutions
6. Fee appraisers, realtors, and others in real estate
7. Neighboring counties and States
8. Newspapers and Real Estate circulars
9. U. S. Fish and Wildlife (Wetland sales)
10. Highway Department and Utility Companies (Easements)

## **Legal Resources**

1. Oregon Constitution
2. Oregon Revised Statutes
3. Court Cases (Oregon Tax Court, Oregon Supreme Court)
4. Attorney General Opinions
5. Department of Revenue Opinion and Orders
6. Abstracts (Brief summary of legal decisions)
7. Zoning Regulations
8. Building Codes
9. Department of Environmental Quality (EPA Restrictions)

10. County Sanitarian
11. County Watermaster
12. County Council
13. Department of Revenue

## **Maps**

1. Aerial Photos
2. Soil Maps (Soil Conservation Service) (GIS System)
3. Appraisal Maps
4. Bureau of Land Management Maps
5. Highway Department Maps
6. State and National Forest Maps

## **Income and Expense Information**

1. Non-EFU applications
2. Non-EFU income questionnaires
3. Federal income tax returns (Schedule F, other income)
4. Proof of income information requested by Assessor
5. Rents, Leases, Crop Share, Owner/Operator statements
6. ASCS yields and subsidies
7. Oregon State University Extension Service
8. Farm Board
9. Commodity brokers/buyers
10. Farm Suppliers
11. Equipment dealers
12. Irrigation Districts

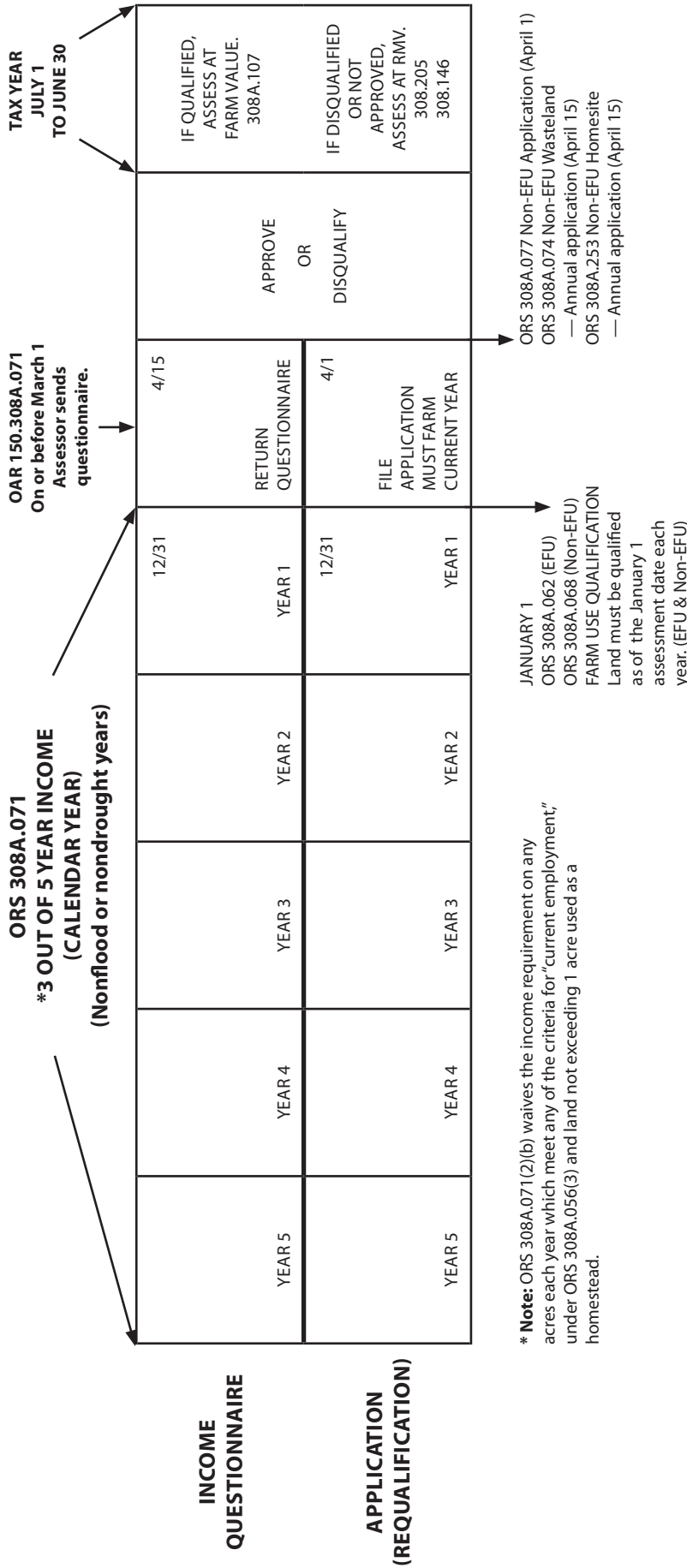
## **Publications**

1. International Association of Assessing Officers
2. Private and Public studies
3. Appraisal Institutes
4. Periodicals, magazines, and newspapers





# Non-EFU Timeline Chart





# Counter Questions

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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 C). 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 F) will explain timing and procedures. See the “Hexagon Diagram” (Appendix F) 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. (See “No Longer in Use Disqualifications” in the Disqualification Section of the Farm Manual for examples of incompatible change of use.)

- 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.

- o 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.
- o 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.
- o 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 may be attached to the property, because the land is subject to 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.

## Farm Use

### What do I have to do to qualify for farm use special assessment?

First, determine whether any of the land is currently under a special assessment program. Qualification statutes are different for land that changes special assessment from land that is not currently in a special assessment program.

(See “Can I Change to a different special assessment”)

Then determine whether the land is EFU or Non-EFU. If the property has both EFU and Non-EFU land the portions that are EFU will follow EFU statutes and the portions that are Non-EFU will follow Non-EFU statutes. If the homesite is physically located on Non-EFU land it must annually qualify by Non-EFU application under ORS 308A.253 even if it is being used in conjunction with EFU farmland.

(Start with either the EFU or Non-EFU information circular and go over the basics of the program)

- Exclusive Farm Use (EFU) – any land zoned as EFU is assessed for farm use special assessment if the land is used for a qualifying farm use (no application is required). Any portion of the parcel that is unused or does not meet farm use requirements of ORS 308A.056 or 308A.062 will not qualify.

For EFU land to receive farm use special assessment on land that is not currently in special assessment the land must have been in a qualifying farm use in the previous calendar year. EFU qualification is determined January 1 each year.

- Non-Exclusive Farm Use (Non-EFU) – any land in zones other than Exclusive Farm Use zones requires an application to receive farm use special assessment. If any portions of a parcel do not meet the qualification requirements for Non-EFU farmland the owner can submit a separate application for those portions in future years when the land can meet qualification requirements. Any portion of the parcel that will not be used for farm use activities will not qualify. (Go over a Non-EFU application form if the owner is interested).

Any acres in a parcel that is not currently under a special assessment program must meet the following basic criteria to qualify for Non-EFU farm use:

1. “Use requirement” The land must have been in a qualifying farm use in at least the two previous calendar years and be in current farm use in the year of application.
2. “Income requirement” Any three of the immediate five prior non-flood or non-drought calendar years can be used to meet the income qualifications of ORS 308A.071. The income from one year cannot be used to qualify income for a different year (no carry over or averaging income; each year is determined separately). When determining the number of acres for the required income amount; a maximum of one acre may be used for each homesite and any acres qualifying for current employment under ORS 308A.056(3) shall not be included (ORS 308A.071(2)(b)). The one year of farm inactivity allowed due to illness is not counted as one of the five years for income determination (OAR 150-308A.056). If the land was previously farmed within the past five years (beginning with the year of application) the previous years of qualifying farm use can be used to meet the 3 of 5 year income test. At the time of application do not go beyond the fifth non-flood, non-drought year to qualify the land under the 3 of 5 year income test.

At the time of application if any acres cannot meet both the use and income requirements the owner will need to qualify those acres by separate application in future years.

### What is this income test that I have to meet and how do I meet it?

- The owner must have the intent to make a profit in money and must meet minimum income requirements. The profit and income requirements are determined from the sale of farm products or services produced from the land subject to special assessment.

The income test for Non-EFU farm use special assessment is measured in terms of gross profit. Example: You buy a calf for \$300 and sell it at auction to a buyer for \$1,300 your gross profit is \$1,000. The expense of raising a calf to maturity is not a consideration. A net profit or return of investment to the land or

improvements is not required. (See Everhart tax court case OTC 4380 11-17-99 for an explanation of gross profit requirements)

If the land is six and one half acres or less, the required gross income must be at least \$650. If the land is more than six and one half but fewer than 30 acres, the required gross income is determined by calculating the number of acres in qualifying farm use production (including a fraction of an acre) times \$100. (Example: \$25.83 acres x \$100 = \$2583 required gross income) If the land is 30 or more acres, the required gross income must be at least \$3000.

Any acres qualifying for current employment under ORS 308A.056(3) including up to one acre allowed for the homesite area are not required to be income tested and are not required to produce farm products or services (ORS 308A.071(2)(b)).

See OAR 150-308A.071 for examples which demonstrate how to determine the number of acres to be income tested.

Once the required amount of gross income is determined the entire farm unit can be used to meet the required income test. (It is not required that each acre produce \$100).

The sale of firewood, timber, farm subsidy payments, CRP payments, crop insurance payments etc. do not qualify as farm products or services and income from these sources cannot be used in the farm income test.

Forty-nine percent of the required income amount can be in the form of personal consumption of farm products or farm products consumed or used on the farm. (Review "Owners Income" section of the Application or Gross Income Questionnaire with the taxpayer).

Land owned separately (not all under the same ownership) requires two income tests as specified in ORS 308A.071(2)(c). (Review "Rented Land Use" section of the Application or Gross Income Questionnaire with the taxpayer).

### **Is there a minimum acreage requirement to qualify land for farm use special assessment?**

- Land in farm use does not have a minimum acreage requirement. If the land is EFU there is no minimum income requirement and a qualifying farm use will receive special assessment even if the land area is less than one acre. To meet the minimum gross income requirement of \$650 for Non-EFU land for a land area less than one acre will generally require an intensive farm use practice such as growing nursery stock, blueberries, orchards, etc.

### **Do horses (llamas, pigs, snakes, etc.) count as farming?**

- Yes, the use of the land to raise livestock for profit is a qualifying farm use under ORS 308A.056.

Horses may be raised for sale as livestock. Pasturing of horses may be considered the feeding of livestock and the pasture land may qualify for farm use special assessment. A property owned or leased and used for a business that involves pasturing others' pleasure horses may qualify. Pasturing ones' own pleasure horses is not a qualifying farm use.

ORS 308A.056 also allows stabling or training horses (equines), including but not limited to providing riding lessons, training clinics and schooling shows.

Stabling involves providing shelter, housing or stalls for the horses, such as food or supervision. Boarding (or care) can be provided in either a pasture or stable setting. If the boarding care involves housing, it can qualify as stabling. If the boarding involves care in a pasture setting, it can qualify as feeding of livestock.

Snakes and pigs would likely be raised within a building(s). The land under the building would qualify for farm use special assessment based on the classification of the land for farm use. If there is additional land outside the building area any acres not in a qualifying farm use will not qualify. Only acres in a qualifying use can receive special assessment.

Note: The raising of reptiles (snakes) may be questionable since they are not specifically identified as a farm use and raising snakes is not a common farm use practice. If they are raising the snakes for sale to food processors, restaurants, pet shops, zoos, exhibits, medical labs, etc. this may be in line with the rais-

ing and selling of livestock and may qualify. Snakes, raised as part of a retail operation, would be more questionable. Anytime you have a questionable farm use the Assessor can deny it and let the tax court decide if the owner appeals the denial.

### **Portions of my land are too wet all winter for pasturing. Can I still have those portions in farm deferral?**

- Yes, the land is only required to be used when it is capable of farm production. As long as the land is not being underutilized it will qualify.

### **Do timber and firewood count as farm sales?**

- The sale of forest products generally do not count as the sale of a farm product for meeting the income requirements or intent to make a profit from a farm use activity.

Note: If Non-EFU farmland has been disqualified for not meeting farm income requirements there is a special provision to allow abatement of additional tax under ORS 308A.119 for the growing of forest products.

- If the land is being employed to raise forest products inform the owner they may qualify the land for forestland special assessment.
- Firewood is not a farm product. Up to 20 acres can be identified for farm use special assessment as a woodlot. ORS 308A.056(3) identifies woodlots as being currently employed and does not require the woodlot acres to produce any farm income. Income from the sale of wood products cannot be used to meet farm income or intent for profit requirements.

## **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 2 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 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 met (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 required 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.

### **I have farmland. Can my homesite also get a special assessment?**

- EFU Homesite's used in conjunction with qualifying farm use land will receive homesite special assessment. (No application is required)
- Non-EFU Homesite's used in conjunction with qualifying farm use land will receive homesite special assessment by a separate application as specified in ORS 308A.253. Non-EFU homesite's rarely qualify because most owners do not receive more than one-half of their personal adjusted gross income from farming. If land is owned by husband and wife both personal incomes are added together. Because of the strict personal income requirements of Non-EFU homesites most qualifying homesites will be homesites on EFU land.

### **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 C: Forms and Publications

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Special Assessment Forms .....	6-41
Assessment of Farmland in an Exclusive Farm Use Zone .....	6-43
Assessment of Farmland Not in an Exclusive Farm Use Zone .....	6-45
Application for Special Assessment of Farmland Not in an Exclusive Farm Use Zone.....	6-47
Farm Use Income Questionnaire of Farmland Not in an Exclusive Farm Use Zone.....	6-49
Application to Include Additional Non-Exclusive Farm Use Land to an Existing Farm Use Parcel.....	6-51
Taxpayer Information Authorization and Power of Attorney to Represent.....	6-53
Disaster Area Property Tax Deferral Application (ORS 311.740 to 311.780) .....	6-55



# Special Assessment Forms and Publications

Program	Name	Number
Farm	Farm Use Manual	150-303-422
Farm	Assessment of farmland in an exclusive farm-use zone (information circular)	150-303-644
Farm	Assessment of farmland not in an exclusive farm-use zone (information circular)	150-303-645
Farm	Application for special assessment of farmland not in an exclusive farm use zone	No number (county form)
Farm	Farm use income questionnaire of farmland not in an exclusive farm use zone	No number (county form)
Farm	Confidential application for farm-use assessment of land under farm-use dwellings and wasteland	310-068 (county form)
Farm	Application to include additional non-exclusive farm use land to an existing farm use parcel	150-303-043
Forest	Forestland Manual	150-303-424
Forest	Application for designation of land as forestland	150-309-024
Forest	Application for Small Tract Forestland (STF option)	150-390-001
Wildlife Habitat	Application for wildlife habitat conservation and management special assessment	150-303-083
Open Space	Application for special assessment of open space land	150-310-106
Riparian Lands	Application for property tax exemption riparian lands	150-310-114

Current and revised Department of Revenue forms and publications can be found at: [www.oregon.gov/DOR](http://www.oregon.gov/DOR).





# Assessment of Farmland in an Exclusive Farm-Use Zone



This information circular explains farm-use assessments on farmland in an exclusive farm-use (EFU) zone. If you are not sure if your land is within a farm-use zone, check with your planning office or your county assessor's office. For information about farm-use assessment on land not in an EFU zone, see the information circular, "Assessment of Farmland Not in an Exclusive Farm-Use Zone," 150-303-645. Write: Publications, Oregon Department of Revenue, 955 Center Street, NE, Salem OR 97301-2555. Or, you may download the information from our Web site: [www.oregon.gov/DOR](http://www.oregon.gov/DOR).

## What land qualifies for farm-use assessment?

If land is in an EFU zone and is **used primarily to make a profit in farming**, it qualifies for special farm-use assessment. The qualification of farmland for special assessment is determined as of January 1.

To qualify, your land must currently be used, and have been used in the previous year **exclusively** for farm use (see farm use definition below).

## Farm use defined

Oregon Revised Statute 308A.056 defines "farm use" in part, as follows:

"Farm use" means **the current employment of land for the primary purpose of obtaining a profit in money** by:

- Raising, harvesting, and **selling** crops;
- Feeding, breeding, management, and **sale** of, or the production of, livestock, poultry, fur-bearing animals, or honeybees;
- Dairying and selling dairy products;
- Stabling or training equines;
- Breeding, raising, kenneling, or training greyhounds;
- Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species

allowed by rules adopted by the State Fish and Wildlife Commission;

- Preparation, storage, and disposal by marketing or otherwise, of the products or by-products raised on such land for human and animal use;
- Any other agricultural or horticultural use, animal husbandry, or any combination thereof; or
- Growing cultured Christmas trees and hybrid hardwoods (cottonwoods) on cropland under intensive cultivation.

Farm use may also include:

- Water impoundments lying in or adjacent to and in common ownership with the farm-use land;
- A woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the farm-use land;
- Wastelands, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to, and in common ownership with the farm-use land;
- Land under farm related buildings and certain processing facilities.

Land under dwellings and on-site developments to the homesite used in conjunction with the farming operation receives a special valuation.

The farming activity needs to be in accordance with an "accepted farming practice," which means the farming is conducted in a "mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

"Accepted farming practice" varies widely depending on the farming activity being conducted and geographical differences. An excellent source of information is the county's Oregon State University Extension Service.

## How farm-use specially assessed value (SAV) is determined

Farm-use value for each land class is determined using an income method. Using this approach, the assessor must determine the capitalization rate and the net income per acre of farmland. The net income is the typical gross annual return (farmland rent), minus typical expenses. The capitalization rate is the five-year average Farm Credit Services mortgage rate, plus the local property tax rate. When the net income per acre is divided by the capitalization rate, the result is the farm-use value per acre of farmland.

## Farm use land assessment

Land receiving farm-use special assessment will be assessed for each land class on the lesser of the specially assessed value (SAV), described above, or maximum specially assessed value (MSAV). The MSAV for each land class is the prior year's assessed value increased by 3 percent or the prior year's MSAV, which ever is greater.

## Disqualification from special assessment

Farmland will be disqualified from special assessment for any of the following reasons:

- It is no longer used as farmland;
- The land is removed from an exclusive farm-use zone; or
- Approval is given for a nonfarm dwelling or parcel.

If your land is disqualified from farm-use special assessment, it may qualify for special assessment as Forestland or Wildlife Habitat. Check with your county assessor for more information about changing special assessments.

## Additional taxes levied against disqualified farmland

If your farmland loses its special assessment, it will be assessed at the lesser of its market value or maximum assessed value and you may be assessed an additional tax.

The additional tax is based on the difference between the tax you paid and the tax you would have been paying if your land had not received the farm-use special assessment. This tax difference is based on the number of years the land received farm-use assessment, up to a maximum of 10 years. If the land is located within an urban growth boundary, the maximum is five years.

You will be assessed an additional tax if your farmland is disqualified and you:

- Change the use of the land to be incompatible with returning it to a farm use (see note below);
- Request and receive a change to a zone that is not an exclusive farm-use zone; or
- Receive approval for a nonfarm dwelling or parcel.

The additional taxes will be added to the next tax roll if you decide not to prepay them.

Note: If your land is disqualified because it is no longer used for farming and you use it for a purpose that is compatible with its return to farm-use, the additional tax will remain a notation to the assessment and tax rolls as a "potential additional tax." This potential additional tax must be paid if, sometime in the future, the land is used for something incompatible with farm-use.

## Questions?

**For general tax information:** [www.oregon.gov/DOR](http://www.oregon.gov/DOR)

**Telephone:** Salem .....503-378-4988  
Toll-free within Oregon...1-800-356-4222

**TTY (hearing or speech impaired; machine only):** 503-945-8617 (Salem) or 1-800-886-7204 (toll-free within Oregon).

**Americans with Disabilities Act (ADA):** This information is available in alternative formats. Call 503-378-4988 (Salem) or 1-800-356-4222 (toll-free within Oregon).

**Asistencia en español. Llame al 503-945-8618 en Salem o llame gratis al 1-800-356-4222 en Oregon.**

# Assessment of Farmland Not in an Exclusive Farm-Use Zone



This information circular explains farm-use assessments on farmland that is not in an exclusive farm-use (EFU) zone. If you are not sure in what zone your land is located, check with your local planning office or your county assessor's office. For information about farm-use assessment on land in an EFU zone, see the information circular, "Assessment of Farmland in an Exclusive Farm-Use Zone," 150-303-644. Write: Publications, Oregon Department of Revenue, 955 Center Street, NE, Salem OR 97301-2555.

## What land qualifies for farm-use assessment?

If land is not in an EFU zone but is used as farmland, it may receive the same assessment given to all qualifying EFU farmland. The qualification of farmland to special assessment is determined as of January 1.

To qualify, you must file an application with your county assessor on or before **April 1** of the first year you desire special assessment. Additionally, the land must meet these standards:

- Your land must be currently used, and have been used, for the two previous years **exclusively** for farm use (see farm use definition), **and**
- Your land must meet the income requirement in three of the five previous years (see Income Requirement).

Owners and lessees of farmland must file a Schedule F showing farm income and, if applicable, a schedule showing rental income with their excise or personal income tax return to qualify for farm-use special assessment.

## Farm use defined

Oregon Revised Statute 308A.056 defines "farm use" in part, as follows:

"Farm use" means **the current employment of land for the primary purpose of obtaining a profit in money** by:

- Raising, harvesting, and **selling** crops;
- Feeding, breeding, management, and **sale** of, or the production of, livestock, poultry, fur-bearing animals, or honeybees;
- Dairying and selling dairy products;

- Stabling or training equines;
- Breeding, raising, kenneling, or training greyhounds;
- Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species allowed by rules adopted by the State Fish and Wildlife Commission;
- Preparation, storage, and disposal by marketing or otherwise, of the products or by-products raised on such land for human and animal use;
- Any other agricultural or horticultural use, animal husbandry, or any combination thereof; or
- Growing cultured Christmas trees and hybrid hardwoods (cottonwoods) on cropland under intensive cultivation.

Farm use may also include:

- Water impoundments lying in or adjacent to and in common ownership with farm-use land;
- A woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the farm-use land;
- Wasteland and land under dwellings (including dwelling on-site improvements) used in conjunction with the farm may also receive a special valuation if:
  1. The farm unit produces over one-half of the adjusted gross personal income the owner(s) receives; **and**
  2. You file an application on or before April 15 **each year** with the county assessor.
- Land under farm related buildings.

Note: Land under farm processing facilities does not qualify for farm use in non-EFU zones.

The farm use activity needs to be in accordance with an "accepted farming practice," which means the farming is conducted in a "mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

"Accepted farming practice" varies widely depending on the farming activity being conducted and geographical differences. An excellent source of information is the county's Oregon State University Extension Service.

## Income requirement

If the land is six and one half acres or less, your gross income from the farm use must be at least \$650. If the land is more than six and one half but fewer than 30 acres, your gross income from the farm use must be \$100 multiplied by the number of acres. A fraction of an acre should be applied as a percentage in the calculation of the gross income requirement. (Example: 25.83 acres x \$100 = \$2,583 gross income.) If the land is 30 or more acres, your gross income from the farm must be at least \$3,000. If your land is leased for farming to someone else, check with your county assessor for additional income requirements.

## How farm use specially assessed value (SAV) is determined

Farm-use value for each land class is determined using an income method. Using this approach, the assessor must determine the capitalization rate and the net income per acre of farmland. The net income is the typical gross annual return (farmland rent), minus typical expenses. The capitalization rate is the five-year average Farm Credit Services mortgage rate, plus the local property tax rate. When the net income per acre is divided by the capitalization rate, the result is the farm-use value per acre of farmland.

## Farm-use land assessment

Land receiving farm-use special assessment will be assessed for each land class on the lesser of the specially assessed value (SAV), described above, or maximum specially assessed value (MSAV). The MSAV for each land class is the prior year's assessed value increased by 3 percent or the prior year's MSAV, which ever is greater.

## Disqualification from special assessment

Farmland will be disqualified from special assessment for any of the following reasons:

- You notify the assessor in writing to remove the land from special assessment;
- You sell or transfer your land to any ownership making it exempt from property tax;
- You no longer use your land as farmland;
- Your land is platted for subdivision. (This land may requalify for special assessment after payment of the additional tax.); or
- Your land does not meet the income test.

If your land is disqualified from farm-use special assessment, it may qualify for special assessment as Forestland or Wildlife Habitat. Check with your county assessor for more information about changing special assessments.

150-303-645 (Rev 3/04)

## Additional taxes levied against disqualified farmland

If your farmland loses its special assessment, it will be assessed at the lesser of its market value or maximum assessed value and you may be assessed an additional tax.

The additional tax is based on the difference between the tax you paid and the tax you would have been paying if your land had not received the farm-use special assessment. This tax difference is based on the number of years the land received farm-use assessment, up to a maximum of five years.

You will be assessed an additional tax if your farmland is disqualified and you:

- Transfer the land to an ownership that makes the land exempt from property tax.
- Change the use of the land to be incompatible with returning it to a farm use (see note below); or
- Subdivide the property.

These additional taxes are added to the next tax roll if you choose not to pre-pay them.

Note: If your land is disqualified because it is no longer used for farming, and you use it for a purpose that is compatible with its return to farm use, the additional tax will remain a "potential additional tax." This potential additional tax must be paid if, sometime in the future, the land is used for something incompatible with farm-use.

If your land is disqualified because it does not meet the income test, but you continue to farm the land, then for each year you farm your land, one year of potential additional tax will be abated (eliminated). You may abate the number of years your land received farm-use assessment up to the maximum of five years until there are no potential additional tax years remaining.

## Questions?

**For general tax information:** [www.oregon.gov/DOR](http://www.oregon.gov/DOR)

**Telephone:** Salem .....503-378-4988  
Toll-free within Oregon...1-800-356-4222

**TTY (hearing or speech impaired; machine only):** 503-945-8617 (Salem) or 1-800-886-7204 (toll-free within Oregon).

**Americans with Disabilities Act (ADA):** This information is available in alternative formats. Call 503-378-4988 (Salem) or 1-800-356-4222 (toll-free within Oregon).

**Asistencia en español. Llame al 503-945-8618 en Salem o llame gratis al 1-800-356-4222 en Oregon.**

**APPLICATION FOR SPECIAL ASSESSMENT \_\_\_\_\_ COUNTY, OREGON**

**For Special Assessment of Non-EFU Farmland As Defined Under ORS 308A.050 – 308A.128**

\*\*\* An application must be filed on or before **April 1** of the first year in which assessment is requested \*\*\*

**OWNER, ACCOUNT(S) AND PROPERTY USE INFORMATION**

THIS SPACE FOR ASSESSORS USE ONLY

ENTER YOUR NAME AND ADDRESS BELOW (Applicant <b>MUST</b> have an ownership interest in the property)	Date Received: <input type="checkbox"/> Approved <input type="checkbox"/> Denied Clerk: JV No.:
---	---

**PROPERTY DESCRIPTION ( List all properties in your farm unit )**

Tax Code Area	Account Numbers	Map & Tax Lot Numbers	Total Acreage	Acres Applied for special assessment

**NOTICE: A YEARLY EXCISE OR INCOME TAX RETURN MUST BE FILED WITH THE DEPARTMENT OF REVENUE BY THE FARMLAND OWNER OR THE OPERATOR OF THE FARM UNIT (ORS 308A.071).**

**If this box is checked submit a copy of a “Schedule F” for each year listed below.**

**OWNERS LAND USE:**

- **Do not record** any acres you rented to a farm operator. Record those acres in the **RENTED LAND USE** section.
- Please indicate below the number of acres used per land type, for the years shown.
- Total acres identified above must be accounted for below or in the rented land use section.
- **“All years”** below must be completed regardless of whether or not you owned the property.

YEAR	FARMED ACRES					OTHER ACRES			TOTAL ACRES
	IRRIGATED Cropland Pasture, Mature Orchards, Hybrid Poplars # of Acres	NON-IRRIGATED Cropland, Pasture, Mature Orchards, Christmas Trees, Hybrid Poplars # of Acres	IMMATURE Orchards, Perennials, Christmas Trees, Hybrid Poplars # of Acres	LAND UNDER FARM BLDGS. # of Acres	FARM WOODLOT (20 acres Max.) Submit mapped location # of Acres	HOMESITE # of Acres	FORESTED LAND NOT IDENTIFIED AS WOODLOT Include any acres specially assessed as forestland here # of Acres	LAND NOT FARMED Submit mapped location # of Acres	
XXXX									
XXXX									
XXXX									
XXXX									
XXXX									



**Complete this section for any acres you farmed yourself.**

- If you leased or crop-shared, complete those acres in the **RENTED LAND USE** section.
- Please indicate below the farm products and gross income you received (in \$) for each of the years indicated from farm activity on your land that **you farmed yourself** (acres **not** leased, rented or share-cropped with a farm operator).
- You **must deduct** the original purchase price from the gross sale price of any **livestock sold**.

YEAR	FARM PRODUCTS SOLD (must be at least 51% of required gross income)			FARM PRODUCTS CONSUMED (no more than 49% of required gross income)			TOTALS  TOTAL VALUE (IN \$) OF SALES, SERVICES AND PERSONAL CONSUMPTION
	WHAT CROP, LIVESTOCK or SERVICE WAS SOLD? <small>No firewood or timber sales</small>	QUANTITY SOLD	TOTAL GROSS RECEIPTS (IN \$) FOR SALES OR SERVICES	WHAT WAS CONSUMED OR USED ON THE FARM? <small>No Firewood or timber</small>	QUANTITY USED	TOTAL VALUE (IN \$) OF PERSONAL CONSUMPTION	
XXXX							
XXXX							
XXXX							
XXXX							
XXXX							

**IMPORTANT: The owner or the farm operator** may return the “RENTED LAND USE” information below. If the farm operator completes the “RENTED LAND USE” information make a copy of the application (front and back) for the farm operator to complete. **Both the signed and dated “original” and the farm operator “copy” must be submitted to the Assessor no later than April 1.**

**RENTED LAND USE: Complete this section for any acres you leased or crop-shared to a farm operator.**

- **Do not record** any acres you farmed yourself. Record those acres in the **OWNERS LAND USE** section.
- **ORS 308A.071 requires separate testing for any land that you leased, rented or crop shared with a farm operator.**
- You **must deduct** the original purchase price from the gross sale price of **livestock sold FOR BOTH TESTS.**

YEAR	TEST # 1: FARM OPERATOR'S INCOME INFORMATION (ALL LAND THE OPERATOR OWNS OR LEASES)		TEST # 2: INCOME INFORMATION FOR LAND YOU LEASED TO A FARM OPERATOR			
	TOTAL ACRES IN FARM OPERATOR'S ENTIRE FARM OPERATION (Owned or Leased)  Farmland only	IS FARM OPERATOR'S ENTIRE GROSS INCOME MORE THAN \$ 3,000 FROM FARMING? IF "NO" PROVIDE AMOUNT (IN \$)  No firewood or timber sales	TOTAL ACRES LEASED  Farmland only	CASH RENT (IN \$) PAID TO YOU  Farmland only	NET CROP SHARE (IN \$) YOUR SHARE  Farmland only	FARM OPERATORS GROSS INCOME (IN \$) FROM FARM SALES OR SERVICES ON JUST YOUR LAND  No firewood or Timber sales
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				

(required)

FARM OPERATOR NAME \_\_\_\_\_ PHONE NUMBER'S \_\_\_\_\_

**DECLARATION : I declare under the penalties for false swearing as contained in ORS 305.990(4), that I have examined this document, including any attachments, and to the best of my knowledge it is true, correct and complete.**

(Owner must sign to be valid) (required)  
SIGNATURE OF OWNER: \_\_\_\_\_ Day Phone No. \_\_\_\_\_ DATE: \_\_\_\_\_



**GROSS INCOME QUESTIONNAIRE FOR \_\_\_\_\_ COUNTY, OREGON**

**For Special Assessment of Non-EFU Farmland As Defined Under ORS 308A.050 – 308A.128**

\* \* \* To avoid possible disqualification, submit completed forms NO LATER THAN APRIL 15 \* \* \*

Note: Income questionnaires returned after April 15 may result in a maximum \$250 late fee ORS 308A.089

**Owner, Account(s) and Property Use Information**

Name and Address:

Return this Questionnaire to:

Name and Address:	<county>County Dept. of Assessment and Taxation <attn line> <address> <city,state,zip>
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**PROPERTY DESCRIPTION (List all properties in your farm unit)**

Account Numbers	Map & Tax Lot Numbers	Parcel Total Acreage	Land Under Deferral Acreage

**NOTICE: A YEARLY EXCISE OR INCOME TAX RETURN MUST BE FILED WITH THE DEPARTMENT OF REVENUE BY THE FARMLAND OWNER OR THE OPERATOR OF THE FARM UNIT (ORS 308A.071).**

If this box is checked submit a copy of a “Schedule F” for each year listed below.

**OWNERS LAND USE:**

- **Do not record** any acres you rented to a farm operator. Record those acres in the RENTED LAND USE section.
- Please indicate below the number of acres used per land type, for the years shown.
- Total acres identified above must be accounted for below or in the RENTED LAND USE section.
- **“All years”** below must be completed regardless of whether or not you owned the property.

YEAR	FARMED ACRES					OTHER ACRES			TOTAL ACRES
	IRRIGATED	NON-IRRIGATED	IMMATURE	LAND UNDER FARM BLDGS.	FARM WOODLOT (20 acres Max.)	HOMESITE	FORESTED LAND NOT IDENTIFIED AS WOODLOT	LAND NOT FARMED	
	Cropland, Pasture, Mature Orchards, Hybrid Poplars # of Acres	Cropland, Pasture, Mature Orchards, Christmas Trees, Hybrid Poplars # of Acres	Orchards, Perennials, Christmas Trees, Hybrid Poplars # of Acres	# of Acres	Submit mapped location # of Acres	Include any acres specially assessed as forestland here # of Acres	Submit mapped location # of Acres		
XXXX									
XXXX									
XXXX									
XXXX									
XXXX									

**OWNER'S INCOME : Complete this section for any acres you farmed yourself.**

- **If you leased or crop-shared, complete those acres in the RENTED LAND USE section.**
- Please indicate below the farm products and gross income you received (in \$) for each of the years indicated from farm activity on your land that **you farmed yourself** (acres **not** leased, rented or share-cropped with a farm operator).
- You **must deduct** the original purchase price from the gross sale price of any **livestock sold**.

YEAR	FARM PRODUCTS SOLD (must be at least 51% or required gross income)			FARM PRODUCTS CONSUMED (no more than 49% of required gross income)			TOTALS
	WHAT CROP, LIVESTOCK or SERVICE WAS SOLD? No firewood or timber sales	QUANTITY SOLD	TOTAL GROSS RECEIPTS (IN \$) FOR SALES OR SERVICES	WHAT WAS CONSUMED OR USED ON THE FARM? No Firewood or timber	QUANTITY USED	TOTAL VALUE (IN \$) OF PERSONAL CONSUMPTION	
XXXX							
XXXX							
XXXX							
XXXX							
XXXX							

**IMPORTANT: The owner or the farm operator** may return the "RENTED LAND USE" information below. If the farm operator completes the "RENTED LAND USE" information make a copy of the questionnaire (front and back) for the farm operator to complete. **Both the signed and dated "original" and the farm operator "copy" must be submitted to the Assessor no later than April 15.**

**RENTED LAND USE: Complete this section for any acres you leased or crop-shared to a farm operator.**

- **Do not record any acres you farmed yourself. Record those acres in the OWNERS LAND USE section.**
- **ORS 308A.071 requires separate testing for any land that you leased, rented or crop shared with a farm operator.**
- You **must deduct** the original purchase price from the gross sale price of **livestock sold FOR BOTH TESTS.**

YEAR	TEST # 1: FARM OPERATOR'S INCOME INFORMATION (ALL LAND THE OPERATOR OWNS OR LEASES)		TEST # 2: INCOME INFORMATION FOR LAND YOU LEASED TO A FARM OPERATOR			
	TOTAL ACRES IN FARM OPERATOR'S ENTIRE FARM OPERATION (Owned or Leased) Farmland only	IS FARM OPERATOR'S ENTIRE GROSS INCOME MORE THAN \$ 3,000 FROM FARMING? IF "NO" PROVIDE AMOUNT (IN \$) No firewood or timber sales	TOTAL ACRES LEASED Farmland only	CASH RENT (IN \$) PAID TO YOU Farmland only	NET CROP SHARE (IN \$) YOUR SHARE Farmland only	FARM OPERATORS GROSS INCOME (IN \$) FROM FARM SALES OR SERVICES ON JUST YOUR LAND No firewood or Timber sales
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				
XXXX		YES <input type="checkbox"/> NO \$ _____				

(required)

FARM OPERATOR NAME \_\_\_\_\_ PHONE NUMBER'S \_\_\_\_\_

**DECLARATION : I declare under the penalties for false swearing as contained in ORS 305.990(4), that I have examined this document, including any attachments, and to the best of my knowledge it is true, correct and complete.**

(Owner must sign to be valid)

(required)

**SIGNATURE OF OWNER:** \_\_\_\_\_ **Day Phone No.** \_\_\_\_\_ **DATE:** \_\_\_\_\_

# APPLICATION TO INCLUDE ADDITIONAL NON-EXCLUSIVE FARM USE ZONED LAND TO AN EXISTING FARM USE PARCEL

ORS 308A.080

Enter your name and address below:

---

Applicant's Telephone Number: (      )

Application must be filed on or before April 1 of  
the first year in which assessment is requested

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ASSESSOR'S USE ONLY

Date Received	Clerk	<input type="checkbox"/> Approved <input type="checkbox"/> Denied
---------------	-------	--

LATE VALUE NOTICE  
Filing date extended to:

## 1 PROPERTY DESCRIPTION FOR LAND FOR WHICH FARM USE IS REQUESTED

(Attach separate sheet if necessary)	As shown on your tax statement		Acres	Complete only if account number does not describe property			
	Code Number	Account Number		Deed or Inst. Number	Section	TWP	RGE

Use of land last year: \_\_\_\_\_

---

## 2 PROPERTY DESCRIPTION TO WHICH LAND WILL BE A PART OF

(Attach separate sheet if necessary)	As shown on your tax statement		Acres	Complete only if account number does not describe property			
	Code Number	Account Number		Deed or Inst. Number	Section	TWP	RGE

The major crops grown during the last crop year and the acres of each are as follows: \_\_\_\_\_

---

Gross income from farm uses last year: \$ \_\_\_\_\_

The burden of proving the gross income of the Farm Unit is upon the person claiming the special assessment for the land. The owner may be asked to provide proof of the income reported.

## 3 EXCEPT FOR THE LEASES NOTED BELOW, ARE THERE ANY LEASES OR OPTIONS TO BUY THE SURFACE RIGHTS FOR OTHER THAN FARM USE: YES NO

- For the exploration of geothermal resources as defined by Subsection (8) of ORS 522.005, mineral resources or other subsurface resources which do not interfere with the farm use of the land.
- For the use of land for hunting, fishing, camping, or other recreational use which does not interfere with the farm use of the land.

**WARNING:** 1. Notice must be given to the county assessor when the land or any portion thereof ceases to be used exclusively for farm use.  
2. Additional taxes may be added to the tax roll when farmland which is specially assessed at farm use value becomes disqualified.

**NOTE:** A separate application (150-310-068) must be filed annually (by April 15) to obtain special farmland assessment for wasteland or land under farm use dwellings.

### DECLARATION

I declare under the penalties for false swearing as contained in ORS 305.990(4) that the information contained in this document, including any attached schedules, is to the best of my knowledge true, correct, and complete.

Signature <b>X</b>	Date
Signature <b>X</b>	Date

150-303-043 (Rev. 8-03)





**TAX INFORMATION AUTHORIZATION  
and  
POWER OF ATTORNEY FOR REPRESENTATION**

<b>FOR OFFICE USE ONLY</b>
Date Received

• Please print. • Use only blue or black ink. • See additional information on the back.

Taxpayer Name		Identifying Number (SSN, BIN, FEIN, etc.)	
Spouse's Name, if joint return		Spouse's Identifying Number (SSN, etc.)	
Address	City	State	ZIP Code

Check only one:

- Tax Information Authorization:** This form allows the department to disclose your confidential tax information to your designee. You may designate a person, agency, firm, or organization.
- Power of Attorney for Representation: (See qualification requirements on the back).** Check if you want a person to "represent" you. This means the person may receive confidential information and may make decisions on your behalf. The person you designate **must** meet the ORS 305.230 qualifications listed on the back of this form.

Representative's title and **Oregon** license number or relationship to taxpayer: \_\_\_\_\_  
 \_\_\_\_\_

For  All tax years, or  Specific tax years: \_\_\_\_\_,

**I hereby appoint the following person as designee or authorized representative:**

Name	Telephone Number ( )	Fax Number ( )
Mailing Address	City	State ZIP Code

The above named is authorized to receive my confidential tax information and/or represent me before the Oregon Department of Revenue for:

- All tax matters, or
- Specific tax matters. Enter tax program name(s): \_\_\_\_\_

**SIGNATURE OF TAXPAYER(S)**

- I acknowledge the following provision: Actions taken by an authorized representative are binding, even if the representative is not an attorney. Proceedings cannot later be declared legally defective because the representative was not an attorney.
- Corporate officers, partners, fiduciaries, or other qualified persons signing on behalf of the taxpayer(s): By signing, I also certify that I have the authority to execute this form.
- If a tax matter concerns a joint return, both spouses must sign if joint representation is requested. Taxpayers filing jointly may authorize separate representatives.

Signature <b>X</b>	Print Name	Date
Title (if applicable)	Daytime Telephone Number ( )	
Spouse (if joint representation) <b>X</b>	Print Name	Date

150-800-005 (Rev. 12-06)

**Qualifications for representation are on the back →**

**Note:** This authorization form automatically revokes and replaces all earlier tax authorizations and/or all earlier powers of attorney on file with the Oregon Department of Revenue for the **same** tax matters and years or periods covered by this form. If you **do not** want to revoke a prior authorization, initial here \_\_\_\_\_.

**Attach a copy of any other tax information authorization or power of attorney you want to remain in effect.**

Please complete the following, if known (for routing purposes only):

Revenue Employee: \_\_\_\_\_  
 Division/Section: \_\_\_\_\_  
 Telephone/Fax: \_\_\_\_\_

**Send to:** Oregon Department of Revenue  
 955 Center St NE  
 Salem OR 97301-2555

**If this tax information authorization or power of attorney form is not signed, it will be returned.**

## ADDITIONAL INFORMATION

This form is used for two purposes:

- **Tax Information Disclosure Authorization.** Allows the department to disclose your confidential tax information to whomever you designate. This person will not receive original notices we send to you.
- **Power of Attorney for Representation.** Your notice to the department that another person is authorized to represent you and act on your behalf. The person must meet the qualifications below. Unless you specify differently, this person will have full power to do all things you might do, with as much binding effect, including, but not limited to providing information, preparing, signing, executing, filing, and inspecting returns and reports, and executing statute of limitation extensions and closing agreements.

This form is effective on the date signed. Authorization terminates when the department receives written revocation notice or a new form is executed (unless the space provided on the front is initialed indicating that prior forms are still valid).

Unless the appointed representative has a fiduciary relationship to the taxpayer (i.e., personal representative, trustee, guardian, conservator), original Notices of Deficiency or Assessment will be mailed to the taxpayer as required by law. A copy will be provided to the appointed representative when requested.

For corporations, "taxpayer" as used on this form, must be the corporation that is subject to Oregon tax. List fiscal years by year end date.

### QUALIFICATIONS TO REPRESENT TAXPAYER(S) BEFORE DEPARTMENT OF REVENUE

Under Oregon Revised Statute 305.230 and Oregon Administrative Rule 150-305-230, a person must meet one of the following qualifications in order to represent you before the Department of Revenue.

#### 1. For all tax programs:

- a. An adult immediate family member (spouse, parent, child, or sibling).
- b. Same-sex domestic partner as defined in OAR 150-316.007-(B).
- c. An attorney qualified to practice law in Oregon.
- d. A certified public accountant (CPA) or public accountant (PA) qualified to practice public accountancy in Oregon, and their employees.
- e. An IRS enrolled agent (EA) qualified to prepare tax returns in Oregon.
- f. A designated employee of the taxpayer.
- g. An officer or employee of a corporation (including a parent, subsidiary, or other affiliated corporation), association, or organized group for that entity.
- h. An employee of a trust, receivership, guardianship, or estate for that entity.
- i. An individual outside the United States if representation takes place outside the United States.

#### 2. For income tax issues:

- a. All those listed in (1), plus
- b. A licensed tax consultant (LTC) or licensed tax preparer (LTP) licensed by the Oregon State Board of Tax Practitioners.

#### 3. For ad valorem property tax issues:

- a. All those listed in (1), plus
- b. An Oregon licensed real estate broker or a principal real estate broker, or

- c. An Oregon certified, licensed, or registered appraiser, or
- d. An authorized agent for designated utilities and companies assessed by the department under ORS 308.505 through 308.665 and ORS 308.805 through 308.820.

#### 4. For forestland and timber tax issues:

- a. All those listed in (1), (2), and (3)(b) and (c), plus
- b. A consulting forester.

An individual who prepares and either signs your tax return or who is not required to sign your tax return (by the instructions or by rule), may represent you **during an audit of that return. That individual may not represent you for any other purpose unless they meet one of the qualifications listed above.**

Out-of-state CPAs and attorneys may contact their respective regulatory body in Oregon (Oregon Board of Accountancy or Oregon State Bar) for information on becoming qualified to practice in Oregon. If your out-of-state designee receives authorization to practice in Oregon, please attach proof to this form.

Generally, declarations for representation in cases appealed beyond the Department of Revenue must be in writing to the Tax Court Magistrate. A person recognized by a Tax Court Magistrate will be recognized as your representative by the department.

**Tax matters partners and S corporation shareholders.** See OARs 150-305.242(2) and (5) and 150-305.230 for additional information. Include the partnership or S corporation name in the taxpayer name area.



**DISASTER AREA PROPERTY TAX DEFERRAL APPLICATION** (ORS 311.740 to 311.780)  
 (Applies ONLY to Agricultural or Rangeland under farm use)

BJ —

**SEE IMPORTANT  
INSTRUCTIONS  
ON BACK**

1. Applicant's Name

Address

City

State

ZIP Code

Telephone Number ( )

2. Assessor's Account Number for property on which deferral is requested

3. Describe the adverse effect of the disaster on this property

4. Description of Property Eligible for Deferral (Assessor Use ONLY)

**5. COUNTY ASSESSOR**

I hereby certify that I have examined this application and have verified that 1) the applicant is the person responsible for paying taxes on the property; 2) the applicant is the owner of record, or if not the owner, the owner has authorized the filing of this application; and 3) the property description shown includes ONLY agricultural or rangeland under farm use as defined in ORS 215.203 or 308A.056.

X  
 Signature of Assessor or Representative \_\_\_\_\_ Date \_\_\_\_\_

**6. APPLICANT**

I declare under the penalties for false swearing as contained in ORS 305.990(4) that I have examined this document and to the best of my knowledge it is true, correct, and complete.

X  
 Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

**7. OWNER (only if different from applicant)**

As the owner of record of the property listed above, I hereby authorize the above applicant to request deferral of taxes on this property.

X  
 Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

Name of Owner \_\_\_\_\_ Telephone Number ( ) \_\_\_\_\_

Address

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Type of Ownership \_\_\_\_\_ Name of Contract Holder \_\_\_\_\_

Fee Simple  Contract

(Applicant's Name)

**—NOTICE TO OWNER—**

The authorization you give to this applicant may cause a legal lien to be filed on your property.

**YOU ARE NOT REQUIRED TO GIVE THIS AUTHORIZATION**

**8. COUNTY GOVERNING BOARD**

The governing board of \_\_\_\_\_ County examined this application on (date) \_\_\_\_\_ and hereby certifies that the property listed on this application has been adversely affected by the specific disaster declared by the Governor of the state of Oregon in Executive Order Number \_\_\_\_\_. (Attach a copy of the resolution, ordinance, or other legal action by which the governing board has established the adverse effect.)

X  
 Signature of Governing Board Representative \_\_\_\_\_ Date \_\_\_\_\_

**9. OREGON DEPARTMENT OF REVENUE (for department use ONLY)**  
 E.O. # \_\_\_\_\_ Declared \_\_\_\_\_

Approval/Denial

Lien Filed \_\_\_\_\_ Lien Released \_\_\_\_\_

**GROSS TAX**

Deferred Tax:	11-15-_____	\$ _____
	11-15-_____	_____
	11-15-_____	_____
<b>TOTAL DEFERRED TAX</b>		\$ _____
Interest for repayment period		_____
<b>TOTAL AMOUNT DUE</b>		\$ _____

E.O. # \_\_\_\_\_ Revoked \_\_\_\_\_

Repayment	11-15-_____	\$ _____	Paid _____
Schedule	11-15-_____	_____	Paid _____
	11-15-_____	_____	Paid _____
	11-15-_____	_____	Paid _____
	11-15-_____	_____	Paid _____

Remarks

## INSTRUCTIONS FOR COMPLETING APPLICATION FOR TAX DEFERRAL

This application is to be filed with the county assessor of the county in which the property is located. Someone in that office will, if necessary, assist you in completing the form.

Additional information is provided in the circular entitled "Disaster Area Property Tax Deferral." This may be obtained from the county assessor's office.

Please print or type the information portions of this form.

The item numbers below relate to the space numbers on this form.

1. Applicant's Name.

- (a) Applicant is person who is paying taxes on disaster area property.
- (b) An application must be filed each year deferral of tax is desired.

2. Assessor's Account Number.

The assessor's account number or map and tax lot number of the property affected by the disaster.

3. Description of the adverse effect of the disaster.

- (a) Flooded.
- (b) Soil erosion.
- (c) Volcanic ash.
- (d) Dry.
- (e) Other.

4. Legal description of property affected by disaster, only the land, not the buildings or improvements, is eligible for tax deferral. The land must be used exclusively for farm or range use as defined in ORS 215.203 or 308A.056.

5. Assessor's Certification.

- (a) Assessor certifies the applicant is the legal taxpayer or record owner of the disaster area property.
- (b) Assessor certifies the land is classified as farmland or rangeland under ORS 215.203 or 308A.056 and used exclusively for farming.

6. Applicant's Signature.

- (a) Is a legal request for the State of Oregon to pay the property taxes under the Disaster Area Tax Deferral.
- (b) The State of Oregon will place a lien against the property for the taxes and accrued interest.

7. Owner's Signature.

If the owner is different from applicant, owner is giving permission for lien to be placed against the property and permits the State of Oregon to pay the property taxes.

8. County Governing Board.

- (a) County Governing Board certifies that the land is within a Governor's declared disaster area and the land is adversely affected by the disaster.
- (b) Governing Board attaches a copy of the Governor's Executive Order declaring the disaster area.

9. OREGON DEPARTMENT OF REVENUE.

- (a) Assigns an account number.
- (b) Approves or denies application.
- (c) Notifies applicant of approval or denial.
- (d) Records lien with county clerk.
- (e) Requests tax statement from county tax collector.
- (f) State pays property tax to tax collector by November 15th.

*Send fully signed original to Oregon Department of Revenue.  
Copies will be returned to assessor and applicant.*

## **Appendix D: Farm Use Certification and Capitalization**

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Farm Use Interest Rate and Wheat Price Certification Letter .....	6-59
Calculation of Farm Use Specially Assessed Values Per Land Class (Example) .....	6-60
Summary of Farm Use Interest Rates/Wheat Prices .....	6-61





# Oregon

Theodore R. Kulongoski, Governor

Department of Revenue  
955 Center St NE  
Salem, OR 97301-2555

DATE: February 14, 2006  
TO: All County Assessors  
FROM: Gary Wright *G Wright*  
Assessment and Taxation Standards  
Property Tax Division  
SUBJECT: Farm-Use Interest Rate and Wheat Price for 2006-07

The average effective rate of interest charged by the Farm Credit Service on real property loans is annually reported to the Internal Revenue Service. In compliance with ORS 308A.092, the Department of Revenue certifies a five-year average interest rate of **7.11 percent**. This interest rate plus a local property tax rate is to be used to arrive at the farm use capitalization rate.

Each county assessor needs to estimate rates for property taxes when computing farm use values. Measure 50 limits the farm use value to the **lower** of the 2006-07 specially assessed value (SAV) or the 2006-07 maximum specially assessed value (MSAV) for each land class. See example on back.

The market wheat price for computing 2006 farm use values of wheatland is **\$3.72 per bushel**. This price must be adjusted for local costs of storing and marketing the wheat (freight, inspection, handling, and wheat tax). These costs are available from the local grain elevator companies in the counties.

In addition to the market price of **\$3.72** per bushel, any payments growers receive under government programs for the 2004 and 2005 wheat crops need to be added to the market price to arrive at the growers' gross income.

(503) 945-8225  
(503) 945-8617 TTY  
(503) 945-8737 FAX



# 2006-07 EXAMPLE

## CALCULATION OF FARM USE SPECIALLY ASSESSED VALUES PER LAND CLASS

### 2006-07 ESTIMATED IMPOSED NOMINAL TAX RATE

Nominal Tax Rate	/	1000	=	Tax rate Percentage	
10.6900	/	1000	=	0.01069	1.069%

### CALCULATION OF EFFECTIVE TAX RATE PERCENTAGE:

LAND CLASS		LAND CLASS		Tax Ratio	
2005-06 MSAV	/	2005-06 SAV	=	(NOT TO EXCEED 1.00)	
648	/	670	=	0.9672	
Nominal Tax Rate	x	Tax Ratio	=	Effective Tax Rate	
0.01069	x	0.9672	=	0.010339	1.034%

### CALCULATION OF CAPITALIZATION RATE:

DOR Certified Interest Rate	7.11%
Effective Tax Rate	1.03%

**CAPITALIZATION RATE FOR CALCULATING FARM USE VALUE 8.14%**

## CAPITALIZATION EXAMPLE PER LAND CLASS :

	2006-07 FARM USE NET INCOME	/	2006-07 ESTIMATED CAP RATE	=	2006-07 SPECIALLY ASSESSED VALUE (SAV) PER ACRE TABLE
<b>SAV</b>	\$57.50		0.0814		\$706
	2005-06 MAXIMUM SPECIALLY ASSESSED VALUE (MSAV) PER ACRE TABLE	< Greater of >	2005-06 ASSESSED VALUE TIMES 103% \$ 648 x 103%	=	2006-07 MAXIMUM SPECIALLY ASSESSED VALUE (MSAV) PER ACRE TABLE
<b>MSAV</b>	\$648		\$667		\$667
	2006-07 SAV PER ACRE TABLE	< Lesser of >	2006-07 MSAV PER ACRE TABLE	=	2006-07 ASSESSED VALUE (AV) PER ACRE
<b>AV</b>	\$706		\$667		\$667



## Summary of Farm Use Interest Rates/Wheat Prices

---

<b>Year</b>	<b>Prudent Investment Rate</b>	<b>DOR Certified Rate</b>	<b>Wheat Price</b>
1982-83	11.00%	9.87%	\$4.24
1983-84	12.00%	10.37%	\$4.30
1984-85	12.00%	11.07%	\$4.29
1985-86	11.75%	11.73%	\$4.15
1986-87	12.25%	12.25%	\$3.85
1987-88	12.25%	12.62%	\$3.69
1988-89	12.25%	12.81%	\$3.21
1989-90	10.75%	12.42%	\$2.85
1990-91	11.50%	12.27%	\$3.72
1991-92	11.75%	12.12%	\$4.52
1992-93	11.50%	11.95%	\$3.77
1993-94	9.50%	11.66%	\$3.47
1994-95	8.50%	11.35%	\$4.09
1995-96	6.95%	10.48%	\$3.83
1996-97	8.00%	9.15%	\$4.72
1997-98	8.10%	8.48%	\$4.78
1998-99	8.60%	8.46%	\$4.20
1999-00	8.27%	9.12%	\$3.45
2000-01	N/A	8.45%	\$3.02
2001-02	N/A	8.28%	\$2.96
2002-03	N/A	8.18%	\$3.24
2003-04	N/A	8.08%	\$4.00
2004-05	N/A	7.88%	\$4.09
2005-06	N/A	7.54%	\$3.87
2006-07	N/A	7.11%	\$3.72



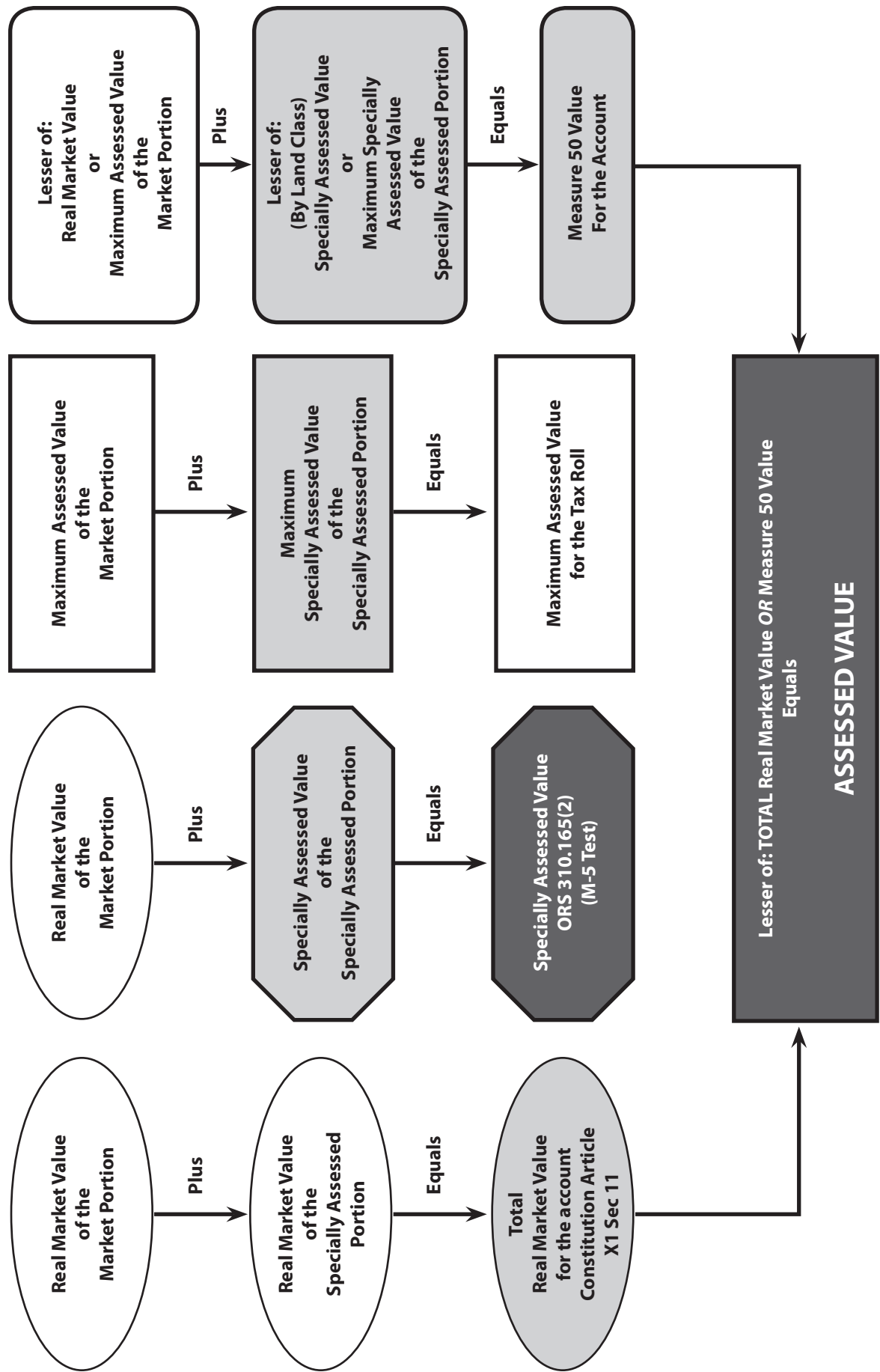
## Appendix E: Farm Use Valuation

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**M-50 CALCULATIONS  
SPECIALLY ASSESSED RMV, SAV, MAV, AND AV CALCULATION MATRIX**







# Appraisal of Contiguous Rural Farm or Forestlands

The following guideline is to establish a uniform policy for the appraisal of contiguous tracts of rural farm or forestland.

Determine if the property is under special assessment. If the property is currently under Special Assessment, it will require **two separate appraisals**. One appraisal for farm or forest use value (specially assessed value) and one for Real Market Value (RMV) based on a highest-and-best-use analysis.

See Valuation section of this manual for “Measure 50 Maximum Assessed Value Limitations.”

Highest-and-best-use is defined as the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. When considering highest-and-best-use, the first consideration as outlined in “The Appraisal of Real Estate—10th Edition” and DOR Methods Manual, Chapter 7, is to determine the legal use of the property. Zoning restrictions are a primary consideration in legal use.

## EFU Zoned and Highest-and-Best-Use Forestland

If the property is in an Exclusive Farm Use (EFU) zone or Highest-and-Best-Use Forestland (Resource Lands), the valuation procedure will be different than if the property is in a zone which allows for more intense uses. Specially assessed lands, EFU or Resource Lands, will be valued as a single, large tract of land, by productivity class (see commercial farmland schedule) rather than as several smaller tracts. The benefit comes from economies of scale where large tracts are valued at less per acre than smaller tracts. Some properties may require a land size adjustment based on market for the area. Adjustments for flooding, utility, quality, location influences etc. may also be needed to be made to the value obtained from the commercial farmland or forestland schedule. Such adjustments are derived from a market study of sales of similar properties which are comparable to the subject property.

In an EFU zone there can be additional restrictions for “High Value Farm Land.” This is primarily land falling under the class I and class II quality designation. It also includes some special class III and class IV lands. For properties falling under this classification zoning restrictions make it more difficult to subdivide the land to create additional building sites(s).

## Zones Permitting Development of Rural Parcels

When the property is in a zone which permits development of parcels, each buildable lot is valued individually. When the property has sufficient acreage to be segregated or subdivided and there is an active market for parcels meeting zoning requirements, then the property must be valued based on a land schedule developed from sales of properties with comparable zoning. (Highest and Best Use) (See Example 1)

Adjustments are made to individual acres for each parcel which have more or less utility; such as more than one buildable site, a view factor or water front.

When a property is specially assessed, the individual parcel values including any adjustments for amenities such as view, water front etc. are added together and divided by the total number of acres under contiguous ownership. The resulting average price per acre is used to compute the qualified homesite values. (ORS 308A.256)

## Example #1 — Real Market Value

The following example determines real market value for tax lots 700, 701, 800, and 900 (See attached tax lot map). They are under contiguous ownership, however each is a separate legal parcel. The zoning is AR-5 which permits development of a homesite on five or more acres. This is a more intensive use than permitted under EFU zoning. Each tax lot is a legally buildable lot. In this example, a good view is worth \$30,000, all of the parcels are developed and typical onsite developments (OSD) adds \$10,000. Land values are from the attached rural tract land schedule which was derived from a market study.

<b>Tax Lot 700</b> 5 Acres @	\$	17,500	=	\$	87,500
View - Good		30,000	=		30,000
OSD - Typical		10,000	=		10,000
RMV Land Value					\$127,500
<b>Tax Lot 701</b> 36 Acres @		4,750	=		171,000
View - Good		30,000	=		30,000
OSD - Typical		10,000	=		10,000
RMV Land Value					211,000
<b>Tax Lot 800</b> 43 Acres @		4,500	=		193,500
View - Good		30,000	=		30,000
OSD - Typical		10,000	=		10,000
RMV Land Value					233,500
<b>Tax Lot 900</b> 19 Acres @		5,500	=		104,500
No View					
OSD - Typical		10,000	=		10,000
RMV Land Value					114,500

The preceding values will be assessed for each parcel **not** under special assessment.

These values will also be used to calculate any additional tax once the property is removed from special assessment. (See Farm and Forest Related Homesite)

For **vacant** parcels which are legally buildable, factors affecting value such as view, OSD etc., should be added, but not to exceed one homesite. For example a vacant 20 acre parcel in an AR-5 zone has a legal right to build one homesite. It may be possible to develop 4 homesites but the view, OSD etc., for more homesites cannot be added to the calculation of RMV until the land is partitioned or approved for these additional homesites. The rural tract land schedule (AR-5) reflects other dividable parcels (such as 20 acres dividable to four 5 acre parcels) with one existing homesite (or the right to build one homesite).

Add increments for OSD, View, etc., when additional homesite have been **approved** or are **existing**.

The value calculated for each of the above parcels would have the following separately stated elements on a land appraisal card:

1. Average per acre value from the land schedule for each homesite.
2. Value increments (i.e. view, river front etc.) for each homesite.
3. Onsite Developments (OSD) at real market value (RMV).
4. Remaining acres from land schedule.

**Note:** Real property improvements such as buildings, automatic feeders, processing equipment, irrigation pumps, motors, electrical service, buried lines, corrals etc. are to be assessed at RMV on an improvement appraisal card.

# Farm and Forest Related Homesites

## Value Farm Related Homesite in accordance with ORS 308A.256

EFU farm related homesite

Non-EFU farm related homesite (by application under ORS 308A.077)

Homesite valuation requires **two** separate calculations for valuing the one acre homesite for assessment purposes. These include **real market value** and **specially assessed value**. For the purposes of establishing homesite value, the value of one acre of land for each farm related homesite shall be used.

### REAL MARKET HOMESITE VALUE

Determine the average per acre real market value for the homesite **parcel**. Use the entire parcel the homesite is located on, not all contiguous parcels under common ownership. **After** the average per acre RMV of the parcel has been calculated, add for amenities i.e. view, river front, etc., or deduct for lack of utility such as unusable area, poor access, etc. Then to this, add the OSD increment **at RMV** to arrive at the homesite value.

### SPECIALLY ASSESSED HOMESITE VALUE

(Must be in conjunction with a qualifying farm use)

Determine RMV for all contiguous parcels and acres of common ownership and apply values from the land schedule(s). Add for amenities such as view, river front etc., or deduct for lack of utility such as unusable area, poor access, etc. Divide the total RMV by the total acres of contiguous ownership to arrive at the average value per acre. The average value per acre for one acre is added to a maximum OSD of \$4,000 to arrive at the specially assessed homesite value.

## Value Forest Related Homesite in accordance with ORS 308A.256

Highest-and-Best-Use forestland-related homesite

Designated forestland-related homesite

Small Tract Forestland-related homesite

### FOREST RELATED HOMESITE VALUES

Homesite parcel must have a minimum of 10.01 acres of assessed forestland as specified in ORS 308A.250 and 308A.253.

Use the above farm related homesite valuation procedures to determine the "REAL MARKET HOMESITE VALUE" and the "SPECIALLY ASSESSED HOMESITE VALUE."

**See Valuation section of this manual for "Measure 50 Maximum Assessed Value Limitations."**



### M-50 Calculations Example # 3

To solve for tax lot 700 with no amenities.

- Zoned EFU                    In this example, the market value for small tracts zoned AR-5 and EFU-5 are considered the same at \$17,500 per acre. Class II farmland SAV = \$551, MSAV = \$525.
- OSD                            Average RMV onsite development (OSD) is \$10,000, use \$4,000 if specially assessed.
- Amenities                    None.
- TL 700                        Class II farmland, one acre homesite, improved with a dwelling. One acre is not being farmed.

The following demonstrates side-by-side calculations:

ASSESSMENT BASED ON MARKET VALUE <small>(ORS 308.146 and 308.205)</small>		SPECIALLY ASSESSED <small>(ORS 308A.107 and 308A.256)</small>		
	(RMV)		(SAV)	(RMV)
<b>Real Market Value:</b>		<b>Specially Assessed Value:</b>		
<b>MARKET PORTION</b>		<b>MARKET PORTION</b>		
TL 700 Improvement RMV	\$125,000	TL 700 Improvement RMV	\$125,000	
TL 700 Land RMV (1 AC)	\$17,500	TL 700 Land RMV (1 AC)	\$17,500	
<b>Total MARKET PORTION RMV</b>	<b>\$142,500</b>	<b>Total MARKET PORTION RMV</b>		<b>\$142,500</b>
<b>SPECIALLY ASSESSED PORTION</b>		<b>SPECIALLY ASSESSED PORTION</b>		
TL 700 HS Value		TL 700 HS Value		
EFU-5AC, one acre		5AC x \$17,500 =		
	\$17,500	HS Bare Land Value Base (RMV)		
OSD @ RMV =	\$10,000		\$87,500	
Homesite RMV	\$27,500		\$87,500 / 5AC = HS Land SAV	\$17,500 (Avg RMV/AC)
			OSD SAV = (\$4,000 maximum)	\$4,000
			Homesite SAV	\$21,500      \$21,500
TL 700 Remaining Acres RMV		TL 700 Remaining Acres SAV		
3AC x \$17,500 =	\$52,500	Class II = 3ACx \$551	\$1,653	\$1,653
Remaining Acres RMV	\$52,500	Remaining Acres SAV	\$1,653	
<b>Total SA PORTION RMV</b>	<b>\$80,000</b>	<b>Total SA PORTION SAV</b>	<b>\$23,153</b>	
<b>Total RMV for account</b>	<b>\$222,500</b>	<b>Total SAV for account (M-5)</b>		<b>\$165,653</b>
<b>Maximum Assessed Value:</b>		<b>Maximum Special Assessed Value:</b>		
		<b>MARKET PORTION</b>		
TL 700 account MAV		TL 700 MARKET PORTION MAV		
Prior year MAV	\$155,750 (tax roll)	MARKET PORTION RMV (New year)		
Prior year AV x 1.03	\$160,422	Divided by New Total RMV (New year)		
Greater of = Account MAV	<b>\$160,422</b>	Equals MARKET PORTION Apportionment		
		Account MAV		
		Times MARKET PORTION Apportionment		
		Total MARKET PORTION MAV		
				<b>\$102,734</b>
		<b>SPECIALLY ASSESSED PORTION</b>		
TL 700 Land Value		TL 700 Land Value		
Prior Year HS MSAV		Prior Year HS MSAV		
		Prior Year HS AV x 103%		
		Greater of = HS Land MSAV		
		OSD Prior Year MSAV		
		OSD Prior Year AV x 103%		
		Greater of = OSD MSAV		
		Homesite MSAV		
			\$15,050 (tax roll)	
			\$15,501	
			\$15,501	
			\$4,120 (tax roll)	
			\$4,120	
			\$4,120	
			\$19,621	\$19,621
TL 700 Remaining Acres MSAV		TL 700 Remaining Acres MSAV		
Class II 3ac @ \$525 =		Class II 3ac @ \$525 =		
		Remaining acres MSAV		
		Total SA PORTION MSAV		
			\$1,575	\$1,575
			\$1,575	
			\$1,575	
		<b>Total MAV for SA account</b>		<b>\$123,930</b>
<b>Assessed Value as if not specially assessed:</b>		<b>Assessed Value if specially assessed:</b>		
		Lesser of MARKET PORTION RMV or MAV		
		Lesser of HS Land SAV or MSAV		
		Lesser of OSD SAV or MSAV		
		Homesite AV		
		Lesser of Class II SAV or MSAV		
			\$15,501	
			\$4,000	
			\$19,501	\$19,501
			\$1,575	\$1,575
<b>Total RMV for Account</b>	<b>\$222,500</b>	<b>Total AV IF SPECIAL ASSESSED (M-50)</b>		<b>\$123,810</b>
<b>Total MAV for Account</b>	<b>\$160,422</b>	<b>ACCOUNT AV (Lesser of RMV or M-50 Value)</b>		<b>\$123,810</b>
<b>TOTAL AV IF NOT SPECIAL ASSESSED</b>	<b>\$160,422</b>			

## M-50 Calculations Example # 4

To solve for tax lot 700 with "good view".

- Zoned EFU                      Tax Lot 700 is zoned EFU-5. In this example, the market value for small tracts zoned AR-5 and EFU-5 are considered the same. Class II farmland SAV = \$ 551/ac, MSAV = \$525.
- OSD                              Average RMV onsite development (OSD) is \$10,000, use \$4,000 if specially assessed.
- Amenities                      Good View = \$30,000
- TL 700                            Class II farmland, one acre homesite, improved with a dwelling

The following demonstrates side-by-side calculations:

ASSESSMENT BASED ON MARKET VALUE (ORS 308.146 and 308.205)		SPECIALLY ASSESSED (ORS 308A.107 and 308A.256)		
		(RMV)	(SAV)	(RMV)
<b>Real Market Value:</b>				
<b>MARKET PORTION</b>				
TL 700 Improvement RMV	\$125,000		\$125,000	
<b>Total MARKET PORTION RMV</b>		<b>\$125,000</b>		<b>\$125,000</b>
<b>SPECIALLY ASSESSED PORTION</b>				
<b>TL 700 HS Value</b>				
EFU-5 AC, one acre	\$17,500		\$87,500	
Good View =	\$30,000		\$30,000	
OSD @ RMV =	\$10,000		\$117,500	
Homesite RMV	\$57,500		\$23,500 (AVG RMV/AC)	
<b>TL 700 Remaining Acres RMV</b>				
4AC x 17,500 =	\$70,000		\$4,000	
<b>Remaining Acres RMV</b>	<b>\$70,000</b>		<b>\$27,500</b>	
<b>Total SA PORTION RMV</b>	<b>\$127,500</b>			
<b>Total RMV for account</b>		<b>\$252,500</b>		
<b>Maximum Assessed Value:</b>		<b>(MAV)</b>	<b>(MSAV)</b>	<b>(MAV)</b>
<b>TL 700 account MAV</b>				
Prior year MAV	\$176,750 (tax roll)			
Prior year AV x 1.03	\$182,052			
<b>Greater of = Account MAV</b>		<b>\$182,052</b>		
<b>MARKET PORTION</b>				
<b>TL 700 MARKET PORTION MAV</b>				
MARKET PORTION RMV (New year)	\$125,000			
Divided by New Total RMV (New year)	\$252,500			
Equals MARKET PORTION Apportionment	0.4950			
Account MAV	\$182,052			
Times MARKET PORTION Apportionment	0.4950			
<b>Total MARKET PORTION MAV</b>				<b>\$90,116</b>
<b>SPECIALLY ASSESSED PORTION</b>				
<b>TL 700 Land Value</b>				
Prior Year HS MSAV	\$16,450 (tax roll)			
Prior Year HS AV x 103%	\$16,943			
<b>Greater of =HS Land MSAV</b>	<b>\$16,943</b>			
OSD Prior Year MSAV	\$4,120 (tax roll)			
OSD Prior Year AV x 103%	\$4,120			
<b>Greater of = OSD MSAV</b>	<b>\$4,120</b>			
<b>Homesite MSAV</b>	<b>\$21,063</b>			<b>\$21,063</b>
<b>TL 700 Remaining Acres MSAV</b>				
Class II 4AC @ \$525 =	\$2,100			
<b>Remaining acres MSAV</b>	<b>\$2,100</b>			<b>\$2,100</b>
<b>Total SA PORTION MSAV</b>	<b>\$23,163</b>			
<b>Total MAV for SA account</b>				<b>\$113,279</b>
<b>Assessed Value as if not specially assessed:</b>		<b>(AV)</b>	<b>(AV)</b>	<b>(AV)</b>
<b>Total RMV for account</b>		<b>\$252,500</b>		
<b>Total MAV for account</b>		<b>\$182,052</b>		
<b>TOTAL AV IF NOT SPECIAL ASSESSED</b>		<b>\$182,052</b>		
<b>Assessed Value if specially assessed:</b>			<b>(AV)</b>	<b>(AV)</b>
Lesser of MARKET PORTION RMV or MAV				\$90,116
Lesser of HS Land SAV or MSAV		\$16,943		
Lesser of OSD SAV or MSAV		\$4,000		
Homesite AV		\$20,943		\$20,943
Lesser of Class II SAV or MSAV				\$2,100
<b>TOTAL AV IF SPECIAL ASSESSED (M-50)</b>				<b>\$113,159</b>
<b>ACCOUNT AV (Lesser of RMV or M-50 Value)</b>				<b>\$113,159</b>



### M-50 Calculations Example # 5-700

To solve for tax lot 700 when tax lots 700 and 701 are contiguous parcels of common ownership.

- Zoned EFU                      Tax lot 700 is zoned EFU-5. In this example, the market value for small tracts zoned AR-5 and EFU-5 is considered the same at \$17,500 per acre. Class II farmland SAV = \$551, MSAV = \$525.
- OSD                              Average RMV onsite development (OSD) is \$10,000, use \$4,000 if specially assessed.
- Amenities                      Good view (RMV of \$30,000)
- TL 700                          Class II farmland, one acre homesite, improved with a dwelling (common contiguous ownership to TL 701).
- TL 701                          15AC Class II, 20AC Class III, Class II one acre homesite, no improvements (contiguous common ownership to TL 700).

**Note:** Include all contiguous acres (parcels under common ownership) in the homesite calculation only when valuing farm homesites under ORS 308A.256.

The following demonstrates side-by-side calculations for Tax Lot 700: (See EX5-701 for Tax Lot 701)

ASSESSMENT BASED ON MARKET VALUE (ORS 308.146 and 308.205)		SPECIALLY ASSESSED (ORS 308A.107 and 308A.256)		
	(RMV)		(SAV)	(RMV)
<b>Real Market Value:</b>		<b>Specially Assessed Value:</b>		
<b>MARKET PORTION</b>		<b>MARKET PORTION</b>		
TL 700 Improvement RMV		TL 700 MARKET PORTION RMV		
Dwelling                              \$125,000		Dwelling                              \$125,000		
Barn, Machine Shed, Irrigation, etc.      \$100,000		Barn, Machine Shed, Irrigation, etc.      \$100,000		
<b>Total MARKET PORTION RMV</b>	<b>\$225,000</b>	<b>Total MARKET PORTION RMV</b>		<b>\$225,000</b>
<b>SPECIALLY ASSESSED PORTION</b>		<b>SPECIALLY ASSESSED PORTION</b>		
Tax Lot 700 HS Value		Tax Lot 700 HS Value		
		<b>Tax Lot 700</b>		
		Rural Tract, 5 AC x \$17,500	\$87,500	
		Good View	\$30,000	
		<b>Tax Lot 700 Bare Land Value (RMV)</b>	<b>\$117,500</b>	
		<b>Tax Lot 701</b>		
		Class II 16AC x \$4,150 =	\$66,400	
		Class III 20AC x \$3,500 =	\$70,000	
		Good View	\$30,000	
		<b>TL 701 Bare Land Value (RMV)</b>	<b>\$166,400</b>	
		<b>HS Bare Land Value Base (RMV)</b>	<b>\$283,900</b>	
		\$283,900 / 41AC = HS Land SAV	\$6,924 (AVG RMV/AC)	
EFU-5 acres, one acre                      \$17,500		<b>OSD SAV</b> (\$4,000 maximum)	\$4,000	
Good View                              \$30,000		<b>Homesite SAV</b>	<b>\$10,924</b>	<b>\$10,924</b>
OSD RMV                              \$10,000				
<b>Homesite RMV</b>	<b>\$57,500</b>			
<b>Tax Lot 700 Remaining Acres RMV</b>		<b>Tax Lot 700 Remaining Acres SAV</b>		
4AC x \$17,500 =	\$70,000	Class II 4AC x \$551 =	\$2,204	<b>\$2,204</b>
<b>Remaining Acres RMV</b>	<b>\$70,000</b>	<b>Remaining Acres SAV</b>	<b>\$2,204</b>	
<b>Total SA PORTION RMV</b>	<b>\$127,500</b>	<b>Total SA PORTION SAV</b>	<b>\$13,128</b>	
<b>Total RMV for account</b>	<b>\$352,500</b>	<b>Total SAV for account (M-5)</b>		<b>\$238,128</b>
<b>Maximum Assessed Value:</b>	<b>(MAV)</b>	<b>Maximum Special Assessed Value:</b>	<b>(MSAV)</b>	<b>(MAV)</b>
		<b>MARKET PORTION</b>		
TL 700 account MAV		TL 700 MARKET PORTION MAV		
Prior year MAV                              \$246,750 (tax roll)		MARKET PORTION RMV (New year)	\$225,000	
Prior year AV x 1.03                      \$254,152		Divided by New Total RMV (New year)	\$352,500	
Greater of = <b>Account MAV</b>	<b>\$254,152</b>	Equals MARKET PORTION Apportionment	0.6383	
		Account MAV	\$254,152	
		Times MARKET PORTION Apportionment	0.6383	
		<b>Total MARKET PORTION MAV</b>		<b>\$162,225</b>
		<b>SPECIALLY ASSESSED PORTION</b>		
		<b>Tax Lot 700 Land Value</b>		
		Prior Year HS MSAV	\$4,846 (tax roll)	
		Prior Year HS AV x 103%	\$4,991	
		Greater of = <b>HS Land MSAV</b>	<b>\$4,991</b>	
		OSD Prior Year MSAV	\$4,120 (tax roll)	
		OSD Prior Year AV x 103%	\$4,120	
		Greater of = <b>OSD MSAV</b>	<b>\$4,120</b>	
		<b>Homesite MSAV</b>	<b>\$9,111</b>	<b>\$9,111</b>
		<b>TL 700 Remaining Acres MSAV</b>		
		Class II 4AC x \$525 =	\$2,100	<b>\$2,100</b>
		<b>Remaining acres MSAV</b>	<b>\$2,100</b>	
		<b>Total SA PORTION MSAV</b>	<b>\$11,211</b>	
		<b>Total MAV for SA account</b>		<b>\$173,436</b>
<b>Assessed Value as if not specially assessed:</b>	<b>(AV)</b>	<b>Assessed Value if specially assessed:</b>	<b>(AV)</b>	<b>(AV)</b>
		Lesser of MARKET PORTION RMV or MAV		\$162,225
		Lesser of HS Land SAV or MSAV	\$4,991	
		Lesser of OSD SAV or MSAV	\$4,000	
		Homesite AV	\$8,991	\$8,991
		Lesser of Class II SAV or MSAV	\$2,100	
<b>Total RMV for Account</b>	<b>\$352,500</b>			
<b>Total MAV for Account</b>	<b>\$254,152</b>			
<b>TOTAL AV IF NOT SPECIAL ASSESSED</b>	<b>\$254,152</b>	<b>TOTAL AV IF SPECIAL ASSESSED (M-50)</b>		<b>\$173,316</b>
		<b>ACCOUNT AV (Lesser of RMV or M-50 Value)</b>		<b>\$173,316</b>



## M-50 Calculations Example # 6-700

To solve for Tax Lot 700 when tax lots 700 and 701 comprise one lot of record.

- Zoned EFU                                      Class II farmland SAV = \$551 and MSAV = \$525, Class III SAV = \$433 and MSAV = \$413.
- OSD    Real market value of Class II farmland = \$4,150, Class III = \$3,500
- Amenities                                      Average RMV onsite development (OSD) is \$10,000, use \$4,000 if specially assessed.
- TL 700    Good view (RMV of \$30,000)
- TL 701    Class II farmland, one acre homesite, improved with a dwelling
- 16AC Class II, 20AC Class III, all farmland

**Note:** TL 700 cannot be sold separately from TL 701, because they are considered one legal parcel of 41 acres by planning. Do not use the EFU-5 land schedule to value tax lot 700. Instead, combine with other Class II land in tax lot 701 and use the commercial farmland schedule.

The following demonstrates side-by-side calculations: (See EX6-701 for Tax Lot 701)

ASSESSMENT BASED ON MARKET VALUE (ORS 308.146 and 308.205)		SPECIALLY ASSESSED (ORS 308A.107 and 308A.256)		
<b>Real Market Value:</b>	<b>(RMV)</b>	<b>Specially Assessed Value:</b>	<b>(SAV)</b>	<b>(RMV)</b>
<b>MARKET PORTION</b>		<b>MARKET PORTION</b>		
<b>TL 700 Improvement RMV</b>		<b>TL 700 Improvement RMV</b>		
Dwelling	\$125,000	Dwelling	\$125,000	
Barn, Machine Shed, Irrigation, etc.	\$100,000	Barn, Machine Shed, Irrigation, etc.	\$100,000	
<b>Total MARKET PORTION RMV</b>	<b>\$225,000</b>	<b>Total MARKET PORTION RMV</b>		<b>\$225,000</b>
<b>SPECIALLY ASSESSED PORTION</b>		<b>SPECIALLY ASSESSED PORTION</b>		
<b>Tax Lot 700 HS Value</b>		<b>Tax Lot 700 HS Value</b>		
		<b>Tax Lot 700</b>		
		Class II, 5AC x \$4,150		
		\$20,750		
		Good View		
		\$30,000		
		<b>Tax Lot 701</b>		
		Class II, 16AC x \$4,150		
		\$66,400		
		Class III, 20AC x \$3,500		
		\$70,000		
		<b>HS Bare Land Value Base (RMV)</b>		
		\$187,150		
<b>Homesite</b>		<b>Homesite</b>		
Class II 1 AC	\$4,150	\$187,150 / 41AC = HS Land SAV	\$4,565 (AVG RMV/AC)	
Good View	\$30,000	OSD (SAV) (\$4,000 maximum)	\$4,000	
OSD (RMV)	\$10,000	<b>Homesite SAV</b>	<b>\$8,565</b>	<b>\$8,565</b>
<b>Homesite RMV</b>	<b>\$44,150</b>			
<b>TL 700 Remaining Acres RMV</b>		<b>TL 700 Remaining Acres SAV</b>		
Class II 4AC x \$4,150 =	\$16,600	Class II 4AC x \$551 =	\$2,204	<b>\$2,204</b>
<b>Remaining Acres RMV</b>	<b>\$16,600</b>	<b>Remaining Acres SAV</b>	<b>\$2,204</b>	
<b>Total SA PORTION RMV</b>	<b>\$60,750</b>	<b>Total SA PORTION SAV</b>	<b>\$10,769</b>	
<b>Total RMV for account</b>	<b>\$285,750</b>	<b>Total SAV for account (M-5)</b>		<b>\$235,769</b>
<b>Maximum Assessed Value:</b>	<b>(MAV)</b>	<b>Maximum Special Assessed Value:</b>	<b>(MSAV)</b>	<b>(MAV)</b>
<b>TL 700 account MAV</b>		<b>MARKET PORTION</b>		
Prior year MAV	\$200,025 (tax roll)	<b>TL 700 MARKET PORTION MAV</b>		
Prior year AV x 1.03	\$206,025	MARKET PORTION RMV (New year)	\$225,000	
Greater of = Account MAV	<b>\$206,025</b>	Divided by New Total RMV (New year)	\$285,750	
		Equals MARKET PORTION Apportionment	0.7874	
		Account MAV	\$206,025	
		Times MARKET PORTION Apportionment	0.7874	
		<b>Total MARKET PORTION MAV</b>		<b>\$162,224</b>
		<b>SPECIALLY ASSESSED PORTION</b>		
		<b>Tax Lot 700 Land Value</b>		
		Prior Year HS MSAV		
		\$3,195 (tax roll)		
		Prior Year HS AV x 103%		
		\$3,290		
		<b>Greater of = HS Land MSAV</b>		
		<b>\$3,290</b>		
		OSD Prior Year MSAV		
		\$4,120 (tax roll)		
		OSD Prior Year AV x 103%		
		\$4,120		
		<b>Greater of = OSD MSAV</b>		
		<b>\$4,120</b>		
		<b>Homesite MSAV</b>		
		<b>\$7,410</b>		
		<b>TL 700 Remaining Acres MSAV</b>		
		Class II 4AC x \$525 =		
		\$2,100		
		<b>Remaining acres MSAV</b>		
		<b>\$2,100</b>		
		<b>Total SA PORTION MSAV</b>		
		<b>\$9,510</b>		
		<b>Total MAV for SA account</b>		
		<b>\$171,734</b>		
<b>Assessed Value as if not specially assessed:</b>	<b>(AV)</b>	<b>Assessed Value if specially assessed:</b>	<b>(AV)</b>	<b>(AV)</b>
		Lesser of MARKET PORTION RMV or MAV		\$162,224
		Lesser of HS Land SAV or MSAV	\$3,290	
		Lesser of OSD SAV or MSAV	\$4,000	
		Homesite AV	\$7,290	\$7,290
		Lesser of Class II SAV or MSAV	\$2,100	\$2,100
<b>Total RMV for Account</b>	<b>\$285,750</b>			
<b>Total MAV for Account</b>	<b>\$206,025</b>			
<b>TOTAL AV IF NOT SPECIAL ASSESSED</b>	<b>\$206,025</b>	<b>TOTAL AV IF SPECIAL ASSESSED (M-50)</b>		<b>\$171,614</b>
		<b>ACCOUNT AV (Lesser of RMV or M-50 Value)</b>		<b>\$171,614</b>

## M-50 Calculations Example # 6-701

To solve for Tax Lot 701 when tax lots 700 and 701 comprise one lot of record.

-- Zoned EFU                      Class II farmland SAV = \$551 and MSAV = \$525, Class III SAV = \$433 and MSAV = \$413.  
 Real market value of Class II farmland = \$4,150, Class III = \$3,500

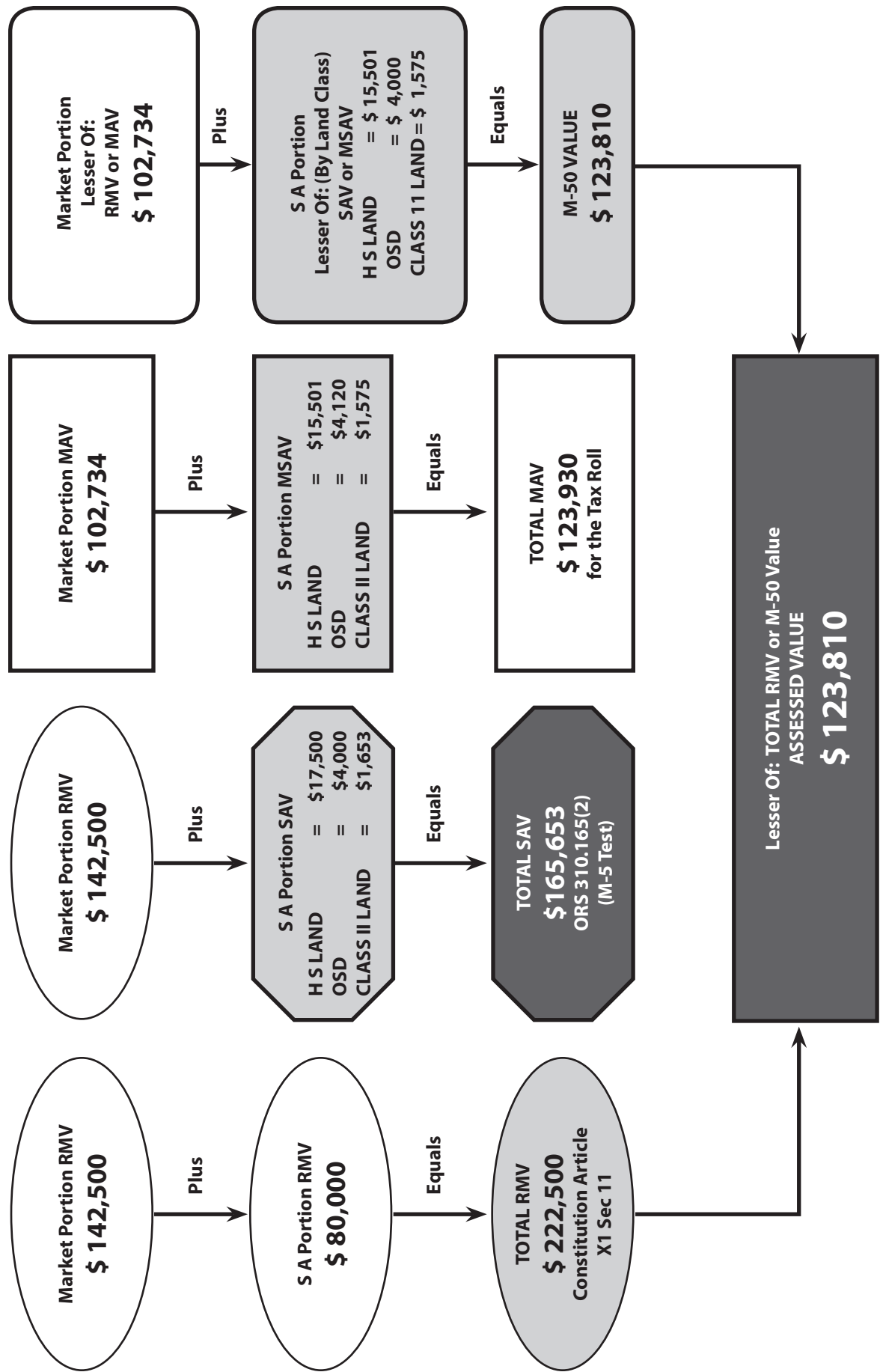
-- TL 701                          16AC Class II, 20AC Class III, all farmland

**Note:** TL 701 cannot be sold separately from TL 700, because they are considered one legal parcel of 41 acres by planning.  
 Use commercial farmland schedule to value class II and III land in tax lot 701

The following demonstrates side-by-side calculations: (See EX6-700 for Tax Lot 700)

ASSESSMENT BASED ON MARKET VALUE (ORS 308.146 and 308.205)		SPECIALLY ASSESSED (ORS 308A.107 and 308A.256)	
	(RMV)		(SAV)      (RMV)
<b>Real Market Value:</b>		<b>Specially Assessed Value:</b>	
<b>MARKET PORTION</b>		<b>MARKET PORTION</b>	
TL 701 Improvement RMV		TL 701 MARKET PORTION RMV	
No Improvements		No improvements	
<b>Total MARKET PORTION RMV</b>	<b>\$0</b>	<b>Total MARKET PORTION RMV</b>	<b>\$0</b>
<b>SPECIALLY ASSESSED PORTION</b>		<b>SPECIALLY ASSESSED PORTION</b>	
TL 701 Land RMV		TL 701 Land SAV	
Class II 16AC x \$4,150 =	\$66,400	Class II 16AC x \$551 =	\$8,816
Class III 20AC x \$3,500 =	\$70,000	Class III 20AC x \$433 =	\$8,660
<b>Land RMV</b>	<b>\$136,400</b>	<b>Land SAV</b>	<b>\$17,476</b>
<b>Total SA PORTION RMV</b>	<b>\$136,400</b>	<b>Total SA PORTION SAV</b>	<b>\$17,476</b>
<b>Total RMV for account</b>	<b>\$136,400</b>	<b>Total SAV for account (M-5)</b>	<b>\$17,476</b>
<b>Maximum Assessed Value:</b>	<b>(MAV)</b>	<b>Maximum Special Assessed Value:</b>	<b>(MSAV)      (MAV)</b>
<b>TL 701 account MAV</b>		<b>MARKET PORTION</b>	
Prior year MAV	\$95,480 (tax roll)	TL 701 MARKET PORTION MAV	
Prior year AV x 1.03	\$98,344	MARKET PORTION RMV (New year)	\$0
Greater of = <b>Account MAV</b>	<b>\$98,344</b>	Divided by New Total RMV (New year)	\$136,400
		Equals MARKET PORTION Apportionment	0.0000
		Account MAV	\$98,344
		Times MARKET PORTION Apportionment	0.0000
		<b>Total MARKET PORTION MAV</b>	<b>\$0</b>
		<b>SPECIALLY ASSESSED PORTION</b>	
		TL 701 Land MSAV	
		Class II 16AC x \$525 =	\$8,400
		Class III 20AC x \$413 =	\$8,260
		<b>Land MSAV</b>	<b>\$16,660</b>
		<b>Total SA PORTION MSAV</b>	<b>\$16,660</b>
<b>Assessed Value as if not specially assessed:</b>	<b>(AV)</b>	<b>Assessed Value if specially assessed:</b>	<b>(AV)      (AV)</b>
Total RMV for Account	\$136,400	Lesser of MARKET PORTION RMV or MAV	\$0
Total MAV for Account	\$98,344	Lesser of Class II SAV or MSAV	\$8,400
		Lesser of Class III SAV or MSAV	\$8,260
<b>TOTAL AV IF NOT SPECIAL ASSESSED</b>	<b>\$98,344</b>	<b>TOTAL AV IF SPECIAL ASSESSED (M-50)</b>	<b>\$16,660</b>
		<b>ACCOUNT AV (Lesser of RMV or M-50 Value)</b>	<b>\$16,660</b>

**M-50 CALCULATIONS EXAMPLE 3  
SPECIALLY ASSESSED RMV, SAV, MAV, AND AV CALCULATIONS**







## 1995 COMMERCIAL FARMLAND SCHEDULE BOTTOM AND BENCH LAND

Acres	Class I	Class II	Class III	Class IV	Class V	Class VI	Class VII	Class VIII
10	6,000	5,100	4,350	3,900	2,750	1,900	500	50
20	5,400	4,600	3,900	3,500	2,500	1,700	500	50
40	4,850	4,150	3,500	3,150	2,375	1,500	500	50
180	4,500	3,750	3,250	2,900	2,125	1,250	250	50
400	4,500	3,500	3,000	2,750	1,900	1,000	250	50

**Note:** A similar schedule would be developed for forestland sales.

**Note:** The above schedule reflects commercial farmland values. Separate value schedules may need to be developed for parcels which are smaller than that deemed to be economically viable by the market for commercial farming activities typical of the area. The values of these smaller parcels will probably reflect a highest-and-best-use as rural residential. If this is the case, the procedure for developing an RMV schedule will be the same as that for rural tracts. (See schedule below)

## RURAL TRACT LANDS AR 5 ZONING AVERAGE RURAL SETTING

Acres	Price/Ac	Acres	Price/Ac	Acres	Price/Ac	Acres	Price/Ac
1.0	\$40,000	9.0	\$10,500	17.0	\$ 6,000	45.0	\$ 4,500
2.0	\$30,000	10.0	\$ 9,750	18.0	\$ 5,500	50.0	\$ 4,500
3.0	\$25,000	11.0	\$ 8,500	19.0	\$ 5,500	55.0	\$ 4,500
4.0	\$20,000	12.0	\$ 8,000	20.0	\$ 5,000	60.0	\$ 4,250
5.0	\$17,500	13.0	\$ 7,500	25.0	\$ 5,000	65.0	\$ 4,250
6.0	\$15,000	14.0	\$ 7,000	30.0	\$ 4,750		
7.0	\$13,000	15.0	\$ 6,500	35.0	\$ 4,750		
8.0	\$11,500	16.0	\$ 6,000	40.0	\$ 4,500		

**View Factors:**

GOOD VIEW	ADD	\$30,000
AVERAGE VIEW	ADD	\$25,000
FAIR VIEW	ADD	\$15,000

**Creek or Stream Frontage:**

ADD \$10,000

**Park-Like Setting:**

ADD \$ 5,000

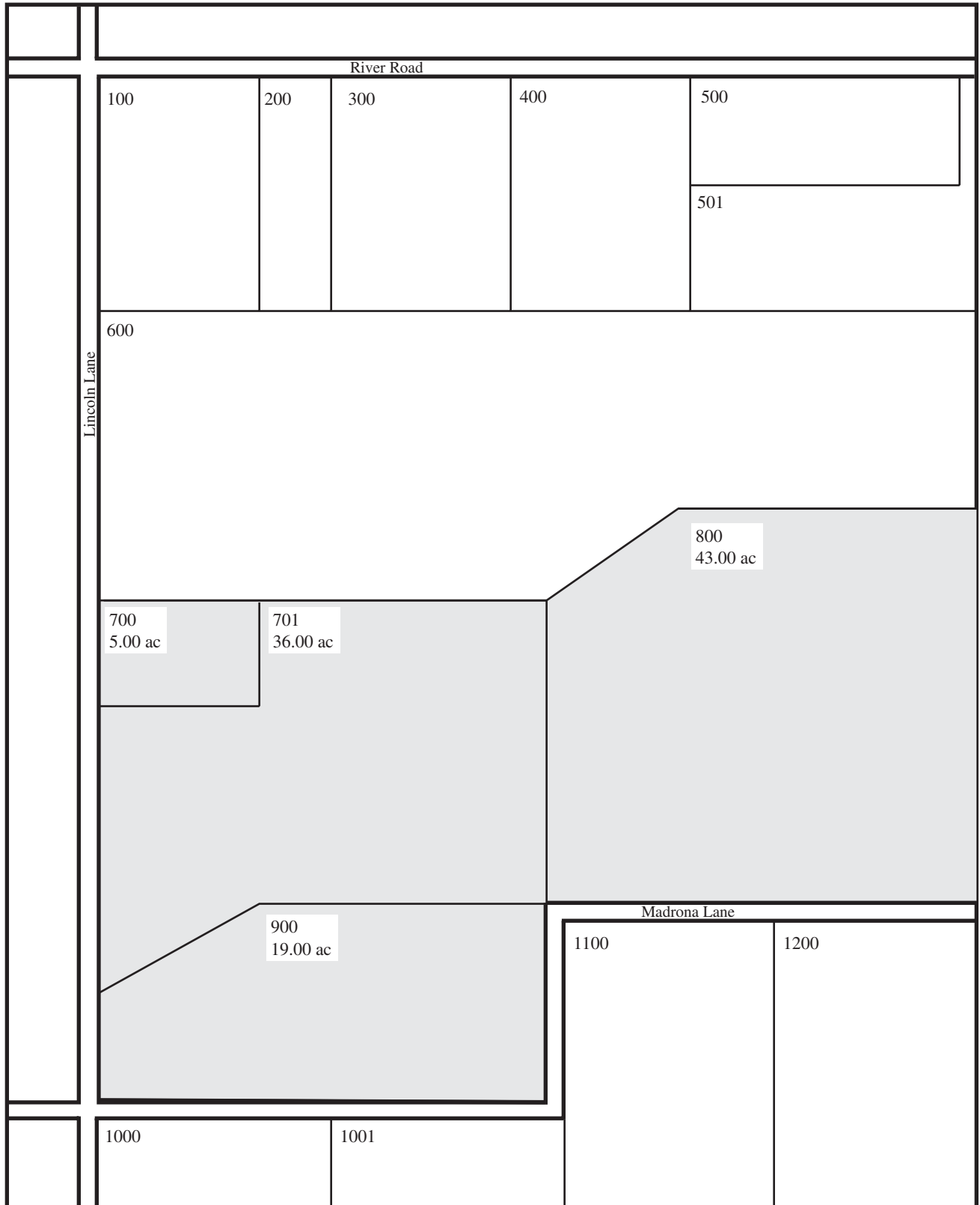
**On-Site Development:** Septic + Well Only = \$6,000; Fair = \$8,000; Avg. = \$10,000; Good = \$15,000

**Specially Assessed Onsite Developments:** Maximum \$4,000

Note: Value attributable to being a buildable site is intrinsic in the bare land value and cannot be isolated



# Tax Lot Map





## **Appendix F: Disqualification**

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Income Letter Requesting Non-EFU Questionnaire (OAR 150-308A.071) .....	6-85
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**INCOME LETTER REQUESTING  
NON-EFU QUESTIONNAIRE  
COUNTY LETTERHEAD**

Date:

Name

Address

City, State, Zip

Account #:

Map #:

Acres:

Dear Property Owner:

Your land is being specially assessed at farm-use values under ORS 308A.068. Oregon law ORS 308A.071 requires that the land must produce a certain amount of gross income to remain eligible for this special assessment. To comply with ORS 308A.071, we are requesting you to complete and return the enclosed questionnaire.

Oregon Administrative Rule 105-308A.071 requires this income questionnaire to be returned to the Assessor's office no later than April 15. Failure to return the questionnaire may result in disqualification of your land from special assessment.

If you have any questions or would like additional information on this matter, you may call us at xxx-xxx-xxxx.

-----  
-----

(Assessor)

Enclosure



# Intent To Disqualify Non-EFU Farm Use Special Assessment

Date:

Name

Address

City, State, Zip

Account #:

Map #:

Acres:

Dear Property Owner:

On Feb. 15, 2007, pursuant to Oregon Administrative Rule 150-308A.071, we mailed a gross income questionnaire for specially assessed farmland outside of an EFU zone to you at the above address. April 15 was the deadline for filing the questionnaire with the assessor.

Reason 1 – We have not yet received the questionnaire and in compliance with Oregon Administrative Rule 150-308A.071(4)(d) this is official notification of the assessor's intent to disqualify the above referenced property from the farm use special assessment program.

Reason 2 – The questionnaire you submitted does not have sufficient information to determine whether or not the property continues to meet the income requirements of ORS 308A.071. In compliance with Oregon Administrative Rule 150-308A.071(4)(d) this is official notification of the assessor's intent to disqualify the above referenced property from the farm use special assessment program.

It will be necessary to disqualify your land from farm use special assessment, unless within 30 days from the date of this notice you show cause why this land should not be disqualified. You may appear in person, call or write a letter within this time period and we will consider your explanation as to why the subject property should remain specially assessed.

After the 30 day show cause period has past your land will be disqualified if we do not have sufficient information to determine the land meets the income requirements of ORS 308A.071. Once the land is disqualified if you believe your land did meet the requirements to receive farm use special assessment, then 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. (ORS 308A.089).

Please call if you have any questions.

Sincerely,



# Disqualification Notification Procedures

ORS 308A.718

ORS 308A.724





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# 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 **underlined**) 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 **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

*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. \$25 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
<b>A</b>	Yes	Yes	No	
<b>A-STF</b>	Yes	Yes	No	
<b>B</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>B-STF</b>	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.
<b>C</b>	Yes	No	Yes	
<b>D</b>	Yes	Yes	No	
<b>E</b>	Yes	No	No	
<b>F</b>	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. 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 \$25 fee payable to the Magistrate. Appeal forms are available in the Assessor's Office or from the Magistrate Division.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<b>By:</b>	<b>File #</b>	<b>Certified #</b>	<b>Assessment Year 2006-07</b>
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# 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
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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.







# 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
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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. 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 \$25 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
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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;

**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.**

**Need to process additional tax under ORS 308A.707(2) if owner does not respond to intent letter for a sale or transfer. Also need to give option to requalify for STF by Dec. 15 after paying late fee.**

\_\_\_ 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 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). 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. 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 \$25 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
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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. 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 \$25 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.

\*  
\*  
\*

ACCOUNT NUMBER(S)	CODE(S)	ZONE	DISQUALIFIED ACREAGE
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\_\_\_\_\_ 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.

\*  
\*  
\*

ACCOUNT NUMBER(S)	CODE(S)	ZONE	DISQUALIFIED ACREAGE
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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. 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 \$25 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:

- o Non-Exclusive Farm Use, ORS 308A.116(1)(a);
- o Designated Forestland western Oregon, ORS 321.359(1)(b)(A);
- o Designated Forestland eastern Oregon, ORS 321.842(1)( b)(A);
- o 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 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.

**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). 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). 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 reclassified 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.

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.

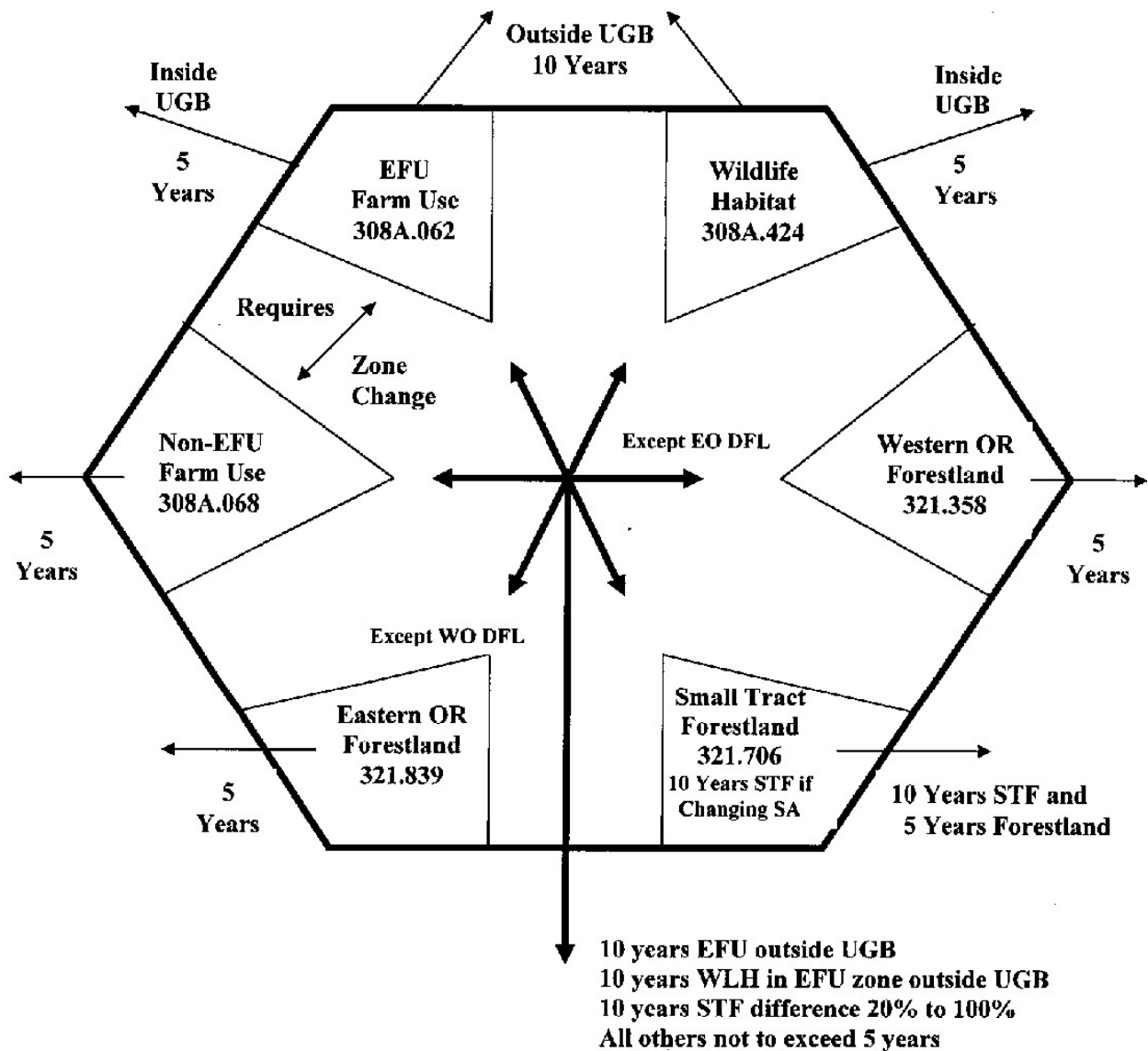


Following a disqualification, ORS 308A.706(1)(d) allows an owner to defer additional taxes if the land qualifies to change to another special assessment. This change in special assessment is commonly called a "Rollover." A change in special assessment cannot be offered under ORS 308A.706(1)(d) if the 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% to market, but the 20% to 100% cannot be deferred.

The arrows pointing away from the special assessment programs illustrate the maximum number of years of additional taxes for each program if the owner goes out of the program or elects not to change special assessment under ORS 308A.706(1)(d).

## Hexagon Diagram ORS 308A.706(1)(d)







# Farm Manual Statutes

**197.754 Land identified for urban services; capital improvement plan; tax assessment.** (1) A local government may identify land inside an urban growth boundary for which the local government intends to provide urban services within the next five to seven years. The local government may evidence its intent by adopting a capital improvement plan reasonably designed to provide the urban services.

(2) A local government that identifies an area for planned urban services and adopts a capital improvement plan may zone the area for urban uses. A city that identifies land that is outside the city's boundary but inside the urban growth boundary shall coordinate with the appropriate county to zone the area for urban uses.

(3)(a) Land in an area zoned for urban uses under this section shall not be subject to additional taxes under ORS 308A.700 to 308A.733 if the land ceases to be used for farm use within the five years following the date the area is zoned for urban uses.

(b) A lot or parcel in an area zoned for urban use under subsection (2) of this section shall not be assessed at its value for farm use under ORS 308A.050 to 308A.128 unless the lot or parcel was receiving the farm use assessment at the time the area was zoned for urban uses. [1999 c.503 §3; 2001 c.104 §68]

**197.756 Farm use assessment in area identified for urban services.** (1) Upon the sale of a lot or parcel located inside an urban growth boundary that is assessed at its value for farm use under ORS 308A.050 to 308A.128, the lot or parcel shall be disqualified for farm use assessment if:

(a) The lot or parcel is in an area identified for urban services under ORS 197.754; and

(b) The urban services are available by ordinance for urbanization.

(2) Disqualification under subsection (1) of this section shall not apply to the sale of a lot or parcel to the owner's spouse, parent, stepparent, grandparent, sister, brother, daughter, son, stepchild or grandchild, or sale to a lessee of the owner if the lessee is conducting farm use as defined in ORS 215.203 on the lot or parcel at the time of sale. [1999 c.503 §6; 2001 c.104 §69]

**215.010 Definitions.** 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.

(2) "Tract" means one or more contiguous lots or parcels under the same ownership.

(3) The terms defined in ORS chapter 197 shall have the meanings given therein.

(4) "Farm use" has the meaning given that term in ORS 215.203.

(5) "The Willamette Valley" is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range. [Amended by 1955 c.756 §25; 1963 c.619 §1 (1); 1985 c.717 §4; 1993 c.792 §8; 1999 c.327 §1]

**215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993.** (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Public or private schools, including all buildings essential to the operation of a school.

(b) Churches and cemeteries in conjunction with churches.

(c) The propagation or harvesting of a forest product.

(d) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

(e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(f) Nonresidential buildings customarily provided in conjunction with farm use.

(g) Primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(h) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(j) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

(k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (t) of this subsection.

(L) The breeding, kenneling and training of greyhounds for racing in any county with a population of more than 200,000 in which there is located a greyhound racing track or in a county with a population of more than 200,000 that is contiguous to such a county.

(m) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(n) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(o) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(p) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(q) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(r) Creation of, restoration of or enhancement of wetlands.

(s) A winery, as described in ORS 215.452.

(t) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be

signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(u) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(v) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(w) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(x) A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(y) Fire service facilities providing rural fire protection services.

(z) Irrigation canals, delivery lines and those structures and accessory operational

facilities associated with a district as defined in ORS 540.505.

(aa) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(bb) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use but not including the processing of farm crops as described in subsection (1)(x) of this section.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community

organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses.

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(k) Dog kennels not described in subsection (1)(L) of this section.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture.



Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(u) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. As used in this paragraph:

(A) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(v) Operations for the extraction and bottling of water.

(w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(x) A landscaping business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous

lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) “Contiguous” means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993. [1963 c.577 §3; 1963 c.619 §1a; 1969 c.258 §1; 1973 c.503 §4; 1975 c.551 §1; 1975 c.552 §32; 1977 c.766 §8; 1977 c.788 §2; 1979 c.480 §6; 1979 c.773 §10; 1981 c.748 §44; 1983 c.743 §3; 1983 c.826 §6; 1983 c.827 §27b; 1985 c.544 §2; 1985 c.583 §1; 1985 c.604 §3; 1985 c.717 §5; 1985 c.811 §12; 1987 c.227 §1; 1987 c.729 §5; 1987 c.886 §9; 1989 c.224 §25; 1989 c.525 §1; 1989 c.564 §7; 1989 c.648 §59; 1989 c.739 §1; 1989 c.837 §26; 1989 c.861 §1; 1989 c.964 §10; 1991 c.459 §345; 1991 c.866 §1; 1991 c.950 §2; 1993 c.466 §1; 1993 c.469 §5; 1993 c.704 §2; 1993 c.792 §29a; 1995 c.435 §1; 1995 c.528 §1; 1997 c.249 §59; 1997 c.250 §1; 1997 c.276 §1; 1997 c.312 §1; 1997 c.318 §1; 1997 c.363 §1; 1997 c.862 §2; 1999 c.608 §1; 1999 c.640 §1; 1999 c.758 §1; 1999 c.816 §1; 1999 c.935 §20; 2001 c.149 §1; 2001 c.260 §§1,2; 2001 c.488 §1; 2001 c.613 §7; 2001 c.676 §1; 2001 c.757 §1; 2001 c.941 §1; 2003 c.247 §§1,2; 2005 c.22 §§161,162; 2005 c.150 §§1,2; 2005 c.354 §§2,3; 2005 c.609 §§24,25; 2005 c.693 §§1,2]

**215.236 Establishing nonfarm dwelling in exclusive farm use zone; procedures; disqualification for farm use valuation; additional tax or penalty; requalification.**

(1) As used in this section, “dwelling” means a single-family residential dwelling not provided in conjunction with farm use.

(2) The governing body or its designee may not grant final approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.

(3) The governing body or its designee may grant tentative approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is specially assessed at

value for farm use under ORS 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7). An application for the establishment of a dwelling that has been tentatively approved shall be given final approval by the governing body or its designee upon receipt of evidence that the lot or parcel upon which establishment of the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 and any additional tax imposed as the result of disqualification has been paid.

(4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

(a) Notify the county assessor that the lot or parcel is no longer being used as farmland;

(b) Request that the county assessor disqualify the lot or parcel from special assessment under ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

(c) Pay any additional tax imposed upon disqualification from special assessment.

(5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified pursuant to subsection (4) of this section may not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

(6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 without satisfying the requirements of subsection (5) of this section.

(b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430, the lot or parcel shall be subject to the requirements of subsection (5) of this section.

(7) When the owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved notifies the county assessor that the lot or parcel is no longer being used as farmland and requests disqualification of the lot or parcel for special assessment at value for farm use, the county assessor shall:

(a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment by removing the special assessment;

(b) Provide the owner of the lot or parcel with written notice of the disqualification; and

(c) Impose the additional tax, if any, provided by statute upon disqualification.

(8) The Department of Consumer and Business Services, a building official, as defined in ORS 455.715 (1), or any other agency or official responsible for the administration and enforcement of the state building code, as defined in ORS 455.010, may not issue a building permit for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax, if any, imposed by the county assessor under subsection (7)(c) of this section. [1981 c.748 §46; 1983 c.462 §14; 1983 c.570 §6; 1983 c.826 §23; 1985 c.717 §6; 1985 c.811 §6; 1987 c.305 §5; 1987 c.414 §147; 1991 c.459 §346; 1993 c.792 §27; 1993 c.801 §36a; 1999 c.314 §58; 2001 c.704 §7; 2003 c.454 §85; 2003 c.539 §19; 2003 c.621 §68]

**215.243 Agricultural land use policy.** The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones. [1973 c.503 §1]

**215.262 Legislative findings related to nonfarm dwellings.** (1) The Legislative Assembly declares that the creation of small parcels for nonfarm dwellings in exclusive farm use zones introduces potential conflicts into commercial agricultural areas and allows a limited number of nonfarm dwellings in exclusive farm use zones. To protect the state's land base for commercial agriculture from being divided into multiple parcels for nonfarm dwellings while continuing to allow a limited number of nonfarm dwellings on less productive agricultural land not suitable for farm use, it is necessary to:

(a) Limit the incremental division of lots or parcels larger than the minimum size established under ORS 215.780 into smaller lots or parcels for the purpose of creating new nonfarm dwellings; and

(b) Allow a limited number of lots or parcels equal to or less than the minimum size established under ORS 215.780 to be partitioned into not more than two parcels unsuitable for farm use and eligible for siting nonfarm dwellings under ORS 215.284.

(2) The amendments to ORS 215.263 by section 3, chapter 704, Oregon Laws 2001, address the partition of land within an exclusive farm use zone to create parcels smaller than the minimum size established under ORS 215.780 for the purpose of siting dwellings not provided in conjunction with farm use in eastern Oregon, as defined in ORS 321.805, and in western Oregon, as defined in ORS 321.257. [2001 c.704 §2; 2003 c.621 §69]

**Note:** 215.262 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties.**

(1) The following uses may be established in any area zoned for exclusive farm use:

(a) Public or private schools, including all buildings essential to the operation of a

school.

(b) Churches and cemeteries in conjunction with churches.

(c) The propagation or harvesting of a forest product.

(d) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

(e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(f) Primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.

(g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(i) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

(j) The breeding, kenneling and training of greyhounds for racing.

(k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(L) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(m) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(n) Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(o) A replacement dwelling to be used in conjunction with farm use if the existing

dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(p) Creation of, restoration of or enhancement of wetlands.

(q) A winery, as described in ORS 215.452.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.



(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(u) A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(v) Fire service facilities providing rural fire protection services.

(w) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(x) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

(z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use but not including the processing of farm crops as described in subsection (1)(u) of this section.

(b) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(f) Golf courses.

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport, as used in this section, means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) Home occupations as provided in ORS 215.448.

(j) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the

use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(k) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under subsection (1)(s) of this section.

(m) Transmission towers over 200 feet in height.

(n) Dog kennels not described in subsection (1)(j) of this section.

(o) Residential homes as defined in ORS 197.660, in existing dwellings.

(p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(q) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(r) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(s) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(t) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(u) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(v) Operations for the extraction and bottling of water.

(w) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(x) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum

and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. As used in this paragraph:

(A) “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) “Local historical society” means the local historical society recognized by the county governing body and organized under ORS chapter 65.

(y) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler’s permit to sell or provide fireworks.

(z) A landscaping business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993. [1983 c.826 §17; 1985 c.544 §3; 1985 c.583 §2; 1985 c.604 §4; 1985 c.717 §7; 1985 c.811 §7; 1987 c.227 §2; 1987 c.729 §5a; 1987 c.886 §10; 1989 c.224 §27; 1989 c.525 §2; 1989 c.564 §9; 1989 c.648 §61; 1989 c.739 §2; 1989 c.837 §27; 1989 c.861 §2; 1989 c.964 §11; 1991 c.459 §348; 1991 c.950 §1; 1993 c.466 §2; 1993 c.704 §3; 1993 c.792 §14; subsections (3) to (8) renumbered 215.284 in 1993; 1995 c.528 §2; 1997 c.250 §2; 1997 c.276 §2; 1997 c.312 §2; 1997 c.318 §3; 1997 c.363 §2; 1997 c.862 §3; 1999 c.320 §1; 1999 c.608 §2; 1999 c.640 §2; 1999 c.756 §§14a,14b; 1999 c.758 §2; 1999 c.816 §2; 1999 c.935 §22; 2001 c.149 §§2,3; 2001 c.488 §§2,3; 2001 c.544 §§1,2; 2001 c.613 §§8,9; 2001 c.676 §§2,3; 2001 c.757 §§2,3; 2001 c.941 §§2,3; 2003 c.247 §3; 2005 c.22 §163; 2005 c.354 §4; 2005 c.609 §26; 2005 c.625 §76; 2005 c.693 §3; 2005 c.737 §1]

**215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.** (1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be

clear and objective.

(3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body or its designee alleging:

(a) That a condition imposed pursuant to subsection (2) of this section has been violated;

(b) That the violation has:

(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(c) That the complainant is adversely affected by the violation.

(4) Upon receipt of a complaint filed under this section or ORS 215.218, the local governing body or its designee shall:

(a) Forward the complaint to the operator of the use;

(b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

(c) Determine whether the allegations made in a complaint filed under this section or ORS 215.218 are true.

(5) Upon a determination that the allegations made in a complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.

(6) If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a second complaint that a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.

(7) If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.

(8) If a use allowed under ORS 215.213 (2) or 215.283 (2) is initiated without prior approval pursuant to subsection (1) of this section, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (4) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.

(9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses conducted within:

(A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705;

- (B) An exception area approved under ORS 197.732; or
- (C) An acknowledged urban growth boundary.

(b) A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (3) of this section.

(10) Nothing in this section shall prevent a local governing body approving a use allowed under ORS 215.213 (2) or 215.283 (2) from establishing standards in addition to those set forth in subsection (1) of this section or from imposing conditions to insure conformance with such additional standards. [1989 c.861 §6; 1993 c.792 §15; 2001 c.704 §8; 2003 c.616 §3]

**271.715 Definitions for ORS 271.715 to 271.795.** As used in ORS 271.715 to 271.795, unless the context otherwise requires:

(1) “Conservation easement” means a nonpossessory 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 agricultural, 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.

(2) “Highway scenic preservation easement” means a nonpossessory 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 property.

(3) “Holder” means:

(a) The state, any county, metropolitan service district, soil and water conservation district, city or park and recreation district or a county service district established under ORS 451.410 to 451.610 to construct, maintain and operate service facilities in Washington or Clackamas Counties for the purposes specified in ORS 451.010 (1)(a) and (b) and in Washington County for the purpose specified in ORS 451.010 (5) acting alone or in cooperation with any federal or state agency, public corporation or political subdivision;

(b) A charitable corporation, charitable association, charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, 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; or

(c) An Indian tribe as defined in ORS 97.740.

(4) “Third-party right of enforcement” means a right provided in a conservation easement or highway scenic preservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association or charitable trust, which, although eligible to be a holder, is not a holder. [1983 c.642 §1; 1985 c.160 §1; 1997 c.249 §78; 1999 c.208 §1; 2001 c.708 §12; 2001 c.907 §2; 2003 c.467 §1; 2005 c.368 §1]

**307.010 Definition of “real property” and “land”; timber and mineral interests in real property.** (1) As used in the property tax laws of this state:

(a) “Land” means land in its natural state. For purposes of assessment of property subject to assessment at assessed value under ORS 308.146, land includes any site development made to the land. As used in this paragraph, “site development” includes fill, grading, leveling, underground utilities, underground utility connections and any other elements identified by rule of the Department of Revenue.

(b) “Real property” includes:

(A) The land itself, above or under water;

(B) All buildings, structures, improvements, machinery, equipment or fixtures erected upon, above or affixed to the land;

(C) All mines, minerals, quarries and trees in, under or upon the land;

(D) All water rights and water powers and all other rights and privileges in any way appertaining to the land; or

(E) Any estate, right, title or interest whatever in the land or real property, less than the fee simple.

(2) Where the grantor of land has, in the instrument of conveyance, reserved or conveyed:

(a) Any of the timber standing upon the land, with the right to enter upon the ground and remove the timber, the ownership of the standing timber so reserved or conveyed is an interest in real property.

(b) The right to enter upon and use any of the surface ground necessary for the purpose of exploring, prospecting for, developing or otherwise extracting any gold, silver, iron, copper, lead, coal, petroleum, gases, oils or any other metals, minerals or mineral deposits in or upon the land, such right is an interest in real property. [Amended by 1987 c.756 §19; 1991 c.459 §37; 1997 c.541 §98; 2003 c.46 §10]

**307.020 Definition of “personal property”; inapplicability to certain utilities.** (1)

As used in the property tax laws of this state, unless otherwise specifically provided:

(a) “Intangible personal property” or “intangibles” includes but is not limited to:

(A) Money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or certificates secured by mortgages.

(B) All shares of stock in corporations, joint stock companies or associations.

(C) Media constituting business records, computer software, files, records of accounts, title records, surveys, designs, credit references, and data contained therein.

“Media” includes, but is not limited to, paper, film, punch cards, magnetic tape and disk storage.

(D) Goodwill.

(E) Customer lists.

(F) Contracts and contract rights.

(G) Patents, trademarks and copyrights.

(H) Assembled labor force.

(I) Trade secrets.

(b) “Personal property” means “tangible personal property.”

(c) “Tangible personal property” includes but is not limited to all chattels and



movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.

(2) Subsection (1) of this section does not apply to any person, company, corporation or association covered by ORS 308.505 to 308.665. [Amended by 1959 c.82 §1; 1977 c.602 §1; 1993 c.353 §1; 1997 c.154 §27; 2005 c.94 §30]

**307.030 Property subject to assessment generally.** (1) All real property within this state and all tangible personal property situated within this state, except as otherwise provided by law, shall be subject to assessment and taxation in equal and ratable proportion.

(2) Except as provided in ORS 308.505 to 308.665, intangible personal property is not subject to assessment and taxation. [Amended by 1993 c.353 §2; 1997 c.154 §28]

**307.032 Maximum assessed value and assessed value of partially exempt property and specially assessed property.** (1) Unless determined under a provision of law governing the partial exemption that applies to the property, the maximum assessed value and assessed value of partially exempt property shall be determined as follows:

(a) The maximum assessed value:

(A) For the first tax year in which the property is partially exempt, shall equal the real market value of the property, reduced by the value of the partial exemption, multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the tax year of property in the same area and property class.

(B) For each tax year after the first tax year in which the property is subject to the same partial exemption, shall equal 103 percent of the property's assessed value for the prior year or 100 percent of the property's maximum assessed value under this paragraph from the prior year, whichever is greater.

(b) The assessed value of the property shall equal the lesser of:

(A) The real market value of the property reduced by the partial exemption; or

(B) The maximum assessed value of the property under paragraph (a) of this subsection.

(2) Unless determined under a provision of law governing the special assessment, the maximum assessed value subject to special assessment and the assessed value of property subject to special assessment shall be determined as follows:

(a) The maximum assessed value:

(A) For the first tax year in which the property is specially assessed, shall equal the specially assessed value of the property multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the tax year of property in the same area and property class.

(B) For each tax year after the first tax year in which property is subject to the same special assessment, shall equal 103 percent of the property's assessed value for the prior year or 100 percent of the property's maximum assessed value subject to special assessment from the prior year, whichever is greater.

(b) The assessed value of the property shall equal the lesser of:

(A) The specially assessed value of the property as determined under the law establishing the special assessment; or

(B) The property's maximum assessed value subject to special assessment as determined under paragraph (a) of this subsection.

(3) As used in this section, "area" and "property class" have the meanings given those terms in ORS 308.149. [2003 c.169 §6]

**307.040 Property of the United States.** Except as provided in ORS 307.050, 307.060, 307.070 and 307.080, all property of the United States, its agencies or instrumentalities, is exempt from taxation to the extent that taxation thereof is forbidden by law. [Amended by 1953 c.698 §7]

**307.050 Property of the United States held under contract of sale.** Whenever real and personal property of the United States or any department or agency of the United States is the subject of a contract of sale or other agreement whereby on certain payments being made the legal title is or may be acquired by any person and that person uses and possesses the property or has the right of present use and possession, then a real market value for the property shall be determined, as required under ORS 308.232, without deduction on account of any part of the purchase price or other sum due on such property remaining unpaid. The property shall have an assessed value determined under ORS 308.146 and shall be subject to tax on the assessed value so determined. The lien for the tax shall neither attach to, impair, nor be enforced against any interest of the United States in the real or personal property. This section does not apply to real or personal property held and in immediate use and occupation by this state or any county, municipal corporation or political subdivision of this state, or to standing timber, prior to severance, of the United States or any department or agency of the United States that is the subject of a contract of sale or other agreement. [Amended by 1953 c.698 §7; 1965 c.159 §1; 2001 c.509 §6]

**307.060 Property of the United States held under lease or other interest less than fee; deduction for restricted use.** Real and personal property of the United States or any department or agency of the United States held by any person under a lease or other interest or estate less than a fee simple, other than under a contract of sale, shall have a real market value determined under ORS 308.232, subject only to deduction for restricted use. The property shall have an assessed value determined under ORS 308.146 and shall be subject to tax on the assessed value so determined. The lien for the tax shall attach to and be enforced against only the leasehold, interest or estate in the real or personal property. This section does not apply to real property held or occupied primarily for agricultural purposes under the authority of a federal wildlife conservation agency or held or occupied primarily for purposes of grazing livestock. This section does not apply to real or personal property held by this state or any county, municipal corporation or political subdivision of this state that is:

(1) In immediate use and occupation by the political body; or

(2) Required, by the terms of the lease or agreement, to be maintained and made available to the federal government as a military installation and facility. [Amended by 1953 c.698 §7; 1959 c.298 §1; 1961 c.433 §1; 1969 c.241 §1; 1975 c.656 §1; 1981 c.405 §2; 1991 c.459 §38; 1997 c.541 §99; 2001 c.509 §7]

**307.090 Property of the state, counties and other municipal corporations; certain property of cities or public entities of other states; payments in lieu of taxes on city-owned electric utility property.** (1) Except as provided by law, all property of the state and all public or corporate property used or intended for corporate purposes of the several counties, cities, towns, school districts, irrigation districts, drainage districts, ports, water districts, housing authorities and all other public or municipal corporations in this state, is exempt from taxation.

(2) Any city may agree with any school district to make payments in lieu of taxes on all property of the city located in any such school district, and which is exempt from taxation under subsection (1) of this section when such property is outside the boundaries of the city and owned, used or operated for the production, transmission, distribution or furnishing of electric power or energy or electric service for or to the public.

(3)(a) Notwithstanding ORS 308.505 to 308.665, the property described in paragraph (b) of this subsection is exempt from taxation if the owner of the property described in paragraph (b) of this subsection is a city or public entity of a state other than Oregon and the city or public entity does not own a fee title interest in any real property in Oregon.

(b) The property that is subject to exemption under paragraph (a) of this subsection is tangible or intangible property, property rights or property interests in or related to the Pacific Northwest AC Intertie, as referenced in a written capacity ownership agreement executed before November 4, 2005, between the United States Department of Energy and the city or public entity described in paragraph (a) of this subsection. [Amended by 1953 c.698 §7; 1957 c.649 §1; 1975 c.568 §1; 1977 c.673 §1; 1991 c.851 §2; 2005 c.832 §1]

**Note:** Section 2, chapter 832, Oregon Laws 2005, provides:

**Sec. 2.** (1) The amendments to ORS 307.090 by section 1 of this 2005 Act apply to:

(a) Any tax year beginning on or after the date a written capacity ownership agreement described in ORS 307.090 (3) is executed; and

(b) Any tax year beginning on or after July 1, 2005.

(2) Notwithstanding subsection (1) of this section, nothing in this section or the amendments to ORS 307.090 by section 1 of this 2005 Act shall be construed as entitling a person to a refund of taxes paid prior to the effective date of this 2005 Act [November 4, 2005] on any tangible or intangible property, property rights or property interests. [2005 c.832 §2]

**307.110 Public property leased or rented by taxable owner; exceptions.** (1) Except as provided in ORS 307.120, all real and personal property of this state or any institution or department thereof or of any county or city, town or other municipal corporation or political subdivision of this state, held under a lease or other interest or estate less than a fee simple, by any person whose real property, if any, is taxable, except employees of the state, municipality or political subdivision as an incident to such employment, shall be subject to assessment and taxation for the assessed or specially assessed value thereof uniformly with real property of nonexempt ownerships.

(2) Each leased or rented premises not exempt under ORS 307.120 and subject to assessment and taxation under this section which is located on property used as an airport and owned by and serving a municipality or port shall be separately assessed and taxed.

(3) Nothing contained in this section shall be construed as subjecting to assessment

and taxation any publicly owned property described in subsection (1) of this section that is:

(a) Leased for student housing by a school or college to students attending such a school or college.

(b) Leased to or rented by persons, other than sublessees or subrenters, for agricultural or grazing purposes and for other than a cash rental or a percentage of the crop.

(c) Utilized by persons under a land use permit issued by the Department of Transportation for which the department's use restrictions are such that only an administrative processing fee is able to be charged.

(d) County fairgrounds and the buildings thereon, in a county holding annual county fairs, managed by the county fair board under ORS 565.230, if utilized, in addition to county fair use, for any of the purposes described in ORS 565.230 (2), or for horse stalls or storage for recreational vehicles or farm machinery or equipment.

(e) The properties and grounds managed and operated by the State Parks and Recreation Director under ORS 565.080, if utilized, in addition to the purpose of holding the Oregon State Fair, for horse stalls or for storage for recreational vehicles or farm machinery or equipment.

(f) State property that is used by the Oregon University System or the Oregon Health and Science University to provide parking for employees, students or visitors.

(g) Property of a housing authority created under ORS chapter 456 which is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the housing authority. For purposes of this paragraph, "persons of lower income" has the meaning given the phrase under ORS 456.055.

(h) Property of a health district if:

(A) The property is leased or rented for the purpose of providing facilities for health care practitioners practicing within the county; and

(B) The county is a frontier rural practice county under rules adopted by the Office of Rural Health.

(4) Property determined to be an eligible project for tax exemption under ORS 285C.600 to 285C.626 and 307.123 that was acquired with revenue bonds issued under ORS 285B.320 to 285B.371 and that is leased by this state, any institution or department thereof or any county, city, town or other municipal corporation or political subdivision of this state to an eligible applicant shall be assessed and taxed in accordance with ORS 307.123. The property's continued eligibility for taxation and assessment under ORS 307.123 is not affected:

(a) If the eligible applicant retires the bonds prior to the original dates of maturity; or

(b) If any applicable lease or financial agreement is terminated prior to the original date of expiration.

(5) The provisions of law for liens and the payment and collection of taxes levied against real property of nonexempt ownerships shall apply to all real property subject to the provisions of this section. Taxes remaining unpaid upon the termination of a lease or other interest or estate less than a fee simple, shall remain a lien against the real or personal property.

(6) If the state enters into a lease of property with, or grants an interest or other estate less than a fee simple in property to, a person whose real property, if any, is taxable, then

within 30 days after the date of the lease, or within 30 days after the date the interest or estate less than a fee simple is created, the state shall file a copy of the lease or other instrument creating or evidencing the interest or estate with the county assessor. This section applies notwithstanding that the property may otherwise be entitled to an exemption under this section, ORS 307.120 or as otherwise provided by law. [Amended by 1953 c.698 §7; 1961 c.449 §1; 1969 c.675 §18; 1971 c.352 §1; 1971 c.431 §1; 1979 c.689 §4; 1981 c.381 §1; 1987 c.487 §1; 1989 c.659 §2; 1991 c.459 §40; 1991 c.851 §3; 1993 c.655 §2; 1993 c.737 §7; 1995 c.337 §1; 1995 c.376 §3; 1995 c.698 §9; 1995 c.748 §2; 1997 c.541 §101; 1997 c.819 §12; 1999 c.760 §1; 2001 c.67 §2; 2001 c.114 §8; 2003 c.662 §11a; 2005 c.777 §17]

**307.315 Nursery stock.** Nursery stock, as defined in ORS 571.005 (5), whether bare root, or whether balled or heeled or growing in containers in or upon the ground, is exempt from ad valorem taxation in the hands of the grower or wholesalers. [1971 c.285 §2; 1979 c.692 §1]

**307.320 Deciduous trees, shrubs, plants, crops, cultured Christmas trees or hardwood on agricultural land.** The value of any deciduous trees, shrubs, plants or crops, whether annual or perennial, and any cultured Christmas trees, as defined in ORS 215.203, or timber described under ORS 321.267 (3) or 321.824 (3), growing upon agricultural land devoted to agricultural purposes, shall be exempt from assessment and taxation and shall not be deemed real property under the provisions of ORS 307.010. [1957 c.615 §1; 1983 c.657 §4; 1985 c.565 §53; 1989 c.887 §6; 1991 c.714 §5; 2003 c.454 §118; 2003 c.621 §79a]

**307.325 Agricultural products in possession of farmer.** (1) The items of personal property described in subsection (2) of this section which, on the assessment date, are owned and in the actual or constructive possession of the farmer who produced them or who has procured them for use or consumption in the farm operations of the farmer, shall be exempt from taxation.

(2) The items referred to in subsection (1) of this section are as follows:

- (a) Grain.
- (b) Seed.
- (c) Hay.
- (d) Fruit.
- (e) Vegetables.
- (f) Nuts.
- (g) Hops.
- (h) Wool.
- (i) Fish.
- (j) Poultry.
- (k) Butter, cheese and evaporated, condensed or concentrated milk.
- (L) Mint.
- (m) Bivalve mollusks.
- (n) Livestock.
- (o) Fur-bearing animals.

(p) Bees.

(q) Vermiculture supplies and products. [1965 c.429 §2; 1979 c.692 §2; 1987 c.691 §1; 2001 c.753 §11; 2005 c.657 §5]

(Commercial Facilities Under Construction)

**307.390 Mobile field incinerators.** Mobile field incinerators owned by farmers or by groups of farmers that are exclusively used for sanitizing grass seed fields by means other than open field burning shall be exempt from taxation if they are purchased within five years after they are certified as a feasible alternative to open field burnings by the Department of Environmental Quality pursuant to ORS 468A.555 to 468A.620 and 468A.992. [1971 c.678 §2; 1977 c.650 §12]

**307.391 Field burning smoke management equipment.** Radio communications equipment, meteorological equipment or other tangible personal property used in connection with the operation of the field burning smoke management program established under ORS 468A.555 to 468A.620 and 468A.992 is exempt from ad valorem property taxation. [2001 c.753 §18]

**307.394 Farm machinery and equipment; personal property used in farm operations; limitation.** (1) The following tangible personal property is exempt from ad valorem property taxation:

(a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops;

(b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products; or

(c) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination of these activities.

(2)(a) Items of tangible personal property, including but not limited to tools, machinery and equipment that are used predominantly in the construction, reconstruction, maintenance, repair, support or operation of farm machinery, and equipment and other real or personal farm improvements that are used primarily in animal husbandry, agricultural or horticultural activities, or any combination of these activities, are exempt from ad valorem property taxation.

(b) An item of tangible personal property described in paragraph (a) of this subsection is exempt from ad valorem property taxation only if the person that owns, possesses or controls the item also:

(A) Owns, possesses or controls the farm machinery, equipment and other real and personal farm improvements for which the item is used; and

(B) Carries on the animal husbandry, agricultural or horticultural activity, or combination of activities, in which the farm machinery, equipment or other real and personal farm improvements are used. [2001 c.753 §15]

**307.397 Certain machinery and equipment used in agricultural, aquacultural or fresh shell egg industry operations.** The following items of real property machinery and equipment or tangible personal property are exempt from ad valorem property taxation:

- (1) Frost control systems used in agricultural or horticultural activities carried on by the farmer;
- (2) Trellises used for hops, beans or fruit or for other agricultural or horticultural purposes;
- (3) Hop harvesting equipment, including but not limited to hop pickers;
- (4) Oyster racks, trays, stakes and other in-water structures used to raise bivalve mollusks; or
- (5) Equipment used for the fresh shell egg industry that is directly related and reasonably necessary to produce, prepare, package and ship fresh shell eggs from the place of origin to market, whether bolted to the floor, wired or plumbed to interconnected equipment, including but not limited to grain bins, conveyors for transporting grain, grain grinding machinery, feed storage hoppers, cages, egg collection conveyors and equipment for washing, drying, candling, grading, packaging and shipping fresh shell eggs. [2001 c.753 §16]

**307.398 Irrigation equipment.** (1) Center pivots, wheel lines or movable set lines are exempt from ad valorem property taxation.

(2) As used in this section:

(a) “Center pivot” means a piece of self-propelled machinery that rotates around a riser for the purpose of sprinkling a circular tract of land. “Center pivot” includes all of the component parts of the center pivot irrigation system that are ordinarily located above the ground on the land to be irrigated and that can be disconnected from the riser and moved to another point. A center pivot constitutes personal property.

(b) “Center pivot irrigation system” means an irrigation system that uses pumping stations and pipelines to convey water from its source to a riser to which a center pivot may be connected and used for sprinkling.

(c) “Riser” means a pipe located in the field to be irrigated that rises vertically through the surface of the ground. [2001 c.753 §17]

(Inventory)

**307.400 Inventory.** Items of tangible personal property consisting of inventory, including but not limited to materials, supplies, containers, goods in process, finished goods and other personal property owned by or in possession of the taxpayer, that are or will become part of the stock in trade of the taxpayer held for sale in the ordinary course of business, are exempt from ad valorem property taxation. [Formerly 310.608; 1983 c.600 §2; 1987 c.691 §2; part renumbered 307.402 in 1991; 1995 c.379 §1; 1997 c.325 §22; 2001 c.753 §12]

**308.007 Definitions.** (1) As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise, for purposes of property taxation:

(a) “Assessment date” means the day of the assessment year on which property is to be assessed under ORS 308.210 or 308.250.



- (b) "Assessment year" means calendar year.
- (c) "Tax year" or "fiscal year" means a period of 12 months beginning on July 1.
- (d) "Year" means the assessment year.

(2) For purposes of property taxation, unless the context requires otherwise, the assessment year beginning January 1 corresponds to the tax year beginning July 1 of the same calendar year. [1977 c.461 §1; 1991 c.459 §82; 1997 c.541 §146; 1999 c.1078 §66; 2005 c.94 §42]

**308.142 "Property" and "property tax account" defined.** For purposes of determining whether the assessed value of property exceeds the property's maximum assessed value permitted under section 11, Article XI of the Oregon Constitution:

(1) "Property" means:

(a) All property included within a single property tax account; or

(b) In the case of property that is centrally assessed under ORS 308.505 to 308.665, the total statewide value of all property assessed to a company or utility that is subject to ORS 308.505 to 308.665.

(2) "Property tax account" means the administrative division of property for purposes of listing on the assessment roll under ORS 308.215 for the tax year for which maximum assessed value is being determined or, in the case of a private railcar company, the administrative division provided under ORS 308.640. [1997 c.541 §7; 1999 c.223 §7]

**308.145** [1983 c.307 §2; renumbered 223.322 in 1987]

**308.146 Determination of maximum assessed value and assessed value; reduction in maximum assessed value following property destruction; effect of conservation or highway scenic preservation easement.** (1) The maximum assessed value of property shall equal 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(2) Except as provided in subsections (3) and (4) of this section, the assessed value of property to which this section applies shall equal the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

(3) Notwithstanding subsections (1) and (2) of this section, the maximum assessed value and assessed value of property shall be determined as provided in ORS 308.149 to 308.166 if:

(a) The property is new property or new improvements to property;

(b) The property is partitioned or subdivided;

(c) The property is rezoned and used consistently with the rezoning;

(d) The property is first taken into account as omitted property;

(e) The property becomes disqualified from exemption, partial exemption or special assessment; or

(f) A lot line adjustment is made with respect to the property, except that the total assessed value of all property affected by a lot line adjustment shall not exceed the total maximum assessed value of the affected property under subsection (1) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, if property is subject to

partial exemption or special assessment, the property's maximum assessed value and assessed value shall be determined as provided under the provisions of law governing the partial exemption or special assessment.

(5)(a) Notwithstanding subsection (1) of this section, when a portion of property is destroyed or damaged due to fire or act of God, for the year in which the destruction or damage is reflected by a reduction in real market value, the maximum assessed value of the property shall be reduced to reflect the loss from fire or act of God.

(b) This subsection does not apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the damaged or destroyed property is property that, when added to the assessment and tax roll, constituted minor construction for which no adjustment to maximum assessed value was made.

(c) As used in this subsection, "minor construction" has the meaning given that term in ORS 308.149.

(6)(a) If, during the period beginning on January 1 and ending on July 1 of an assessment year, any real or personal property is destroyed or damaged, the owner or purchaser under a recorded instrument of sale in the case of real property, or the person assessed, person in possession or owner in the case of personal property, may apply to the county assessor to have the real market and assessed value of the property determined as of July 1 of the current assessment year.

(b) The person described in paragraph (a) of this subsection shall file an application for assessment under this section with the county assessor on or before August 1 of the current year.

(c) If the conditions described in this subsection are applicable to the property, then notwithstanding ORS 308.210, the property shall be assessed as of July 1, at 1:00 a.m. of the assessment year, in the manner otherwise provided by law.

(7)(a) Paragraph (b) of this subsection applies if:

(A) A conservation easement or highway scenic preservation easement is in effect on the assessment date;

(B) The tax year is the first tax year in which the conservation easement or highway scenic preservation easement is taken into account in determining the property's assessed value; and

(C) A report has been issued by the county assessor under ORS 271.729 within 12 months preceding or following the date the easement was recorded.

(b) The assessed value of the property shall be as determined in the report issued under ORS 271.729, but may be further adjusted by changes in value as a result of any of the factors described in ORS 309.115 (2), to the extent adjustments do not cause the assessed value of the property to exceed the property's maximum assessed value. [1997 c.541 §6; 1999 c.1003 §1; 2001 c.925 §12; 2003 c.46 §15; 2003 c.169 §7]

(Special Determinations of Value)

**308.149 Definitions for ORS 308.149 to 308.166.** As used in ORS 308.149 to 308.166:

(1) "Property class" means the classification of property adopted by the Department of Revenue by rule, except that in the case of property assessed under ORS 308.505 to

308.665, “property class” means the total of all property set forth in the assessment roll prepared under ORS 308.540.

(2) “Area” means the county in which property, the maximum assessed value of which is being adjusted, is located except that “area” means this state, if the property for which the maximum assessed value is being adjusted is property that is centrally assessed under ORS 308.505 to 308.665.

(3)(a) “Average maximum assessed value” means the value determined by dividing the total maximum assessed value of all property in the same area in the same property class by the total number of properties in the same area in the same property class.

(b) In making the calculation described under this subsection, the following property is not taken into account:

- (A) New property or new improvements to property;
- (B) Property that is partitioned or subdivided;
- (C) Property that is rezoned and used consistently with the rezoning;
- (D) Property that is added to the assessment and tax roll as omitted property; or
- (E) Property that is disqualified from exemption, partial exemption or special assessment.

(c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of average maximum assessed value in the case of property centrally assessed under ORS 308.505 to 308.665.

(4)(a) “Average real market value” means the value determined by dividing the total real market value of all property in the same area in the same property class by the total number of properties in the same area in the same property class.

(b) In making the calculation described under this subsection, the following property is not taken into account:

- (A) New property or new improvements to property;
- (B) Property that is partitioned or subdivided;
- (C) Property that is rezoned and used consistently with the rezoning;
- (D) Property that is added to the assessment and tax roll as omitted property; or
- (E) Property that is disqualified from exemption, partial exemption or special assessment.

(c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of average real market value in the case of property centrally assessed under ORS 308.505 to 308.665.

(5)(a) “New property or new improvements” means changes in the value of property as the result of:

- (A) New construction, reconstruction, major additions, remodeling, renovation or rehabilitation of property;
- (B) The siting, installation or rehabilitation of manufactured structures or floating homes; or
- (C) The addition of machinery, fixtures, furnishings, equipment or other taxable real or personal property to the property tax account.

(b) “New property or new improvements” does not include changes in the value of the property as the result of:

- (A) General ongoing maintenance and repair; or
- (B) Minor construction.

(c) “New property or new improvements” includes taxable property that on January 1 of the assessment year is located in a different tax code area than on January 1 of the preceding assessment year.

(6) “Minor construction” means additions of real property improvements, the real market value of which does not exceed \$10,000 in any assessment year or \$25,000 for cumulative additions made over five assessment years.

(7) “Lot line adjustment” means any addition to the square footage of the land for a real property tax account and a corresponding subtraction of square footage of the land from a contiguous real property tax account. [1997 c.541 §9; 1999 c.579 §20]

**308.150** [1983 c.307 §3; renumbered 223.327 in 1987]

**308.153 New property and new improvements to property.** (1) If new property is added to the assessment roll or improvements are made to property as of January 1 of the assessment year, the maximum assessed value of the property shall be the sum of:

(a) The maximum assessed value determined under ORS 308.146; and

(b) The product of the value of the new property or new improvements determined under subsection (2)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year.

(2)(a) The value of new property or new improvements shall equal the real market value of the new property or new improvements reduced (but not below zero) by the real market value of retirements from the property tax account.

(b) If the maximum assessed value of property is adjusted for fire or act of God, the reduction in real market value due to fire or act of God may not be considered to be a retirement under this subsection.

(3) The property’s assessed value for the year shall equal the lesser of:

(a) The property’s maximum assessed value; or

(b) The property’s real market value. [1997 c.541 §11; 1999 c.1003 §4; 2001 c.509 §9]

**308.156 Subdivision or partition; rezoning; omitted property; disqualification from exemption, partial exemption or special assessment; rules.** (1) If property is subdivided or partitioned after January 1 of the preceding assessment year and on or before January 1 of the current assessment year, then the property’s maximum assessed value shall be established as provided under this section.

(2) If property is rezoned and, after January 1 of the preceding assessment year and on or before January 1 of the current assessment year, the property is used consistently with the rezoning, the property’s maximum assessed value shall be established under this section.

(3)(a) For the first tax year for which property is added to the property tax account as omitted property, the property’s maximum assessed value shall be established under this section.

(b) For tax years subsequent to the first tax year for which property is added to the property tax account as omitted property, the property’s maximum assessed value shall be determined as otherwise provided by law, taking into account the maximum assessed

value of the property as determined under this section.

(4)(a) If 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 the January 1 of the current assessment year, the property's maximum assessed value shall be established under this section.

(b) 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.

(5) The property's maximum assessed value shall be the sum of:

(a) The maximum assessed value determined under ORS 308.146 that is allocable to that portion of the property not affected by an event described in subsection (1), (2), (3) or (4)(a) of this section; and

(b) The product of the real market value of that portion of the property that is affected by an event described in subsection (1), (2), (3) or (4)(a) of this section multiplied by the ratio, not greater than 1.00, of the average maximum assessed value over the average real market value for the assessment year in the same area and property class.

(6) The property's assessed value for the year shall equal the lesser of:

(a) The property's maximum assessed value; or

(b) The property's real market value.

(7) The Department of Revenue shall provide by rule the method by which the allocations described in subsection (5) of this section are to be made. [1997 c.541 §13; 1999 c.500 §1; 1999 c.579 §21; 2001 c.509 §10; 2005 c.213 §1]

**Note:** Section 2, chapter 213, Oregon Laws 2005, provides:

**Sec. 2.** The amendments to ORS 308.156 by section 1 of this 2005 Act apply to property tax years beginning on or after July 1, 2006. [2005 c.213 §2]

**308.159 Lot line adjustments.** If a lot line adjustment is made with respect to property, the maximum assessed value of the property may be adjusted to reflect the lot line adjustment, but the total maximum assessed value of all property affected by the lot line adjustment may not exceed the total maximum assessed value of the affected property determined under ORS 308.146, or, if applicable, under ORS 308.153 or 308.156. [1997 c.541 §15; 1999 c.21 §16]

**308.162 Property tax account modifications.** (1) If two or more property tax accounts are merged into a single account, or if property that is attributable to one account is changed to another account, the maximum assessed value of the property may be adjusted to reflect the merger or change, but the total maximum assessed value for all affected accounts may not exceed the total maximum assessed value the accounts would have had under ORS 308.146 or 308.149 to 308.166 if the merger or change had not occurred.

(2) If a single property tax account is divided into two or more accounts, the maximum assessed value of all property affected by the division may not exceed the total maximum assessed value of the affected property determined under ORS 308.146 or

308.149 to 308.166. [1997 c.541 §16a]

**308.165** [1983 c.259 §1; renumbered 223.132 in 1987]

**308.166 Ordering provisions when property is subject to multiple special determinations of value.** (1) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.156, the maximum assessed value shall first be determined under ORS 308.153 and then further adjusted under ORS 308.156.

(2) If the maximum assessed value of property is subject to adjustment under both ORS 308.153 and 308.159, the maximum assessed value shall first be determined under ORS 308.153 and then further adjusted under ORS 308.159.

(3) If the maximum assessed value of property is subject to adjustment under both ORS 308.156 and 308.159, the maximum assessed value shall first be determined under ORS 308.156 and then further adjusted under ORS 308.159.

(4) If the maximum assessed value of property is subject to adjustment under all of ORS 308.153, 308.156 and 308.159, the maximum assessed value shall first be determined under subsection (1) of this section and then further adjusted under ORS 308.159.

(5) If the maximum assessed value of property is subject to adjustment for fire or act of God, the maximum assessed value shall first be determined under ORS 308.146 (5)(a) and then may be adjusted as provided in subsections (1) to (4) of this section. [1997 c.541 §17; 1999 c.1003 §6; 2003 c.30 §1]

**308.170** [1983 c.259 §2; renumbered 223.878 in 1987]

## ASSESSMENT ROLL; METHOD OF ASSESSMENT

**308.205 Real market value defined; rules.** (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.

(2) Real market value in all cases shall be determined by methods and procedures in accordance with rules adopted by the Department of Revenue and in accordance with the following:

(a) The amount a typical seller would accept or the amount a typical buyer would offer that could reasonably be expected by a seller of property.

(b) An amount in cash shall be considered the equivalent of a financing method that is typical for a property.

(c) If the property has no immediate market value, its real market value is the amount of money that would justly compensate the owner for loss of the property.

(d) If the property is subject to governmental restriction as to use on the assessment date under applicable law or regulation, real market value shall not be based upon sales that reflect for the property a value that the property would have if the use of the property were not subject to the restriction unless adjustments in value are made reflecting the effect of the restrictions. [Amended by 1953 c.701 §2; 1955 c.691 §§1, 2; 1977 c.423 §2; 1981 c.804 §34; 1989 c.796 §30; 1991 c.459 §88; 1993 c.19 §6; 1997 c.541 §152]

**308.215 Contents of assessment roll; rules.** The assessor shall prepare the assessment roll in the following form:

(1) Real property shall be listed in sequence by account number or by code area and account numbers. For each parcel of real property, the assessor shall set down in the assessment roll according to the best information the assessor can obtain:

(a) The name of the owner or owners and, if the assessor or tax collector is instructed in writing by the owner or owners to send statements and notices relating to taxation to an agent or representative, the name of such agent or representative.

(b) A description as required by ORS 308.240 with its code area and account numbers.

(c) The property class, in accordance with the classes established by rule by the Department of Revenue.

(d) The number of acres and parts of an acre, as nearly as can be ascertained, unless it is divided into blocks and lots.

(e) The real market value of the land, excluding all buildings, structures, improvements and timber thereon.

(f) The real market value of all buildings, structures and improvements thereon.

(g) The real market value of each unit together with its percentage of undivided interest in the common elements of property subject to ORS 100.005 to 100.910 stating separately the real market value of the land, buildings, structures and improvements of each unit.

(h) For each parcel of real property granted an exemption under ORS 307.250 to 307.283, the real market value so exempt.

(i) The total assessed value, maximum assessed value and real market value of each parcel of real property assessed.

(2) For personal property, the assessor shall set down separately in the assessment roll, according to the best information the assessor can obtain:

(a) The names, including assumed business names, if any, of all persons, whether individuals, partnerships or corporations, or other owner, owning or having possession or control of taxable personal property on January 1, at 1:00 a.m. of the assessment year. If it is a partnership, the names of two general partners and the total number thereof.

(b) The real market value of the personal property assessed, with a separate value for each category of personal property, if any. The Department of Revenue, by rule, may establish such categories as appear useful or necessary for good tax administration.

(c) The number of the code area assigned by the assessor covering the situs of the property on January 1.

(d) The total assessed, maximum assessed and real market value for the property.

(3) The listing of manufactured structures on the assessment roll, whether as real or personal property, shall be done in a distinctive manner so that manufactured structures may be readily distinguished from other property.

(4) In lieu of listing manufactured structures on the assessment roll as real or personal property, the assessor may list manufactured structures in a separate section of the assessment roll. In any county where such separate listing of manufactured structures is made the manufactured structures assessed as real property under ORS 308.875 shall bear a distinctive designation so that it can be identified with the real property upon which it is



located. In like manner the real property upon which the manufactured structure is situated shall bear a distinctive designation so that it can be identified with the manufactured structure. Where a homestead exemption is granted to a manufactured structure assessed as real property under ORS 308.875, which manufactured structure is listed on a portion of the assessment roll separate from the real property, the exempt amount shall apply first to the value of the manufactured structure, and any remainder shall apply to the parcel of land upon which it is situated.

(5) The Department of Revenue may by rule require that the assessment roll include information in addition to that required by subsections (1) and (2) of this section. [Amended by 1957 c.324 §2; 1963 c.270 §1; 1963 c.541 §43; 1965 c.344 §1; 1967 c.568 §1; 1971 c.529 §13; 1971 c.568 §1; 1971 c.747 §16; 1977 c.718 §6; 1979 c.692 §3; 1981 c.804 §36; 1983 s.s. c.5 §3; 1985 c.350 §1; 1985 c.613 §7; 1991 c.459 §91; 1997 c.541 §155; 1999 c.579 §4]

**308.231 Only registered appraisers to appraise real property.** Appraisals of real property shall be performed by an appraiser registered under ORS 308.010. [1955 c.575 §2; 1979 c.689 §11; 1991 c.5 §23; 1991 c.459 §96]

**308.232 Property to be valued at 100 percent real market value and assessed at assessed value.** All real or personal property within each county not exempt from ad valorem property taxation or subject to special assessment shall be valued at 100 percent of its real market value. Unless the property is subject to maximum assessed value adjustment under ORS 308.149 to 308.166, the property shall be assessed at the property's assessed value determined under ORS 308.146. [1953 c.701 §2; 1959 c.519 §1; 1961 c.243 §1; 1967 c.293 §6; 1979 c.241 §33; 1981 c.804 §39; 1985 c.613 §8; 1991 c.459 §97; 1997 c.541 §159]

**308.233 Use of sales data for physical appraisal.** (1) For purposes of making a physical appraisal of property for ad valorem property taxation, in arriving at the value level for the property, any sales data used shall be examined, analyzed, adjusted and otherwise utilized in such a manner that the value level determined for the property is substantially equivalent to the value level that would be determined if the sales data utilized was the same sales data, and was examined, analyzed, adjusted and otherwise utilized in the same manner as the sales data utilized in making the certified ratio study under ORS 309.200.

(2) The purpose of this section is to achieve equality and uniformity in assessed values between properties that are physically appraised and those that are not physically appraised, but subject to trending or indexing for the particular assessment year. [1979 c.241 §51; 1989 c.330 §15; 1991 c.459 §98; 1997 c.541 §160]

**Note:** 308.233 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**308.234 Record of last appraisal; Department of Revenue to approve methods of appraisal.** The county assessors shall preserve in their respective offices records to show when each parcel of real property was last appraised. Each parcel of real property shall be appraised using a method of appraisal approved by the Department of Revenue by rule. [1955 c.575 §1; 1967 c.105 §1; 1967 c.293 §8; 1997 c.541 §161]

**308.235 Valuation of land.** (1) Taxable real property shall be assessed by a method which takes into consideration:

(a) The applicable land use plans, including current zoning and other governmental land use restrictions;

(b) The improvements on the land and in the surrounding country and also the use, earning power and usefulness of the improvements, and any rights or privileges attached thereto or connected therewith; and

(c) The quality of the soil, and the natural resources in, on or connected with the land, its conveniences to transportation lines, public roads and other local advantage of a similar or different kind.

(2) If land is situated within an irrigation, drainage, reclamation or other improvement district, the value of the land shall not be considered to be increased until the construction and improvement of the district have been completed to the point that water may be delivered to or removed from the land, as the case may be. [Amended by 1953 c.701 §2; 1957 c.324 §4; subsection (2) enacted as 1967 c.601 §12; 1969 c.601 §14; 1975 c.671 §1; 1981 c.804 §40]

**308.236 Land values to reflect presence of roads; roads not assessed; exception for certain timber roads.** (1) The availability, usefulness and cost of using roads, including all roads of the owner of land or timber and all roads that the owner has the right to use, shall be taken into consideration in determining the real market value of land.

(2) Farm or grazing land roads and forest roads themselves, except principal exterior timber access roads, shall not be appraised, valued or assessed and they shall not be classed as improvements under ORS 308.215. The underlying land upon which roads are constructed shall be assessed if it is otherwise subject to assessment.

(3) As used in this section:

(a) "Road" includes fills, ballast, bridges, culverts, drains, surfacing and other appurtenances of a like kind commonly associated with roads but excludes railroads.

(b) "Principal exterior timber access roads" means those portions of high standard main-line private roads that provide access from a conversion center or public way to the exterior boundary of the principal forest area served by the road. A high standard main-line private road is a permanent road of two lanes or more that is paved or macadamized or that has a fine-gravel surface that is permanently and continuously maintained. [1963 c.230 §2; 1977 c.892 §35; 1987 c.305 §7; 1989 c.1083 §8; 1991 c.459 §99; 1999 c.1078 §62; 2003 c.46 §16; 2003 c.621 §80]

**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 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, 215.455 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. [1999 c.314 §2; 2003 c.539 §34]

**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; or
- (h) 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)(x) and 215.283 (1)(u);

(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); or

(k) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training greyhounds for racing.

(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]

**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]

(Valuation)

**308A.092 Establishing value for farm use; procedure.** (1) This section and ORS 308A.095 set forth the procedures by which the values for farm use are established 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 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]

**308A.095 County board of review to advise assessor on income-approach factors.**

(1) Income-approach factors being utilized by a county assessor in arriving at the values for farm use of farmland under ORS 308A.092 shall be submitted by the county assessor to a county board of review. The board of review shall advise the county assessor as to whether the factors being so utilized are proper under ORS 308A.092.

(2) The 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) Each member of the county board of review appointed under subsection (2)(a) and (b) of this section shall serve for a term ending two years after the date of the expiration of the term for which the predecessor of the member was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(4) Members of the county board of review must be persons knowledgeable and experienced in farmland values.

(5) Members of the 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]

**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 Department of Revenue declaratory rulings; judicial review.** Any group or organization representing owners of farm properties may petition the Department of Revenue under ORS 305.105 for a declaratory ruling with respect to rules promulgated under ORS 308A.092 and 308A.095 and may obtain judicial review of the declaratory ruling in the manner provided by ORS 305.445. [Formerly 308.360]

**308A.104 Construction of provisions governing value for farm use.** ORS 308A.092 and 308A.095 shall be construed liberally to effectuate their intended purpose. However, except as expressly provided and to the extent necessary to carry out their terms, nothing contained in ORS 308A.092 and 308A.095 shall be construed to alter or modify, by implication or otherwise, any of the tax laws of this state. [Formerly 308.365]

**308A.107 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 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.** (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) 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.

(4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.397]

**308A.116 Disqualification of nonexclusive farm use zone farmland.** (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) 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.

(7) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.390]

**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]

**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 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 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]

**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]

**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 stream flows 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]



**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; or
- (e) Wildlife habitat special assessment under ORS 308A.430.

(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; or
- (c) 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; or

(E) Wildlife habitat special assessment land that is not described in paragraph (b) of this subsection.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) 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.

(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. [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]

**Note:** Section 6, chapter 400, Oregon Laws 2005, provides:

**Sec. 6.** The amendments to ORS 308A.703, 308A.707, 321.706, 321.716 and 321.719 by sections 1 to 5 of this 2005 Act apply to tax years beginning on or after July 1, 2005, and to small tract forestland assessment disqualifications occurring on or after January 1, 2005. [2005 c.400 §6]

**308A.706 Circumstances when additional taxes are deferred; potential additional tax liability.** (1) Notwithstanding that land may have been disqualified from special assessment, the additional taxes described under ORS 308A.703 shall 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 natural heritage conservation 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 elements 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; or

(F) ORS 308A.424, relating to wildlife habitat 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) 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]

**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) or (F), 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) or (F), 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) or (F) 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) or (F) 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]

**Note:** See note under 308A.703.

**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 natural heritage), 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) or (b) 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)(c) 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]

**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. (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.

(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.

[1999 c.314 §39; 2003 c.454 §38; 2003 c.539 §18; 2003 c.621 §89]

**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 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, 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]

**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 308.372 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). [Formerly 308.025; 2003 c.454 §§46,48; 2003 c.621 §92]

(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, 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]

# Farm Manual Rules

## 150-307.010(1)

### Real Property

(1) For purposes of ad valorem taxation, the determination of real and personal property is controlled by the statutory definitions of real property, whether or not they conform to definitions used for other purposes.

(2) Real property includes:

(a) Land. "Land" may be either the raw undeveloped land, or improved to the extent a site is created. A "site" exists when land has been improved by site developments to the point that it is, or is ready to be, used for the purpose intended.

(A) Site developments are improvements to the land that become so intertwined with the land as to become inseparable. Examples are: fill, grading and leveling, utility facilities (sewer, water, etc.), cost of developer's activities and profit that accrues to the land, including but not limited to: permits, advertising, sales commissions, developer's profit and overhead, insurance coverage, and any other improvements to the land necessary to improve it to become a site. Site developments are synonymous with site improvements, land improvements, and site preparation. Site developments consist of both "offsite developments" and "onsite developments."

(i) Offsite developments are land improvements provided to the site. These include but are not limited to items such as streets, curbs, sidewalks, street lighting, storm drains, and utility services such as electricity, water, gas, sewer and telephone lines.

(ii) Onsite developments (OSD) are land improvements within the site which support the buildings or other property uses. These include but are not limited to items such as grading, fill, drainage, wells, water supply systems, septic systems, utility connections, extension of utilities to any structure(s), retaining walls, landscaping, graveled driveway area.

Onsite development is synonymous with onsite improvement.

(B) For all specially assessed farm and forest land appraisals the value of onsite developments included as part of the land value will be listed as a separate item on the land record. An exception to this procedure is the appraisal of taxable improvements on exempt federal land. In this situation, the onsite development value shall be carried as a separate item on the improvement record.

(C) The value of site development may be higher or lower than the total cost of its component and is determined by the contribution of the site developments to the market value of the site.

(b) Buildings, structures, improvements, machinery and equipment. These are improvements on the land and are real property when erected upon or affixed to the land.

(A) Erected Upon. "Erected upon" means assembled, built or constructed and permanently situated on real property and adapted to use in place. For example, a large piece of machinery or equipment is set upon a foundation without being fastened thereto, but is integrated with the building by the use of special foundations, special wiring, electrical panels and switches, plumbing, venting, access ramps, openings and other forms of construction.

(B) Affixed To. "Affixed to" means being annexed or attached to the real property by bolts, screws, nails or by being built into the structure. Also, items may be constructively affixed to the land or building and considered real property by virtue of their weight or size. Some examples include but are not limited to: pipeline milking equipment, milk bulk tanks, seed cleaning equipment, bowling alley lanes, pin setters, and scoring equipment, rock crushing plants, foundries, smelters, paper machines, newspaper presses, sawmills, plywood machinery and presses, aluminum reduction machinery and cannery equipment.

(C) When machinery, equipment or fixtures are affixed to or erected upon real property and owned separately from real property, they are assessable as real property to the owner as provided in ORS 308.115(2).

Stat. Auth: ORS 305.100

Stats. Implemented: ORS 307.010

Hist.: 1-54; 3-58; 11-59; 1-66; 3-70; 11-71; RD 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93

## **150-307.320**

### **Agricultural Land Devoted to Agricultural Purposes as Real Property**

(1) The term "land" as used in ORS 307.320 differs from the definition of "land" in ORS 307.010(1) in that it is limited to the land itself. It is land that has a classification as agricultural land and is being used for agricultural purposes such as raising and harvesting crops or rearing, feeding and management of livestock.

(2) For the purpose of ad valorem taxation, deciduous trees, shrubs, plants and crops in, under, or growing upon agricultural land devoted to agricultural purposes are wholly exempt from such taxation and need not be listed upon the assessment roll. (See OAR 150-308.235.)

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.320

Hist.: 1-58; 11-59; 1-66; 3-70; TC 7-1980, f. 11-28-80, cert. ef. 12-31-80; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84

## **150-307.394**

### **Personal Property Used for Placing Farm Crops in Storage**

#### (1) Definitions:

(a) "Storage of farm crops" refers to the holding area in which a product is placed before processing begins.

(b) "Processing" is altering the crop in any way such as: washing, icing, sorting, grading, waxing, boxing, slicing, or cutting.

(c) "Primary" is the leading use or the use involving the highest percentage of time relative to all the various uses.

Example: If an unlicensed farm vehicle is used 45 percent of the time to move cleaned, sorted, washed and bagged carrots ready for market (PRODUCT); 30 percent of the time to move freshly-picked carrots from the field to the warehouse or cold storage facility; and 25 percent of the time sitting idle, then the vehicle is used primarily in a nonexempt status and is fully assessable, even though that use is not 50 percent or more of the time available.

(2) Machinery and equipment used to place a farm crop in storage are exempt from taxation. However, once processing of the crop is begun, it is no longer a crop, but a product. When the same machinery and equipment are used for both placing in storage and processing the primary use is what determines its assessment status.

Example: Apples are picked and go directly into cold storage. This would be considered "placing in storage of farm crops." When these same apples are sorted, washed or boxed it becomes a product and placing back into cold storage until sold is not considered "placing in storage of a farm crops." At this point apples change from a crop to a product.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.400

Hist.: RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; REV 4-2002, f. & cert. ef. 7-29-02, Renumbered from 150-370.400

## **150-307.397**

### **Hoop Houses**

(1) Frost control systems include structures used to protect plants from extreme cold and use passive solar gain as their heat source.

(2) An example of a qualifying structure is a hoop house which:

(a) Has polyethylene sheeting and arched pipe rafters and wind bracing; and

(b) Has no heating system other than solar gain; and

(c) Is used for frost control; and which may

(d) Use a sprinkling system to assist frost control.

(3) An example of a structure that would not qualify as a frost control system is a hoop house which:

(a) Has polyethylene sheeting and arched pipe rafters and wind bracing; and

(b) Has a permanent heat source or climate control system.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 150-307.400

Hist.: RD 5-1996, f. 12-23-96, cert. ef. 12-31-96; REV 4-2002, f. & cert. ef. 7-29-02,  
Renumbered from 150-370.400(5)(a)

## **150-308.156(5)-(D)**

### **Exemption, Partial Exemption or Special Assessment Disqualification -- Allocating MAV**

When an exempt, partially exempt or specially assessed property is disqualified after January 1 of the assessment year preceding the current assessment year and before January 1 of the current assessment year, a new MAV for the account must be calculated. The new MAV total will be the MAV of any unchanged portion and the new MAV of any disqualified portion. The new MAV of the disqualified portion is the RMV multiplied by the appropriate changed ratio.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98

## **150-308.205-(A)**

### **Real Property Valuation for Tax Purposes**

(1) For the purposes of this rule, the following words and phrases have the following meaning:

(a) A "unit of property" is the item, structure, plant, or integrated complex as it physically exists on the assessment date.

(b) "Real property" means the real estate (physical land and appurtenances including structures, and machinery and equipment which comprise an integral part of the property or manufacturing operation) and all interests, benefits, and rights inherent in the ownership of the physical real estate.

(c) "Rural lands" means those lands with property classification 400, 401, 500, 501, 600, 601, 800, and 801 as defined by OAR 150-308.215. They are distinguished from platted land as acreages in varying sizes and are either improved or unimproved.

(d) "Utility" means the quality or property of being useful which may either add to or subtract from market value.

(e) "Highest and best use" means the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible, and that results in the highest value. See *The Appraisal of Real Estate*, 12th edition (2001).

(2) Methods and Procedures for Determining Real Market Value:

(a) For the valuation of real property all three approaches-sales comparison approach, cost approach, and income approach-must be considered. For a particular property, it may be that all three approaches cannot be applied, however, each must be investigated for its merit in each specific appraisal.

(b) The real market value of a unit of property shall not be determined from the market price of its component parts, such as wood, glass, concrete, furnaces, elevators, etc., each priced separately as an item of property, without regard to its being integrated into the total unit.

(c) In utilizing the sales comparison approach only actual market transactions of property comparable to the subject, or adjusted to be comparable, will be used. All transactions utilized in the sales comparison approach must be verified to ensure they reflect arms-length market transactions. When nontypical market conditions of sale are involved in a transaction (duress, death, foreclosures, interrelated corporations or persons, etc.) the transaction will not be used in the sales comparison approach unless market-based adjustments can be made for the nontypical market condition.



(d) If there are no market transactions of property comparable to the subject, then it is still appropriate to use market value indications derived by the cost, income or stock and debt approaches.

(e) Sales on the basis of disposal at salvage or scrap levels are indicators of market value only when on the assessment date such disposal of the subject property is imminent, or has actually taken place.

(f) The cost approach must use the reproduction, replacement, or used equipment technique; however, original historical cost may be used when appraising property under ORS 308.505 to 308.730. The value estimate must include all costs required to assemble and construct the unit of property.

(g) The income to be used in the income approach must be the economic rent that the property would most probably command in the open market as indicated by current rents being paid, and asked, for comparable space. Income from the operation of the property may be utilized for property types, such as industrial plants that are not typically leased or rented.

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

(i) Determining highest and best use for the unit of property is necessary for establishing real market value. This determination of highest and best use may include, among others, all possible uses that might result from retaining, altering or ceasing the integrated nature of the unit of property.

(3) Valuation of Especial Property: Especial property is property specially designed, equipped, and used for a specific operation or use that is beneficial to only one particular user. This may occur because the especial property is part of a larger total operation or because of the specific nature of the operation or use. In either case, the improvement's usefulness is designed without concern for marketability. Because a general market for the property does not exist, the property has no apparent immediate market value. Real market value must be determined by estimating just compensation for loss to the owner of the unit of property through either the cost or income approaches, whichever is applicable, or a combination of both.

(4) Real market value for all personal property must be as of the date of assessment in accord with the statutory definition and must take into account the location and place in the level of trade of items of property in the hands of manufacturers, producers, wholesalers, distributors, retailers, users, and others.

(5) Valuation of Land Under Improvements Having Only Partial Exemption. This does not apply to those cases where land is not eligible for inclusion in the exemption.

(a) The value of land under a single story improvement when part of the improvement is receiving an exemption must be apportioned between the exempted and taxable portions of the improvement based on the value of each portion.

**Example 1:** There is a one-story building of which a part representing 80 percent of total value is under exemption and the remaining part is taxable and consists of new construction representing 20 percent of the total value. The value of the land under the building would be apportioned 80 percent to the exemption and 20 percent to the taxable or market value each year.

(b) The value of land under a multiple story improvement when all or part of one or more stories of the improvement is receiving an exemption must be apportioned between the exempted and taxable portions of the improvement based on the contribution of the current market value of each portion.

**Example 2:** There is a two story building which occupies a 100' x 100' lot in its entirety.

The first story is under exemption, and the value carried on the roll represents 60 percent of the total improvement value. The second story, valued at market, represents 40 percent of the total improvement value. The value of the land under the building must be apportioned 60 percent to the exemption and 40 percent to the property valued at market.

(c) Where an improvement does not fully occupy the land and where only a portion of the improvement and land are used for an exempt purpose, then the value of the improvement and land must be allocated between the exempt and taxable portions of the parcel. Any portion of the land or improvement that is not used, developed, or that is being held for future expansion is fully taxable.

**Example 3:** Assume a parcel that measures 200' by 200', a building measuring 100' x 100', paved parking measuring 100' x 100' and unimproved land measuring 200' x 100'. One-half or 50% of the building and parking are used by an exempt entity. One-half (50%) or 5000 square feet of the building is exempt, one-half (50%) of the parking is exempt. The remainder of the building, the parking lot and unimproved land are fully taxable.

**Example 4:** There is a building measuring 100' x 100' located on one-fourth of a 200' x 200' lot. The remaining portion of the lot is a parking area. The taxable portion of the building rents or leases a 100' x 100' parking area and has exclusive use. The value of the remaining 100' x 200' area of the lot is exempted only to the extent it is used as a parking area for the exempt entity. If 100' x 100' of this 100' x 200' parking area is used for parking and the remainder is held by the exempt entity for future expansion, the area held for expansion is fully taxable.

(d) When an improvement is partially exempted and that improvement contains common areas (i.e., hallways, restrooms, conference rooms, etc.), the percentage of the total area of these common areas that receives exemption shall be the same as the percentage of the total net rentable area occupied by the exempt entity.

(6) Valuation of Land Under Improvements Having Only Partial Special Assessment: The procedures described in Section (5) of this rule also apply to properties receiving a partial special assessment, such as a partial historical designation.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.205

Hist.: 1-54; 12-55; 11-59; 8-62; 1-64; 12-65; 1-66; 3-70; 11-71; 12-31-79; 12-31-81; 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 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

### **150-308.215(1)-(A)**

#### **Real Market Value and Property Classification as Part of Assessment Roll**

(1) In addition to the assessed value of property, the assessment roll must show:

(a) The real market value (RMV) of the land, excluding all buildings, structures, and improvements thereon;

(b) The RMV of all buildings, structures, and improvements; and

(c) The total RMV for each parcel of real property not required to be assessed as a unit.

(d) For properties subject to ORS Chapter 100, for example, condominiums and time shares that are required to be assessed as a unit, the assessment roll must show the RMV as well as the assessed value of each unit.

(2) The assessment roll must include the property classification code number for each parcel of real property in the county, except for those properties assessed by the department under ORS 308.505 to 308.605. The assessor must classify and assign a property classification code number to each parcel as provided in section (8) of this rule.

(3) The assessor must maintain the proper classification on each parcel of property.

(4) A county must separately identify and adjust land and improvement values for each property class for each market area to bring real property to RMV.

These adjustments to value must be developed from market studies or by any other method approved by the department as provided under ORS 309.200.

(5) The class code numbers that this rule establishes must be used for computing the real property class ratios required by ORS 309.200.

(6) An assessor must obtain written approval from the Department of Revenue before deviating from the basic property classes defined in section (8) of this rule.

(7)(a) All classification must be based upon highest and best use of the property. The term "highest and best use" is defined in OARs 150-308.205-(A) and 150-308.205-(D). The class associated with the property may or may not be its current use.

(b) Unique properties can be classified under the "miscellaneous" category in section (8). The "miscellaneous" category can also be used for property requiring a separate trend.

(c) The property classification system must not be used to categorize market data that is more accurately described by other characteristics, such as the quality class of the improvements, market areas, or neighborhoods.

(d) The property class for mixed-use or transitional properties will be assigned based upon the use that contributes the most to the real market value on the current assessment date.

(A) A mixed-use property is one in which different parts of the property are used differently, such as a commercial use on one part, and a residential use on another part.

(B) A transitional use property is one in which the real market value on the current assessment date, at its current highest and best use, is being influenced in the market by an anticipated change in future use, such as residential property that is likely to sell for a commercial use in the future, but is not in commercial use on the assessment date.

(8) DEFINITIONS FOR PROPERTY CLASSIFICATION SYSTEM. [Classification not included. See ED. NOTE.]

(9) Starting with the 2006-07 tax year, each assessor must prepare an annual plan that outlines how the county will comply with the provisions of this rule no later than the January 1, 2009 assessment date. The plan must be submitted as part of the sales ratio study and accompanying appraisal plan submitted under ORS 309.200 and 309.203. The plan must address how the county complies with, or intends to comply with the provisions of this rule for the initial tax year and all subsequent tax years up to the 2009-2010 tax year.

[ED. NOTE: Classification referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 308.215

Stats. Implemented: ORS 308.215

Hist.: 3-70; 9-71; 11-73; 1-1-77; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; 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 16-1987, f. 12-10-87, cert. ef. 12-31-87; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93, Renumbered from 150-308.215(1); RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; RD 9-1997, f. & cert. ef. 12-31-97; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 2-2005, f. 6-27-05, cert. ef. 6-30-05; REV 4-2006, f. & cert. ef. 7-31-06

## **150-308.235**

## **Agricultural Land Devoted to Agricultural Purposes; Valuation for Ad Valorem Tax Purposes**

(1) Agricultural land devoted to agricultural purposes as defined in OAR 150-307.320 is real property and shall, insofar as possible, be valued by the methods provided in OAR 150-308.205-(A). When practical, the value of comparable bare land shall be utilized as primary evidence.

(2) In the absence of comparable bare land sales, or when a partial appraisal is not feasible, the appraiser shall estimate the market value of the land and the deciduous trees, shrubs, plants and crops as a unit. The taxable value of the agricultural land devoted to agricultural purposes shall then be determined by deducting the market value of the deciduous trees, shrubs, plants and crops thereon from the total appraised market value. The market value of the deciduous trees, shrubs, plants and crops shall be determined by a method which considers:

- (a) The cost of seed, shrub, nursery tree, or cutting as culture dictates.
- (b) The cost of implanting the seed, shrub, nursery tree or cutting into the land as culture dictates.
- (c) The loss of income from the land during the period of establishing the tree, shrub and plant in condition to produce a crop.
- (d) The risk involved in establishing the tree, shrub and plant.
- (e) The quality and quantity of the trees, shrubs, plants and crops.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.235

Hist.: 1-58; 11-59; 1-66; 3-70; 9-71

### **150-308A.056**

#### **Farm Use Definitions and Inactivity Due to Illness**

(1) Definitions:

(a) "Farm use" is defined in ORS 308A.056 and applies to land both inside and outside exclusive farm use zones.

(b) "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 subsection (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 costs 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 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.

(c) "Land" includes all mines, minerals, quarries, dikes, banks, drainage tile, water rights, and the like. See ORS 307.010. 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.

(d) For the purpose of assessment of land in farm use, "land" does not include:

(A) Buildings.

(B) Structures.

(C) Improvements, unless their contribution is an integral part of the income attributable to the land.

(D) Machinery.

(E) Equipment.

(F) Land improvements for homesites.

(G) Fixtures erected upon or affixed to the land itself.

(H) Land used for a nonfarm residence or other nonfarm purposes.

(e) "Illness" means sickness, disease, injury or disorder of body or mind which prevent the farmer or immediate family member from performing necessary farm operations.

(f) For purposes of subsection (e): "Immediate family member" means the farmer's spouse, their children living and working on the farm, or any person for whom the farmer has a legal responsibility including but not limited to guardianship of a dependent parent or child.

(2)(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 by a written statement from a licensed medical practitioner to the assessor. 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.

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)

## **150-308A.059**

### **Description of Lands in Farm Use**

(1) "Farm Unit" means a farming enterprise which includes all parcels being farmed by a single operator, whether the operator owns or leases the farmland.

(2)(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 the requirements of ORS 308A.056 and must be convinced that not only such requirements are met but, in addition, the land must be used in a manner that is reasonably designed and intended to give rise to 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 must be ascertained from overt acts. The assessor should consider all pertinent facts in reaching a conclusion as to whether the use of a particular parcel of land qualifies as farm use land. For example, one or more of the following considerations may be pertinent:

(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.

(3) Any part of a farm unit which is being used for a non-farm use must be disqualified.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.380 & 308A.059

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, Renumbered from 150-308.380; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00, Renumbered from 150-308.380-(A)

### **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 ORS 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 ORS 305.275(1) (also see ORS 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 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 ORS 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 ORS 308A.056(3)(h), and the wasteland (see ORS 308A.074)) are not counted in determining the number of acres to be considered under ORS 308A.071(2)(a). The wasteland in a non-EFU zone does not qualify because it is not currently employed under ORS 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 ORS 305.275(2) (also see ORS 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) A homesite on a farm use parcel in an exclusive farm use (EFU) zone qualified under ORS 308A.253(5) will receive the special valuation with no application.

(2) A forest homesite qualified under ORS 308A.253(4), in an EFU, forest use or farm and forest use zone will receive the special valuation with no application.

(3) If a homesite qualified under ORS 308A.253(5) is not within an EFU zone, an annual application must be filed with the assessor on or before April 15 of each year the farm use special assessment is desired. The farmland on which the homesite sits must be operated as part of a farm unit that produced over one-half of the adjusted gross income of the owner or owners in the year prior to application.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308A.253

Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00

### **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 ORS 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.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 ORS 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 ORS 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 ORS 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 ORS 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 ORS 321.760. When such land is changed to a different special assessment that is a part of ORS 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)