

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 E). Explain some of the basics for the special assessment program they are inquiring about.
- Explain there is a “potential additional tax” notation on the assessment roll and on their property tax statement(s) for properties in special assessment.
- Explain disqualification, change in special assessment and additional tax consequences for the program.

Can I put part of my land in farm and part in forest (or something else)?

- Yes, any land on your parcel that meets the qualification requirements of a given program may receive special assessment.
- Special assessment is granted on a per acre basis and only one special assessment may be granted for the same land. Special assessments cannot overlap.

How much will I save on my tax bill if I put land in special assessment?

- Explain that values will be changed from the current assessed value on the affected land to a specially assessed value for the number of acres for each land class. You can use the last available rate and value difference to get an approximate answer.

Can I change to a different special assessment?

- First determine what special assessment program the land is currently in or has been disqualified from and which program the owner wants to change to. The timing of the change should occur so that the owner has an opportunity to transition from one special assessment to another without a break in special assessment.
 - **If the land is currently under special assessment** inform the owner the land is disqualified for “no longer in use” in their current special assessment program when the use changes. Once disqualified, follow the procedure below for a change in special assessment under ORS 308A.706(1)(d).
 - **Change in special assessment of disqualified land under ORS 308A.706(1)(d).** If the change is the result of a disqualification you will need to have a good understanding of the procedures for each type of disqualification. The Disqualification Notification Procedures (Appendix H) will explain timing and procedures. See the “Hexagon Diagram” (Appendix I) for possible changes in special assessment. ORS 308A.724 provides the statutory timing requirements for a change in special assessment following a disqualification. A disqualification notification letter should be in the file. Review the disqualification notification letter

with the owner to explain the reason and procedure for the disqualification. If a change in special assessment is not possible explain any tax consequences. The land may be assessed based on market value or there may be the collection of additional taxes upon disqualification from special assessment.

ORS 308A.724 specifies that land changing to Non-EFU following a disqualification has five years to meet both the income and use requirements.

ORS 321.709(2)(d) specifies that land changing to STF must not have been disqualified from STF for any of the five tax years preceding the year for which STF special assessment is sought. However, there is a requirement that all contiguous forestland acquired by an STF owner be placed in the STF program. In this instance, it is acceptable to place land disqualified from STF in the previous five years back into the program.

- Review any information circulars or applications and forms the owner will need to complete to accomplish the change in special assessment. If a change is not possible inform the owner of the reasons why the land cannot qualify.

How much will it cost me to discontinue the special assessment?

- Determine the program the owner wants to discontinue and address increases in taxable value and additional taxes.
 - EFU – The owner cannot request to remove land from special assessment in an EFU zone. If the owner discontinues farming, the land can be disqualified for “no longer in use” and will be assessed based on market value. At any time the owner resumes farming any of the land for profit in a qualifying use, the land is required to be under farm use special assessment.

ORS 308A.706(1)(a) specifies the additional tax is only collectable for disqualified farmland if change in use is incompatible with returning the land to a farm use. Idle land is not a change of use and no additional tax can be collected if the land is not farmed, but, remains idle.

- Non-EFU – If the owner requests the land be removed from farm use special assessment the land will be assessed based on market value. The owner may continue to farm the land for profit. To requalify the owner will need to submit a new application.

ORS 308A.706(1)(d) specifies the additional tax is only collectable for disqualified farmland if the change in use is incompatible with returning the land to a farm use. Idle land is not a change of use and no additional tax can be collected if the land is not farmed, but, remains idle.

If the special assessment is being removed due to recording of a subdivision plat, any portion of the land may requalify for Non-EFU special assessment after paying additional taxes and meeting the requalification criteria of ORS 308A.116(4). There is no provision for the owner to change to a different special assessment. A change to a different special assessment will require the owner to submit a timely application or claim under the provisions of the program. This may result in the valuation of the land based on market value during the transition period.

- Designated Forestland – If the owner requests the land to be removed from designated forestland special assessment the land will be assessed based on market value and additional taxes will be collected if the land does not change to a different special assessment.
 - Highest and best use forestland – HBU is not a special assessment, it is a classification based on an appraisal decision. There is no option for the owner to remove this classification. HBU forestland does not have additional taxes when the classification is removed upon determination by the assessor that the land has a higher and better use other than forestland.
 - Small Tract Forestland – If an owner changes **from STF to** another special assessment or to exempt ownership the difference between the STF taxes and the taxes imposed as forestland will be imposed. See the Additional Tax Chapter. **An owner cannot change STF to DFL or HBU forestland** If the land is removed from the STF special assessment and does not change to a different special assessment the land will be assessed based on market value and the second additional tax for the difference between 100% forestland values and what it would have otherwise been assessed based on market value will be collectable.
- Additional taxes will be required for land in EFU, DFL, STF, or Open Space if an owner is in the process of establishing a non-farm dwelling under ORS 215.236.

ORS 215.236(4) does not require disqualification or an additional tax for any land already in WLH special assessment at the time the owner is seeking a non-farm dwelling under ORS 215.236.

ORS 215.236(6) specifies after being disqualified the landowner may **change from** EFU, DFL, STF, or Open Space **to** WLH special assessment. Additional taxes for any land qualifying for a change to WLH special assessment are deferred under ORS 308A.706(1)(d) or in the case of Open Space under ORS 308A.318(4). Additional taxes would be collected for any portion of the disqualified land not qualifying for a change to WLH.

- An owner may request to pay additional taxes as specified in ORS 308A.715 for any land that has been disqualified.

Why does it say “potential additional tax liability” on my tax bill or print out?

- This is just a potential lien and is not collectable until an event occurs which would require its collection. When a property first begins a special assessment program, the law requires the PAT notation on the assessment and tax rolls. This is to inform the owner and general public that a potential collectable lien attached to the property since the land was under special assessment.
- If the owner wants more information, identify the program the owner is interested in and address additional taxes following the “disqualification notification procedures” and “information circulars” for the program.

What happens to the special assessment if I sell my property?

- If any of the land is EFU, Non-EFU farmland, or DFL the special assessment is not affected by the change of ownership. The special assessment stays with the land except for:
 1. Small Tract Forestland (STF) requires the new owner to submit an STF application for continued qualification. The application must be received within 30 days of receiving the “notice of intent to disqualify” letter from the county assessor. If an application for continued qualification is not returned to the assessor within the required 30 days the land will be disqualified from STF. The land will automatically qualify for designated forestland or Highest and Best Use Forestland and will revert back to 100% forestland values. Land disqualified will not be eligible to return to the STF program for a minimum of 5 years.
 2. Highest and Best Use Forestland is not a special assessment, it is an appraisal decision. A sale or change in ownership by itself is not a reason to change the land from Highest and Best Use Forestland.

FORESTLAND

What do I have to do to qualify for forest assessment?

- Designated Forestland – To qualify, the area to be designated must be at least 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 of forestland **and** an STF application. Go over the details of the required application(s) with the owner.
- Highest and Best Use Forestland – any land classified as HBU is assessed as forestland. No application is necessary. HBU forestland is not a special assessment it is an appraisal decision.

If I have forestland, what sort of activity to I have to notify the Oregon Department of Forestry (ODF) of?

The ODF requires notification for most forest operations, including:

- Harvesting (including commercial thinning)
- Disposal or treatment of slash (including prescribed burning)
- Site preparation for planting (including application of herbicides)
- Pre-commercial thinning to reduce overstocked stands
- Stand maintenance (including chemical application for pest control)
- Road construction and maintenance

A copy of the ODF notification form is in Appendix C. Direct the landowner to contact their local ODF office for more information.

I have 10 acres of Christmas trees that I am not going to harvest. Can I convert these acres to forestland?

- A landowner may make an application for designated forestland on property that may be under another special assessment. Christmas tree plantings are often planted at high densities and will likely meet the minimum stocking requirements. However, field confirmation is required.
- Some tree species planted for Christmas trees may not be suitable for timber production and would therefore not meet stocking requirements. See “Land Supporting Christmas Trees” in the Special Provisions chapter.
- Become familiar with the suitable reforestation tree species in your area, or contact the local ODF stewardship forester for more information.

How many trees per acre are needed to qualify for forestland?

- Most land in western Oregon requires the minimum seedling equivalent to be 200 trees per acre for cubic foot site productivity classes I, II and III.
- Most land in eastern Oregon requires the minimum seedling equivalent to be 100 trees per acre for cubic foot productivity site class VI.
- Refer to Table 2, page 2-10 for more details.

What happens when the trees are thinned/harvested?

- Taxes on harvested timber must be reported and paid to the Oregon Department of Revenue:
 1. Severance Tax – Applies to the harvest of timber from any land specially assessed as STF.
 2. Forest Products Harvest Tax (FPHT) – Applies to any timber harvested in Oregon, except for timber harvested from Indian reservation lands.
- To continue forestland special assessment, the landowner must take action to ensure that the land continues to meet the minimum stocking requirements.

NOTE: Prior to harvesting, you must notify the Oregon Department of Forestry. See Resource Contacts in Appendix E.

HOMESITE

Can I build a house on my forestland?

- Receiving approval to establish a forestland dwelling can be a very complicated process that will require the landowner to gather information from several sources. Direct the landowner to the contact the county planning department for requirements to establish a dwelling on land zoned for forest use.
- If the lot or parcel is more than 10 acres in western Oregon, or 30 acres in eastern Oregon, the landowner will have to conduct a stocking survey and submit it to the assessor as one of the criteria for approval.
- The assessor is responsible for verifying that the minimum stocking requirements have been 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.

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.