

Board of Property Tax Appeals Manual



Oregon Department of Revenue

Board of Property Tax Appeals Manual

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History and Overview of the Boards of Property Tax Appeals

Property owners have been able to appeal the value of the property on which their property tax is based since 1907, when the Oregon Legislature enacted laws that created boards of equalization. From their creation until 1951, boards of equalization consisted of the county judge (or county commissioners in counties that didn't have a county judge), the county clerk, and the county assessor.

In 1951, the make-up of the board was changed to consist of the county judge or chairman of the county commissioners, the appointive member of the budget committee, and a non-office holding freeholder. The purpose of this change was to eliminate any potential conflict of interest on the part of the assessor.

In 1990, voters passed Measure 5, a constitutional amendment that limited property taxes and changed the definition of real market value. This amendment resulted in legislation that created boards of ratio review. From 1991 to 1996, each county had one or more boards of equalization and one board of ratio review. The boards of equalization were responsible for hearing appeals based on the value of property as of July 1, while the boards of ratio review heard appeals based on declines in value after July 1 of the tax year. This legislation also replaced the budget officer with another non-office holding county resident.

Oregon voters passed Measure 47 in the fall of 1996, which was replaced by Measure 50 in the spring of 1997. Measure 50 created a maximum assessed value of property which was the 1995–96 value minus 10 percent and limited future growth of maximum assessed value to 3 percent per year with certain exceptions. Legislation resulting from Measure 50 changed the name of the board of equalization to the board of property tax appeals (BOPTA) and eliminated the board of ratio review.

County boards of property tax appeals hear petitions for reduction of the real market, maximum assessed, specially assessed, and assessed value of property placed on the roll by the county assessor. The boards also consider requests to waive penalties assessed for the late filing of real and personal property returns. The functions of the boards are a very important part of maintaining a fair and equitable property tax system in Oregon.

When an individual accepts an appointment to the board, that person becomes a public official. Membership on the board is an important position that requires knowledge of the law, appraisal procedures and assessment practices, patience, understanding, and a sense of civic responsibility.

If a board acts outside its legal jurisdiction, the board's decision may be challenged and subsequently invalidated. Therefore, it is important that the members of the board become familiar with the following:

- Board of Property Tax Appeals Law, ORS Chapter 309—Governs the functions of the board.
- *Board of Property Tax Appeals Manual*, 150-303-484—Gives comprehensive guidelines for the functions of the board.
- Public Meetings Law, ORS Chapter 192—Governs public meetings.
- Public Records Law, ORS Chapter 192—Applies to keeping the records of the board.
- Government Ethics, ORS Chapter 244—Governs conflicts of interest and ethics.

Board members may contact the Oregon Department of Revenue's BOPTA program manager at (503) 945-8459. Members may also ask for assistance from their designated legal counsel.

Board of Property Tax Appeals Calendar

| Date | Action | Who | Reference |
|---|---|--|---|
| By September 1 | — Order petitions and other forms. | Clerk | Non-statutory |
| Before October 15 | — Work with governing body to find pool members. | Clerk | Non-statutory |
| On or before October 15 | — Appoint pools. — File ratio study with clerk. | Gov. Body Assessor | ORS 309.067 ORS 309.200(3) |
| After tax statements are mailed | — Accept petitions. — Keep log of petitions received. — Update computer software. — Reserve meeting room if necessary. | Clerk Clerk Clerk Clerk | ORS 309.100(1) ORS 309.024 Non-statutory Non-statutory |
| After October 15 and while board is in session | — Select members from pools. | Clerk | ORS 309.020 |
| December 31 or next business day if holiday or weekend | — Last day to accept petitions. | Clerk | ORS 309.100(2) ORS 305.820 ORS 187.010 |
| Month of January | — Post notices of session three weeks before the beginning of the session. — Send training notices to pool members. | Clerk Clerk | ORS 309.025 Non-statutory |
| Before board convenes | — All pool members complete training prescribed by DOR. — Enter affidavit of posting into record. — Notify members of first meeting. — Determine where daily meeting notices will be posted. — Confirm who acts as legal advisor. — Confirm whether clerk will hire a board appraiser. — Deliver ORS 308.242 stipulations to clerk. | Board Clerk Clerk Clerk Clerk Clerk Assessor | ORS 309.022 ORS 309.025(2) Non-statutory ORS 309.024 ORS 309.024 ORS 308.242 |
| Five days before hearing | — Mail notices of hearings. | Clerk | ORS 309.100(5) |
| On or after first Monday in February | — Convene first meeting. — Take and administer oaths of office. — Enter oaths of office in record. — Authorize clerk or one member to correct clerical errors in orders. | Chair Board Clerk Board | ORS 309.026(1) ORS 309.070 ORS 309.070 ORS 309.110(3) |

| Date | Action | Who | Reference |
|---|---|-----------------|--|
| On or after first Monday in February (cont.) | — Determine whether clerk attends meetings. | Board and Clerk | ORS 309.024 |
| | — Decide time needed for each hearing. | Board and Clerk | Non-statutory |
| | — Establish policy about rescheduling hearings. | Board | Non-statutory |
| | — Establish policy about swearing in witnesses. | Board | Non-statutory |
| | — Enter training certificates into board record. | Clerk | ORS 309.022 |
| On or after first Monday in February through April 15 | — Hold hearings. | Board | ORS 309.026 |
| | — Keep record of meetings. | Clerk | ORS 309.024 |
| | — Mail hearing notices to petitioners. | Clerk | ORS 309.100 |
| | — Prepare and deliver copies of petitions to members, assessor, board appraiser, and DOR, if necessary. | Clerk | Non-statutory |
| | — Prepare orders for signature. | Clerk | ORS 309.110(1) |
| Within five days after signing | — Mail or deliver board orders. | Clerk | ORS 309.110(1) OAR 150-309.110(1)-A) |
| Same day order is mailed | — Give copy of order to assessor and officer in charge of roll. | Clerk | ORS 309.110(1) |
| On or before April 15 | — Adjourn session. | Board | ORS 309.026(5) |
| Five days from date of adjournment | — Mail or deliver orders and amended orders from regular session. | Clerk | OAR 150-309.110(1)-(A) ORS 309.110(6) |
| Through June 30 | — Reconvene board to amend orders to correct errors of jurisdiction. | Chair | ORS 309.110(5) |
| | — Issue amended orders to correct clerical errors. | Clerk or Member | ORS 309.110(5) |
| Not later than five days after date signed. | — Mail or deliver amended orders to petitioner and give copy to assessor and officer in charge of the roll. | Clerk | ORS 309.110(6) |
| 45 days after adjournment | — Complete Summary of Actions and mail to DOR. | Clerk | OAR 150-309.360(2) |
| June 30 | — Term ends. | Board | ORS 309.020(2) |

Membership

Appointment of Pools

Each year the county governing body appoints two pools of county residents from which the county clerk will select the members of the board of property tax appeals.

The pools from which the members are selected must be appointed **on or before October 15** of each year.

The pools shall consist of the following persons who are eligible to serve on the board(s):

Pool 1—

A group of members of the county governing body (county commissioners/county judges) or non-office-holding county residents to serve in their place. The people appointed to this pool should be willing to act as chairperson of the board. This pool may be referred to as the “chairperson’s pool.”

Pool 2—

A group of non-office-holding residents of the county who are not employees of the county or of any taxing district within the county.

The order of the governing body that appoints the pools must be in writing and contain the following information:

1. The names, addresses, and phone numbers of the persons appointed to the pools.
2. A brief description of training either already taken or that will be completed before the board member begins his or her term.
3. The pool or pools to which the person is appointed.
4. The date when the order becomes effective.

The same people may be appointed to both the chairperson’s pool and the non-office-holding pool.

The number of people placed in the pools is not specified by law, but should be sufficient to meet the projected needs of the board for the upcoming session. If the appointed pools do not contain

sufficient citizens to meet the projected needs of the board, the governing body must appoint new pools. **New pools can be appointed at any time upon request of the county clerk at a regular meeting of the governing body or at a special meeting called by the chairperson of the county governing body.**

Whenever the governing body appoints new pools, the order of appointment must be updated, including the new date the pool becomes effective. **When the new pool becomes effective, it takes precedence and members shall not be selected from previous pools.** All orders of appointment to the pools should be filed immediately in the records of the county clerk.

Definition of Non-Office-Holding

A non-office-holding county resident is defined as one who is **NOT**:

- A member of the county governing body,
- A member of the governing body of any taxing district within the county,
- An elected official within the county,
- A person employed in or hired by the county or any taxing district within the county,
- A former county assessor, or any appointee acting in the place of the assessor, that held the office or appointed position during the tax year subject to appeal to BOPTA, or
- A person previously employed in or hired by the office of the assessor during the tax year subject to appeal to BOPTA.

Selection of Board Members

After the governing body has appointed eligible persons to the pool, **the county clerk selects members as needed to serve on the board(s).** The clerk can select the members at any time after the governing body appoints the pools. The members of each board consist of:

- One person from the chairperson’s pool, and
- Two people from the non-office-holding county resident pool.

Installation of Members

At their first administrative meeting, the members of the pools must take and subscribe to an oath of office. Any member of the board can administer the oath, but generally the chairperson administers the oath to the other board members, and then one of the other members administers the oath to the chairperson. A written copy of each oath should be filed with the county clerk.

Chairperson

The member selected from the chairperson's pool acts as chairperson of the board unless the board votes unanimously to elect one of the other non-office-holding members as chair-person.

Term of Office

The term of office for all persons appointed to the pools begins on the date of appointment and ends on the following June 30.

Multiple Boards

If the county clerk determines that the number of petitions filed would make it difficult for one board to review all filed petitions, the clerk may select additional boards from the member pools. The clerk should be able to estimate how many boards will be necessary by looking at the number of petitions filed in past years.

The county clerk may select persons from the pools as needed to form an unlimited number of three-member boards. However, if there are not enough members available, two people make a quorum and have authority to conduct all the usual business of a board.

Non-office-holding members of the board may serve on any board as needed for the efficient conduct of business.

ORS 309.020
ORS 309.067
ORS 309.070
OAR 150-309.067(1)

The Board Clerk

Requirements

The county clerk serves as clerk of the board of property tax appeals and handles all administrative duties of the board(s). The clerk may appoint a deputy clerk to serve in his or her place. The deputy must be from the county clerk's staff. The clerk or deputy clerk is not required to be present each time the board meets.

The board and the clerk should decide at the first meeting whether the clerk will attend all meetings of the board. If the board and clerk decide that the clerk will not attend the meetings, then it will be the chair's responsibility to maintain an accurate record of all board actions. It is the responsibility of the clerk to decide which type of records (written or audio) shall be kept by the board.

The name of the board clerk should be given to the county governing body so the members of the pools can be advised of how to contact the clerk.

ORS 306.005
ORS 309.020
ORS 309.024

Clerk's Duties

The importance of the clerk to the successful completion of the board's activities cannot be overemphasized. The clerk serves as the liaison among board members, and notifies members of meetings, hearings, and communications from taxpayers and the assessor.

Following is a list of the clerk's duties:

1. Finding qualified board members.

Many county governing bodies request that the county clerk present them with a list of qualified non-office-holding county residents to consider for appointment to the pools.

The clerks may do this in a number of methods. Some counties advertise for members and go through an application process.

2. Selecting members from the pools.

After the governing body has appointed eligible persons to the pools, the clerk selects members as needed to serve on the

board(s). The clerk should notify the members selected as soon as possible and confirm their willingness to serve. The clerk can do this at any time after the pools are appointed. The clerk may select members from the pools as necessary to complete the work of the board(s). For additional information see Chapter 1 in this manual.

ORS 309.020

3. Scheduling the first administrative meeting of the pool members.

The clerk should send a notice of the first meeting of the board to all pool members. This includes the members who have not been selected (as of yet) to sit on the board. At this meeting, all of the pool members will take their oaths of office and confirm their assignments. If all pool members take their oaths at this time, they will be prepared to serve if selected by the clerk at a later date. The first meeting of the board is discussed in detail in the chapter on "Meetings" in this manual.

4. Keeping track of petitions received and actions taken.

The clerk must keep a log of each petition received. The log can be kept manually or electronically. The purpose of keeping the log is to ensure that each petition is tracked and disposed of correctly.

After the petitions are entered into the log, a copy of the petitions should be made for the assessor's office and the Department of Revenue, if the subject property is a department responsibility account. Some assessors can access the petitions electronically. The department has designed a "Board of Property Tax Appeals Hearing Record" form, which may be used to satisfy the requirements of the written minutes law if written minutes are kept. The following information should be entered in the record:

- Date petition received,
- Petition number,

- Petitioner’s name,
- Address where order is to be mailed,
- Assessor’s account number (map and tax lot number if needed),
- Value(s) or amount of penalty appealed,
- Requested value(s),
- Value(s) recommended by assessor,
- Amended filing date,
- Date corrected petition received,
- Hearing notification date,
- Hearing date,
- Date and time signed stipulation filed with clerk,
- Action taken,
- Value(s) ordered by the board,
- Any other findings ordered by the board,
- Date order issued (date order signed),
- Date order mailed,
- Date copy of order delivered to assessor,
- Date copy of order delivered to officer in charge of roll,
- Notation of confidential status of hearing,
- All members present and all other persons who give evidence, and
- Brief discussion of the substance of the meeting.

ORS 309.100
ORS 309.110

The “Value Recalculation Worksheet” form may be used to replace part of the information previously required on the “Board of Property Tax Appeals Hearing Record” form. The two forms may be used in conjunction with each other to complete the hearing record.

The department recommends using the “Board of Property Tax Appeals Hearing Record” form even if an audio record is kept of the meetings. The record provides a way to track the petitions and serves as a good checklist of required information. However, the record need not contain a written discussion of the hearing if an audio record is available.

5. Posting notices of board sessions and meetings.

The county clerk is responsible for posting the notice of the session for the board of property tax appeals. It must be posted in six conspicuous places in the county. The clerk shall include in the notice the date and time

the board will convene and the principal subjects to be considered during the session.

The clerk is also responsible for posting the daily or weekly meeting notices.

For additional information, see Chapter 6.

ORS 192.640
ORS 309.025

6. Screening of petitions.

• **Incomplete petitions.**

The clerk reviews the petitions as they are filed to determine whether they contain the information required by law. If a petition is incomplete, it must be returned to the petitioner for completion.

A petitioner must be allowed 20 days from the mailing date of the defective petition notice or until the last day for filing a petition with BOPTA, whichever is later, to correct the deficiency in the petition. Time is computed from the first day following the mailing date of the written notice and includes the last day unless the last day falls on a legal holiday, Saturday, or Sunday. This extends the time to the next working day.

ORS 309.100(3)
OAR 150-309.100(3)-(A)
OAR 150-309.100(3)-(B)

• **Jurisdiction.**

The clerk may also screen petitions to determine if the board has jurisdiction to hear them. However, the final responsibility for these decisions lies with the board. See Chapter 11 for more information about petitions and Chapter 9 for more information about the jurisdiction of the board.

7. Keeping the official record of board actions.

The official record of the board(s) may be kept in either a written or audio format. It is the responsibility of the clerk to decide which type of minutes (written or audio) shall be kept by the board.

If the record is kept in the form of written minutes, the minutes should be written

so they are easily understood. A full transcript is not required, but written minutes must give a true reflection of the matters discussed and the view of the participants. The record should include at least the following information:

- All persons in attendance,
- The substance of any discussion on any matter,
- A reference to any document discussed,
- All motions, proposals, resolutions, orders proposed, and their disposition, and
- The results of all votes and the vote of each member by name.

The hearing record discussed previously will satisfy the requirements of the public records law if it contains all of the information listed above.

If the official record of the board is an audio recording, the clerk should confirm that all persons speaking can be clearly heard when the tape is replayed. Audiotapes have a limited life and should be stored in a manner that will meet the retention requirements of OAR Chapter 166, Division 40. The clerk should contact the Secretary of State's Archives Division for more information about this requirement. The telephone number is (503) 373-0701.

For additional information, see Chapter 5.

ORS 192.650
ORS 309.024

8. Receiving and incorporating documents into the official record of the board.

A complete record of the board's proceedings should contain the following documents, as well as the minutes previously discussed:

- A copy of the minutes from the meeting of the county governing body during which the pools were appointed, or a copy of the order appointing the pools,
- Signed oaths of office of board members,
- Training certificates,
- Affidavit of posting of notice of session and copies of all posted notices,

- Record of appointment of board appraiser, if board appraiser is appointed,
- Daily or weekly agendas,
- Appeal petitions,
- Authorizations to represent,
- Hearing notices,
- Defective petition notices,
- Value recalculation worksheets,
- Copies of all signed orders of the board,
- Evidence offered at hearings by the petitioner or assessor,
- Stipulations, and
- Summary of Actions.

ORS 192.650
OAR 150-309.024
ORS 309.110

The documents from the board of property tax appeals session can be kept as a separate record in the clerk's office with the exception of the following records which must be made a part of the journal of the county governing body.

- The date the pools were appointed,
- The pools to which the pool members were appointed, and
- The date the board convened and the date the board adjourned.

ORS 309.072

9. Scheduling hearings; preparing and mailing hearing notices.

The clerk is responsible for scheduling hearings for the board. The clerk and the board members should work together to determine how much time will be required to hear all the petitions received.

The board must give petitioners who request to be present at the hearing at least five days' written notice of the time and place to appear. This does not apply to petitioners who file defective petitions and do not correct them by the amended filing deadline. Time is always computed from the first day following the mailing date of the written notice and includes the last day unless the last day falls on a legal holiday, Saturday, or Sunday. The time is then extended to the next working day.

Hearing schedules should allow the clerk enough time to prepare the final orders, obtain signatures of board members, and mail the orders by the deadlines.

ORS 309.100(5)

10. Preparing orders.

Except for those resolved by stipulation under ORS 308.242, every petition received by the board must be disposed of by formal order. The clerk prepares the orders for board members' signatures. Orders should be processed in the following manner:

- The orders must be signed by at least two members who actually participated in the hearing.
- The order must contain the date the board members signed the order.
- The date the board "convened" on the order should be the date the board held its first meeting.
- The mailing date shown on the order should be the same as the actual mailing date. It should appear on every order.
- Copies of all board orders should be delivered to the assessor and the officer

in charge of the roll on the same day they are mailed or given to petitioners.

- All orders should be mailed and delivered no later than five days after they are signed and no later than five days after the board adjourns. Mailing the orders by certified mail is not required.
- See Chapter 17 for more information about orders.
- The order must contain the values described by rule in 150-309.100(1).

ORS 309.110

OAR 150-309.110(1)

OAR 150-309.110(1)-(A)

11. Amending orders.

The board may authorize the clerk or one board member to amend board orders on behalf of the board for the purpose of correcting clerical errors.

12. Completing the summary of actions.

The clerk is required to summarize the actions of the board for the Department of Revenue within 45 days after the end of each board session. The department will provide a form for the clerk to use.

OAR 150-309.360

Other Board Staff

Legal Counsel

The legal advisor for the board of property tax appeals can be the district attorney, county counsel, or—in the case of a potential conflict of interest—independent counsel. The board's legal counsel may attend all sessions of the board, including executive sessions. The county clerk decides who will serve as legal counsel for the board, but the clerk should discuss this decision with counsel before the board session begins.

ORS 309.024

Board Appraiser

The board, with the approval of the county clerk, may hire an appraiser to help the members make decisions about the value of property.

The appraiser must be registered under ORS 308.010; licensed or certified under ORS 674.310 (and not otherwise employed by the county); or

work for another county's assessor. If the board appraiser works for another county, the appraiser does not need to be licensed under ORS 674.310.

If two counties have a reciprocal program for board appraisers, each county should pay only the additional expenses of travel and possible extra time involved on an actual expense system. If the counties have different pay scales, the reciprocal program would have no effect on the pay the appraisers receive while working for the board of a different county. The program should be designed to benefit both counties.

The appraiser may be used to review properties under appeal and give the board an opinion as to the accuracy of the real market value on the roll. The appraiser can be a very valuable resource when the board reviews and hears petitions regarding the value of more complex properties.

ORS 309.024

Training Requirements

Members

Oregon law requires that new members of the board pools complete training approved by the Department of Revenue (DOR) for their first term of appointment.

Once the initial training requirement has been met, all members of the board pools must complete training approved by the Department of Revenue at least every other year.

Members of the pools returning to serve after a break in service are considered new members and are required to complete training in the first year they are appointed.

The department may approve various types of training based on educational effectiveness, cost, accessibility to members, and DOR resources.

Any properly appointed member of a pool who has not completed training approved by the department shall not sit on the board so long as there are sufficient trained members to constitute a quorum. If an untrained member must sit on the board in order to establish a quorum, the member must have read the current manual and sign an affidavit stating he or she has done so. This is the only time reading the manual and

signing the affidavit may substitute for completing DOR-approved training. The affidavit should be made a part of the record of the board and a copy should be sent to the Department of Revenue.

Members are not required to complete training if no petitions are filed in their county.

ORS 309.022(1)
OAR 150-309.022(1)

Board Clerk and Board Appraiser

Neither the board clerk nor the board appraiser is required by statute to complete board of property tax appeals training.

Verification

The designated chairperson should verify that all members have completed training at the first administrative meeting of the board or as soon as possible thereafter. The chairperson should also take responsibility for seeing that any member who has not completed training does not sit on a board unless it is necessary to establish a quorum. The clerk should include copies of training verification in the record.

ORS 309.022(1)

Meetings

Public Meeting Defined

A public meeting occurs when the governing body of a public body convenes to make decisions or recommendations to the public. The governing body must consist of two or more members, be created pursuant to the constitution, a statute, administrative rule, intergovernmental agreement or by-law, and have a quorum of members present.

Examples of governing bodies include:

- Boards.
- Commissions.
- Councils.
- Committees or subcommittees.

ORS 192.610(3)

Meeting Procedures

Most boards follow general meeting procedures (for example, *Robert's Rules of Order*) when holding meetings. Such procedures call for seconds to motions, but each board may decide what its procedure regarding motions will be at its first meeting.

Board meetings are open to the public except when the room is cleared for confidential hearings.

All official actions of the board must be made by a public vote.

The room chosen for board meetings should be easily accessible by the public and well-marked. If the door is kept closed, a sign should be posted welcoming public entrance.

Meetings can be held by telephone conference calls or other electronic communication if notice and opportunity for public access are provided.

ORS 192.670(1)

For the board of property tax appeals, two members must be present to constitute a **quorum**. At least a quorum must be present at any meeting in which a decision is made.

ORS 309.020

Debriefing meetings held after the board adjourns are not considered public meetings because the board will not be making any decisions.

The Board Session

The board of property tax appeals must convene on or after the first Monday in February of each year, but not later than the date necessary for the board to complete its work by April 15. The board session is on-going except for weekends, holidays, and periodic recesses.

ORS 309.026

During the first administrative meeting of the members of the pools, a designated chairperson should lead the members through the following items or use the checklist on page 5-4:

- Convene the session and state the date, time, and place of the meeting and those persons present.

ORS 309.026

- Take the verbal oath of office and then administer the oath to all pool members from whom the clerk may select persons to sit on the boards. After the verbal oaths are given, all members should sign the written oaths and give them to the clerk to include in the board record.

ORS 309.070

- Verify that the daily meeting notice has been posted.

ORS 192.640

- Verify all members of the pools have completed required training and enter training verifications into the board record.

ORS 309.022

- Reach an agreement with the clerk about whether the clerk shall attend meetings of the board, and who will be responsible for keeping the record.

ORS 309.024

- Confirm whom the county clerk has selected to act as legal advisor to the board.

ORS 309.024

- Confirm with the clerk whether a board appraiser has been hired. If an appraiser will be hired, discuss the circumstances under which the appraiser will be used.

ORS 309.024

- Confer with the clerk to determine whether more than one board will be necessary based on the number of petitions received.
- Ask the clerk to review the names of the members of the pools selected to sit on the boards.
- Determine the time to be allotted for each hearing.
- Establish a policy regarding rescheduling hearings.
- Establish a policy about whether or not the board will swear in witnesses.
- Discuss the procedure for making telephone conference calls.
- Establish a policy about security measures and how to handle uncooperative petitioners.
- Discuss what constitutes a quorum.
- Discuss whether the board wishes to authorize one member or the clerk to issue amended orders to correct clerical errors on behalf of the board. Complete a written designation of the appointment and file it with the clerk.

ORS 309.020

ORS 309.100

ORS 309.110

- Establish a policy for how to handle late-filed petitions.
- Decide whether the board will make its decisions and recalculate values while the taxpayer is present or at another meeting.
- Decide on a policy about the circumstances under which the board will reduce a penalty instead of waiving 100 percent of the penalty if good and sufficient cause exists; or the year for which the return was filed was both the first year that a return was required and the first year a return was filed.

ORS 308.295

ORS 308.296

- Discuss procedures for holding executive sessions and for maintaining confidentiality of real and personal property returns. Have each member and the clerk read and sign the "Secrecy Laws Certificate."
- Schedule additional meetings, if necessary.

Executive Sessions

An executive session is any meeting or part of any meeting that is closed to certain persons for deliberation on certain matters.

A meeting during which information submitted on a confidential real or personal property return is discussed should be held in executive session. If the board does not hold the hearing in executive session, the assessor or the Department of Revenue will not be able to discuss the information from the return.

For more information on executive sessions, see Chapter 15 in this manual.

ORS 192.610(2)

Minutes

A written or audio record of all board proceedings must be kept as a part of the official record of the board. The clerk should advise the board at the first administrative meeting which type of record will be kept. If the board and clerk decide that the clerk will not attend all meetings of the board, then it will be the chair's responsibility to maintain an accurate record.

If written minutes are used, they must give a true reflection of the matters discussed at the meeting and the opinions of the participants. Written minutes must include at least the following:

- All board members present.
- The substance of any discussion on any matter.
- A reference to any document discussed at the meeting (this reference shall not affect the status of the document under ORS 192.410 to 192.505).
- All motions, proposals, resolutions, orders proposed, and their disposition.
- The result of all votes and how each member voted.

The hearing record form, discussed under "Board Clerk," will satisfy the requirements of the written minutes law if it also contains the information listed above.

If an audio record of meetings is kept, it is important to check the tape to make sure that all people speaking can be heard. Audio records of confidential hearings must be kept separately from the tapes of public meetings.

The public must be allowed access to the tapes of all public meetings. The clerk must also provide copies of the tapes upon request. The clerk may charge a fee for this service. It is not necessary for tapes to be transcribed into written format.

The records of the boards must be kept according to the retention schedule established by OAR Chapter 166, Division 40. The state archivist establishes retention schedules. For more information, please call (503) 373-0701.

ORS 309.024

ORS 192.650

Adjournment

The board or boards of property tax appeals shall adjourn no later than April 15. However, the board(s) may adjourn before April 15 if they have completed all their functions.

Below is a brief summary of the tasks the board of property tax appeals must complete before adjourning the session.

- Issue orders for all petitions for which hearings were held, including petitions filed late or those that were not corrected by the amended filing deadline. Do not issue orders for petitions for which stipulations were filed with the clerk prior to the time the board convened the session.
- Amend orders to correct errors from the regular session.
- Appoint a board member or the clerk to issue amended orders to correct clerical errors on behalf of the board (if this was not done at an earlier meeting).
- Give vouchers for reimbursement to the clerk.
- Discuss any unfinished housekeeping items.

The board can meet by call of the chairperson through June 30 to correct clerical errors or errors of jurisdiction appearing in its original orders.

ORS 309.026

ORS 309.110

BOPTA Chairperson's First Meeting Checklist

- _____ 1. Convene the session, and state the date, time, place of the meeting, and those persons present.
- _____ 2. Take and administer a verbal oath of office to all pool members.
- _____ 3. Sign the written oaths and file them with the BOPTA clerk.
- _____ 4. Verify that the daily meeting notice has been posted.
- _____ 5. Verify all members of the pool have completed required training and enter this verification into the board record.
- _____ 6. Reach an agreement with the clerk about whether the clerk shall attend meetings of the board, and decide who will be responsible for keeping the record of the board.
- _____ 7. Confirm who will act as legal advisor to the board.
- _____ 8. If a board appraiser will be hired, discuss the circumstances under which the appraiser will be used.
- _____ 9. Confer with the clerk to determine whether more than one board will be necessary based on the number of petitions received.
- _____ 10. Ask the clerk to review the names of the members of the pools selected to sit on the board(s).
- _____ 11. Determine the time to be allotted for each hearing.
- _____ 12. Establish a policy regarding rescheduling hearings.
- _____ 13. Establish a policy about whether or not the board will swear in witnesses.
- _____ 14. Establish how to handle telephone conference calls.
- _____ 15. Establish a policy about security measures and how to handle uncooperative petitioners.
- _____ 16. Establish a policy of the proof necessary that a petitioner has filed timely.
- _____ 17. Discuss what constitutes a quorum.
- _____ 18. Discuss whether the board wishes to authorize one member or the clerk to amend orders that contain clerical errors, and appoint the member or clerk accordingly. Complete a written designation of the appointment and file it with the clerk.
- _____ 19. Decide whether the board will make its decisions and recalculate values while the taxpayer is present or at another time.
- _____ 20. Decide on a policy about the circumstances under which the board will reduce a penalty instead of waiving 100 percent of the penalty if good and sufficient cause exists or the year for which the return was filed was both the first year that a return was required and the first year a return was filed.
- _____ 21. Schedule additional meetings.

Public Notices

Requirements

It is the intent of the Public Meeting Laws that governing bodies of public bodies make decisions that affect the public openly. Boards of property tax appeals are considered to be “governing bodies” for purposes of the public meetings law. This means that the boards of property tax appeals have a statutory obligation to inform the public, through their clerks, of the dates and times when they will meet to deliberate and make decisions. The meeting place is required to be accessible to people with disabilities.

ORS Chapter 192

The board of property tax appeals clerk in each county notifies the public of the first meeting of the board in a document informally referred to as the “Notice of the Session.”

The “Notice of the Session” should contain the following information:

- The time and place of the first meeting of the board.
- The duties that the board is authorized to perform, such as:
 - Hear petitions for reduction of real market, maximum assessed, specially assessed, or assessed value of property as of January 1, or as determined under ORS 308.146 (5) (a), ORS 308.146(6), ORS 308.146(8), or ORS 308.428.
 - Hear petitions for reduction of value corrected under ORS 311.208.
 - Hear petitions to waive penalties for late filing of real or personal property returns.
- The last day for filing a petition with the board.
- A statement about the board’s authority to hold executive sessions.

ORS 309.025

Posting Notice

The notice of the session must be posted in six conspicuous places in the county. We recommend

posting the notice three weeks before the beginning of session. Suggested places include the courthouse bulletin board, city hall, post office, assessor’s office, or any bulletin board where county or city public meeting notices are regularly posted.

ORS 309.025

Affidavit of Posting

Proof must be provided that the notice of the session of the board of property tax appeals is posted. The proof of notice is an affidavit prepared by the clerk of the board that specifies the date, time, place, and method by which the notices were posted. This affidavit must be filed in the office of the county clerk on or before the date the board convenes.

ORS 309.025

Daily Meeting Notices

The boards must notify the public of day-to-day meetings in a way that gives notice to all interested parties. These daily or weekly meeting notices are required in addition to the posting notices of session.

The notices may be posted in the courthouse or annex where the hearings will be held no less than 48 hours prior to the hearing date. They should be posted where all other public notices are posted. It is not necessary to **publish** the notices. The news media should be notified if it has requested notice.

These notices will serve to inform the public of the boards’ agendas, but do not limit the ability of the board to consider additional subjects.

The boards can hold special meetings (one brought about by unusual circumstances) with only 24-hour notice.

ORS 192.640

ORS 309.025

Understanding the Valuation Process

This chapter of the manual contains a brief discussion of the methodology used to establish the values that appear on the assessment and tax rolls.

Appraisal Cycle

Assessors attempt to revalue property either on a regular basis or when data indicates reappraisal is necessary. The law no longer requires all property to be reappraised every six years.

To do this, the assessor divides the county into “appraisal areas,” “neighborhoods,” “value areas,” or “hot spots.” Each year the assessor’s appraisal staff estimates the real market value (RMV) for properties within identified reappraisal areas. Properties that are not included in the reappraisal area are valued based on market trends identified in the “Assessor’s Certified Ratio Study.” The ratio study is discussed in Chapter 8 of this manual.

ORS 308.234
ORS 309.200

The Assessment Date

Oregon law requires all property to be valued “as of the assessment date for the tax year.” The definition of assessment date for most property is “January 1 at 1:00 a.m. of the assessment year.” The tax year is based on the fiscal year, July 1 through June 30.

ORS 308.210

Real Market Value (RMV)

The assessor must value all property within the county at 100 percent of its real market value. The statutory definition of “real market value” is:

“. . . the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm’s length transaction occurring as of the assessment date for the tax year.”

Real market value is determined in accordance with the following:

- 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.

- An amount in cash shall be considered the equivalent of a financing method that is typical for a property.
- 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.

ORS 308.205

Real market value can go up or down depending upon the market and circumstances specific to the property.

How Real Market Value (RMV) is Established

The assessor establishes the property values on the assessment roll through the appraisal process.

Webster’s gives the following definition of “appraise”:

“. . . to set value on: estimate the value of . . . to evaluate the worth, significance, or status of. . . to give an expert judgment of the value or merit . . .”

The basis of the appraisal process is the comparison of property that has not sold to properties that have sold at prices typical for the type of property being valued. In addition to sales, income and rents are also used to establish some property values.

The most in-depth appraisal requires a physical or on-site inspection of the property. As part of this process, the appraiser takes an inventory of all improvements. This includes measurements and complete descriptions of all buildings, decks, fences, paving, and other additions to the land. The condition and functional utility of the property are also reviewed. Based on the information gathered, the appraiser classifies the property using guidelines and manuals provided by the Department of Revenue or other cost sources.

Finally, the appraiser uses all information and accepted appraisal methods to determine the RMV of the land, the buildings, and on-site development (OSD).

Many counties no longer physically reappraise property on a regular basis, but adjust values annually through what is called automated valuation modeling (AVM). In Oregon, we sometimes refer to AVM as “recalculation.” Automated valuation modeling uses a mathematically based computer software program to produce an estimate of market value based on location, market conditions, and real estate characteristics.

Maximum Assessed Value (MAV)

Maximum assessed value is a term that was created by Measure 50, a property tax measure Oregon voters passed in 1997. Maximum assessed value for the 1997–98 tax year (the year the measure was implemented), was the 1995–96 real market value reduced by 10 percent and adjusted for certain changes to the property that occurred between the 1995 and 1997 tax years. For the 1998–99 tax year and all following tax years—MAV is defined as the **greater** of 103 percent of the prior year’s assessed value or 100 percent of the prior year’s MAV—plus the MAV of any exception value (exception value is defined below.)

ORS 308.146

Assessed Value (AV)

Assessed value is defined as the **lesser** of the property’s real market value or maximum assessed value.

ORS 308.146

Exceptions

An exception is any change to property excluding general ongoing maintenance and repair or minor construction. An exception allows MAV to be increased above the three percent limitation. Examples of changes to property that qualify as an exception include: new construction or additions; major remodeling; renovation; rehabilitation; adding site improvements to land; siting a manufactured structure; rezoning with use consistent with the change in zoning; and partitions or subdivisions. Property added to the roll as omitted property or property that is disqualified

from exemption or special assessment is also treated as an exception.

ORS 308.149

Changed Property Ratio (CPR)

The changed property ratio is used to calculate the maximum assessed value of an exception. The assessor calculates the CPR by dividing the average MAV of all unchanged properties in the same area and property class by the average RMV of all unchanged properties in the same area and property class. (ORS 308.149 defines “area” as the “county.”) The RMV of the exception is then multiplied by the CPR to calculate the maximum assessed value for the exception. The purpose of multiplying the RMV of the exception by the CPR is to bring the MAV of new (changed) property to the same general assessment level as unchanged property.

ORS 308.153

General Ongoing Maintenance and Repair

General ongoing maintenance and repair includes work and materials that are needed to maintain a structure in average condition without significantly changing the design or materials. The increase in value to a property attributed to general ongoing maintenance and repair does not qualify as an exception and may not be added to MAV. For example, replacing the 15-year-old composition shingle roof cover on a house with similar quality composition shingles is considered general ongoing maintenance and repair. The roof cover replacement may increase the property’s RMV, but MAV cannot be adjusted. In contrast, replacing the old composition shingle roof cover with a concrete or clay roof is considered an upgrade to the roof cover and the difference in real market value due to the upgrade in the roofing material qualifies as an exception if it meets the minor construction test.

OAR 150-308.149-(A)

Minor Construction

Minor construction is a change to property that would qualify as an exception, except that it has a real market value of \$10,000 or less in a single assessment year, or an accumulation of \$25,000 or less during five assessment years. If the \$25,000 minor construction accumulation is exceeded

prior to five years, the accumulation pool and the five-year period are reset for the next year. Minor construction does not increase MAV, but can increase RMV.

For a single year, the value of all new property and new improvement exceptions are combined to see if the \$10,000 threshold has been exceeded. For example:

A \$1,500 driveway and a \$6,000 outbuilding are added to a property in one assessment year. The exception value is \$7,500. In this case, the RMV of the new improvements is below the minor construction single year limit. The \$7,500 will be added to the account's RMV, then added to the accumulation pool and tested against the \$25,000 limit.

When new property and improvement value exceeds \$25,000 in the accumulation pool during the five-year period, the value is added to MAV in two steps. The first step is to identify all value in the accumulation pool that has not already been used to adjust MAV. The second step is to

multiply that value by the current year CPR and add it to MAV.

Adjustments to Maximum Assessed Value

Depending on the circumstances, MAV may be adjusted in one of four ways:

1. Changes where only a portion of the property qualifies as an exception. The RMV of the exception is multiplied by the CPR and added to the "base MAV." The base MAV is the current year MAV of the portion of the property that was on the assessment roll for the previous tax year. As previously discussed, the current year MAV is the greater of 103 percent of the prior year's assessed value or 100 percent of the prior year's MAV. Examples of this type of exception are:

- New property or new improvements to property.

| | Exception RMV | Pool RMV | Adjustment RMV | |
|-------------------|---------------|-----------|----------------|--|
| Example 1: | | | | |
| Year 1 | \$7,500 | \$7,500 | \$0 | Does not qualify by either test. |
| Year 2 | \$11,000 | \$18,500 | \$11,000 | Qualifies by individual year test. |
| Year 3 | \$7,000 | \$25,500 | \$14,500 | Qualifies Year 1 and Year 3 by five-year accumulation test. |
| Example 2: | | | | |
| Year 1 | \$8,500 | \$8,500 | \$0 | Does not qualify by either test. |
| Year 2 | \$100,000 | \$108,500 | \$108,500 | Qualifies by individual year test. Qualifies Year 1 by five-year accumulation test. |
| Reset | | Reset | | |
| Year 1 | \$9,500 | \$9,500 | \$0 | Does not qualify by either test. |
| Example 3: | | | | |
| Year 1: | \$12,000 | \$12,000 | \$12,000 | Qualifies by individual year test. |
| Year 2 | \$0 | \$12,000 | \$0 | Does not qualify by either test. |
| Year 3 | \$5,000 | \$17,000 | \$0 | Does not qualify by either test. |
| Year 4 | \$7,000 | \$24,000 | \$0 | Does not qualify by either test. |
| Year 5 | \$0 | \$24,000 | \$0 | Does not qualify by either test. |
| Year 6 | \$11,000 | \$23,000 | \$11,000 | Qualifies by individual year test. Year 1 value of \$12,000 has fallen off the accumulation total so it does not qualify by accumulation test. |

- Property that is being added to the roll as omitted property.
- Property that is disqualified from partial exemption.
- Property that is re-zoned and only part of the property is used consistently with the new zone.
- Property that is disqualified from special assessment when only part of the property was specially assessed.
- Property that is partitioned or subdivided when the property includes an improvement not affected by the subdivision or partition.

Sample Calculation:

In the example below the property owner built a new outbuilding during the calendar year. The assessor “picked up” the exception and added it to the roll for the tax year.

*Values on Previous Tax Roll
Prior to Change in Property*

| | |
|-----------|------------|
| Land RMV | \$ 50,000 |
| Bldg RMV | 95,000 |
| Total RMV | 145,000 |
| Total MAV | 123,250 |
| Total AV | \$ 123,250 |

*Values on Current Tax Roll after
Adjustment for the Change in Property*

| | |
|--------------------------------|------------|
| Land RMV | \$ 50,000 |
| Bldg RMV | 135,000 |
| Total RMV | 185,000 |
| Base MAV (123,250 × 1.03) | 126,940 |
| Exception RMV (new building) | 40,000 |
| CPR | .83 |
| Exception MAV (40,000 × .83) | 33,200 |
| Total MAV (base MAV + Exc MAV) | 160,140 |
| AV (lesser of RMV or MAV) | \$ 160,140 |

Note: Numbers are rounded down to the nearest \$10.

2. Changes that allow the assessor to calculate a new RMV for the entire property. The new RMV is then multiplied by the CPR to establish a new MAV. There is no base MAV; the property is 100 percent exception value. Examples of this type are:

- New property (no prior tax account),
- Property that is partitioned or subdivided—when the property includes an improvement defined as affected under OAR 150-308.156(5)-(A) or all lots are vacant,
- Property that is disqualified from an exemption and the entire property was exempt,
- Property that is re-zoned and the entire property is used consistently with the new zone, and
- Property that is disqualified from special assessment and the entire property was specially assessed.

Sample Calculation:

In the example below, the property owner purchased a house that was recently built on a lot that did not exist during the previous tax year. All of the property qualifies as an “exception” for the tax year.

*Values on Tax Roll after
Adjustment for the Change in Property*

| | |
|----------------------------------|------------|
| Land RMV | \$ 100,000 |
| Bldg RMV | 300,000 |
| Total RMV | 400,000 |
| Base MAV (account did not exist) | 0 |
| Exception RMV (land, OSD & bldg) | 400,000 |
| CPR | .85 |
| Exception MAV (400,000 × .85) | 340,000 |
| Total MAV (base MAV + Exc MAV) | 340,000 |
| AV (lesser of RMV or MAV) | \$ 340,000 |

3. Changes that require a MAV balance. In this process, MAV is shifted between accounts, but the total MAV of all affected properties remains the same.
 - Lot line adjustments.

MAV can also be adjusted for properties affected by fire or act of God. If the fire or act of God took place before the January 1 assessment date, the assessor must adjust MAV at the same time the RMV of the property is adjusted. If the fire or act of God happened during the period beginning on January 1 and ending on July 1 (following the assessment date), MAV can be adjusted for the current tax year if a qualified person files an application to have the property value determined as of July 1. The taxpayer must file an application with the assessor by the later of August 1 of the current year or the 60th day

following the date of the damage or destruction. If no application is filed or if the damage or destruction occurred after July 1, MAV will be adjusted for the following year.

Also, the assessor may adjust MAV when a building is demolished or removed from the property. The taxpayer must file an application by December 31 to request this adjustment to MAV.

Personal Property

Personal property is any property not classified as real property.

Generally, tangible personal property is taxable in Oregon if it is currently being used or is being held for use in a business, or is floating property. Examples of taxable personal property are: moveable machinery, tools, equipment, supplies, office furniture, law books, shelving, fork lifts, etc. Houseboats are considered floating property and are taxable as personal property.

Each year, the assessor sends personal property owners a *Confidential Personal Property Return*. Both business property and floating property must be reported on a personal property return. From the information supplied by the taxpayer in the personal property return, existing records, depreciation tables, and physical inspections (if necessary), the assessor calculates the real market value of the personal property. **(The minor construction RMV limit test does not apply to personal property.)**

Personal property returns are due back to the assessor on or before March 1 of each year. The assessor may grant a filing extension to April 15 if the taxpayer shows good cause in their request.

If the total value of all the personal property assessed to an individual taxpayer within a county is below a certain amount, the assessor will cancel the assessment for the property for the current tax year. The threshold amount increases or decreases each year based on changes in the U.S. City Average Consumer Price Index.

ORS 308.250

If returns are not filed timely or the taxpayer fails to file a return, the taxpayer is assessed a penalty. The penalty is 5 percent of the tax owed if the return is filed after March 1, but on or before June 1. The penalty increases to 25 percent

of the tax owed if the return is filed after June 1, but on or before August 1. If a return is filed after August 1, or the owner fails to file a return, the penalty assessed is 50 percent of the tax owed. Personal property manufactured structures are not reported on a personal property return and should be appealed on a real property petition.

The board of property tax appeals has jurisdiction to waive all or a portion of a penalty assessed for the late filing of a personal property return. The circumstances under which BOPTA may waive or reduce a late filing penalty are discussed in detail in Chapter 16.

ORS 308.250

ORS 308.290

ORS 308.296

Industrial Property

Industrial property with a real market value for the improvements, machinery, and equipment of more than \$1 million, are appraised by the Oregon Department of Revenue. Industrial accounts that have a real market value for the improvements, machinery, and equipment of less than \$1 million are appraised by the county in which the property is located.

County responsibility industrial accounts are reported to the assessor on a *Real Property Return*. The assessor may also ask owners of other types of property to file a return.

State responsibility industrial accounts are reported to the department on an *Industrial Property Return*. An *Industrial Property Return* is also referred to as a combined return, because both real and personal property are reported to the department on the return.

If returns are not filed timely, the taxpayer is assessed a penalty. For county responsibility accounts, the penalty is \$1 for each \$1,000 of assessed value of the property, with a minimum penalty of \$10 and a maximum penalty of \$250.

For state responsibility accounts, the penalty is \$10 for each \$1,000 of assessed value of the property, with a minimum penalty of \$10 and a maximum penalty of \$5,000.

The board of property tax appeals has jurisdiction to waive all or a portion of a penalty assessed for the late filing of a *Real Property Return* or an

Industrial Property Return. The circumstances under which BOPTA may waive or reduce a late filing penalty are discussed in detail in Chapter 16.

The county is responsible for the appraisal of the land under state responsibility accounts.

ORS 308.290
ORS 308.295

Specially Assessed Property

The legislature has established several programs that create value levels below market value for certain types of property. The intent in establishing these programs was to create incentives in the form of lower taxes to encourage specialized

property uses. Each program has specific application and use requirements. Examples of types of property that may qualify for special assessment are farmland, forestland, historic property, qualified multi-unit rental property, and open space. In addition to real market value and maximum assessed value, specially assessed properties have two additional values. They are the specially assessed value (SAV) and the maximum specially assessed value (MSAV).

SAV is the value obtained by applying the specially assessed statutes appropriate for the property type. MSAV depends on the specific special assessment program, but generally follows the same rules as MAV.

The Ratio Study

Ratio Study Defined

Oregon law requires that all property within a county be valued at 100 percent of its real market value as of the assessment date. For properties the assessor is unable to reappraise, the real market value is adjusted based upon percentages from the Assessor's Certified Ratio Study.

The ratio study is an analysis of how the real market value on the prior year's tax roll compares to the actual market value for the property within each property class and market area.

The study contains the assessor's plans for adjusting the prior year's values to create the new real market value on the assessment roll. The ratio study is mandated by ORS 309.200.

The assessor files an electronic copy or two paper copies of the ratio study with the Department of Revenue no later than July 1 of each year. The department will consider, for due cause, granting a filing extension until August 1. The department reviews the ratio study and makes recommendations about the assessor's plan.

The assessor must file one copy of the ratio study with the clerk of the board of property tax appeals not later than October 15 of each year. The copy filed with the clerk can be either paper or electronic.

Ratio Analysis

A ratio shows how two numbers compare to each other. This comparison is expressed as a fraction and multiplied by 100. Ratios are calculated by simple division in the same way a percentage is.

Example: The ratio of 90 to 100 is:

$$\frac{90}{100} \text{ or } \frac{9}{10} \text{ or } .90 \text{ or } .90 \times 100 = 90$$

Any of these is a ratio. In general, the example shown above is the format used in assessment ratio studies.

To find out if the prior year's real market value needs to be adjusted, the county sales analyst compares the roll value of properties that have sold with actual sale prices. The result of this comparison is a sales ratio. It shows the percentage of the sale price the roll value represents. When the real market value on the prior year's roll is the same as the sale price, the ratio will be 100.

REMEMBER! When the ratios are below 100—
market values are increasing!

When the ratios are above 100—
market values are decreasing!

Formula: Ratio = $\frac{\text{Prior Year RMV}}{\text{Sale Price}}$

Example: Prior Year RMV = \$200,000

Sale price = \$250,000

$$\frac{200,000}{250,000} = \frac{4}{5} = .80 = .80 \times 100 = 80$$

A prior year RMV of \$200,000 is 80 percent of the sale price of \$250,000.

This process is extended by using as many valid sales as possible for each property class and market area. In Oregon, the law requires the assessor to use sales in the ratio study that occurred between January 1 and December 31 of the previous assessment year. This period is called the "sales collection" year. Sometimes it may even be necessary to analyze more than one year's sales in order to draw an accurate conclusion from the data.

The sales analyst arranges the sales in ratio order from the lowest to the highest ratio. This arrangement is called an "array."

Sample array:

| | | | | Sale | |
|---|------------------|------------------|---|------------|-----|
| (Prior year RMV ÷ sale price) x 100 = ratio | | | | Num | |
| | \$114,000 | \$190,000 | = | 60 | 1 |
| | \$217,500 | \$235,000 | = | 93 | 2 |
| | \$272,000 | \$280,000 | = | 97 | 3 |
| | <u>\$180,000</u> | <u>\$175,000</u> | = | <u>103</u> | 4 |
| Totals | \$783,500 | \$880,000 | | | 353 |

After the sales are arrayed, measures of central tendency are calculated and analyzed for each array.

The three most commonly used central tendencies are the mean, the weighted mean, and the median. For the above sample array, these tendencies are:

$$\begin{aligned} \text{Mean} &= 88 \\ \text{Weighted Mean} &= 89 \\ \text{Median} &= 95 \end{aligned}$$

Below is an explanation of the central tendencies most commonly used in a ratio study and a brief discussion of how each of the measures may be influenced.

1. The mean or arithmetic mean:

The mean is the average of all the ratios in the array. It is equally influenced by each ratio and may, therefore, be easily distorted if there are extremely high or low ratios in the array. If the array does not contain extreme ratios, it may be considered an accurate measurement.

2. Weighted mean:

The weighted mean is calculated by dividing the total prior year real market values of the properties that sold by the total of the sale prices. The weighted mean is not greatly distorted by extreme ratios, but may be distorted by large dollar amounts, which are not typical of the others in the array. Sales that fall at either end of the array and have much larger real market values or selling prices may affect this measure adversely.

3. The median:

The median is the exact middle ratio in an array of ratios. It is influenced only by the position of the ratios in the array, and not by their values. The median may be the best indicator when the array contains a grouping of

similar ratios nearby and when the mean is skewed by extremes.

Other statistical measures, which may be included in a ratio study, are:

1. The geometric mean:

The geometric mean is calculated by multiplying the ratios in the array together and finding the *n*th root of the result, where *n* equals the number of ratios. This measure of central tendency is specifically designed for averaging ratios of price changes and is less influenced by extreme ratios than the mean and weighted mean.

2. The mode:

The mode is the most frequently occurring ratio within the array.

3. Price-related differential, or PRD:

The price-related differential is calculated by dividing the mean by the weighted mean and is used to measure assessment regressivity or progressivity. Appraisals are considered *regressive* if high-value properties are under-appraised relative to low-value properties and *progressive* if high-value properties are relatively over-appraised compared to low-value properties. A price-related differential greater than 1.00 may be an indication that the high-value parcels are under-appraised. A price-related differential less than 1.00 may be an indication that high-value parcels may be over-appraised.

4. Coefficient of Dispersion:

This computation is important in measuring uniformity of assessment. The coefficient of dispersion shows how much the values in a given array vary from the median central tendency. The lower the percentage of variability, the more values are clustering to the center and the greater the uniformity within the sample.

Sale Qualification

The assessor's staff analyzes all property transfers that take place during the collection period to determine whether the sales meet the definition of an arm's-length transaction. Sales that don't meet the definition of an arm's-length

transaction are rejected and not included in the ratio study.

Sometimes, the sales price of a property must be adjusted before it can be used in the ratio study. Sales prices often include more than just the land and buildings. Many sales prices include furniture, machinery, livestock, timber, orchard trees, and farm crops. The sales data analyst subtracts the value of the non-taxable elements included in a sales price before calculating the sales ratio for the property.

Ratio Selections and Conclusions

The sales analyst studies the three central tendencies and other statistical measures and reaches a conclusion about which one best represents the level of assessment for the property class or market area. The reasons for the selection should be explained in the report.

Note: The ratio selected for improved property is an overall ratio for both the land and the buildings. Because the law requires the assessor to carry a separate land and building value on the roll, these must be adjusted separately. Therefore, the sales analyst has to determine how to allocate the overall ratio between these components. If the board members wish to know more about this “weighting” procedure, they should ask the sales data analyst for details.

Trend to January 1

Because market conditions may have changed during the “sales collection” year, the sales used in the study need to be analyzed to determine if an adjustment should be applied to bring the sale prices or ratio indications to January 1 (the assessment date). Sales analysts throughout the state use several different methods in analyzing and applying adjustments based on market movement over time.

Adjustment of the Assessment Roll

The selected ratios are used to adjust the real market value of property on the assessment roll

to 100 percent of market value. To correctly compute the adjustment, the analyst divides 100 by the selected ratio. The resulting figure multiplied by each real market value on the roll will bring the majority of the real market values to 100 percent of market value.

Example:

$$\frac{100}{80} = 1.25 \text{ Adjustment Factor}$$

An adjustment factor of 1.25 must be applied to (multiplied by) each real market value on the tax roll to bring the values for the property class to 100 percent of real market value.

Department Recommendations

The Department of Revenue studies the ratio report and makes recommendations about the assessor’s plan. Current policy specifies that the department will mail its recommendations to the assessor by August 31. A copy of the department’s recommendation will be sent to the county governing body for its information.

The Board’s Role

Although the assessor must file a copy of the ratio study with the board by October 15 of each year, the board is not required to review the study and make recommendations to the assessor. However, the board may review the study if it chooses to do so and may ask the assessor for additional information about the adjustments that will be made to the assessment roll based on the report.

For a more detailed explanation of the ratio study process and purpose, refer to the 2007 *Assessor’s Certified Ratio Study Procedures Manual*. You can access the ratio manual on the department’s website at www.oregon.gov/dor/property, on the left navigation bar, click on “Forms & Publications,” then under “Publications,” click on “Ratio Manual, 150-303-437.” You can also ask the assessor for a paper copy.

Jurisdiction

Definition

Jurisdiction is a term used to describe the “sphere of authority” of the board of property tax appeals. The word encompasses the board’s capacity, power, and right to act. This chapter of the manual discusses the jurisdiction of the board and how its decision-making authority is limited by law.

ORS 309.026

Review of Petitions

Each petition should be reviewed before the hearing to determine if the board has the authority to hear the appeal. The clerk initiates the review process, but the final decision regarding whether the board has jurisdiction to hear an appeal is up to the board. This review should answer such questions as:

- Is the petitioner appealing the current year’s value or values?
- Is the petition complete and correct?
- Does the petitioner’s request fall within the board’s jurisdiction?
- Does the person who signed the petition have the authority to do so, and is the authorization to represent, power of attorney, or court appointment attached (if required)?

Authority

ORS 309.026 grants the board of property tax appeals in each county the authority to hear petitions for the reduction of the following values on the property tax roll:

- Real market value (RMV).
- Specially assessed value (SAV).
- Maximum assessed value (MAV).
- Maximum specially assessed value (MSAV).
- Assessed value (AV).
- Any value for destroyed or damaged property changed by the assessor for July 1.
- Value added to the roll prior to December 1 under ORS 311.208.

- MAV reduction for buildings that have been demolished or removed when the taxpayer has filed an application with the assessor to reduce MAV for the year when RMV was reduced.

The statute also allows the board to consider applications to waive the liability for all or a portion of the penalty imposed under ORS 308.295 or 308.296 for the late filing of a *Real Property Return*, an *Industrial Property Return*, or a *Confidential Personal Property Return*.

In spite of the broad authority granted by ORS 309.026, BOPTA lacks jurisdiction to hear appeals of centrally assessed property or appeals of the SAV of forestland.

Reasons for Dismissal

BOPTA must dismiss a petition if any of the following situations occur:

1. The petition is not filed timely.
2. The petition is defective. The requirements of a petition are discussed in Chapter 11.
3. The value requested on the petition is higher than or equal to the value on the current year’s tax roll. This situation is discussed in Chapter 12 (Changes to the Roll and Stipulations).
4. The board lacks jurisdiction to hear the appeal.

Below are examples of requests the board lacks jurisdiction to act on:

- The reduction of a prior year’s value.
- An exemption or partial exemption of property taxes.
- A deferral of property taxes. (e.g. specially assessed forestland or farmland qualification.)
- An increase in the total value of the property.
- Relief for damage or destruction of property that occurred after the assessment date unless the value has been changed for July 1 by application to the assessor.
- The reduction of value added to the roll after the certification of the roll, unless the value

was added prior to December 1 and affects the current year only.

If the board acts on a petition that should be dismissed, the order of the board can be overturned in a subsequent appeal.

When the board dismisses an appeal for lack of jurisdiction, a formal order must be issued. The order should include the reason for the dismissal and the appeal rights of the petitioner.

Appeals of Real Market Value

When a taxpayer completes the real market value portion of the petition, the board should act on the following values:

- The RMV of the property on the current tax roll.
- The RMV of any “exception” on the current tax roll.
- The MAV of the property on the current tax roll. In an appeal based on RMV, the MAV of the property will not change unless the board orders a reduction to the RMV of the exception. If there is no exception, the board should sustain MAV.
- The AV of the property on the current tax roll. Assessed value is always the lesser of RMV or MAV for property that is not specially assessed. An appeal of real market value can have a direct affect on the assessed value if: (1) the board reduces the total RMV of the property below the maximum assessed value currently on the roll, or (2) the board reduces the RMV of an “exception” on the current year’s roll, and AV is equal to MAV. If the appeal of real market value does not result in a change to AV, then AV should be sustained.

A reduction in real market value that does not result in a change to assessed value can also reduce the taxes if the property is under compression. Compression is discussed in detail in Chapter 13.

Remember! If the board reduces the real market value of a property below the maximum assessed value currently on the roll, the RMV will become the new assessed value.

Value Components

The real market value on the tax roll may consist of various components such as land, buildings, manufactured structures, on-site improvements, or machinery and equipment. The petitioner

may request a reduction in any component of value and the board is limited to acting only on that component.

For example:

- If the petitioner is asking for a reduction in the value of the land component only, the board can only act on the RMV of the land.
- If the petitioner is asking for a reduction in the improvement value only, the board can only act on the RMV of the improvement.

However, the assessor may request that the board reach a decision regarding another component or the total value. The board may act on the values requested by the assessor.

The taxpayer may also choose to appeal the total value of the property and not include the individual components in the appeal. Such a petition allows the board to increase the value of one component as long as the total real market value is reduced or sustained.

OAR 150-309.026(2)-(A) allows the petitioner to request an increase in the RMV of one component as long as the petitioner is not requesting an increase in the total value of the property.

Property Affected by Current Year Exception

If there is a current year exception assessed to the property, the board must determine whether the real market value attributable to the exception is correct and include this in the order. Exception value is not shown on property tax statements but is available from the assessor’s records.

When making the adjustments to the property real market value and the exception real market value, the board needs to pay close attention to the relationship between the two values. Sometimes the adjustment to the property RMV may be exactly the same as the adjustment to the exception. Sometimes it may be a different amount. How these adjustments are made depends on the type of change to the property the exception represents.

The board should remove (or change to zero) the exception value added to MAV when:

1. The board reduces the RMV attributed to an exception to an amount equal to or below

\$10,000, which causes it to be classified as minor construction; or

- The board determines that a change to the property the assessor classified as an exception should be classified as general ongoing maintenance and repair.

Refer to OAR 150-308.149(6) for guidelines on minor construction. See OAR 150-308.149-(A) for guidelines on general ongoing maintenance and repair.

Board actions on an “exception” may result in one of the following examples:

Example 1:

The board reduces the property RMV, but sustains the RMV of the exception because the members believe the building value (including the value of the new building) is correct. MAV doesn’t change.

Values from Current Roll

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|---------|---------------|--------|-------------------------|---------|----------|---------|
| Land | 45,000 | Land | 0 | Current Year Base MAV | 96,000 | | |
| Building | 95,000 | Building | 12,000 | Exception RMV x .85 CPR | 10,200 | | |
| Total | 140,000 | Total | 12,000 | Total MAV | 106,200 | Total AV | 106,200 |

Values as Found by Board

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|---------|---------------|--------|-------------------------|---------|----------|---------|
| Land | 42,000 | Land | 0 | Current Year Base MAV | 96,000 | | |
| Building | 95,000 | Building | 12,000 | Exception RMV x .85 CPR | 10,200 | | |
| Total | 137,000 | Total | 12,000 | Total MAV | 106,200 | Total AV | 106,200 |

Example 2:

The board reduces the RMV of the exception from \$34,000 to \$22,000 (a reduction of \$12,000). The new real market value of the exception is multiplied by the CPR and the resulting number is then added to the current year base MAV to arrive at the new MAV for the property. In this example, the board also reduces the building RMV for the property by \$12,000 (from \$168,000 to \$156,000). The board also reduces the land value by \$10,000.

Values from Current Roll

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|---------|---------------|--------|-------------------------|---------|----------|---------|
| Land | 78,000 | Land | 0 | Current Year Base MAV | 154,000 | | |
| Building | 168,000 | Building | 34,000 | Exception RMV x .85 CPR | 28,900 | | |
| Total | 246,000 | Total | 34,000 | Total MAV | 182,900 | Total AV | 182,900 |

Values as Found by Board

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|---------|---------------|--------|-------------------------|---------|----------|---------|
| Land | 68,000 | Land | 0 | Current Year Base MAV | 154,000 | | |
| Building | 156,000 | Building | 22,000 | Exception RMV x .85 CPR | 18,700 | | |
| Total | 224,000 | Total | 22,000 | Total MAV | 172,700 | Total AV | 172,700 |

Example 3:

The board reduces the RMV of the exception to a number less than \$10,001. The exception value used in the calculation of MAV is removed from the calculation (or reduced to zero). The assessor adds the new \$9,000 RMV exception value to the “minor construction pool.” In this example, the property RMV is adjusted by the same amount as the RMV of the exception.

Values from Current Roll

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|----------------|---------------|--------------|-------------------------|---------------|----------|---------|
| Land | 30,000 | Land | 5,000 | Current Year Base MAV | 92,000 | | |
| Building | <u>105,000</u> | Building | <u>8,500</u> | Exception RMV x .85 CPR | <u>11,475</u> | | |
| Total | 135,000 | Total | 13,500 | Total MAV | 103,475 | Total AV | 103,475 |

Values as Found by Board

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|----------------|---------------|--------------|-------------------------|----------|----------|--------|
| Land | 28,000 | Land | 3,000 | Current Year Base MAV | 92,000 | | |
| Building | <u>102,500</u> | Building | <u>6,000</u> | Exception RMV x .85 CPR | <u>0</u> | | |
| Total | 130,500 | Total | 9,000 | Total MAV | 92,000 | Total AV | 92,000 |

Example 4:

The board rules that a change to a property was incorrectly classified as an exception by the assessor and should have been considered ongoing maintenance and repair. The exception value used in the calculation of MAV is removed from the calculation (or reduced to zero). In this example, the property RMV is sustained because the board believes the repairs have increased the property RMV.

Values from Current Roll

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|----------------|---------------|---------------|-------------------------|---------------|----------|---------|
| Land | 78,000 | Land | 0 | Current Year Base MAV | 154,000 | | |
| Building | <u>145,000</u> | Building | <u>25,000</u> | Exception RMV x .85 CPR | <u>21,250</u> | | |
| Total | 223,000 | Total | 25,000 | Total MAV | 175,250 | Total AV | 175,250 |

Values as Found by Board

| Property RMV | | Exception RMV | | MAV | | AV | |
|--------------|----------------|---------------|----------|-------------------------|----------|----------|---------|
| Land | 78,000 | Land | 0 | Current Year Base MAV | 154,000 | | |
| Building | <u>145,000</u> | Building | <u>0</u> | Exception RMV x .85 CPR | <u>0</u> | | |
| Total | 223,000 | Total | 0 | Total MAV | 154,000 | Total AV | 154,000 |

Appeals of Maximum Assessed Value

BOPTA has the authority to hear appeals of the maximum assessed value of property but the board’s jurisdiction is restricted to reviewing the accuracy of the assessor’s calculation. If the board determines the assessor erred in the calculation of MAV, the board can order the assessor to correct the roll

Following are examples of issues taxpayers may raise that do not involve the question of real market value.

- Property class. The petitioner may assert the MAV of an exception is incorrect because the assessor assigned the wrong property class to the property. The changed property ratio used in the calculation of maximum assessed value is based on property class. Property class is defined in OAR 150-308.215.
- Changed property ratio (CPR). The petitioner may assert the maximum assessed value of an exception is incorrect because the assessor used the wrong CPR when calculating

the MAV of the exception. To prevail in such a case, the appellant has to prove that an error was made in either the manner in which the property classes were grouped or in the values used in the calculation of the ratio.

- Exceeding the 3 percent limitation. The taxpayer may assert the assessor exceeded the 3 percent limitation when calculating MAV.

Appeals of Personal Property

If the account is a personal property account, the petitioner may appeal the value assessed to a particular item, category, schedule, or the total personal property value assessed to the account. The board can only act on the item, category, or schedule being appealed, unless the assessor requests that the board act on another item, category or schedule, or the total value. If the taxpayer chooses to appeal the total RMV rather than specific items, categories, or schedules, the board may act on any or all components on the roll.

Appeals of Additions of Value

ORS 311.208 allows the assessor to make corrections to the roll that increase value on the current year tax roll after roll certification, if the notice of the correction is mailed to the taxpayer before December 1. This applies only to value added for the current tax year.

The property owner can appeal these additions of value to the board of property tax appeals and the board can act on these additions as it would on any other appeal. See Chapter 12 for a further discussion of these types of additions to value.

The value of omitted property added to the roll on or after December 1 must be appealed to the Magistrate Division.

Appeals of Late Filing Penalties

The board of property tax appeals has the authority to waive all or a portion of the penalty imposed for the late filing of an *Industrial Property Return*, *Real Property Return*, or *Confidential Personal Property Return*.

The circumstances under which BOPTA may waive or reduce a penalty are discussed in detail in Chapter 16.

There is no appeal from an order of the board for petitions to waive late filing penalties.

Appeals of Specially Assessed Value

Because there is not a separate petition form for specially assessed property, taxpayers may need to attach additional pages to the real property petition form to clarify the values they are appealing.

BOPTA has jurisdiction to hear appeals of most, **but not all** specially assessed values.

The board lacks jurisdiction to grant special assessments or hear appeals of the disqualification of property from special assessment.

The department recommends the board work closely with the assessor in determining new values for all types of specially assessed property.

• Specially Assessed Farm Land

For specially assessed farmland, the board of property tax appeals **has** jurisdiction to change the following values:

—Real market value (RMV).

—Maximum assessed value (MAV). The guidelines for changing MAV for specially assessed property are the same as those for non-specially assessed property.

—Specially assessed value (SAV). The petitioner may base an appeal of SAV on the following issues:

- Incorrect values assigned to classes of property. For such an appeal to be successful, the petitioner must prove that an error was made in the assessor's farm use study and that the value attributed to a particular class of farm land throughout the value area is incorrect.

- Incorrect class assigned to property.

- Incorrect value area assigned to property.

—Maximum Specially Assessed Value (MSAV). If the board changes SAV due to the correction of a land class or value area, MSAV can also be changed to the corresponding MSAV for the class.

- **Specially Assessed Forestland**

Under current law, the following procedures apply to appeals of specially assessed forestland:

1. BOPTA has jurisdiction under ORS 321.222 and ORS 309.100 to hear appeals of the **real market value** (RMV) of specially assessed forestland. A reduction of RMV by BOPTA may affect the assessed value of specially assessed forestland if the RMV is reduced below the SAV or the MAV of the property. [ORS 321.833(4)(b)]
2. BOPTA also has jurisdiction to hear appeals of the specially assessed value of a specially assessed forest **home site**.
3. **BOPTA lacks jurisdiction to act on the certified per acre specially assessed forestland values.** The specially assessed value (SAV) of forestland (highest and best use or designated) can only be appealed to the Oregon Tax Court under ORS 321.219. The timeline for appealing the certified forestland values is after they are certified and before July 1 of the tax year. The appeal must be filed by five or more taxpayers owning in the aggregate not less than 5 percent of the total forestland in a single land market area.
4. If a forestland owner disagrees with the **land class** assigned to the property, the owner may request that the Department of Revenue review the classification (ORS 321.348). If the department determines the land class is inaccurate, the department will change the classification and immediately certify the change to the county assessor. The department must receive requests by April 1 in order to have a redetermination of land class reflected on the tax roll for the tax year beginning the following July 1.

The department recommends BOPTA processes appeals involving specially assessed forestland in the following manner.

1. First, determine whether the petitioner is appealing a component of the specially assessed value that the board has jurisdiction to hear. For example, the board has jurisdiction to hear appeals of specially assessed home sites and specially assessed farmland. The property class should

indicate whether there is more than one property type included in the account.

2. If the appeal pertains **only** to the SAV of forestland, the board should dismiss the petition for lack of jurisdiction.
3. If the appeal is of **both** the SAV of forestland and another component, issue two orders. The first order should deal with the property the board has jurisdiction over, and the second order should be an order of dismissal for the specially assessed forestland value appeal. In a case such as this, the clerk should create a numbering system that will serve as a flag that more than one order has been issued for the account. The order of dismissal should clearly identify that it is only the appeal of the specially assessed forestland portion of the property that is being dismissed. The value of the specially assessed forestland should be included in the SAV of the property shown on the first order, because it is part of the total SAV of the property.

- **Other Special Assessments**

The board can hear appeals of value for all other special assessments without restrictions.

Destroyed or Damaged Property— July 1 Value Determination

If property is destroyed or damaged during the period beginning on January 1 and ending on July 1 of the assessment year, the owner (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. The application must be filed with the assessor the later of August 1 of the current year or the 60th day following the date of the damage or destruction. **This applies to all destroyed or damaged property, not just property destroyed or damaged by fire and act of God.**

If property is destroyed or damaged **by fire or act of God**, MAV will also be adjusted downward for the current year, if the application discussed above is filed with the assessor. If the property is destroyed or damaged by fire or act of God, but no application is filed with the assessor, MAV

can be adjusted for the following tax year if the assessor has knowledge of the damage.

BOPTA has the authority to review any value adjusted by the assessor for July 1 subsequent to the filing of an application by a qualified person.

Destroyed or Damaged Property— No July 1 Value Determination

If a property is destroyed or damaged on or after January 1, and the property owner does not file an application with the assessor to have the property valued for July 1—the board cannot hear an appeal for reduction based on the damage. The board should dismiss the petition or have the petitioner amend it and ask the board to review the value of the property as it existed on January 1.

Destroyed or Damaged Property— Prior to January 1

The board can always review the value of property as it existed on January 1 of the assessment year.

If property was destroyed or damaged prior to January 1, the board can reduce the real market value of the property based on the damage. If the assessor has already reduced the RMV, the board can review the value to see if they agree with the reduction. If the assessor has not adjusted MAV due to a fire or act of God that damaged the property prior to January 1, the board can adjust MAV.

Requests for Exemption or Partial Exemption

The board of property tax appeals does not have the authority to grant an exemption. A petition requesting an exemption or partial exemption should be dismissed for lack of jurisdiction. If the assessor has disqualified the property from exempt status, the owner must appeal to the Magistrate Division within the time period allowed by law. **The board can act** on the value of the property placed on the roll subsequent to the disqualification.

Appeals of Omitted Property Value

Value added to the roll after the tax statements are mailed cannot be appealed to the board of

property tax appeals unless it was added under ORS 311.208.

The board should dismiss the petition for lack of jurisdiction.

The owner should file an appeal with the Magistrate Division within 90 days after the correction to the roll is made.

If the value was added under ORS 311.208 and the owner is notified prior to December 1, the board can hear the appeal. See Chapter 12 for a further discussion of these types of additions to value.

Requests to Reduce Value to Zero

A perfected petition requesting the board to reduce an account's value to zero is a valid petition. However, the board must be very careful in any action they take on such a petition. Reducing the total value of an account to zero may have the effect of creating an exemption, and this is outside the jurisdiction of the board's authority.

In some circumstances, after consultation with the assessor or board appraiser, it may be appropriate to change the improvement portion of the property to zero.

Reductions Below Requested Amount

The board can reduce a value to an amount less than that requested by the petitioner if it has information that supports the reduction. For example, if the assessor recommends the value be changed to a number below the requested amount, the board can order the reduction if it thinks the recommended value is accurate. The petitioner does not need to amend their petition.

Acreage Corrections

The board of property tax appeals can adjust the real market value of property to correspond with a change in the acreage, but can't order the assessor to change the amount of the acreage that appears on the tax roll.

For example: A taxpayer appeals the real market value of his property to the board of property tax appeals. He claims he has recently had a new survey made of his property and it shows the property consists only of 12.23 acres, instead of the 15.50 acres listed on the tax roll. He claims the real market value of his property should be adjusted to reflect the change in the acreage. The

value on the tax roll was based on \$4,500 per acre for a total value of \$69,750.

When reviewing this petition, the board should keep in mind that an error in the amount of the acreage may not directly affect the value of the property. It is up to the board to determine whether the error in the acreage resulted in an error in the value and make any necessary corrections.

If the board determines the value of the property was incorrect, the board may order a change to the value on the roll. If the value being appealed is an exception, the board may adjust the maximum assessed value of the property accordingly.

The board cannot order the assessor to change the amount of the acreage showing on the tax roll.

Property Assessed as an Undivided Interest

The assessor may issue separate tax statements for undivided interests in real property. OAR 150-309.110(1)-(D) sets out the procedure for appeals of undivided interests. Refer to the rule for information about the requirements of petitions, evidence, and orders for appeals of undivided interests. The *BOPTA Clerks' Manual* has sample forms specific to this type of appeal. Condominiums are the most common type of property assessed as an undivided interest.

Who Has Standing to Appeal

Who Qualifies as the Petitioner

Throughout this manual we refer to the person who has the legal right to appeal to BOPTA as the “petitioner.” This person may be:

- The owner of the property.
- An owner (if the property is owned by more than one person).
- Any person who holds an interest in the property that obligates the person to pay the taxes imposed on the property.

An interest that obligates the person to pay the taxes includes a contract, lease, or other intervening instrumentality (document). Mortgage agreements in which the mortgagee (the company that holds the mortgage) agrees to pay the taxes do not qualify as an intervening instrumentality for this purpose.

If the petitioner is not the owner of record, the person filing the petition must provide written proof of the obligation with his or her petition. However, if the person’s name appears on the tax roll, he or she need not provide proof of the obligation.

Examples of people who **may** qualify as “a person who holds an interest” are a lessee, a contract purchaser, or a contract seller. Also, either a buyer or seller of property may qualify under this definition if they participated in a transaction that closed on or after July 1 of the current tax year and provide a copy of the escrow instructions which show they paid part of the property taxes.

If the petitioner has not attached written proof of his or her obligation to pay the taxes, the petition should be treated as defective and processed according to the procedures discussed in Chapter 11 of this manual.

ORS 309.100

OAR 150-309.100(3)-(C)

OAR 150-309.100-(D)

Who May Sign Without Written Authorization from the Petitioner

The following people may sign a petition and act on behalf of (represent) the petitioner **without** a written authorization from the petitioner:

- An attorney duly qualified to practice law in Oregon. The attorney must include his or her Oregon State Bar number on the petition.
- Legal guardian or conservator acting on behalf of an owner of the property. If the name of the guardian appears on the deed, no other authorization to represent is necessary; if the guardian’s name does not appear on the deed, the board should ask for a copy of the court appointment.
- Executor or administrator of the estate of a deceased person. The board may ask for verification of the court appointment. If verification is requested, but not provided, the board shall make its own determination of whether the petition is valid.
- Other trustees. If the trustee’s name appears on the deed, other authorization is not required. If the trustee’s name does not appear on the deed, the board should ask for a copy of the trust document naming the trustee.
- A trustee in bankruptcy proceedings. It’s good policy to ask for verification of the court appointment, but if verification is not provided, accept the petition as it is.

Who May Sign With Authorization

The following people can sign the petition and represent the person legally qualified to appeal if they have been given an authorization to represent or limited power of attorney.

- A relative. “Relative” is defined as: spouse, (step)son, (step)daughter, (step)brother, (step)sister, (step)father, (step)mother, grandchild, grandparent, nephew, niece, son- or daughter-in-law, brother- or sister-in-law, father- or mother-in law. A spouse includes an Oregon registered domestic partner. [ORS 106.340(8)]
- A person licensed as a real estate broker under ORS 696.022.

- A state-certified appraiser or state-licensed appraiser under ORS 674.310.
- A registered appraiser under ORS 308.010.
- A person duly qualified to practice public accountancy in Oregon. This person may be a certified public accountant (CPA) or public accountant licensed in the state of Oregon, or a CPA from another state who holds a substantial equivalency authorization (SEA) permit from the Oregon Board of Accountancy. The person signing the petition must include his or her individual Oregon license number or permit number on the petition.
- The lessee of the property, if the lessee is not obligated to pay the taxes imposed on the property. If the lessee is obligated to pay the taxes on the property, the lessee qualifies to appeal as a “person who holds an interest in the property that obligates the person to pay the taxes imposed on the property.”

An authorization to represent or limited power of attorney authorizes someone else to sign the petition and appear and represent the person legally qualified to appeal, at the hearing. Petitions received without the necessary authorization or signed by a person who is not legally entitled to represent the petitioner should be considered defective and treated as any other defective petition.

For the purpose of board of property tax appeals petitions, an authorization to represent or power of attorney may be either on a form or in a letter. A power of attorney does not have to be notarized for this purpose and copies do not have to be certified.

Attorney-in-Fact

An attorney-in-fact holding a general power of attorney signed by an owner of the property may sign the petition and represent an **owner** of property at BOPTA. The attorney-in-fact must provide a copy of the general power of attorney with the petition or the petition should be treated as defective. For BOPTA purposes, a general power of attorney form does not need to be notarized.

ORS 309.100
OAR 150-309.100(3)-(C)

Who Qualifies as a Business Owner

The person who signs a BOPTA petition for a business must have authority to legally bind

the company or be regularly employed in the tax matters of the business. Companies have complete flexibility to assign varying responsibilities and authority to positions. A person with a certain business title in one company who legitimately has authority to sign a petition may not have the same authority in another company. If the clerk has any doubt regarding a business agent’s authority to sign a petition, the clerk should contact the agent in writing or by phone and ask if the person has the authority to make legally binding decisions for the owner of the company. If that person claims authority, the clerk should document this in the record.

Following are some “rules of thumb” for identifying people who qualify to sign the petition or authorize a qualified representative to sign the petition for various business entities.

Corporation—Officers of corporations such as president, vice-president, secretary, treasurer, chief executive officer (CEO), or managing officer.

Limited Liability Company (LLC)—The manager or any member.

Church—Pastor, rector, deacon, president of the board, or senior board member (not just a board member).

Association—President or managing officer.

Fraternity/Sorority—Usually does business as a corporation. See corporation.

Partnership—A general partner.

Sole Proprietorship—The owner.

Trust—Trustee, managing member, or managing agent.

Company—Can be any business entity, such as: corporation, partnership, joint venture, sole proprietorship, or association. See appropriate type above.

An **employee regularly employed in the tax matters** of a corporation or other business entity may also sign the petition as an agent for the business without written authorization.

Witnesses

A person legally qualified to appeal, or his or her authorized representative, may send someone to the hearing to act as a witness and provide

information without giving that person written authorization. A witness cannot sign the petition, sign a stipulation, or receive the order on behalf of the petitioner. The owner or owner's representative does not have to be present at the hearing with the witness.

Transfers of Ownership

Petitioners may qualify to appeal if they are: (1) the owner(s) of the property during the petition filing period, or (2) a person who holds an interest in the property that obligates them to pay the taxes on the property.

As discussed previously, an interest that obligates a person to pay the taxes may include a contract, lease, or other intervening instrumentality. The term "other intervening instrumentality" has been interpreted to include the escrow instructions which both the buyer and seller sign, and which designate how the current year's property taxes are to be prorated between the parties of a transaction.

This means that both the buyer and seller of a property may be qualified to appeal depending on when ownership changes and who agrees to pay the property taxes. Following are some examples of various situations that may accompany ownership changes:

Example 1:

A property sells during the early part of September of the current tax year and the sellers pay part of the estimated taxes due against the property at the close of escrow. The tax statement is issued in the new owner's name. Who has a legal right to appeal?

- The sellers have a legal right to appeal, but only if they can provide a copy of the closing documents showing they paid a portion of the property taxes. The buyers can appeal because they are now the owners of the property. The buyers do not have to provide

proof of ownership, because the ownership change has already been processed on the tax roll.

Example 2:

The current owner of the property files a petition during the month of November. The owner accepts earnest money against the property on December 10 and the transaction closes on December 28. The new owner files a petition with the board on the last day of the petition filing period. Who has the legal right to appeal?

- Both the seller and the buyer have the right to appeal because both parties were "owners" of the property when they filed their petitions. The buyer needs to provide proof of ownership. Both petitions are valid.

Example 3:

A petition is filed in December by someone who has signed an earnest money agreement to purchase property but will not sign the final papers until January 10. Is this person legally entitled to appeal the value of the property?

- No. The "petitioner" will not become the owner of the property until after the petition filing period ends. The board must dismiss the petition.

If both the buyer and the seller of property are qualified to appeal, the clerk of the board should attempt to schedule one hearing in which both parties will present their evidence of the value of the property. If it is not possible for both parties to appear at the same time, the board should hold separate hearings, but wait to make the decision until it has heard both parties' evidence. If it is necessary to hold two hearings, the board needs to notify the first party of when the second hearing will be held. Only one order showing both petitioners' names should be issued by the board, with a copy sent to both parties.

Petitions

Definition

The purpose of a petition is to inform a board of property tax appeals of the basis of a taxpayer's request for a reduction in the value of his or her property or a waiver of a late filing penalty. The Department of Revenue provides three forms that the public can use to appeal. The three forms are the *Real Property Petition*, the *Personal Property Petition*, and the *Petition for Waiver of Late Filing Penalty*. The forms are updated annually.

Petitions may be submitted to the board on a published form or in a letter.

Where Petitions are Filed

Petitions must be filed at the county clerk's office in the county where the property is located. The assessor is not authorized to accept petitions to the board of property tax appeals. Petitions may also be faxed to the office of the county clerk.

ORS 309.100

When Petitions are Filed

Petitions must be filed between the period following the date the tax statements are mailed for the current tax year and December 31, unless the conditions discussed in the next paragraph apply.

If December 31 falls on a Saturday, Sunday, or a legal holiday, the filing deadline for petitions shall be extended to the next business day.

Any petition, whether defective or complete, is considered timely filed on "the date shown by the cancellation mark or other record of transmittal, or on the date it was mailed or deposited if proof satisfactory to the addressee establishes that the actual mailing or deposit occurred on an earlier date."

ORS 305.820

ORS 309.100

OAR 150-309.100(2)-(A)

Petition Requirements

A petition must contain the following information to be considered complete:

- The petitioner's name.

- The name and title of the person acting for a business petitioner if petitioner is a business.
- The name of petitioner's representative; the relationship of the representative to the petitioner; and the representative's license or permit number. This information is only required when the petition is not signed by the petitioner.
- The address where notifications and decisions are to be mailed. If a representative is designated on the petition, all correspondence regarding the petition must be mailed to the representative.
- The assessor's account number. The account number may be a unique identification number or a map and tax lot number. If a copy of the current year's tax statement is attached, the account number is not required on the petition.
- If appeal is of RMV, the real market value on the current tax roll that is being appealed. If a copy of the current year's tax statement is attached, the real market value being appealed is not required on the petition.
- If appeal is of RMV, the real market value requested for the property being appealed.
- If appeal is of RMV, the real market value on the tax roll and the real market value requested for the individual items or categories/schedules of personal property being appealed.
- The assessed or specially assessed value of the property on the current tax roll and the value requested—if the taxpayer is not appealing the real market value.
- The amount of any penalty being appealed. An amount for a requested penalty is not required.
- The facts on which the appeal is based.
- A notation of whether the petitioner or his or her authorized representative wishes to be present at the hearing.

- A declaration that the facts provided are true. The declaration is provided on the petition forms.
- The signature of petitioner or representative.
- The authorization to represent (if applicable).

ORS 309.100
OAR 150-309.100(3)-(A)

Procedures for Defective Petitions

Petitions that do not contain all of the information listed above or that are unreadable are defective and must be corrected before the board can consider them. The clerk logs in defective petitions and then returns a copy of the original petition to the petitioner along with a *Defective Petition Notice*. The clerk may choose to stamp “amended” on the petition before returning it to the petitioner so it can be identified as an amended petition when it arrives back at the office.

The petitioner is allowed **20 calendar days** from the mailing date of the defective notice or until the **last day** for filing a petition with BOPTA, **whichever is the later date**, to correct the defect in the petition. This date is referred to as the “amended filing date.”

If the petition is not corrected by the amended filing date, the board must dismiss the petition. The petitioner does not have to be notified of the time of the hearing during which the board will dismiss the petition.

If the petitioner returns a petition, but hasn’t corrected all the errors, the board is not required to allow the petitioner another 20 days to make the corrections.

The clerk should not amend or change a filed petition. Only the petitioner or the petitioner’s representative is allowed to alter the information provided in the original petition.

The administrative rule noted below outlines the procedures for dealing with petitions that aren’t identified as defective until 20 days or less remain of the BOPTA session.

OAR 150-309.100(3)-(B)

Amended Petitions

In addition to amending a petition to comply with a defective petition notice, petitioners may

also amend a petition up to and including the time of their regularly scheduled hearing for the following reasons:

- To add or delete land or improvements that are components of the account originally appealed.
- To add a separate account, that together with the original account appealed, creates a “parcel” within the meaning of OAR 150-308A.256(1)(a).
- To add a manufactured structure account that is sited on the account originally appealed.
- To designate or change an authorized representative.
- To change the value requested.

OAR 150-309.100(3)-(B)

Petitions Filed Late

Petitions to the board of property tax appeals shall be deemed filed or received on the date shown by the cancellation mark or other record of transmittal, unless the person who mailed or deposited the petition can provide satisfactory proof to the board that it was actually mailed or deposited on an earlier date.

ORS 305.820(1)(a) States that any petition required by law to be filed with the county boards of property tax appeals which is mailed through the United States mail will be considered filed or received on the date shown by the cancellation mark or other record of transmittal, or on the date it was mailed if the petitioner provides proof satisfactory to the board that it was mailed earlier than the postmark.

The courts have ruled that relying solely on the postmark is an abuse of the board’s discretion. There must be a factor in addition to the postmark that may prove the petition is timely-filed. The board decides what that other proof is. It could be a letter from the postmaster stating that all letters mailed on a certain date were postmarked incorrectly.

All boards should have a written policy in place about how they will handle late-filed petitions and what they will accept in addition to the postmark that may prove the petition is timely filed.

The procedure described below allows a petitioner an opportunity to appear before the board

and provide such proof, and the department recommends that counties follow these procedures when processing late-filed petitions.

- Schedule a hearing even though the petition indicates the petitioner does not wish to be present. Give the petitioner (or the representative) at least five days notice of the hearing.
- Prepare a “Notice of Late Filing.”
- Mail the notice to the petitioner or the petitioner’s representative.
- At the hearing, the board listens to evidence regarding when the petition was mailed or deposited with the United States Postal Service or private express carrier.
- If the petitioner or representative cannot provide proof that the petition was deposited on or before the date due for filing, the board must dismiss the petition.
- If the petitioner or representative can provide proof that the petition was deposited on or before the date due for filing, the board may proceed to hear the merits of the appeal or ask the clerk to schedule another hearing.
- If the petition was signed after the filing deadline, the board should hold a hearing and dismiss the petition. It could not have been deposited timely if it was signed after the deadline. The clerk should not send a *Notice of Late Filing* or notify the petitioner of the time the board will hold the hearing to dismiss the petition.

Lack of Jurisdiction

Taxpayers sometimes ask BOPTA to perform actions that are outside the board’s jurisdiction. BOPTA has no authority to act on requests that are outside its jurisdiction and the board must dismiss these petitions. However, the petitions are not technically defective and the clerk should not send a defective notice. The clerk may send a letter to the petitioner explaining that the board will be required to dismiss the petition. In certain cases, the petition may be amended up until or during the hearing.

Appeal of Real Market Value

The majority of appeals filed with BOPTA are based on a disagreement between the property owner and the assessor about the real market

value of the property subject to the appeal. An appeal of real market value may or may not affect the assessed value of the property.

An appeal of RMV can have a direct effect on a property’s assessed value if:

1. the board reduces the total real market value of the property below the maximum assessed value currently on the roll, or
2. the board reduces the real market value of an “exception” on the current year’s roll and the AV is equal to MAV. Any reduction in the RMV of an exception will result in a reduction in the maximum assessed value of the property. If the AV is equal to MAV, a reduction of taxes will also result.

A reduction in the real market value that does not result in a change to the assessed value may reduce the taxes for the property if the property is under compression. Compression is discussed in Chapter 13 of this manual.

Board Actions

When the petitioner completes the real market value portion of the petition, the board is not limited to acting on RMV only, but must also act on the MAV and AV of the property. This means that:

- If the taxpayer appeals the real market value and the property has no exception, the board must act on the RMV, the MAV, and the AV of the property.
- If the taxpayer appeals the RMV of the property and the property has an exception, the board must act on the RMV, the RMV of the exception, the MAV, and the AV of the property.

OAR 150-309.110(1)

Components of Real Market Value

Petitioners may choose to appeal either the total real market value of their property or the value of any or all components—land, building, manufactured structure, or machinery and equipment, etc.

Requests for Increases in Value

The board lacks jurisdiction to increase the overall value of property because the statute specifies that the board may only hear petitions for reduction. The clerk and the board should follow

these steps when processing petitions asking for increases:

- If a petition is filed requesting an increase in the **total** value of the property, the clerk should not send a defective notice. The petitioner may amend the petition at the hearing to request a reduction. If the petition is not amended, the board must dismiss the petition for lack of jurisdiction.
- If a petition is filed requesting an increase in one component of value and a decrease in the other component of value, the clerk should not send a defective notice. The board may increase one component of value and reduce the other component as long as there is not an increase in the total value of the property.

OAR 150-309.026(2)-(A)

Evidence of Property Value Section

Completion of certain portions of the “Evidence of Property Value” section on the real property petition form satisfies the requirement that petitioners provide a basis for their appeal in the petition. This requirement may also be fulfilled by submitting an attachment to the petition that indicates the basis for the appeal. The BOPTA clerk in each county has been provided with additional criteria to assist the board in determining whether this requirement has been satisfied. If this section has been left blank or answered in a way that does not provide a “basis” for the appeal, and no explanation is attached, the petition should be considered defective and returned to the petitioner.

The board should also look here for evidence supporting the petitioner’s asserted value such as a sales price, list price, or appraised value.

This section of the real property petition form may also indicate whether the property has an “exception” and the asserted value of the exception. However, all changes to property may not be considered “exceptions” in the tax year under appeal. The assessor must confirm information about whether a change to property has been assessed as an “exception.”

Appeal of Maximum Assessed Value

The petition forms provided to the public do not include a line to appeal the maximum assessed

value (MAV) of property to BOPTA. For most properties, a taxpayer may assert the assessor made an error in the calculation of MAV by completing the assessed value portion of the form. However, if the assessed value is equal to the real market value, and the petitioner desires to appeal MAV—the petitioner should include this as part of the basis of his or her appeal. Examples of potential errors in the calculation of MAV that may be used as the basis for an appeal are listed below:

1. The assessor assigned the wrong property class to the property and the wrong CPR was used to establish the MAV of an exception.
2. The assessor made an error in calculating the CPR for a property class that resulted in an error in the MAV of an exception.
3. The assessor exceeded the 3 percent limitation allowed by law in establishing the MAV of the property.

Personal Property Petitions

Personal property should be appealed on a personal property petition. This includes floating property.

In an appeal of personal property, the petition may include a request for a reduction of any of the following:

1. The RMV of an individual item or items of personal property determined by the assessor and the RMV of the item or items requested by the petitioner.
2. The total RMV of a category (e.g., office furniture) determined by the assessor and the total RMV of the category requested by petitioner.
3. The total RMV of a schedule determined by the assessor and the total RMV of the schedule requested by the petitioner. Schedules listed on the returns reporting only personal property consist of:

Schedule 1 — Leased or Rented Personal Property

Schedule 2 — Non-inventory Supplies

Schedule 3 — Floating Property

Schedule 4 — Professional Libraries

Schedule 5A — All Other Taxable Personal Property

Schedule 5B — Small Hand Tools

4. The total RMV on the tax roll of all property assessed to the account and the total RMV of all property assessed to the account requested by the petitioner.

Petitions for Waiver of Late Filing Penalties

The board of property tax appeals has the authority to waive or reduce all or a portion of a penalty imposed for the late filing of an "Industrial Property Return," a "Real Property Return," or a "Confidential Personal Property Return." There is a separate petition for this appeal.

The requirements for this petition are the same as for the real property petition except for the value sections. Petitioners must state the amount of the penalty they are appealing and the reason why they were unable to file the return timely.

Appeals of Specially Assessed Property

Petitioners who wish to appeal the value of specially assessed property should complete the "Specially Assessed Value" line on the real property petition. Board members should refer to the chapter on "Jurisdiction" for a more complete discussion of appeals of specially assessed property.

Withdrawn Petitions

Petitioners may request their petition be withdrawn for any reason prior to the time the board issues the order. Requests for withdrawal must be submitted in writing to the clerk of the board. A formal order of dismissal must be issued for each petition for which a request for withdrawal has been submitted, except when a stipulation has been filed under ORS 308.242(3) prior to the time the board convenes the session.

OAR 150-309.100(2)-(B)

Changes to the Roll and Stipulations

Additions of Value

ORS 311.208 allows the assessor to increase the value of property after tax roll certification, and prior to December 1 due to the correction of an error or the discovery of additional property. The corrections that can be made under this statute are the same as those errors and omissions described in ORS 311.205 and ORS 311.216.

When the assessor makes a correction under this section, the following rules apply:

- The correction applies only to the current roll.
- The assessor notifies the taxpayer of the additional tax but is not required to mail a 20-day letter of intent to add value to the roll.
- **The property owner can appeal the addition of value to BOPTA.**
- If more than the current year is being corrected, the assessor should follow the procedure for corrections described in ORS 311.205 to 311.232. This procedure requires a 20-day notice of intent and the appeal is to the Magistrate Division.
- This section does not allow increases in value of property already on the roll due to changes in valuation judgment.

ORS 311.208

Reductions in Value Prior to January 1

The law also allows the assessor to **reduce** the value of property after roll certification through December 31 of the tax year. The assessor can do this whether or not a petition has been filed with BOPTA. The change may be made at the request of a taxpayer or on the assessor's own initiative.

If the assessor reduces the value of property prior to January 1 and a petition has been filed with BOPTA, the petition must be resolved even though the assessor has already changed the tax roll. The petition can be resolved in either of the following ways.

1. Via a stipulation filed prior to the time the board convenes the session. This process is described below; or
2. According to the following procedure when no stipulation is filed prior to the time the board convenes the session.
 - a. When the petition is requesting a value higher than or equal to the adjusted roll value, the board must issue an order dismissing the petition. The board dismisses the petition because there is no longer a controversy over the value of the property.
 - b. When the petition is requesting a value lower than the adjusted value, the board must review the adjusted value and issue an order sustaining or correcting the adjusted value.

ORS 308.242
OAR 150-309.110-(A)

Stipulations

When a petition has been filed with BOPTA, the assessor often attempts to reach an agreement with the petitioner about the value of the property under appeal before the BOPTA hearing takes place. If the assessor and the petitioner can reach an agreement to a reduced value for the property under appeal, both parties sign a stipulation. A stipulation is a written agreement between two parties. It must be signed by both parties, dated when signed, and filed with the BOPTA clerk. A petitioner is not required to amend their petition to equal the stipulated value. **The time when a stipulated agreement is filed with the clerk determines how the stipulation affects county procedures.**

Stipulations—Filed Prior to Time Board Convenes

The assessor may reduce the value of property on the tax roll after December 31 and without an order of the board when:

1. A petition has been filed with BOPTA.
2. The assessor and the petitioner (or the petitioner's representative) sign a stipulation prior to the **date** the board convenes the session.

3. The assessor files the stipulation with the board clerk prior to the **time** the board convenes the session.

The phrase “convenes the session” means the first meeting of the year during which the board opens the BOPTA session under ORS 309.026.

The assessor cannot change the roll until after the stipulation has been filed with the clerk.

If the assessor files a stipulation with the clerk of the board prior to the time the board convenes the session, the filing of the stipulation resolves the appeal. **The board does not hold a hearing or issue an order.**

Because no order is issued, ORS 309.115 (the adjudicated value statute) does not apply.

ORS 308.242
ORS 309.110
OAR 150-308.242(3)

Stipulations—Filed At or After Time Board Convenes

If the assessor and the petitioner reach an agreement about the value of the property and file the stipulation at or after the time the board convenes, different procedures apply.

- The board has to hold a hearing and issue an order. If the board has a policy of accepting stipulations, the hearing may simply address the agreed-upon values with no further discussion. The assessor’s representative that obtained the stipulation may inform the petitioner of the option of not appearing at the hearing.
- The stipulation is entered into the record of the board as evidence of value for the board to consider. The board is not required to “accept” a stipulation that’s filed at or after the time the board convenes the session; however, the

board should have a very good reason for not accepting a value that has been agreed upon by both parties to the appeal. If the board chooses not to accept the stipulated value, this should be noted in the record of the board.

- The assessor cannot change the value on the roll until the board issues the order.
- The taxpayer can appeal the order to the Magistrate Division. However, the court may dismiss the appeal if the petitioner has previously stipulated to the value.

Contents of Stipulations

The Department of Revenue has designed two stipulation forms that are available for the counties to use or some counties design their own forms.

The Department of Revenue form contains the following information:

- Petition number,
- Tax year affected,
- Name of petitioner,
- Account number of property being appealed,
- RMV, RMV of the exception, MAV, and AV of the property being appealed,
- Changes in value agreed upon by the assessor and the petitioner,
- Signature of assessor’s representative,
- Signature of petitioner or petitioner’s representative, and
- Date of the agreement.

One of the forms contains a statement that ORS 309.115 does not apply to changes in value resulting from stipulations filed under ORS 308.242.

The agreement does not have to be notarized.

Tax Compression

How the Assessor Calculates Compression

Typically, the assessor calculates the taxes due against a property by multiplying the assessed value (AV) of the property by the tax rate of the taxing districts in which the property is located. However, if the amount of tax calculated by this method is higher than the Measure 5 (M5) constitutional limits for the education and government categories, the taxes due against a property must be reduced to fit within the limits. In this situation, the tax is under “compression” and is calculated by multiplying the real market value (RMV) of the property by the constitutional limits of \$5 per thousand of RMV for the education category and \$10 per thousand of RMV for the general government category.

The assessor knows if the tax for a property is under compression by applying the “M5 test.” The M5 test checks the taxes to be levied against the \$5 and \$10 category limits. If the taxes are less than the limits, the taxes will be billed without compression. If the taxes to be levied are more than either the \$5 education limit, or the \$10 general government limit, the taxes will be reduced until they fit under each limitation. The M5 test is applied to every taxable property in the county on an individual basis.

BOPTA and Compression

Compression is a complicated calculation and board members are not expected to understand it in detail. What this chapter of the manual is meant to convey is that **M5 limitations are based on RMV and tax rates are applied to AV**. This means that a property’s tax may be under compression whether the RMV is lower or higher than the MAV. Thus, any reduction in RMV that BOPTA makes may result in compression or further compression of the tax. In such a case, the board’s action may initiate a tax refund even though the board has not ordered a change to the AV of the property.

The board should not advise petitioners that they will not receive any refund of their taxes. A better statement to make at the end of a hearing when the board is reducing the RMV of the property, but not the AV, would be:

“Because we have not changed the assessed value of your property, you **may** not receive a tax refund. If you want more information about this, you should talk to your county assessor.”

The board may also choose not to make **any** statement about taxes.

2005-06 Property Tax Calculation Compression County

| | 2005-06 <u>Rate</u> | <u>Tax Extended</u> (AV × Rate ÷ \$1,000) | <u>Compression Loss</u> | <u>Tax Imposed</u> |
|---|------------------------|--|-------------------------|--------------------|
| CODE 5 | | | | |
| RMV \$195,000.00 | | | | |
| AV \$157,000.00 | | | | |
| Education | | | | |
| School 2 | 4.5702 | \$717.52 | | \$717.52 |
| Ed TOTAL | 4.5702 | \$717.52 | | \$717.52 |
| Limit \$5 ÷ \$1,000 RMV (<i>\$717.52 is within limit—No compression necessary</i>) | \$975.00 | | | |
| General Government | | | | |
| County | 2.0041 | \$314.64 | | \$314.64 |
| RFPD | 1.2744 | \$200.08 | | \$200.08 |
| Park | 2.0134 | \$316.10 | | \$316.10 |
| City | 2.6671 | \$418.73 | | \$418.73 |
| City Local Option | 2.1403 | \$336.03 | 91.57 | \$244.46 |
| Urban Renewal Levy | 0.2801 | \$43.98 | | \$43.98 |
| Lighting | | \$412.00 | | \$412.00 |
| Gen Govnt Total | 10.3794 | \$2,041.57 | 91.57 | \$1,950.00 |
| Limit \$10 ÷ \$1,000 RMV (<i>\$2,041.57 is over limit—Compression is necessary</i>) | \$1,950.00 | | | |
| TOTAL TAX BILLED | | | | |
| | | | | \$2,667.52 |

| M5 Tax Compression Calculation (Compress Local Option(s) first) | | | |
|--|--------|----------|----------|
| <i>City Local Option</i> | 2.1403 | \$336.03 | 91.57 |
| Excluded Total | 2.1403 | \$336.03 | \$244.46 |

NOV 14 2005

7/1/05-6/30/06 REAL PROPERTY TAX STATEMENT

ACCOUNT NO.: [REDACTED]

LINCOLN COUNTY, OREGON - 225 W OLIVE ST, ROOM 205 - NEWPORT, OR 97365

PROPERTY DESCRIPTION

1678157.73

[REDACTED], ACRES 93.68, 2003/04
VALUE ORDERED BY BOPTA, MF293-1047

LAST YEAR'S TAX

See back for explanation of taxes marked with (*)

ACRES: 93.68

MAP: [REDACTED]

CODE: 203

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

THIS YEAR'S TAX

EDUCATION:

A-LINC CO SCHOOL UNIT 532,784.24
A-OR CST COMM COLLEGE 19,068.31
A-ESD LINN-BENTON 33,090.10

EDUCATION TOTAL:

584,942.65

GENERAL GOVERNMENT:

A-LINC CO GENERAL 329,311.01
A-LINC CO EXTENSION SE 5,276.18
T-LINC CO TRANSPORTATI 11,394.68
PORT OF TOLEDO 27,433.81
CITY OF TOLEDO 606,000.59

GENERAL GOVERNMENT TOTAL

979,416.27

BONDS AND OTHER:

A-LINC CO GENERAL 16,624.07
A-LINC CO SCHOOL UNIT 102,961.61
A-OR CST COMM COLLEGE 34,148.95
CITY OF TOLEDO 71,655.47

BONDS AND OTHER TOTAL:

225,390.10

2005-06 PROPERTY

TAX TOTALS

1,789,749.02

MORT LENDER: TAX-PULL

| VALUES: | LAST YEAR | THIS YEAR |
|-----------------|-------------|-------------|
| MARKET VALUES: | | |
| LAND | 1,626,710 | 1,626,710 |
| IMPROVEMENT | 112,581,850 | 115,361,820 |
| TOTAL VALUE | 114,208,560 | 116,988,530 |
| TAXABLE VALUES: | | |
| ASSESSED | 114,208,560 | 116,988,530 |

NET TAXABLE: 114,208,560 116,988,530

BILLING QUESTIONS (541) 265-4139
VALUE QUESTIONS (541) 265-4102

If a mortgage company pays your taxes,
This statement is for your records only.

| Full Payment with 3% Discount | 2/3 Payment with 2% Discount | 1/3 Payment No Discount |
|----------------------------------|---------------------------------|----------------------------|
| 1736056.55 | 1169302.70 | 596583.01 |

TOTAL TAX (After Discount)

1736056.55

▲ Tear Here

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

Tear Here ▲

2005-06 Property Taxes

LINCOLN REAL

ACCOUNT NO.: R35159

| Full Payment Enclosed | Due: | Pay By | Discount Allowed | Net Amount |
|-------------------------|------|----------|------------------|------------|
| or 2/3 Payment Enclosed | Due: | 11/15/05 | 53692.47 3% | 1736056.55 |
| or 1/3 Payment Enclosed | Due: | 11/15/05 | 23863.32 2% | 1169302.70 |
| | | | NONE 0% | 596583.01 |

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

Mailing address
change on back

Enter Payment Amount
\$

REMIT TO:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

LINCOLN COUNTY TAX COLLECTOR
PO BOX 5116
PORTLAND OR 97208-5116

21000001351590173605655011693027000596583013

Lincoln County, Oregon, Oregon

2005-06, Roll Close Supp #5 07 NOV 2005 08:33am

Property : [REDACTED]
 Map Tax Lot : [REDACTED]
 Code Area : (203)
 M50 Assd Value: 116,988,530
 M5 Assd Value : 116,988,530
 Printed On : 11/09/2005

| Category & District | Tax Rate | Pre Comp. Tax | Compression | Levied Tax |
|---------------------|----------|---------------|-------------|------------|
|---------------------|----------|---------------|-------------|------------|

Education:

| | | | | |
|-----------------------|--------|------------|-----------|------------|
| A-LINC CO SCHOOL UNIT | 4.9092 | 574,320.09 | 41,535.85 | 532,784.24 |
| A-OR CST COMM COLLEGE | 0.1757 | 20,554.88 | 1,486.57 | 19,068.31 |
| A-ESD LINN-BENTON | 0.3049 | 35,669.80 | 2,579.70 | 33,090.10 |
| Education Total: | 5.3898 | 630,544.77 | 45,602.12 | 584,942.65 |

General Government:

| | | | | |
|----------------------------|--------|------------|------|------------|
| A-LINC CO GENERAL | 2.8149 | 329,311.01 | 0.00 | 329,311.01 |
| A-LINC CO EXTENSION SERVIC | 0.0451 | 5,276.18 | 0.00 | 5,276.18 |
| T-LINC CO TRANSPORTATION S | 0.0974 | 11,394.68 | 0.00 | 11,394.68 |
| PORT OF TOLEDO | 0.2345 | 27,433.81 | 0.00 | 27,433.81 |
| CITY OF TOLEDO | 5.1800 | 606,000.59 | 0.00 | 606,000.59 |
| General Government Total: | 8.3719 | 979,416.27 | 0.00 | 979,416.27 |

Excluded From Limit:

| | | | | |
|----------------------------|--------|------------|--|------------|
| A-LINC CO GENERAL | 0.1421 | 16,624.07 | | 16,624.07 |
| A-LINC CO SCHOOL UNIT | 0.8801 | 102,961.61 | | 102,961.61 |
| A-OR CST COMM COLLEGE BOND | 0.2919 | 34,148.95 | | 34,148.95 |
| CITY OF TOLEDO | 0.6125 | 71,655.47 | | 71,655.47 |
| Excluded From Limit Total: | 1.9266 | 225,390.10 | | 225,390.10 |

| | | | | |
|-----------------------------|---------|--------------|-----------|--------------|
| 2005-06 Property Total Tax: | 15.6883 | 1,835,351.14 | 45,602.12 | 1,789,749.02 |
|-----------------------------|---------|--------------|-----------|--------------|

Chapter 14

Hearings

Definition

A hearing is a meeting of the board during which evidence is presented and testimony is given regarding petitions filed with the board.

The board must hold a hearing for every petition filed **except those petitions for which stipulations are filed with the clerk prior to the time the board convenes the session.**

Scheduling

The board may hold hearings between the time the board convenes and April 15.

Hearings for which petitioners have requested to be present must be assigned a specific date and time.

Most counties attempt to schedule hearings of like property type on the same days, i.e. commercial, residential, etc. Some counties also schedule the hearings by neighborhood.

All other petitions must be heard sometime during the session, but the board may hear them at their convenience without assigning specific dates and times.

The board should establish a policy at its first administrative meeting about whether it will allow petitioners to reschedule hearings.

Notice

The board must give the petitioner or the petitioner's representative a hearing notice if the petitioner (or representative) has requested to be present at the hearing. The notice may be mailed or personally delivered to the petitioner or the petitioner's representative. If a representative has been designated on the petition, **the hearing notice must be mailed or delivered to the representative.** The clerk must provide at least **five days written notice** of the time and place of the hearing.

If the petitioner or representative has **not** checked the box that indicates they do not wish to be present, the clerk should schedule a hearing and send or deliver a hearing notice.

A confidential hearing is considered an executive session of the board and special notice is required. This notice must be given to the general public and to the news media that have requested notice. The notice must state the specific provision of law authorizing the executive session. If the county's "Notice of the Session" discusses executive sessions, no further notice is generally required.

For a more detailed discussion of confidential hearings, see the "Confidentiality" chapter in this manual.

ORS 192.640
ORS 309.100
OAR 150-309.100(5)

Minutes

A record must be kept of each hearing held by the board. The record may be kept in either a written or audio format. For more information on minutes, please refer to the "Meetings" chapter in this manual.

ORS 192.650
ORS 309.024

How Hearings are Conducted

Hearings are informal, but should be conducted in a businesslike manner. The chairperson has the responsibility of maintaining order during the proceedings. The petitioner usually testifies first, followed by the assessor's representative. The representative from the assessor's office may explain the basis for the value on the roll or recommend a new value. Some boards ask the assessor's representative if he or she has a recommendation for reduction before asking for the petitioner's testimony. This method allows the petitioner the opportunity to accept the recommendation without having to present his or her own evidence of value. The board should carefully consider the explanations of each party and ask questions to obtain necessary information. When serious differences are apparent, the board may wish to consult with its appraiser (if one has been hired).

Although some counties choose to do so, it isn't necessary to "swear in" persons participating in a hearing. The declaration at the bottom of the petition acts as a sworn statement of the petitioner or representative that the information contained in the petition is true.

If the board cannot complete its functions because of continued interruptions from a member of the public, the board chair should call a short recess and ask the person to refrain from interrupting the meeting. If the person continues to disrupt the meeting, the chairperson should call another recess and ask the sheriff to send a representative to the hearing to maintain order. The board should discuss security measures and how to handle uncooperative petitioners at its first meeting.

The following page contains a checklist for the chairperson to follow while conducting hearings.

Stipulations

If a stipulation is filed under ORS 308.242 prior to the time the board convenes, the board is not required to hold a hearing. The filing of the stipulation resolves the appeal.

If a stipulation is filed at or after the time the board convenes, the board must hold a hearing to review the evidence and issue an order.

Hearings for Petitions Filed Late

The board of property tax appeals has the discretion to determine whether a petition was mailed or deposited on or before the date due for filing. A petitioner whose petition was not received or postmarked by the filing deadline should be allowed to provide evidence of timely mailing to the board. The clerk should mail the petitioner or representative a "Notice of Late Filing" that explains the process and gives notice of the date and time the petitioner will be allowed to present evidence. The notice clearly explains that the board will not address the issues raised in the petition unless the petition is accepted as timely filed. If the petitioner provides proof satisfactory to the board, then the board will move to hear the value or penalty issue. If proof is not forthcoming, the petition must be dismissed. There is additional information regarding procedures for petitions filed late in Chapter 11 of this manual.

BOPTA Chairperson's Hearing Checklist

- _____ 1. Open the meeting by stating the name of the board, the date, time, place of the hearing, petition number, and name of petitioner.
- _____ 2. Ask if the person appearing to testify is the petitioner or the representative of the petitioner and confirm the representative's name, if necessary.
- _____ 3. Introduce the board members and staff for the record.
- _____ 4. Ask any others in the room who will be testifying to introduce themselves.
- _____ 5. Confirm that the account number on the petition is the account number on which the appellant will be testifying.
- _____ 6. Confirm that the address for notification included on the petition is the address where the order should be mailed.
- _____ 7. Resolve any questions about the jurisdiction of the board at this time. If the board determines it lacks jurisdiction to hear the appeal, one member should move to dismiss the petition.
- _____ 8. Briefly explain the hearing process to the petitioner, including the time allowed to testify. Advise the petitioner that any documents or pictures presented as evidence will be retained for the board record.
- _____ 9. If the petition being heard is for industrial or personal property, determine whether the assessor will present confidential information during the hearing. If confidential information will be presented, open an executive session, and clear the room of any people who are not allowed to be present. See Chapter 15 for a script to use to open an executive session.
- _____ 10. Ask the petitioner or the representative to present his or her evidence.
- _____ 11. Ask the assessor's representative to present the assessor's opinion of value and/or other evidence.
- _____ 12. Determine if there is a current year exception and the type of change to the property the exception represents.
- _____ 13. Discuss the appeal and ask any necessary questions that are pertinent to establishing the value of the property, the value of the exception, or whether a penalty should be waived or reduced.
- _____ 14. Either make a decision or announce that the board will be making a decision at a later time. If making the decision at a later time, tell the petitioner when the decision will be made.
- _____ 15. One member should make a motion to sustain, reduce or dismiss an appeal for value reduction; or to sustain, waive, reduce or dismiss a petition for waiver of a late filing penalty. **If there is a current year exception, make a motion to act on the value of the exception.**
- _____ 16. **Vote on the motion that's been made.** Each member's vote must be stated separately.
- _____ 17. State the reason for the board's decision for the record.
- _____ 18. Complete the "Value Recalculation Worksheet" if your county uses a worksheet. Transfer the recalculated numbers from the worksheet to the order if the order will be delivered at the hearing.
- _____ 19. Sign and date the order—if the order will be delivered at the hearing; otherwise, advise the petitioner when they can expect to receive the order in the mail.
- _____ 20. Advise the petitioner or the representative of their appeal rights.

Confidentiality

The provisions of ORS 192.610 to 192.690 are intended to ensure that the meetings of governing bodies where decisions about the public's business are made or discussed are open to the public. A county board of property tax appeals is a public body, and it must hold open meetings, unless the law allows the board to hold an executive session to hear testimony or review the materials to be discussed.

An executive session is defined as any meeting or part of a meeting of a governing body, which is closed to certain persons for deliberation on certain matters. BOPTA is authorized to hold executive sessions under ORS 192.660(2)(f) to "consider information or records that are exempt by law from public inspection" that relate to the appeals the board is hearing.

Examples of information or records that the board of property tax appeals may review in an executive session are:

1. Information reported on a *Confidential Personal Property Return* or a *Real Property Return*, filed with the assessor under ORS 308.290. Because these returns are confidential in the office in which they're filed, representatives of the assessor and the DOR may not discuss confidential information compiled from the return unless the board goes into executive session or the petitioner who filed the return or his or her authorized BOPTA representative waives the executive session.
2. Information identified by the petitioner and confirmed by the board as a "trade secret." Trade secrets may include, but are not limited to:

"Any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage

over competitors who do not know or use it." (ORS 192.501)

3. Information submitted for purposes of valuing an industrial plant under ORS 308.411 when the information is submitted on the condition that it will be kept confidential.

If the board chooses not to go into executive session, the assessor or the DOR cannot discuss any confidential information related to the appeal during the hearing.

Procedures for Executive Sessions

Holding the Executive Session—The clerk should identify all potential executive sessions, in the daily or weekly agenda. The chairperson must also identify the specific authority for holding the executive session when he or she begins the meeting. This must be done even though no members of the public are present. The clerk should post a sign on the door saying that a confidential hearing is in progress. If the board is going from a public meeting to an executive session, the board chair must clear the room of any persons not authorized to attend the hearing. A checklist to assist the chairperson in conducting an executive session is included in this chapter.

Who Can Attend Executive Sessions—The following people can attend a meeting of BOPTA held in executive session:

- The petitioner—if the petitioner signed the return. If the petitioner is not the person who signed the real or personal property return, follow the procedures discussed later in this chapter.
- The authorized BOPTA representative of the petitioner who signed the return, if the assessor or DOR has received an authorization from the taxpayer to disclose to the representative.
- The appraiser for the county or DOR.
- County counsel or DOR counsel.
- A member of the press. If members of the news media are present at an executive session, the chair should instruct the media that

the confidential information that is the subject of the meeting should not be disclosed. Absent such specifications, the media may report the entire proceedings and the purpose of having an executive session may be thwarted.

- The board’s appraiser.
- The BOPTA clerk.

Petitions—Oregon public records law (ORS Chapter 192) states that every person has a right to inspect any public record filed with or created by a public body unless the law specifically exempts the record from disclosure. This means petitions filed with a board of property tax appeals, and any documents attached to the petitions, must be made available to the public for inspection.

Confidential Personal Property Returns or Real Property Returns filed with the assessor are confidential in those offices, but not with BOPTA. If a petitioner attaches a copy of any of these documents to their petition, the documents must be made available to anyone asking to see the petition.

If the information provided in the petition constitutes a trade secret, portions of the petition to the board may be conditionally exempt from disclosure to the public. BOPTA may request the appellant to identify the specific information concerned, and cite the statute granting the exemption from disclosure. If BOPTA then agrees that the information constitutes a trade secret, that portion of the petition may be treated as a confidential record.

The fact that a petitioner stamps a document “Confidential” doesn’t mean it can be maintained as a confidential record by the BOPTA clerk. The document must also be confidential by law to be exempt from disclosure.

Identifying Confidential Material—The assessor and the DOR Valuation Section should clearly identify all confidential information prior to providing it to the board in preparation for the hearing. This should be done by stamping or writing “Confidential” or “Confidential Hearing Requested” on the evidence or correspondence submitted to the board. This puts the burden for determining whether the hearing should be held in executive session on the assessor and DOR instead of on BOPTA. If BOPTA chooses not to

hold an executive session to review the confidential material, the assessor or DOR may refuse to testify.

Waiving the Executive Session—The board may ask the petitioner if he or she wishes to have a public meeting and authorize the assessor or DOR to disclose confidential information during the hearing. If the petitioner chooses to waive the confidential hearing, the information submitted by the assessor and DOR prior to the hearing or the petitioner, assessor, and DOR during the hearing, will be treated as a public record under ORS 192.502.

The authorization to disclose should be in writing and be made part of the record of the hearing. The department has provided a form for the counties to use for this purpose. If the petitioner does not sign the authorization, the board should hold the hearing in executive session.

Remember! If the petitioner is not present, the board has probably not received an authorization to disclose and must hold the meeting in executive session.

The clerk should regard all evidence provided prior to the hearing by the assessor or DOR as confidential until the confidentiality is waived at the hearing.

Decisions—The board should hear argument, motions, and testimony, and hold its discussion during the executive session. Individual board members may reach tentative decisions and a consensus may be evident during the executive session, but the board must take a formal **vote** and make its **final decision** in an open meeting.

If the board has a policy of holding two meetings for each appeal – when the purpose of the first meeting is to hear evidence and the purpose of the second meeting is to discuss the evidence and make a decision, the board chair must ensure that the second meeting is also held in executive session.

Orders—Even though the board hears an appeal in executive session, the order of the board is a public record. This includes pages listing the value of individual items of personal property that the board included in its final decision. Some counties may choose to ask their own legal counsel for advice regarding the public status of orders for real and personal property.

Minutes of Executive Sessions—The minutes of executive sessions and any written material presented by the assessor or the petitioner to the board during an executive session are exempt from disclosure under the public records law.

When Petitioner is Not Filer of Return

Sometimes industrial or personal property is sold after a return is filed and the new owner files a petition to BOPTA. Because the previous owner filed the return, unless the new owner has been given authorization to see the return, the assessor cannot share this information with the petitioner.

In such a situation, the board should conduct the hearing in the following manner.

1. Open the meeting in public session and ask the petitioner to present his or her evidence about the value of the property.
2. Open an executive session and ask the petitioner and the public to leave the room. Listen to the evidence of the assessor or DOR representative.
3. Discuss the case and make motions.
4. Close the executive session.
5. Reopen the meeting to the public, vote, and state the final decision or state the time when the board will issue its final decision in a public meeting.

Penalties

If a governing body violates any provision applicable to executive sessions in the Public Meetings Law, a complaint against individual members of the governing body can be filed with the Oregon Government Standards and Practices Commission (OGSPC). The OGSPC may impose a civil penalty not to exceed \$1,000. However, the OGSPC will not impose a penalty if the violation occurred as a result of the governing body acting on the advice of legal counsel.

ORS 244.350

Any willful disclosure of information submitted under ORS 308.411 on the condition that it be kept confidential is punishable, upon conviction, by a fine, not exceeding \$10,000 or by imprisonment for not more than one year, or by both.

ORS 308.990

Checklist for Executive Session

This checklist is intended to assist the board of property tax appeals in complying with the executive session provisions of the Public Meetings Law.

- Provide notice of an executive session in the same manner you give notice of a public meeting. The notice must cite the specific statutory provision(s) authorizing the executive session.

Permissible grounds that BOPTA can use to go into executive session are:

ORS 192.660(2)(f)—To consider records that are exempt from disclosure under the Public Records Law, including written advice from your attorney.

- Announce that you are going into executive session pursuant to ORS 192.660 and cite the specific reason(s) and statute(s) that authorize the executive session for **each** subject to be discussed. **See sample script on the next page.**
- Announce the approximate time when you intend to come out of executive session to take final action.
- Specify if any individuals other than the news media may remain.
- Tell the media what may **not** be disclosed from the executive session. If you fail to do this, the media may report everything. If you discuss matters other than what you announce you are going to discuss in the executive session, the media may report those additional matters. News media must be excluded from executive sessions held to discuss litigation with legal counsel if the media is a party to the litigation.
- Go back into open session to take final action. If you did not specify at the time you went into executive session when you would return to open session, and the executive session has been very short, you may open the door and announce that you are back in open session. If you unexpectedly come back into open session after previously announcing you would not be doing so, you must use reasonable measures to give actual notice to interested persons that you are back in open session. This may require postponing final action until another meeting.
- Keep minutes or a tape recording of executive sessions.

NOTE: If a governing body violates any provision applicable to the executive session provisions in the Public Meetings Law, a complaint against individual members of the governing body can be filed with the Oregon Government Ethics Commission (OGEC). The OGEC may impose a civil penalty not to exceed \$1,000. However, a civil penalty may not be imposed if the violation occurred as a result of the governing body acting on the advice of legal counsel.

Sample Script to Announce Start of Executive Session

The _____ County Board of Property Tax Appeals will now meet in executive session for the purpose of considering records that are exempt from disclosure under the Public Records Law. This executive session is held pursuant of ORS 192.660(2)(f), which allows the board to meet in executive session to hear testimony from the assessor or the Department of Revenue regarding information reported in a personal or real property return filed under ORS 308.290.

Representatives of the news media and designated staff are allowed to attend this executive session. We will now ask all other members of the audience to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during this executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, which we estimate will last until approximately _____ o'clock, we will return to open session and welcome the audience back into the room.

_____ **COUNTY BOARD OF PROPERTY TAX APPEALS**

Authorization to Disclose Confidential Information

Information provided to the assessor or the Oregon Department of Revenue (DOR) in a real or personal property return filed under ORS 308.290 or information submitted for purposes of valuing an industrial plant under ORS 308.411 on the condition that it will be kept confidential, is confidential and exempt from disclosure under the public records laws.

In order for the board of property tax appeals to fully consider and discuss confidential information in a public meeting, you must authorize the assessor or the Department of Revenue to disclose this information during the hearing. If you do not wish the assessor or DOR to disclose confidential information, the board is authorized to ask the public to leave the room and to hold your hearing in an executive session. Confidential information presented to the board in an executive session remains confidential and exempt from public disclosure.

This authorization to disclose does not affect the confidentiality of any real or personal property return or other confidential information kept in the office of the assessor or DOR, but pertains only to the information submitted to the board by the assessor or the department prior to or during the board of property tax appeals hearing.

By signing this document, I authorize the assessor or the Oregon Department of Revenue to disclose confidential information in a public meeting and acknowledge my understanding that the public will have access to the written or audio minutes of this hearing.

Signature of Petitioner or Petitioner's Representative

Date

Petition #: _____

Received by: _____

Decisions

Jurisdiction

If the board has established jurisdiction to hear an appeal, the board reviews the evidence provided and makes a decision about the issue presented in the petition. The issue before the board may involve the accuracy of the value of real or personal property or the assessment of a penalty charged for the late filing of a real and personal property return.

If the evidence shows the value on the roll is correct, the board must sustain or uphold the value on the roll. If the evidence shows the value on the roll is too high, the board must reduce the value. If a petitioner meets the standards under which the board is allowed to waive or reduce a penalty, the board should waive or reduce the penalty according to the policy established at the first meeting.

The jurisdiction of the board is discussed in detail in Chapter 9 of this manual.

Procedures for Making Decisions

The board makes its decision after the petitioner and the assessor's representative (or DOR representative) present their evidence. If the petitioner chooses not to attend the hearing, the board bases its decision on the written evidence supplied by the petitioner and other evidence supplied by the assessor, DOR representative, or board appraiser.

The following is a reasonable approach to weighing evidence supplied by opposing parties:

- Look for undisputed facts regarding the issue before the board.
- Look for disputed facts regarding the issue before the board.
- Look for inconsistency and errors in the information supplied.
- Remember the definition of market value. If the appeal involves the value of the property, determine that all sales used as evidence are arm's-length and indicative of the value of the property on the assessment date.

- Determine which property or properties are most like the subject property if weighing comparable sales in a valuation appeal.

After considering all information and weighing the evidence, one board member makes a motion to take specific action on the petition. Another member seconds the motion and all members state their vote. The chairperson then states the board's decision for the record. **All official actions by governing bodies must be taken by public vote.**

The board only needs to reach a majority agreement on a motion recommending a particular action or decision.

The board may hear a petition when only two members are present, but this should be avoided, if possible. When only two members are present and the board cannot reach a unanimous decision, the board chair may reschedule the hearing to a time when all three members are available. If another hearing is scheduled, the petitioner must present all information and evidence again for the benefit of the third member.

Another option when only two members are present and cannot reach a consensus, is to vote to sustain the value. However, this is not in the petitioner's best interest.

The board is not required to make a decision at the time of the hearing. However, if petitioners are present, the board must ask them if they wish to be present when the decision is made. If so, the board must provide petitioners with the date and time the decision will be reached.

The final decision for each hearing must be made in an open meeting. Any executive session held by the board must be opened to the public at the time the final decision is made.

Burden of Proof

Decisions of the board should be directly related to the evidence presented in support of the request of the petitioner. The board must always

keep in mind that the burden of proof is on the petitioner as the party seeking affirmative relief.

Evidence that RMV Exceeds Actual Market Value

For petitions for reductions of value, the petitioner must:

- Present a preponderance of evidence that the value on the tax roll is wrong, and
- Convince the board that the requested value is correct.

The following are examples of the types of evidence that may convince the board to order a change to the value on the roll:

- Documentation of an arm's-length sale of the subject property near the assessment date.
- A recent fee appraisal reflecting the real market value near the assessment date.
- Proof that the property has been listed for sale on the open market for a reasonable period of time at a price below the real market value on the tax roll.
- A comparison of properties that are similar to the subject in location, size, and quality that have sold within a period of time that is indicative of the assessment date under appeal. If there are differences between the properties, the petitioner should account for the differences in the comparison of values.
- The cost of new construction that took place close to January 1 of the assessment year, and was performed by a professional contractor.
- Written estimates of the cost to repair the property under appeal.
- Information on leases, rents, occupancy, and expenses, or a comparable sales analysis for commercial property.
- Proof of an error in the assessor's records regarding the inventory or physical condition of the property.
- Farm production data. This may be provided as support for a requested real market value for an individual property or a specially assessed value. If given as evidence of specially assessed value, the farm production data must apply to a whole class of property.

Although the burden of proof is on the petitioner, in most counties, the assessor also submits information to the board supporting the value the assessor believes is correct. When a petition is filed with the board, the assessor usually reviews the property and often determines that a change in the value is warranted. If this happens, the assessor will recommend the board change the value, or the assessor may reach an agreement with the petitioner and file a stipulation with the board. If the assessor makes a recommendation, the board is under no obligation to accept. The petitioner may not agree with the assessor's recommendation, so it is important that the board members review all of the evidence before making their decision. If a stipulation is filed, the board should follow the procedures discussed in Chapter 12 of this manual. The board may also ask the board appraiser for an opinion of value or recommendation, if a board appraiser is a member of the staff.

All evidence submitted to the board, including pictures and appraisals, becomes a permanent record. If the petitioner chooses not to submit evidence because it won't be returned, the board cannot consider the evidence when making its decision.

Arm's-length Sales

One of the best indicators of real market value for a property might be the sale of the property itself. When determining if a sale is a good indicator of value, the board should first determine if the sale was arm's-length. The board may also ask the county for information about the sale.

A sale is considered arm's-length if it meets the following definition:

- Neither of the parties involved was under any undue duress.

This means the seller was not compelled to sell the property for financial reasons, and the buyer was not compelled to purchase the property within a time period that's considered unreasonable.

- Both parties were informed.

This means the sellers were familiar with the market value of properties similar to theirs, and the buyers had researched the market before making the offer to purchase.

- The property was marketed under “normal” marketing conditions.

Listing the property with a realtor is usually considered a normal marketing condition, but properties sold without the assistance of a realtor might also be considered normal if the property was exposed to the open market. The price of property received at an auction is generally not considered to represent real market value.

- The property was advertised for sale for a period of time considered reasonable for the type of property.

The time to market property varies depending on the property type and location.

- The parties involved were not related or business partners.

Range of Value

Real market value may be represented by a range of value that is typical for the type of property involved. Appraisal is not an exact science. It is widely accepted that any two appraisers may arrive at values that are deemed accurate for the property, even though they may vary by as much as 10 percent. The board must decide if the real market value on the roll falls within the range of value indicated by the evidence.

Petitions for Waiver of Late Filing Penalties

The board may also be required to make decisions regarding the penalties assessed for the late filing of real or personal property returns filed under ORS 308.290.

The jurisdiction of BOPTA regarding waiving penalties depends on the circumstances that caused the late filing. The board may waive the liability for:

- **All or a portion** of the penalty upon a proper showing of good and sufficient cause; or
- **All** of the penalty if the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return. The assessor should be able to tell the board if this circumstance applies to a specific petition.

The department recommends that the board establish a policy at its first meeting regarding the circumstances under which the board will reduce a penalty rather than waive 100 percent of the penalty when the petitioner has established good and sufficient cause for the late filing.

ORS 308.295

ORS 308.296

Definition of Good and Sufficient Cause

Good and sufficient cause is defined as “an extraordinary circumstance beyond the control of the taxpayer, or the taxpayer’s agent or representative.”

Extraordinary circumstances include, but are not limited to:

- Illness, absence, or disability that substantially impairs a taxpayer’s ability to file timely. The substantial impairment must have existed for a considerable time prior to the filing deadline, and must have been of such a nature that a reasonable and prudent taxpayer could not have been expected to conform to the deadline.
- Reasonable reliance on misinformation provided by county assessment and taxation staff or Department of Revenue personnel.

Extraordinary circumstances generally do not include the following:

- Late filing due to the taxpayer’s inadvertence, oversight, or lack of knowledge regarding the filing requirements.
- Financial hardship.
- Reliance on information provided by a real estate agent or broker, attorney, certified public accountant, or the like.

OAR 150-307.475

Real and Personal Property Value Appeals

If a petition for reduction of value of property for which a late filing penalty was assessed has been filed, but not a petition for a waiver of the penalty, the board cannot order a change to the penalty. If the board reduces the value of the property, the assessor must reduce the penalty based on the reduction in the value, and can do so without an order of the board.

Cancellation of Tax

As was discussed in Chapter 7, the assessor has the authority to cancel a personal property assessment when the total value of all personal property assessed to an individual within a county falls below a certain value. When BOPTA reduces the value of personal property, the assessor will test the adjusted value against the cancellation threshold and if the value ordered by BOPTA is below the threshold, the assessor will cancel the tax. BOPTA cannot cancel the tax and orders of the board should never address this issue.

General Information

An order is a formal written directive to the officer in charge of the roll to correct or sustain the value on the tax roll or to sustain, waive, or reduce real or personal property late filing penalties. The board of property tax appeals can issue orders only for the current tax year.

An order must be issued for every petition received by the board except those for which a stipulation is filed prior to the time the board convenes. This includes actions by the board to sustain or reduce values, waive or reduce late filing penalties, and dismiss petitions.

Orders are not required to be signed on the same day the decision is made, but it is best if they are prepared promptly. They must be signed by at least two members of the board who were present at the hearing. The deadline for signing orders is April 15.

ORS 309.110

Contents of Board Orders

Orders must contain the following information:

- The petitioner's name.
- The mailing address where the order is to be mailed. This should be the representative's address if a representative is designated in the petition or the petitioner's address if a representative is not designated.
- Identification of the property being appealed.
- The changes to be made to the tax roll and directions to the officer in charge of the roll to make them. This includes the RMV of each component, the RMV of the exception (if applicable), total RMV, MAV, and AV.
- A listing of values ordered by the board for individual items or categories/schedules of personal property as addressed in the petition.
- For the appeal of a late filing penalty, the penalty appealed and the penalty as ordered by the board.
- The tax year subject to the order.

- The date the order is signed.
- The date the order is mailed.
- The signatures of at least two members of the board who heard the appeal.
- The appeal rights of the petitioner must be attached to or included with the order.

ORS 309.110(1)
OAR 150-309.110(1)-(C)

Value Recalculation Worksheet

The board may choose to complete a "Value Recalculation Worksheet" **for each property under appeal for which a change of value is being ordered.** The department has provided the counties with a form for the board to use, or the counties may design their own form as long as it contains the necessary information.

The purpose of the worksheet is to assist the board in arriving at the adjusted values that will then be transferred to the official "order."

The worksheet should contain all values currently on the roll, the current property class and CPR, and any changes the board is ordering to the values.

In some counties, staff from the assessor's office assists the board with the worksheet.

The worksheet should be sent to the assessor with the assessor's copy of the order, so the assessor may review the board's calculation of value. The county may decide whether it wishes to mail the worksheet to the petitioner. If the county chooses not to mail the worksheet to the petitioner, the petitioner may ask for a copy of it later, as the document is a public record.

Orders for Personal Property

An order for personal property must contain the values on the tax roll and the values ordered by the board for the individual items or categories/schedules of personal property **as they are listed in the petition.** The values of individual items not listed in the petition do not have to be addressed in the order.

Even though the board hears an appeal in executive session, the order of the board is a public record. This includes pages listing the value of individual items of personal property that the board included in their final decision. Some counties may choose to ask their own legal counsel for advice regarding the public status of orders resulting from executive sessions.

ORS 150-309.110(1)-(C)

Who May Sign Orders

Only those members who were present at the hearing may sign orders. At least two members must sign the order to meet the quorum requirements.

The “done” date on the orders is the date the order is signed.

Signatures may be made with facsimile devices if provided for by county ordinance. The statute does not state that the signatures must be “original.” You should check with your legal counsel to see if there is a provision in the county ordinance that provides alternatives to personally signed documents. A copy of the ordinance should be entered into the record of the board.

ORS 309.020(3)

Deadline for Issuing Orders

All orders from the regular session of the board must be signed by April 15.

Delivery of Orders

Orders must be delivered to the representative if a representative has been designated on the petition. The orders may be delivered in person at the hearing or by mail. If orders are mailed, they must be postmarked **within five days** of the date the order is signed and no later than five days from the date the board adjourns. The orders need not be sent by registered or certified mail. When a copy of the board’s order is personally delivered at the hearing, the requirement to mail a copy of the order is waived. The manner in which orders are delivered should be reflected in the hearing record. If the clerk delivers the order at the hearing, it is a good idea to ask the petitioner or representative to acknowledge receipt of the order in writing.

If the post office returns an order to the board, the clerk should retain the order as evidence of

mailing. The fact the order was not delivered to the taxpayer does not affect the order. All orders must be delivered to the assessor and the officer in charge of the roll on the same day they are delivered or mailed to the petitioner or representative.

The board or the board clerk should not personally deliver or mail orders to witnesses who are not also qualified representatives.

OAR 150-309.110(1)-(A)

Amended Orders

The board may issue amended orders to correct clerical errors or errors of jurisdiction appearing in the original orders. Amended orders may be issued through June 30.

- A clerical error is defined as:

“An error in the order, which either arises from an error in the minutes of the board, or which is a failure to correctly reflect the minutes of the board, and which, had it been discovered prior to the order being issued, would have been corrected as a matter of course, and the information necessary to make the correction is contained in the minutes of the board. Such errors include, but are not limited to, arithmetic or copying errors and omission or misstatement of identification of property.”

- An error of jurisdiction is defined as:

“An error in the order resulting from the board’s failure to correctly apply the board’s authority as granted under ORS 309.026.”

If the order is being amended to correct an error in jurisdiction, the board must reconvene and hold a meeting to correct the order. If the order is being amended to correct a clerical error, the board may authorize one board member or the clerk to amend the orders on behalf of the board. The authorization to amend the orders should be entered into the record at the first meeting, if possible.

The amended order must be mailed to the petitioner and delivered to the assessor and the officer in charge of the roll no later than five days after the adjournment of the regular session or five days after the date the order is amended, whichever is later.

ORS 309.110

Withdrawn Petitions

Petitioners may withdraw their petition at any time prior to the time the board issues (signs) the order. The request for withdrawal must be in writing. The board must issue a formal order dismissing the appeal, unless a stipulation has been filed with the board prior to the time the board convened the session.

OAR 150-309.100(2)-(B)

Appeals of Board Decisions

Generally

If a petitioner wishes to appeal the decision of the board of property tax appeals, the appeal is filed at the Magistrate Division of the Oregon Tax Court. The petitioner appeals by filing a written complaint. The complaint must be filed **within 30 days** after the order of the board of property tax appeals is mailed.

The court cannot accept appeals from an order of the board for petitions to waive late filing penalties for real and personal property returns. The board's decision is the final decision in these types of appeals.

Magistrate Procedure

There is a fee to file a complaint with the Magistrate Division. Taxpayers may obtain information and complaint forms by calling (503) 986-5650, or toll free at (1-800) 773-1162, or by visiting the court's website at courts.oregon.gov/tax, then click on the "Materials & Resources" tab. The assessor may also have these forms.

Complaint forms and fees should be mailed to:

Clerk, Oregon Tax Court
Magistrate Division
1163 State Street
Salem OR 97301-2563

Complaints may be personally delivered to the court at the following physical address:

1241 State Street
Floor 3R
Salem, Oregon

Assessor Appeal of Board of Property Tax Appeals Decision

The assessor may also appeal a BOPTA decision to the Magistrate Division.

When the assessor is the appealing party, the assessor must serve a copy of the complaint

upon the taxpayer by certified mail within 30 days after the date the board's order was mailed to the taxpayer. The assessor must also file an affidavit with the court attesting to the service.

Board Member Responsibility

Members of the board are not required to defend their decisions in subsequent appeals.

Orders of Dismissal

The petitioner may appeal orders of dismissal to the Magistrate Division. However, when the board has dismissed a petition, the court first reviews the reasons for the dismissal and determines whether the board took the appropriate action. If the board correctly dismissed the petition, the court will uphold the board's dismissal but then look for another statute which may allow the court to hear the merits of the case. If the board correctly dismissed the petition and no other authority applies, the court will also dismiss the case.

Appealing the Magistrate Decision

If the taxpayer or the assessor disagrees with the decision of the Magistrate, either or both parties may appeal the decision to the Regular Division of the Oregon Tax Court. The appeal must be filed with the court clerk **within 60 days** after the date of the Magistrate's decision.

A trial held in the Regular Division is a formal proceeding and most people prefer to be represented by an attorney, although individuals may choose to represent themselves. Attorneys must represent appealing corporations or partnerships. Both parties must present evidence. After the trial, the judge will consider the evidence and notify the parties of the decision by mail. The decision of the tax court may be appealed to the Oregon Supreme Court.

The Department of Revenue's website has additional information about the appeals process: www.oregon.gov/dor/property.

Assessment Glossary

Assessed Value (AV): The lower of the property's maximum assessed value (MAV) or real market value (RMV). For specially assessed property, the lesser of RMV or MAV for any market portion, plus the lesser of the specially assessed value (SAV) or maximum specially assessed value (MSAV) for each individual soil class, qualified homesite, and on-site development.

Average Maximum Assessed Value (AMAV): The value determined by dividing the total maximum assessed value (MAV) of all unchanged property in the same area in the same property class by the total number of unchanged properties in the same area in the same property class.

Average Real Market Value (ARMV): The value determined by dividing the total real market value (RMV) of all unchanged property in the same area in the same property class by the total number of unchanged properties in the same area in the same property class.

Cap Rate: An abbreviation for "capitalization rate," which is the rate used to convert an income stream into a present value. For example, a capitalization rate of 10 percent and an income stream of \$2,000 annually provide a present value of \$20,000 ($\$2,000 / .10$).

Changed Property Ratio (CPR): The ratio determined by dividing the average maximum assessed value (AMAV) by the average real market value (ARMV) for the same area and property class of unchanged property.

Compression: The process of reducing taxes that have been extended on a property so that they fall within the Measure 5 limit of \$5 per thousand of RMV for Education and \$10 per thousand of RMV for General Government.

Consolidation: The combination of two or more contiguous tax lots into one tax lot or the merger of two or more contiguous parcels into a single parcel.

Exception: Any change to property, not including general ongoing maintenance and repair, that increases a property's value by more than

\$10,000 in one assessment year or by more than \$25,000 during five assessment years.

General Ongoing Maintenance and Repair: The repair or replacement of existing materials due to normal wear/tear/deterioration. Examples of ongoing maintenance and repair may include re-roofing, painting, or replacement of floor or wall covering. The maximum assessed value (MAV) of the property cannot be increased due to general ongoing maintenance and repair. Further defined in OAR 150-308.149-(A).

Improvement: Usually a permanent addition to, or modification of, real property that enhances its capital value and is distinguished from an ordinary repair by being designed to make the property more useful or valuable. As defined in the *DOR Appraisal Manual*: Any dwelling, building, manufactured structure, or physical addition to the land.

Jurisdiction: The sphere of the board's authority under current Oregon law. The right and power to interpret and apply the law.

Late Filing Penalty: A penalty assessed when a taxpayer either files late or fails to file a real or personal property return required to be filed under ORS 308.290. The penalties vary by property type and appraisal responsibility and are defined in ORS 308.295 and 308.296.

Lot Line Adjustment: 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.

Major Addition: An addition that has an RMV greater than \$10,000 and adds square footage to an existing structure.

Maximum Assessed Value (MAV): A term defined by Measure 50 passed by Oregon voters in 1997. For the 1997-98 tax year, maximum assessed value (MAV) was the 1995-96 real market value (RMV) less 10 percent. For tax years after 1997-98, MAV is defined as the greater of 103 percent of the property's AV from the prior year or 100

percent of the property's MAV from the prior year. MAV may be increased or recalculated under certain circumstances to reflect changes to the property (exceptions).

Maximum Specially Assessed Value (MSAV):

For the 1997–98 tax year, maximum specially assessed value (MSAV) was the 1995–96 Specially Assessed Value (SAV) less 10 percent. MSAV may be increased or recalculated under certain circumstances. Under current law MSAV equals the **greater** of 103 percent of the assessed value for the preceding tax year or 100 percent of the maximum assessed value for the preceding tax year.

Minor Construction: An improvement to real property that results in an addition to real market value (RMV), but does not qualify as an addition to maximum assessed value (MAV) due to a value threshold. The value threshold is an RMV of more than \$10,000 in any one assessment year, or more than \$25,000 for all cumulative additions made during five assessment years.

Modernization: A type of renovation in which worn or outdated elements are replaced with their current counterparts.

Net Additions: In calculating the addition to maximum assessed value for new property and new improvements, the amount added shall be the net real market value of the new property or new improvements less the real market value of retired property, but not less than zero.

New Construction: Any new structure, building, addition or improvement to the land, including site development.

Omitted Property: Property discovered and added to the roll after the roll is certified to the tax collector. Omitted property may be added to the roll last certified and to the five preceding rolls.

Personal Property: In Oregon, there are two types of personal property, taxable and non-taxable. Non-taxable personal property includes intangible property, and personal property excluded from taxation by statute. Taxable personal property includes properties such as machinery, equipment, furniture, etc., used previously or presently in a business, including any property not currently being used, placed in storage, or held for sale.

Personal property is assessable under ORS 308.105 if it is in Oregon on the assessment date, January 1, at 1:00 a.m., and meets the following conditions:

1. The property is not in transit, but has come to rest in Oregon.
2. The property was not here by misadventure or some reason beyond the owner's control. The owner intended the property to remain here for the time being.
3. While in Oregon, the property performed the service for which it was designed and for the benefit of the owner's business.
4. The property was not in Oregon solely for repairs.

Personal Property Return: A form taxpayers use to annually report potentially taxable personal property or floating property to the assessor.

Preponderance of Evidence: The greater weight of evidence; the more convincing evidence.

Real Market Value (RMV): The amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year established by law. RMV is the value the assessor estimates property will sell for on the open market as of the assessment date. The assessment date for most property is January 1 at 1 a.m.

Real Property Return: A form taxpayers use to annually report real property to the county assessor. It is generally used to report industrial property appraised by the county.

Recalculation: Another name for "automated valuation modeling." An automated valuation model is a mathematically based computer software program that produces an estimate of market value based on market analysis of location, market conditions, and real estate characteristics.

Reconstruction: To rebuild or replace an existing structure with one of comparable utility.

Rehabilitation: To restore to a former condition without changing the basic plan, form or style of the structure.

Remodeling: A type of renovation that changes the basic plan, form, or style of the property.

Renovation: The process by which older structures or historic buildings are modernized, remodeled, or restored.

Restoration: A type of renovation in which a property is returned to its original appearance and condition.

Session: The period of time during which the board conducts its business. The session lasts from the first meeting of the board until the last meeting of the board when the session is adjourned.

Segregation: The opposite of consolidation. The separation of a tax lot account into two or more parcels. Often the segregation results in a higher market value for the property than the value of the property consolidated. If there are

improvements, the original parent account number will remain with the improved account.

Specially Assessed Value (SAV): A value created by statute for certain types of property. The SAV is usually lower than real market value. The intent of government in establishing specially assessed values was to create incentives in the form of lower taxes to encourage specialized property uses.

Stipulation: A document signed by the petitioner and the assessor or DOR agreeing to a specific value of property as of a specific date.

Sustain: An action of the board that upholds the current roll value.

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Oregon Revised Statutes

2011 Edition

Note: We've included only those laws we thought would be of interest to BOPTA members. This chapter contains a portion of Chapters 192, 193, 308, and 311 and all of Chapter 309. You can view all statutes at www.leg.state.or.us/ors/.

Chapter 192 (Portion)—Records; Public Reports and Meetings

PUBLIC MEETINGS

192.001 Policy concerning public records. (1) The Legislative Assembly finds that:

(a) The records of the state and its political subdivisions are so interrelated and interdependent, that the decision as to what records are retained or destroyed is a matter of statewide public policy.

(b) The interest and concern of citizens in public records recognizes no jurisdictional boundaries, and extends to such records wherever they may be found in Oregon.

(c) As local programs become increasingly intergovernmental, the state and its political subdivisions have a responsibility to insure orderly retention and destruction of all public records, whether current or noncurrent, and to insure the preservation of public records of value for administrative, legal and research purposes.

(2) The purpose of ORS 192.005 to 192.170 and 357.805 to 357.895 is to provide direction for the retention or destruction of public records in Oregon in order to assure the retention of records essential to meet the needs of the Legislative Assembly, the state, its political subdivisions and its citizens, in so far as the records affect the administration of government, legal rights and responsibilities, and the accumulation of information of value for research purposes of all kinds, and in order to assure the prompt destruction of records without continuing value. All records not included in types described in this subsection shall be destroyed in accordance with the rules adopted by the Secretary of State. [1973 c.439 §1; 1991 c.671 §3]

192.410 Definitions for ORS 192.410 to 192.505. As used in ORS 192.410 to 192.505:

(1) "Custodian" means:

(a) The person described in ORS 7.110 for purposes of court records; or

(b) A public body mandated, directly or indirectly, to create, maintain, care for or control a public record. "Custodian" does not include a public body that has custody of a public record as an agent of another public body that is the custodian unless the public record is not otherwise available.

(2) "Person" includes any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.

(3) "Public body" includes every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.

(4)(a) "Public record" includes any writing that contains information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

(b) "Public record" does not include any writing that does not relate to the conduct of the public's business and that is contained on a privately owned computer.

(5) "State agency" means any state officer, department, board, commission or court created by the Constitution or statutes of this state but does not include the Legislative Assembly or its members,

committees, officers or employees insofar as they are exempt under section 9, Article IV of the Oregon Constitution.

(6) "Writing" means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings. [1973 c.794 §2; 1989 c.377 §1; 1993 c.787 §4; 2001 c.237 §1; 2005 c.659 §4]

192.610 Definitions for ORS 192.610 to 192.690. As used in ORS 192.610 to 192.690:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.

(2) "Executive session" means any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.

(3) "Governing body" means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.

(4) "Public body" means the state, any regional council, county, city or district, or any municipal or public corporation, or any board, department, commission, council, bureau, committee or subcommittee or advisory group or any other agency thereof.

(5) "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program. "Meeting" also does not include the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong. [1973 c.172 §2; 1979 c.644 §1]

192.640 Public notice required; special notice for executive sessions, special or emergency meetings. (1) The governing body of a public body shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.

(2) If an executive session only will be held, the notice shall be given to the members of the governing body, to the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

(3) No special meeting shall be held without at least 24 hours' notice to the members of the governing body, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. [1973 c.172 §4; 1979 c.644 §3; 1981 c.182 §1]

192.650 Recording or written minutes required; content; fees. (1) The governing body of a public body shall provide for the sound, video or digital recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law, but the written minutes or recording must give a true reflection of the matters discussed at the meeting and the views of the participants. All minutes or recordings shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;

(c) The results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;

(d) The substance of any discussion on any matter; and

(e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting.

(2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section. However, the minutes of a hearing held under ORS 332.061 shall contain only the material not excluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be kept in the form of a sound or video tape or digital recording, which need not be transcribed unless otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility.

(3) A reference in minutes or a recording to a document discussed at a meeting of a governing body of a public body does not affect the status of the document under ORS 192.410 to 192.505.

(4) A public body may charge a person a fee under ORS 192.440 for the preparation of a transcript from a recording. [1973 c.172 §5; 1975 c.664 §1; 1979 c.644 §4; 1999 c.59 §44; 2003 c.803 §14]

192.670 Meetings by means of telephonic or electronic communication. (1) Any meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with ORS 192.610 to 192.690.

(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the governing body of the public body shall make available to the public at least one place where, or at least one electronic means by which, the public can listen to the communication at the time it occurs. A place provided may be a place where no member of the governing body of the public body is present. [1973 c.172 §7; 1979 c.361 §1; 2011 c.272 §2]

Chapter 305 (Portion)—Administration of Revenue and Tax Laws, Appeals

305.287 Determination of real market value of property tax account or components. Whenever a party appeals the real market value of one or more components of a property tax account, any other party to the appeal may seek a determination from the body or tribunal of the total real market value of the property tax account, the real market value of any or all of the other components of the account, or both. [2011 c.397 §2]

Chapter 308 (Portion)—Assessment of Property for Taxation

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 the later of:

(A) August 1 of the current year; or

(B) The 60th day following the date on which the property was damaged or destroyed.

(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.

(8)(a) Notwithstanding subsection (1) of this section, when a building is demolished or removed from property, for the year in which the demolition or removal of the building is reflected by

a reduction in real market value, the maximum assessed value of the property may be reduced to reflect the demolition or removal of the building.

(b) This subsection does not apply:

(A) To any property that is assessed under ORS 308.505 to 308.665.

(B) If the demolished or removed 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) To receive the reduction in maximum assessed value of the property under this subsection, the property owner must file an application with the county assessor after the demolition or removal and on or before December 31 following the assessment date if the demolition or removal occurred:

(A) Before the January 1 assessment date; or

(B) During the period beginning January 1 and ending on the July 1 assessment date if the property owner has applied to have the real market and assessed value of the property determined under subsection (6) of this section.

(d) As used in this subsection:

(A) "Minor construction" has the meaning given that term in ORS 308.149.

(B) "Property owner" means an 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. [1997 c.541 §6; 1999 c.1003 §1; 2001 c.925 §12; 2003 c.46 §15; 2003 c.169 §7; 2007 c.450 §1; 2007 c.516 §1; 2009 c.443 §1]

(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]

308.153 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 or for demolition or removal of a building under ORS 308.146, the reduction in real market value due to fire or act of God or demolition or removal of the building 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; 2007 c.516 §2]

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]

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]

308.166 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.

(6) If the maximum assessed value of property is subject to adjustment for demolition or removal of a building, the maximum assessed value shall first be determined under ORS 308.146 (8) (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; 2009 c.443 §2]

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]

308.234 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]

308.242 Assessor's authority to change roll after September 25 limited; when changes permitted; stipulations. (1) The assessor may not make changes in the roll after September 25 of each year except as provided in subsections (2) and (3) of this section or as otherwise provided by law.

(2) After the assessment roll has been certified and on or before December 31, the assessor may make changes in valuation judgment that result in a reduction in the value of property, if so requested by the taxpayer or upon the assessor's own initiative. Corrections under this section to accounts appraised by the Department of Revenue pursuant to ORS 306.126 and 308.505 to 308.665 may not be made without the approval of the department.

(3)(a) If a petition for reduction has been filed with the board of property tax appeals, the assessor may change the roll if the assessor and the petitioner stipulate to a change in valuation judgment that results in a reduction in value. The stipulation may be made at any time up until the convening of the board.

(b) Stipulations agreed to by the assessor and the petitioner under this subsection shall be delivered to the clerk of the board prior to the convening of the board.

(c) As used in this subsection, "stipulation" means a written agreement signed by the petitioner and the assessor that specifies a reduction in value to be made to the assessment and tax roll.

(4) Any change in value made under subsection (2) or (3) of this section shall be made in the manner specified in ORS 311.205 and 311.216 to 311.232. [1957 c.324 §7; 1981 c.804 §40a; 1983 s.s. c.5 §4; 1991 c.459 §100; 1993 c.270 §27; 1997 c.541 §162; 2001 c.423 §1; 2003 c.36 §1; 2007 c.590 §1]

308.250 Valuation and assessment of personal property; cancellation of assessment in certain cases; verified statements; indexing. (1) All personal property not exempt from ad valorem taxation or subject to special assessment shall be valued at 100 percent of its real market value, as of January 1, at 1:00 a.m. and shall be assessed at its assessed value determined as provided in ORS 308.146.

(2)(a) If the total assessed value of all taxable personal property required to be reported under ORS 308.290 in any county of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for property required to be reported under ORS 308.290 for that year.

(b) If, in a county with a population of more than 340,000, the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of any taxpayer is less than \$12,500 in any assessment year, the county assessor shall cancel the ad valorem tax assessment for the manufactured structures for that year.

(3) In any assessment year or years following an assessment year for which taxes are canceled under subsection (2)(a) of this section, the taxpayer may meet the requirements of ORS 308.290 by filing, within the time required or extended under ORS 308.290, a verified statement with the county assessor indicating that the total assessed value of all taxable personal property of the taxpayer required to be reported under ORS 308.290 in the county is less than \$12,500. The statement shall contain the name and address of the taxpayer, the information needed to identify the account and other pertinent information, but shall not be required to contain a listing or value of property or property additions or retirements.

(4)(a) For each tax year beginning on or after July 1, 2003, the Department of Revenue shall recompute the maximum amount of the assessed value of taxable personal property in subsection (2)(a) and (b) of this section for which ad valorem property taxes may be canceled under this section. The computation shall be as follows:

(A) Divide the average U.S. City Average Consumer Price Index for the prior calendar year by the average U.S. City Average Consumer Price Index for 2002.

(B) Recompute the maximum amount of assessed value for which taxes may be canceled under subsection (2)(a) or (b) of this section by multiplying \$12,500 by the appropriate indexing factor determined as provided in subparagraph (A) of this paragraph.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any change in the maximum amount of assessed value determined under paragraph (a) of this subsection is not a multiple of \$500, the increase shall be rounded to the nearest multiple of \$500. [Amended by 1953 c.349 §3; 1959 c.553 §1; 1965 c.429 §3; 1971 c.529 §34; 1971 c.610 §1; 1973 c.62 §1; 1979 c.529 §3; 1979 c.692 §4; 1981 c.804 §41; 1985 c.422 §1; 1985 c.613 §9; 1991 c.459 §101; 1993 c.813 §1; 1995 c.513 §4; 1997 c.541 §163; 1997 c.819 §1; 2001 c.479 §1; 2003 c.63 §1; 2007 c.613 §2; 2010 c.69 §1]

308.290 Returns; personal property; exception; real property; combined real and personal returns for industrial property; extensions; confidentiality and disclosure; lessor-lessee elections; rules.

(1)(a) Except as provided in paragraph (b) of this subsection, every person and the managing agent or officer of any business, firm, corporation or association owning, or having in possession or under control taxable personal property shall make a return of the property for ad valorem tax purposes to the assessor of the county in which the property has its situs for taxation. As between a mortgagor and mortgagee or a lessor and lessee, however, the actual owner and the person in possession may agree between them as to who shall make the return and pay the tax, and the election shall be followed by the person in possession of the roll who has notice of the election. Upon the failure of either party to file a personal property tax return on or before March 1 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

(b) Paragraph (a) of this subsection does not apply to personal property exempt from taxation under ORS 307.162.

(2) Every person and the managing agent or officer of any business, firm, corporation or association owning or in possession of taxable real property shall make a return of the property for ad valorem tax purposes when so requested by the assessor of the county in which the property is situated.

(3)(a) Each return of personal property shall contain a full listing of the property and a statement of its real market value, including a separate listing of those items claimed to be exempt as imports or exports. Each statement shall contain a listing of the additions or retirements made since the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return shall contain the name, assumed business name, if any, and address of the owner of the personal property and, if it is a partnership, the name and address of each general partner or, if it is a corporation, the name and address of its registered agent.

(b) Each return of real property shall contain a full listing of the several items or parts of the property specified by the county assessor and a statement exhibiting their real market value. Each return shall contain a listing of the additions and retirements made during the year indicating the book cost, book value of the additions and retirements or the appraised real market value of retirements as specified in the return by the assessor.

(c) There shall be annexed to each return the affidavit or affirmation of the person making the return that the statements contained in the return are true. All returns shall be in a form that the county assessor, with the approval of the Department of Revenue, may prescribe.

(4) All returns shall be filed on or before March 1 of each year, but the county assessor or the Department of Revenue may grant an extension of time to April 15 within which to file the return as provided by subsection (6), (7) or (8) of this section.

(5)(a) In lieu of the returns required under subsection (1)(a) or (2) of this section, every person and the managing agent or officer of any business, firm, corporation or association owning or having in possession or under control taxable real and personal property that is either principal industrial property or secondary industrial property as defined in ORS 306.126 (1) and is appraised by the Department of Revenue shall file a combined return of the real and personal property with the department.

(b) The contents and form of the return shall be as prescribed by rule of the department. Any form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that is a part of an industrial property shall be included in a combined return.

(c) In order that the county assessor may comply with ORS 308.295, the department shall provide a list to the assessor of all combined returns that are required to be filed with the department under this subsection but that were not filed on or before the due date or within the time allowed by an extension.

(d) If the department has delegated appraisal of the property to the county assessor under ORS 306.126 (3), the department shall notify the person otherwise required to file the combined return under this subsection as soon as practicable after the delegation that the combined return is required to be filed with the assessor.

(e) Notwithstanding subsection (2) of this section, a combined return of real and personal property that is industrial property appraised by the department shall be filed with the department on or before March 1 of the year.

(6)(a) Any person required to file a return under subsection (5) of this section may apply to the Department of Revenue for an extension of time to April 15, within which to file the return.

(b) Extensions granted under this subsection may be based on a finding by the department that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.

(c) An extension granted under this subsection shall apply to returns required to be filed under subsection (5) of this section with either the county assessor or the department.

(d) The department shall notify assessors in affected counties when the department grants extensions under this subsection.

(7)(a) Except as provided in subsection (6) of this section, any person required to file a return with the county assessor under this section may apply to the assessor for an extension of time to April 15 within which to file the return.

(b) Extensions granted under this subsection may be based on a finding by the assessor that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the assessor revokes the extension.

(8)(a) Any person required to file returns in more than one county may apply to the Department of Revenue for an extension of time to April 15 within which to file the returns. The department may grant extensions to a person required to file returns in more than one county.

(b) Extensions granted under this subsection may be based on a finding by the department that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.

(c) Whenever the department grants an extension to a person required to file returns in more than one county, the department shall notify the assessors in the counties affected by the extensions.

(9) The Department of Revenue shall, by rule, establish procedures and criteria for granting, denying or revoking extensions under this section after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.

(10) A return is not in any respect controlling on the county assessor or on the Department of Revenue in the assessment of any property. On any failure to file the required return, the property shall be listed and assessed from the best information obtainable from other sources.

(11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

(b) The assessor or the department may forward any return received in error to the department or the county official responsible for appraising the property described in the return.

(c) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this subsection may be disclosed to:

(A) The Department of Revenue or its representative;

(B) The representatives of the Secretary of State or to an accountant engaged by a county under ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment roll (including adjustments to returns made by the Department of Revenue);

(C) The county assessor, the county tax collector, the assessor's representative or the tax collector's representative for the purpose of:

(i) Collecting delinquent real or personal property taxes; or

(ii) Correctly reflecting on the tax roll information reported on returns filed by a business operating in more than one county or transferring property between counties in this state during the tax year;

(D) Any reviewing authority to the extent the return being disclosed relates to an appeal brought by a taxpayer;

(E) The Division of Child Support of the Department of Justice or a district attorney to the extent the return being disclosed relates to a case for which the Division of Child Support or the district attorney is providing support enforcement services under ORS 25.080; or

(F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850.

(d) Notwithstanding paragraph (a) of this subsection:

(A) The Department of Revenue may exchange property tax information with the authorized agents of the federal government and the several states on a reciprocal basis, or with county assessors, county tax collectors or authorized representatives of assessors or tax collectors.

(B) Information regarding the valuation of leased property reported on a property return filed by a lessor under this section may be disclosed to the lessee or other person in possession of the property. Information regarding the valuation of leased property reported on a property return filed by a lessee under this section may be disclosed to the lessor of the property.

(12) If the assessed value of any personal property in possession of a lessee is less than the maximum amount of the assessed value of taxable personal property for which ad valorem property taxes may be canceled under ORS 308.250(2)(a), the person in possession of the roll may disregard an election made under subsection (1)(a) of this section and assess the owner or lessor of the property. [Amended by 1953 c.218 §2; 1961 c.683 §2; 1963 c.436 §1; 1965 c.16 §1; 1967 c.50 §1; 1971 c.568 §2; 1971 c.574 §2; 1975 c.789 §12; 1977 c.124 §6; 1977 c.774 §24; 1979 c.286 §14; 1981 c.623 §2; 1981 c.804 §49; 1987 c.312 §3; 1991 c.191 §5; 1991 c.459 §108; 1993 c.726 §56; 1993 c.813 §2; 1995 c.609 §3; 1997 c.154 §30; 1997 c.541 §169; 1997 c.819 §2; 2001 c.479 §2; 2003 c.541 §1; 2005 c.94 §47; 2007 c.226 §1; 2007 c.227 §1; 2007 c.613 §1a; 2007 c.824 §1; 2009 c.455 §2; 2010 c.69 §3; 2011 c.204 §2]

308.295 Penalties for failure to file real property or combined return on time; notice; waiver of penalty. (1) Each person, business, firm, corporation or association required by ORS 308.290 to file a return, other than a return reporting only taxable personal property, who or which has not filed a return within the time fixed in ORS 308.290 or as extended, is delinquent.

(2) A delinquent taxpayer, except a taxpayer described in subsection (3) of this section, is subject to a penalty of \$1 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$250.

(3) A delinquent taxpayer required by ORS 308.290 to file a return reporting principal or secondary industrial property, as defined in ORS 306.126, is subject to a penalty of \$10 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.146, but the penalty may not be less than \$10 or more than \$5,000.

(4) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(5)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of property tax appeals, upon application of the taxpayer, may waive the liability:

(A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

(B) For all of the penalty if the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return.

(b) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken from the determination of the board under this subsection.

(6) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(7)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.

(d) Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years. [Amended by 1963 c.436 §2; 1967 c.405 §1; 1969 c.280 §1; 1971 c.472 §2; 1981 c.804 §50; 1983 c.604 §1; 1985 c.162 §4; 1985 c.318 §1; 1989 c.330 §1; 1991 c.459 §109a; 1997 c.541 §170; 1997 c.819 §6; 1999 c.655 §3; 2001 c.303 §2; 2003 c.317 §2; 2007 c.451 §1; 2007 c.824 §2]

308.296 Penalty for failure to file return reporting only personal property; notice; waiver of penalty. (1) Each person, business, firm, corporation or association required by ORS 308.290 to file a return reporting only taxable personal property, who or which has not filed a return within the time fixed in ORS 308.290 or as extended, shall be subject to a penalty as provided in this section.

(2) A taxpayer who files a return to which this section applies after March 1, or after April 15, if the taxpayer received an extension, but on or before June 1, is subject to a penalty equal to five percent of the tax attributable to the taxable personal property of the taxpayer.

(3) A taxpayer who files a return to which this section applies after June 1, but on or before August 1, is subject to a penalty equal to 25 percent of the tax attributable to the taxable personal property of the taxpayer.

(4) After August 1, a taxpayer who files a return to which this section applies or who fails to file a return shall be subject to a penalty equal to 50 percent of the tax attributable to the taxable personal property of the taxpayer.

(5) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(6)(a) Unless the penalty is the subject of an appeal under ORS 311.223, the county board of property tax appeals, upon application of the taxpayer, may waive the liability:

(A) For all or a portion of the penalty upon a proper showing of good and sufficient cause; or

(B) For all of the penalty if the year for which the return was filed was both the first year that a return was required to be filed by the taxpayer and the first year for which the taxpayer filed a return.

(b) Unless the taxpayer files a timely application in the same manner as an appeal under ORS 309.100, the board may not consider an application made under this subsection.

(c) An appeal may not be taken from the determination of the board under this subsection.

(7) If the board waives all or a portion of a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the waived penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the waived penalty has been paid, it shall be refunded without interest under ORS 311.806.

(8)(a) Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties under this subsection if the taxpayer:

(A) Has never filed a personal property tax return in this state;

(B) Has failed to file a property tax return for one or more consecutive years;

(C) Has not previously received relief from property tax late filing penalties under this subsection; and

(D) Files an application for relief from property tax late filing penalties that satisfies the requirements of paragraph (b) of this subsection.

(b) An application for relief from property tax late filing penalties shall include a statement by the taxpayer setting forth the basis for relief from property tax late filing penalties and a statement under oath or affirmation that the basis for relief from property tax late filing penalties as stated in the application is true.

(c) The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reasons given by the taxpayer in the application are sufficient to excuse the failure to file the property tax returns at issue in the application. If the assessor allows the application, the assessor may deny or grant relief from property tax late filing penalties in whole or in part. The determination of the assessor whether to grant the application or deny the application in whole or in part and whether to permit the taxpayer to pay the owing tax penalties, if any, in installments is final. The assessor shall notify the taxpayer of the decision.

(d) Nothing in this subsection affects the obligation of the taxpayer to file property tax returns or to pay property taxes owing from the current or delinquent tax years. [1997 c.819 §5; 1999 c.655 §1; 2001 c.303 §3; 2001 c.925 §14; 2003 c.63 §3; 2007 c.451 §2; 2007 c.824 §3]

Chapter 309—Board of Property Tax Appeals; Ratio Studies

COUNTY BOARDS OF PROPERTY TAX APPEALS

(General Provisions)

309.020 Board of property tax appeals; members; qualifications; term of office; quorum; replacement; participation in determinations. (1) Except as provided by subsections (3) and (4) of this section:

(a) The board of property tax appeals shall consist of those persons selected by the county clerk from the pool of board members appointed under ORS 309.067. The clerk shall complete the selection prior to the commencement of the board session as provided in ORS 309.026. The board shall consist of one member of the pool described in ORS 309.067 (1)(a) and two members of the pool described in ORS 309.067 (1)(b).

(b) Additional boards of property tax appeals may be selected by the county clerk if necessary for the efficient conduct of business. Each additional board shall consist of one member of the pool described in ORS 309.067 (1)(a), or under subsection (5) of this section, and two members of the pool described in ORS 309.067 (1)(b).

(2) The term of each member of a county board of property tax appeals shall begin on the date of appointment and shall end on the June 30 next following appointment or when the member resigns or is replaced under subsection (4) of this section, whichever occurs first.

(3) The chairperson of the board shall be the member of the county governing body, if present. If the governing body member is replaced as provided under subsection (4) of this section, the governing body member's replacement shall be the chairperson unless the board votes unanimously to elect one of the other nonoffice-holding members present as chairperson of the board. A quorum shall be a minimum of two members.

(4) In the event of the inability or unwillingness of any member to serve, such indisposition continuing for more than seven consecutive days, the member shall be replaced in the manner of an original appointment.

(5) In any county:

(a) The county governing body may appoint one nonoffice-holding county resident to serve on a board instead of appointing a member of the county governing body.

(b) Any nonoffice-holding county resident appointed to the pool may serve on any board as needed for the efficient conduct of business.

(6) A particular member of a board shall not participate in the determination of a petition after the hearing if the board member did not hear and consider, as a member of the board, the evidence presented at the hearing. [Amended by 1953 c.714 §3; 1955 c.709 §1; 1957 c.326 §1; 1967 c.142 §1; 1971 c.363 §1; 1973 c.61 §3; 1973 c.372 §1; 1979 c.725 §1; 1985 c.318 §2; 1989 c.330 §2; 1991 c.459 §186; 1995 c.226 §6; 1997 c.541 §224]

309.021 [Formerly 309.045; repealed by 1995 c.226 §14]

309.022 Training; expenses; expense of appraiser assistance; rules. (1) Each person appointed as a member of a pool under ORS 309.067 shall complete training approved by the Department of Revenue for the term of appointment. The department by rule may prescribe alternative methods of training on the basis of educational effectiveness, cost and accessibility to members.

(2) Provision shall be made in the county budget for the following:

(a) An amount sufficient to defray the reasonable expenses of the boards, including a per diem allowance.

(b) An amount sufficient to defray the necessary traveling and living expenses of each person whose name appears in the pools described in ORS 309.067 while completing training approved by the Department of Revenue as required under subsection (1) of this section.

(c) An amount sufficient to compensate any appraiser hired by the board under ORS 309.024. [1953 c.714 §3; 1955 c.709 §2; 1989 c.330 §3; 1991 c.459 §188; 1995 c.226 §7; 1995 c.293 §11; 1997 c.541 §225; 2001 c.511 §1]

309.024 Record of proceedings; clerk; legal advisor; appraiser assistance. (1) The board of property tax appeals shall keep a written or audio record of all proceedings. Notwithstanding ORS 192.650, no written minutes need be made.

(2) The county clerk, as described in ORS 306.005, shall serve as clerk of the board. The clerk or deputy clerk shall attend sessions of the board at the discretion of the board as approved by the clerk.

(3) The district attorney or the county counsel, at the discretion of the county clerk, shall be the legal advisor of the board unless there is a potential conflict of interest in the district attorney or county counsel serving as the legal advisor. If there is a potential conflict of interest, the county clerk may appoint independent counsel to serve as the legal advisor of the board. The legal advisor of the board, or the legal advisor's deputy, may attend all sessions of the board.

(4) At the discretion of the county clerk, the board may hire one or more appraisers registered under ORS 308.010, or licensed or certified under ORS 674.310, and not otherwise employed by the county, and other necessary personnel for the purpose of aiding the board in carrying out its functions and duties under ORS 309.026. The boards of the various counties may make such reciprocal arrangements for the exchange of appraisers with other counties as will most effectively carry out the functions and duties of the boards. [1953 c.714 §3; 1955 c.709 §3; 1957 c.326 §2; 1971 c.377 §2; 1973 c.336 §1; 1981 c.804 §2; 1989 c.330 §16; 1991 c.5 §24; 1991 c.459 §189; 1993 c.270 §40; 1993 c.498 §3; 1997 c.541 §225a; 2001 c.511 §2; 2005 c.94 §59]

The 2011 Legislature amended this statute to remove the requirement to publish the notice of session in a newspaper. Public notice of the convening of the board of property tax appeals now must be posted in six conspicuous places within the county. [The statutory language for this rule has yet to be written.]

309.025 Notice of hearings on appeals of property value; proof of notice; persons interested may appear. (1) Before the date the board of property tax appeals convenes, the clerk of the board shall give public notice that the board will meet at a specified time and place to hear the appeals specified in ORS 309.026.

(2)(a) The notice provided under this section shall be given by posting notices in six conspicuous places in the county.

(b) Proof of notice shall be made by affidavit of the clerk of the board, setting out the time, manner and place of posting the notices. The affidavit must be filed in the office of the county clerk on or before the day on which the board convenes.

(3) Persons interested may appear at the time and place appointed in the notice. [1991 c.459 §194a; 1997 c.541 §226; 1999 c.579 §9; 2011 c.204 §8]

309.026 Sessions; hearing of petitions; applications to excuse penalty; adjournment. (1) The board of property tax appeals may convene on or after the first Monday in February of each year, but not later than the date necessary for the board to complete the functions of the board by April 15. The board shall meet at the courthouse or courthouse annex. If the meeting place is other than the courthouse or annex, notice of the meeting place shall be posted daily in the courthouse. The board shall continue its sessions from day to day, exclusive of legal holidays, until the functions provided in subsections (2) and (3) of this section are completed.

(2) The board shall hear petitions for the reduction of:

(a) The assessed value or specially assessed value of property as of January 1 or as determined under ORS 308.146 (6)(a) or 308.428;

(b) The real market value of property as of January 1 or as determined under ORS 308.146 (6)(a) or 308.428;

(c) The maximum assessed value of property as of January 1 or as determined under ORS 308.146 (5)(a) and 308.428;

(d) The maximum assessed value of property as of January 1 or as determined under ORS 308.146 (5)(a) or (8)(a) or 308.428; and

(e) Corrections to value made under ORS 311.208.

(3) The board shall hear petitions for the reduction of value as provided in subsection (2) of this section, but only if the value that is the subject of the petition was added to the roll prior to December 1 of the tax year.

(4) The board shall consider applications to waive liability for all or a portion of the penalty imposed under ORS 308.295 or 308.296.

(5) The board shall adjourn no later than April 15. [1955 c.709 §4; 1957 c.326 §3; 1959 c.519 §3; 1971 c.377 §3; 1975 c.753 §3; 1979 c.241 §35; 1981 c.804 §3; 1983 s.s. c.5 §9; 1985 c.318 §3; 1989 c.330 §4; 1991 c.459 §190; 1993 c.270 §41; 1997 c.541 §227; 1999 c.579 §10; 1999 c.655 §5; 2001 c.422 §1; 2009 c.443 §3]

309.067 Pool of members. (1) The county governing body shall appoint:

(a) A pool of members of the county governing body or the governing body's designees who are eligible and willing to serve as members of the county board of property tax appeals.

(b) A pool of nonoffice-holding residents of the county who are not employees of the county or of any taxing district within the county and who are eligible and willing to serve as members of the county board of property tax appeals.

(2) The number of names placed in pools shall be sufficient to meet the projected needs for board members for the term of appointment for which the pools are prepared.

(3) The pools shall contain the names, addresses and telephone numbers of the persons in the pools and shall include a brief description of the training under ORS 309.022 in which the person has or will have participated before any term as a board member begins. The pools of appointed persons shall be filed in the records of the county clerk.

(4) A newly filed pool of names shall take precedence over any previously filed pool of names. The county governing body shall designate the date when a newly filed pool of names shall become effective. After a newly prepared pool of names becomes effective, board members shall not be selected from a previously filed pool of names.

(5) The appointment of pools described in this section shall be made by the county governing body on or before October 15 of each year or at any other time upon the request of the county clerk at a regular meeting of the governing body or at a special meeting called by the chairperson of the county governing body.

(6) Appointments made under this section shall be in writing and shall designate the pool to which the member was appointed. [1995 c.226 §2; 1997 c.541 §229]

309.070 Oaths. Before proceeding to the functions and duties required by this chapter, each member of the board of property tax appeals shall take and subscribe to an oath to faithfully and honestly discharge the duties of the board. The oath shall be administered by a member of the board and shall be filed with the county clerk. [Amended by 1979 c.241 §41; 1981 c.804 §13; 1991 c.459 §195; 1995 c.226 §9; 1997 c.541 §230]

309.072 Record of board affairs. The meetings, qualification, sittings and adjournment of the boards of property tax appeals shall be recorded in the journal of the county governing body. [Formerly 309.140; 1995 c.226 §10; 1997 c.541 §231]

(Appeals of Value)

309.100 Petitions; verification; filing; hearings; notice of hearing; representation at hearing.

(1) Except as provided in ORS 305.403, the owner or an owner of any taxable property or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property, may petition the board of property tax appeals for relief as authorized under ORS 309.026. As used in this subsection, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(2) Petitions filed under this section shall be filed with the clerk of the board during the period following the date the tax statements are mailed for the current tax year and ending December 31.

(3) Each petition shall:

(a) Be made in writing.

(b) State the facts and the grounds upon which the petition is made.

(c) Be signed and verified by the oath of a person described in subsection (1) or (4) of this section.

(d) State the address to which notice of the action of the board shall be sent. The notice may be sent to a person described in subsection (1) or (4) of this section.

(e) State if the petitioner or a representative desires to appear at a hearing before the board.

(4)(a) The following persons may sign a petition and appear before the board on behalf of a person described in subsection (1) of this section:

(A) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the property.

(B) A person duly qualified to practice law or public accountancy in this state.

(C) A legal guardian or conservator who is acting on behalf of an owner of the property.

(D) A real estate broker or principal real estate broker licensed under ORS 696.022.

(E) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered appraiser under ORS 308.010.

(F) The lessee of the property.

(G) An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property.

(b) A petition signed by a person described in this subsection, other than a legal guardian or conservator of a property owner, an attorney-in-fact described in paragraph (a)(G) of this subsection or a person duly qualified to practice law in this state, shall include written authorization for the person to act on behalf of the owner or other person described in subsection (1) of this section. The authorization shall be signed by the owner or other person described in subsection (1) of this section.

(c) In the case of a petition signed by a legal guardian or conservator, the board may request the guardian or conservator to authenticate the guardianship or conservatorship.

(d) In the case of a petition signed by an attorney-in-fact described in paragraph (a)(G) of this subsection, the petition shall be accompanied by a copy of the general power of attorney.

(5) If the petitioner has requested a hearing before the board, the board shall give such petitioner at least five days' written notice of the time and place to appear. If the board denies any petition upon the grounds that it does not meet the requirements of subsection (3) of this section, it shall issue a

written order rejecting the petition and set forth in the order the reasons the board considered the petition to be defective.

(6) Notwithstanding ORS 9.160 or 9.320, the owner or other person described in subsection (1) of this section may appear and represent himself or herself at the hearing before the board, or may be represented at the hearing by any authorized person described in subsection (4) of this section. [Amended by 1955 c.709 §14; 1959 c.56 §1; 1967 c.78 §5; 1969 c.561 §2; 1971 c.377 §9; 1973 c.402 §34; 1981 c.804 §16; 1983 c.603 §2; 1983 s.s. c.5 §16; 1987 c.808 §1; 1989 c.330 §12; 1991 c.5 §25; 1991 c.459 §196; 1993 c.270 §42; 1995 c.79 §136; 1995 c.467 §1; 1997 c.541 §232; 1999 c.579 §§11,11a; 2001 c.300 §60; 2003 c.120 §1; 2009 c.33 §9; 2011 c.111 §2]

309.104 Electronic filing; rules. The Department of Revenue may prescribe rules that provide for the filing of a petition under ORS 309.100 and related written material, including signatures and verifications, by electronic means and may prescribe the conditions and requirements that must be met in order for an electronic filing to meet the requirements of ORS 309.100. [1997 c.154 §8]

309.110 Disposition of petitions; orders; contents; mailing; delivery; stipulations; amended orders; appeal. (1) The disposition of every petition before a board of property tax appeals, other than a petition that is resolved by stipulation under ORS 308.242, and the board's determination thereon shall be recorded by formal order and entered in the record of the board. A copy of the order as to each petition shall be sent, by mail, to the petitioner at the post-office address given in the petition. When a copy of a board's order is personally delivered to the petitioner, the requirement to mail a copy of the order is waived. A copy of each order shall be delivered to the assessor and the officer in charge of the roll on the same day that the order is mailed or delivered to the petitioner. The orders of a board shall specify what changes shall be made in the tax roll, if any, and shall direct the officer in charge of the roll to make them. The legal advisor of the board shall be available to aid a board in the preparation of its orders.

(2) If a petition is filed with the board that is resolved by stipulation under ORS 308.242 prior to the date the board convenes, the stipulation shall be entered into the record of the board. The requirements for recording by formal order, mailing and delivery under subsection (1) of this section do not apply to a stipulation entered into the record under this subsection. For all other purposes, a petition that is resolved by stipulation under ORS 308.242 prior to the date the board convenes shall be treated as if the petition had been withdrawn.

(3)(a) A board may issue amended orders to correct clerical errors or errors of jurisdiction appearing in its original orders.

(b) A board may authorize a board member or clerk of the board to amend board orders on behalf of the board for the purpose of correcting clerical errors.

(4) Amended orders correcting an error of jurisdiction may be issued only during a board's session, or by call of the chairperson.

(5) An amended order correcting a clerical error or an error of jurisdiction must be made on or before June 30 of the year in which the original order was issued by the board.

(6) The provisions of subsection (1) of this section shall apply to amended orders, unless the context requires otherwise. Amended orders shall be mailed to the petitioner and delivered to the assessor and the officer in charge of the roll not later than five days after the adjournment of a board's meetings or five days after the date the order is amended, whichever is later.

(7) The order of a board, other than an order relating to an application to excuse liability for the penalty imposed under ORS 308.295, may be appealed to the magistrate division of the Oregon Tax Court.

(8) As used in this section:

(a) "Clerical error" means an error in an order that either arises from an error in the minutes of a board or is a failure to correctly reflect the minutes of a board and that, had it been discovered prior to the order being issued, would have been corrected as a matter of course. In order to be a clerical error, the information necessary to make the correction must be contained in the minutes of the board. Such

errors include, but are not limited to, arithmetic and copying errors and omission or misstatement of identification of property.

(b) "Error of jurisdiction" means an error in an order resulting from a board's failure to correctly apply the board's authority as granted under ORS 309.026. [Amended by 1957 c.326 §6; 1959 c.666 §1; 1977 c.884 §14; 1981 c.804 §19; 1983 c.602 §1; 1985 c.318 §6; 1985 c.613 §23; 1989 c.330 §14; 1991 c.459 §198; 1993 c.498 §4; 1995 c.226 §11; 1997 c.541 §233; 1999 c.21 §23; 1999 c.340 §5; 1999 c.579 §12; 2001 c.114 §22; 2001 c.511 §3; 2003 c.35 §1]

309.115 Effect of property value correction upon appeal; exceptions. (1) If the Department of Revenue, the board of property tax appeals or the tax court or other court enters an order correcting the real market value of a separate assessment of property and there is no further appeal from that order, except as provided under subsection (2) or (3) of this section, the value so entered shall be the real market value entered on the assessment and tax rolls for the five assessment years next following the year for which the order is entered.

(2) Notwithstanding subsection (1) of this section, the following adjustments may be made to the real market value during the period described in subsection (1) of this section:

(a) Annual trending or indexing applied to all properties of the same property class in the county, or within clearly defined areas of the county under this chapter.

(b) Annual trending or depreciation factors applied to similar property.

(c) Additions or retirements based upon returns filed under ORS 308.290.

(d) Additions, retirements or economic trending from the annual valuations under ORS 308.505 to 308.665.

(e) Increases directly related to additions, remodeling or rehabilitation made to property.

(f) Changes directly related to subdividing or partitioning the property.

(g) Changes directly related to rezoning the property and using the property consistent with the rezoning.

(h) Property damaged, destroyed or otherwise subject to loss of real market value.

(3) In the case of principal or secondary industrial property, subsection (1) of this section does not apply to changes in real market value as a result of:

(a) Annual trending or depreciation factors applied by type of property to industrial or personal property;

(b) Additions or retirements based upon returns filed under ORS 308.290; or

(c) Property damaged, destroyed or otherwise subject to loss of real market value.

(4) If, during the five-year period described in subsection (1) of this section, another order correcting the real market value of the property subject to subsection (1) of this section is entered, subsection (1) of this section shall apply for the five years next following the year the later order is entered. [1989 c.678 §2; 1991 c.459 §198a; 1995 c.650 §65; 1997 c.154 §§45,46; 1997 c.541 §§234,235; 1999 c.579 §28; 2001 c.6 §1]

309.120 Entry in roll of corrections, additions or changes. Corrections, additions to, or changes in the roll shall be entered in the roll by the officer in charge of the roll in a manner clearly showing that the assessor's prior entry, if any, has been superseded, and showing the entry ordered by the board of property tax appeals, indicating the change substantially "as ordered by the county board of property tax appeals." The entries shall be a part of the record of the action of the board. [Amended by 1957 c.326 §7; 1981 c.804 §20; 1991 c.459 §199; 1997 c.541 §237]

309.150 Appeals of value upon summary or accelerated collection of taxes. Appeals of the value of personal property, on which the tax is required to be paid as provided in ORS 311.465 and 311.480, shall be heard by a board of property tax appeals in the same manner that other assessments of property are heard. [Amended by 1975 c.365 §2; 1981 c.804 §22; 1991 c.459 §201; 1995 c.226 §12; 1997 c.541 §238]

SALES RATIO STUDIES AND DEPARTMENT OF REVENUE REVIEW

309.200 Assessor to collect sales data and prepare ratio study; filing study with board and department. (1) Between January 1 and December 31 of each year the county assessor shall collect sales data for a ratio study.

(2) The assessor shall prepare and complete a certified ratio study in the time and manner provided by the rules adopted by the Department of Revenue. A copy of the sales data collected and used as the basis for conclusions relating to real market value shall be included with the ratio study. The assessor shall file a certified copy of the sales data and ratio study with the department, as prescribed by department rule.

(3) Not later than October 15 of each year the assessor shall file with the clerk of the board of property tax appeals a copy of the ratio study. [1975 c.753 §2; 1981 c.804 §23; 1985 c.613 §24; 1989 c.330 §18; 1991 c.459 §202; 1993 c.270 §43; 1997 c.541 §239; 1999 c.655 §7]

309.203 Real market value standard; compliance; recommendations or orders by department; examination of ratio study; action if assessed value deviates from real market value. (1) On or before June 15 of each year, the Department of Revenue shall give specific written recommendations or orders to the county assessor as to the actions which, in the department's judgment, should be taken by the assessor in order to achieve compliance with the real market value standard required under ORS 308.232 in the forthcoming assessment roll. Copies shall be sent to the county governing body for their information. On or before July 15 following, the county assessor shall act upon the recommendations or orders of the department, or notify the department in writing, of any objections to the department's recommendations or orders.

(2) After May 1, but prior to September 1, the department shall examine the certified ratio study prepared by each county assessor under ORS 309.200 and studies prepared by the department, to determine if the value of all locally assessed taxable properties complies with the real market value requirements of ORS 308.232. The assessor and the department shall cooperate with each other to keep the department informed as to the assessor's needs and as to the status of the current assessment work. If, in the judgment of the department, the attainment of the real market value standard required under ORS 308.232 is in jeopardy, the department shall notify the assessor in writing of the determination and the factors giving rise to it, with the statement that if unfulfilled statutory duties specified by the department are not met, the department shall take action pursuant to this section. A copy of such notice shall be sent to the county governing body, for its information. On or before September 1, the department shall issue a written order to the assessor to adjust the classes of property on the assessment roll:

(a) If the department finds that the ratio of all taxable properties deviates more than five percent from the real market value level required by ORS 308.232, the department shall order an adjustment to the real market values that will result in compliance with ORS 308.232. The assessor shall apply the adjustment to real market values on the assessment roll and compute corrected assessed values if necessary. A tolerance of five percent from 100 percent may be presumed by the department to meet the requirements of ORS 308.232. Notwithstanding satisfactory compliance with the provisions of paragraph (b) of this subsection, the department shall take any action necessary to achieve the real market value level required by ORS 308.232.

(b) If the department finds that the real market value for any class of property provided for under ORS 308.215 deviates more than 10 percent from 100 percent of real market value for the class, the department shall order a change of values to bring the class to 100 percent of real market value. The order may be made applicable to the class throughout the county or to the class in specific areas of the county and may take into account variations caused by appraisals being made in different years.

(c) If the department's order results in a valuation increase, the increase may be appealed in the manner provided by ORS 309.100.

(3) If the department orders an adjustment to the real market values of property under subsection (2) of this section, the department shall immediately give notice to the assessor, showing why the adjustment is ordered. [Formerly 309.035; 2001 c.509 §1]

ASSESSMENT ROLL SUMMARIES

(General Provisions)

309.310 “Department” defined for ORS 309.330 to 309.400. As used in ORS 309.330 to 309.400, “department” means the Department of Revenue.

309.320 [Amended by 1991 c.459 §202a; repealed by 1997 c.541 §241]

309.330 Transmission of summary of assessment roll by assessor. (1) After the assessment roll of any county has been delivered to the tax collector as required by ORS 311.115, the county assessor shall transmit to the Director of the Department of Revenue within 10 days after the roll is delivered to the tax collector, but not later than November 4, a certified copy of the summary of the assessment roll.

(2) The summary of the assessment roll shall be shown on forms prescribed by the Department of Revenue with such classification of property as the director shall specify. [Amended by 1969 c.520 §34; 1977 c.220 §1; 1981 c.804 §111; 1991 c.459 §202b]

309.340 Recording and tabulating summaries. Upon the receipt of tabulated summaries of the assessment rolls, the Department of Revenue shall record the summaries in a book provided and kept in its office for that purpose and shall, subject to the instructions of the Director of the Department of Revenue, compile the summaries into tabular form for the use of the director. [Amended by 1969 c.520 §35; 1977 c.220 §2]

309.360 Examining summaries; obtaining other information. The Department of Revenue shall examine and compare the summaries of the assessment rolls as certified by the county assessors and may obtain such other information as the department considers necessary to ascertain and determine the true and relative value of all the taxable property in the several counties, including property assessed by the department. [Amended by 1991 c.459 §203a]

309.370 Tabulating assessment summaries. After the Department of Revenue has examined and compared the summaries and obtained the other necessary information, the department shall combine the result in a table. When approved by the Director of the Department of Revenue, a table shall be signed by the director and retained on file in the department. [Amended by 1969 c.520 §37; 1981 c.804 §25; 1985 c.761 §14; 1991 c.459 §203b; 1993 c.98 §14; 1997 c.541 §240]

309.400 Ordering change of valuation; making changes if officer fails to comply. (1) The Department of Revenue may order any officer in charge of the assessment roll to raise or lower the valuation of any taxable property and to add property to the assessment roll.

(2) If an officer fails to comply with any order or requirement of the department, the department may make the correction or change in the assessment roll. [Amended by 1953 c.22 §2; 1991 c.96 §7; 1991 c.459 §204]

309.540 [Repealed by 1953 c.705 §2]

309.550 [Renumbered 311.658]

(Penalties)

309.990 Penalties. Any person who willfully and knowingly presents or furnishes to the Director of the Department of Revenue, or any member of the director’s staff, any statement required by the director, or representatives or agents of the director, under ORS 309.360 that is false or fraudulent is guilty of perjury. Upon conviction, the person shall be punished as provided by law for the crime of perjury. [Subsections (1) and (2) enacted as 1955 c.709 §15; 1969 c.520 §39; 1971 c.377 §11; 1981 c.804 §27; 2005 c.94 §60]

Chapter 311 (Portion)—Collection of Property Taxes

CORRECTING ERRORS OR OMISSIONS IN ROLLS

311.205 Correcting errors or omissions in rolls. (1) After the assessor certifies the assessment and tax roll to the tax collector, the officer in charge of the roll may correct errors or omissions in the roll to conform to the facts, as follows:

(a) The officer may correct a clerical error. A clerical error is an error on the roll which either arises from an error in the ad valorem tax records of the assessor, or the records of the Department of Revenue for property assessed under ORS 306.126, or which is a failure to correctly reflect the ad valorem tax records of the assessor, or the records of the Department of Revenue for property assessed under ORS 306.126, and which, had it been discovered by the assessor or the department prior to the certification of the assessment and tax roll of the year of assessment would have been corrected as a matter of course, and the information necessary to make the correction is contained in such records. Such errors include, but are not limited to, arithmetic and copying errors, and the omission or misstatement of a land, improvement or other property value on the roll.

(b) The officer may correct an error in valuation judgment at any time in any account when an appeal has been filed in the tax court alleging that the value on the roll is incorrect, if the correction results in a reduction of the tax owed on the account. Corrections under this paragraph to accounts appraised by the department pursuant to ORS 306.126 and 308.505 to 308.665 may not be made without the approval of the department. Errors in valuation judgment are those where the assessor or the department would arrive at a different opinion of value. The officer may correct any other error or omission of any kind. Corrections that are not corrections of valuation judgment errors include, but are not limited to, the elimination of an assessment to one taxpayer of property belonging to another on the assessment date, the correction of a tax limit calculation, the correction of a value changed on appeal, or the correction of an error in the assessed value of property resulting from an error in the identification of a unit of property, but not an error in a notice filed under ORS 310.060.

(c) The officer shall make any change requested by the Department of Revenue which relates to an assessment of property made by the department under ORS 308.505 to 308.665.

(d) The officer shall make any change ordered by the tax court or the Department of Revenue under ORS 305.288 (1) to (6) or 306.115.

(e) The officer shall make any change required under ORS 308A.089.

(2)(a) The officer in charge of the roll shall make corrections with the assent and concurrence of the assessor or the department. The direction for the correction shall be made in writing and state the type of error and the statutory authority for the correction. Corrections may be made to the roll for any year or years not exceeding five years prior to the last roll so certified.

(b) Any additional taxes resulting from corrections for years prior to the current year shall be deemed assessed and imposed in the particular year or years as to which the corrections apply. Addition of tax to a prior year's tax roll, due to corrections under this section, shall not be considered in calculating the effect of the tax limitation under section 11b, Article XI of the Oregon Constitution for the current year.

(3) A correction made pursuant to this section shall be made in whatever manner necessary to make the assessment, tax or other proceeding regular and valid. The correction shall be distinguishable upon the roll, shall include the date of the correction and shall identify the officer making the correction. Whenever a correction is to be made after the assessor has delivered the roll to the tax collector, the effect of which is to increase the assessment to which it relates, except where made by order of the department, the procedure prescribed in ORS 311.216 to 311.232 shall be followed; and the provisions therein with respect to appeals shall likewise apply.

(4) Corrections which would result in less than a \$1,000 change in assessed value or real market value shall not change the value for purposes of computing the taxes levied against the property, but shall be made only for purposes of correcting the office records.

(5) The remedies under this section are in addition to other remedies provided by law. [Amended by 1953 c.26 §2; 1957 c.324 §8; 1959 c.181 §2; 1961 c.234 §1; 1963 c.267 §1; 1965 c.344 §16; 1971 c.472 §3; 1973 c.402 §28; 1977 c.606 §2; 1979 c.687 §3; 1983 c.605 §5; 1991 c.459 §231; 1993 c.18 §73; 1993 c.270 §54; 1995 c.79 §146; 1995 c.127 §4; 1997 c.541 §278; 1999 c.21 §27; 2001 c.509 §2; 2007 c.590 §2]

311.206 Additional taxes resulting from correction of error or omission; date of delinquency; limitations; prepayment. (1)(a) Except as provided in subsections (4) and (5) of this section, when the roll is corrected under ORS 311.205, and taxes are added to the roll, the additional taxes shall be added to the tax extended against the property on the general property tax roll for the tax year determined under subsections (2) and (3) of this section, to be collected and distributed in the same manner as other ad valorem property taxes imposed on the property.

(b) Notwithstanding ORS 311.205 (2)(b), for purposes of collection and enforcement, the additional taxes added to the roll under subsections (1) to (4) of this section shall be considered delinquent as of the date the other taxes for the year in which the additional taxes are added to the roll become delinquent.

(2) When taxes for a single tax year are added to an assessment and tax roll under subsection (1) (a) of this section, the additional taxes shall be added to the tax extended against the property on the general property tax roll for the tax year following the tax year in which the correction is made.

(3)(a) When taxes for more than one tax year are added to an assessment and tax roll under subsection (1)(a) of this section, the additional taxes for the earliest tax year shall be added to the tax extended against the property on the general property tax roll for the tax year following the tax year in which the correction is made and additional taxes for each subsequent tax year through the tax year in which the correction is made shall be added in chronological order to the tax extended against the property on the general property tax roll for the second, third, fourth, fifth and sixth tax years, as necessary, following the tax year in which the correction is made.

(b) For each tax year in which the additional tax is deferred under this subsection, the county assessor shall enter the notation "deferred additional tax liability" on the assessment and tax roll. The notation shall continue to appear on subsequent assessment and tax rolls until all the additional taxes have been added as required under this subsection. If the property is sold or otherwise transferred, or is moved out of the county, the lien for the taxes added under this subsection shall attach and the taxes are due and payable as of the day before the sale or transfer, or, if the property is removed from the county, five days before the removal, whichever is earlier. Additional taxes on personal property or a manufactured structure imposed as a result of an error corrected under ORS 311.205 is a personal debt due and owing from the owner to which ORS 311.455 applies.

(4) When additional taxes are added to the roll as the result of a request from the Department of Revenue as described in ORS 311.205 (1)(c), the additional taxes shall be added to the tax extended against the property on the general property tax roll for the tax year following the current tax year, to be collected and distributed in the same manner as other ad valorem property taxes imposed on the property.

(5) When additional taxes are added to the roll as the result of an order described in ORS 311.205 (1)(d), the additional taxes shall be collected as provided in ORS 311.513.

(6) Notwithstanding subsection (1) of this section or other provision of law establishing the delinquency date for additional taxes, additional taxes may not be assessed and imposed if the correction is a result of:

- (a) The disqualification of property from a tax exemption granted erroneously by a tax official; or
- (b) The failure by a tax official to timely disqualify property from a tax exemption.

(7) Subsection (6) of this section does not apply to a failure by a tax official to timely disqualify property from a tax exemption if the property owner fails to timely notify the assessor of a change in use of the property to a nonexempt use.

(8)(a) Except as provided in paragraph (b) of this subsection, additional taxes arising from a correction under ORS 311.205 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(b) The amount to be added to the tax extended against the property under subsection (3)(a) of this section may be paid to the tax collector prior to the completion of the tax roll to which the tax is to be added, pursuant to ORS 311.370. The tax collector may apply prepayments of additional taxes under this paragraph for one or more future years to the taxes imposed on the next following assessment and tax roll.

(9) For purposes of this section, "additional taxes" includes increases in taxes that have already been extended on the roll. [1975 c.780 §15; 1983 c.106 §1; subsections (2) to (7) enacted as 1983 c.106 §3; 1985 c.784 §9; 1991 c.459 §232; 1993 c.270 §55; 1995 c.256 §6; 1999 c.500 §3; 1999 c.862 §1a; 2001 c.303 §7; 2003 c.274 §3; 2010 c.36 §1]

Note: Section 2, chapter 36,

311.208 Notice required when current roll corrections increase value; time for payment of additional taxes. (1) The assessor shall notify the property owner of record or other person claiming to own the property or occupying the property or in possession of the property, if:

(a) A correction is made that applies only to the current roll;

(b) The correction is made after roll certification under ORS 311.105 and prior to December 1 of the current tax year; and

(c) The correction increases the value of the property.

(2) If a correction described in subsection (1) of this section results in additional taxes being added to the current roll, the additional taxes shall be due and payable without interest if paid prior to the 16th of the month next following the date the notice was sent under this section.

(3) If the additional taxes described in subsection (2) of this section are not paid prior to the 16th of the month next following the date the notice was sent under this section, the additional taxes shall be considered for all purposes of collection and enforcement of payment as having become delinquent on the date the taxes would normally have become delinquent if the taxes had been timely extended on the roll.

(4) The notice described in subsection (1) of this section shall:

(a) Be mailed prior to December 1 to the last-known address of the person described in subsection (1) of this section;

(b) Specify the date and the amount of the correction;

(c) If additional tax is imposed, specify the date by which the additional tax may be paid without interest; and

(d) Include the owner's right to file a petition with the county board of property tax appeals not later than December 31 of the current tax year.

(5) The correction shall be made by the officer in charge of the roll in the manner described in ORS 311.205 (3).

(6) A correction made under this section may be appealed to the board of property tax appeals in the manner provided in ORS 309.100. [1997 c.541 §280; 2001 c.303 §10]

311.216 Notice of intention to add omitted property to rolls; treatment of unreported property; treatment of understated property; duty of tax collector. (1) Whenever the assessor discovers or receives credible information, or if the assessor has reason to believe that any real or personal property, including property subject to assessment by the Department of Revenue, or any buildings, structures, improvements or timber on land previously assessed without the same, has from any cause been omitted, in whole or in part, from assessment and taxation on the current assessment and tax rolls or on any such rolls for any year or years not exceeding five years prior to the last certified roll, the assessor shall give notice as provided in ORS 311.219.

(2) Property or the excess cost of property, after adjustment to reflect real market value, shall be presumed to be omitted property subject to additional assessment as provided in ORS 311.216 to 311.232 whenever the assessor discovers or receives credible information:

(a) That the addition of any building, structure, improvement, machinery or equipment was not reported in a return filed under ORS 308.285 or 308.290; or

(b) That the cost as of January 1 of any building, structure, improvement, machinery or equipment reported in a return required by the assessor under ORS 308.285 or 308.290 exceeds the cost stated in the return.

(3) If the tax collector discovers or receives credible information or if the tax collector has reason to believe that any property subject to taxation has been omitted from the tax roll, the tax collector shall immediately bring this to the attention of the assessor by written notice. [Formerly 311.207; 1999 c.21 §28; 1999 c.500 §4; 2003 c.46 §27]

Oregon Administrative Rules

Note: We've included only those laws we thought would be of interest to BOPTA members. This chapter contains the majority of the rules associated with ORS Chapter 309 and some of the rules associated with ORS Chapters 308 and 311. You can view all rules at sos.oregon.gov, click on "Archives."

OARs filed through August 15, 2012

DEPARTMENT OF REVENUE

CHAPTER 308 (Portion)

ASSESSMENT OF PROPERTY FOR TAXATION

150-308.146

Determining Maximum Assessed Value when the Property Class is Changed

(1) The single act of changing the property classification, described in OAR 150-308.215(1)-(A), to better reflect the highest and best use of the property, does not qualify as an exception to the 3 percent limitation on growth in the maximum assessed value (MAV), as described in ORS 308.146(1).

(2) Any exception value added to the base MAV after the change is made to the property class will be calculated by applying the changed property ratio of the current property class to the real market value of any qualified exception identified in ORS 308.146.

Stat. Auth.: ORS 305.100.

Stats. Implemented: ORS 308.146.

Hist: REV 2-2005, f. 6-27-05, cert. ef 6-30-05

150-308.146(5)(a)

Reduction of Maximum Assessed Value (MAV) for Property Destroyed or Damaged by Fire or Act of God

(1) "Fire or act of God" has the same meaning and restrictions as used in ORS 308.425 including the arson restriction of ORS 308.440.

(2) As used in ORS 308.146(5)(a), "reduction in real market value" means that the total real market value (RMV) after adjustment is less than it would otherwise have been, had the damage or destruction by fire or act of God not occurred.

(3) When a portion of property is destroyed or damaged by fire or act of God, use the following procedure to adjust MAV for the year in which the destruction or damage is reflected by a reduction in RMV.

Note: An example is incorporated into the steps with the following assumptions:

2008-09 MAV = \$187,379

2008-09 (1-1-08) total RMV equals \$300,000.

2008-09 assessed value (AV) = \$187,379.

9-1-08 the house is destroyed by fire. The house RMV for 1-1-08 was \$180,000.

There is no market trending in this area.

Step 1: Multiply the prior year AV by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account had not changed, i.e., the larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.

Example: Larger of: $\$187,379 \times 1.03 = \$193,000$ or $\$187,379$. Current year MAV = $\$193,000$.

Step 2: Determine the prior year's RMV for the affected portion. The affected portion is that part of the property that was destroyed or damaged by fire or act of God. The RMV of the loss is the RMV of the affected portion.

Example: RMV of affected portion equals \$180,000.

Step 3: Subtract the RMV of the affected portion (Step 2) from the prior year total RMV to determine the RMV of the unaffected portion, i.e., the prior year total RMV - RMV of the affected portion = RMV of the unaffected portion.

Example: \$300,000 - \$180,000 = \$120,000.

Step 4: Divide the RMV of the unaffected portion (Step 3) by the total prior year RMV to determine the percentage of unaffected property, i.e., the RMV of the unaffected portion / total prior year RMV = percentage of unaffected property.

Example: \$120,000 / \$300,000 = 40%

Step 5: Multiply the unadjusted MAV (Step 1) by the percentage of unaffected property (Step 4) to determine MAV that has been adjusted to reflect the loss from fire or act of God (MAV attributable to the unaffected portion only), i.e., the unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from fire or act of God.

Example: \$193,000 x 40% = \$77,200.

(5) As used in section (4), the “year” in which the RMV is reduced due to fire or act of God can be either:

(a) The assessment year.

(b) The tax year if RMV is determined as of July 1 under ORS 308.146(6) or 308.428.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.149

Hist.: REV 8-2000, f. & cert. ef. 8-3-00; REV 5-2009, f. & cert. ef. 7-31-09

150-308.146(8)

Reduction of Maximum Assessed Value (MAV) When a Building is Demolished or Removed

(1) As used in ORS 308.146(8)(a), “reduction in real market value” means the total real market value (RMV) after adjustment is less than it would otherwise have been, had the demolition or removal not occurred.

(2) As used in section (3) of this rule, the “year” in which the RMV is reduced due to demolition or removal is either:

(a) The assessment year, or

(b) The tax year, if RMV is determined as of July 1 under ORS 308.146(6).

(3) When a building is demolished or removed, use the following procedure to adjust the maximum assessed value (MAV) for the year in which the demolition or removal is reflected by a reduction in RMV.

Note: An example is incorporated into the steps with the following assumptions:

2007-08 MAV = \$87,379

2007-08 (1-1-07) total RMV = \$100,000.

2007-08 AV = \$87,379.

There is no market trending in this area.

On September 1, 2007 the house is demolished. The RMV of the house for 1-1-07 was \$75,000.

Step 1: Perform the 103% test as if the property had not changed. Multiply the prior year assessed value (AV) by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account had not changed.

Larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.

Example: Larger of: \$87,379 x 1.03 = \$90,000 or \$87,379. Current year MAV = \$90,000.

Step 2: Determine the prior year RMV for the affected portion. The affected portion is the building or buildings that were demolished or removed. The RMV of the loss is the RMV of the affected portion.

Example: RMV of affected portion = \$75,000.

Step 3: Determine the prior year RMV for the unaffected portion. Subtract the RMV of the affected portion (from Step 2) from the prior year total RMV to determine the RMV of the unaffected portion.

Prior year total RMV – RMV of the affected portion = RMV of the unaffected portion.

Example: \$100,000 - \$75,000 = \$25,000.

Step 4: Determine the percentage of the unaffected property. Divide the RMV of the unaffected portion (from Step 3) by the total prior year RMV to determine the percentage of the unaffected property.

$\text{RMV of the unaffected portion} / \text{total prior year RMV} = \text{percentage of the unaffected property.}$

Example: $\$25,000 / \$100,000 = 25\%$

Step 5: Determine the MAV that has been adjusted to reflect the loss. Multiply the unadjusted MAV (from Step 1) by the percentage of the unaffected property (from Step 4) to determine an MAV that has been adjusted to reflect the loss from demolition or removal (MAV attributable to the unaffected portion only).

$\text{Unadjusted MAV} \times \text{percentage of unaffected property} = \text{MAV adjusted to reflect the loss from demolition or removal.}$

Example: $\$90,000 \times 25\% = \$22,500.$

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.146

Hist.: REV 7-2008, f. 8-29-08, cert. ef. 8-31-08

150-308.149-(A)

Definitions

(1) For purposes of ORS 308.149:

(a) "New construction" means any new structure, building, addition or improvement to the land, including site development.

(b) "Reconstruction" means to rebuild or replace an existing structure with one of comparable utility.

(c) "Major addition" means an addition that has a real market value over \$10,000 and adds square footage to an existing structure.

(d) "Remodeling" means a type of renovation that changes the basic plan, form or style of the property.

(e) "Renovation" means the process by which older structures or historic buildings are modernized, remodeled or restored.

(f) "Rehabilitation" means to restore to a former condition without changing the basic plan, form or style of the structure.

(2)(a) For purposes of ORS 308.149 "general ongoing maintenance and repair" means activity that:

(A) Preserves the condition of existing improvements without significantly changing design or materials and achieves an average useful life that is typical of the type and quality so the property continues to perform and function efficiently;

(B) Does not create new structures, additions to existing real property improvements or replacement of real or personal property machinery and equipment;

(C) Does not affect a sufficient portion of the improvements to qualify as new construction, reconstruction, major additions, remodeling, renovation or rehabilitation; and

(D) For income producing properties is part of a regularly scheduled maintenance program.

(b) Regardless of cost, the value of general ongoing maintenance and repairs may not be included as additions for the calculation of maximum assessed value.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.149

Hist.: RD 9-1997, f. & cert. ef. 12-31-97; REV 8-1998, Renumbered from 150-308.149, f. 11-13-98, cert. ef. 12-31-98; REV 11-1998, f. 12-29-98, cert. ef. 12-31-98; REV 13-1999, f. 12-30-99, cert. ef. 12-31-99

150-308.149(6)

Minor Construction

(1) Definition: "Minor construction" is an improvement to real property that results in an addition to real market value (RMV), but does not qualify as an addition to maximum assessed value (MAV)

due to a value threshold. The value threshold is an RMV of over \$10,000 in any one assessment year, or over \$25,000 for all cumulative additions made over five assessment years.

(2) Minor construction does not include general ongoing maintenance and repairs.

(3) When testing the over \$25,000 threshold, use the cumulative RMV of all minor and major construction over a period not to exceed five consecutive assessment years.

(a) Minor and major construction values are not market trended.

(b) Values for retirements are not considered in the threshold test.

(c) Values for minor construction items that are removed or destroyed prior to being an adjustment to MAV are subtracted from the minor construction cumulative RMV.

(4) Once the over \$25,000 threshold is met, use the following steps to calculate the MAV adjustment:

(a) Use minor construction values that are not market trended.

(b) Make adjustments for any retirements from the prior assessment year. The net value of additions and retirements can not go below zero.

(c) Apply the changed property ratio (CPR) from the year the cumulative RMV becomes an addition to MAV.

(d) Reset the cumulative RMV for minor construction to zero and restart the five-year period.

(5) For implementation of the five-year period, the first year is 1997-98 reflecting minor construction added after July 1, 1995, and on or before July 1, 1997. The following examples demonstrate the over \$25,000 threshold. RMVs in the following examples are not market trended and/or depreciated.

[Examples not included. See ED. NOTE.]

[ED. NOTE: The Examples referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.149

Hist.: REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; REV 8-2000, f. & cert. ef. 8-3-00

150-308.156

Establishing a Changed Property Ratio

(1) The assessor must establish a CPR for property classes 0 through 8 each assessment year. For determining the ratio of the average maximum assessed value over the average real market value, only the first digit of the property class needs to be recognized. These ratios must be rounded to three decimals.

(a) Property classes may be combined to arrive at a ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(b) For specially assessed properties, only the non-specially assessed portion of value will be used to determine a ratio. For specially assessed properties such as farm or timber, the assessor may use either of the following methods to arrive at a CPR:

(A) The non-specially assessed portion of the unchanged 5-x-x or 6-x-x property classes may be used to create the CPR for those classes; or,

(B) The 4-x-x property class values may be combined with the non-specially assessed values from the 5-x-x and/or 6-x-x property classes to calculate the ratio. The resulting ratio would become the CPR for each property class used to calculate the ratio.

(2) Residential property class (1-x-x) includes all manufactured structures and floating homes not assigned to other property classes.

(3) For locally and centrally assessed property, the value of the CPR may not be greater than 1.000.

Stat. Auth.: ORS 305.100, 308.156(7)

Stats. Implemented: ORS 308.156

Hist.: REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; REV 1-2003, f. & cert. ef. 7-31-03

150-308.156(5)

Definition of Affected

“Affected property” means property that is subject to one or more of the following events: partitioned or subdivided; added to the account as omitted property; rezoned and used consistent with the rezoning; disqualified from a special assessment, exemption, or partial exemption.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98

150-308.156(5)-(A)

Subdivided and Partitioned Property MAV

For purposes of calculating maximum assessed value when a property is subdivided or partitioned, the portion of the property that is “affected” includes:

(1) The entire land that was subdivided or partitioned into smaller lots or parcels, if any.

(2) The improvements if one or more of the following apply:

(a) The act of subdividing or partitioning the land results in the apportionment of a single improvement (building or structure) to more than one tax lot.

Example 1: A lot improved with a duplex is partitioned such that the duplex is split into two single-family residences.

(b) The act of subdividing or partitioning the land changes the market’s perception of the value of the improvements.

Example 2: A partition includes a vacant warehouse that was previously part of a large industrial complex. Prior to the partition, the market perceived the warehouse as unnecessary to the industrial complex and of little or no value. After the partition, the warehouse is a stand-alone improvement no longer associated with the industrial complex. The market now perceives the warehouse as a property that can be used for many different purposes with considerable value. By contrast, there is no change in market perception regarding the remaining improvements in the industrial complex.

(c) The improvements are divided into separate units of property.

Example 3: The legal subdivision of an apartment building into condominium units.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98; REV 6-2001, f. & cert. ef. 12-31-01; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02

150-308.156(5)-(B)

Rezoned Property -- Calculating Maximum Assessed Value (MAV)

(1) For purposes of determining MAV under ORS 308.142 to 308.166:

(a) “Rezoned” means on or after July 1, 1995, the governmental body that regulates zoning:

(A) Made a change in the zone designation of the property on the zoning map;

(B) Made a change in one or more conditions or restrictions affecting the authorized uses of the property in the zone that is applicable to the property; or

(C) Made any other change in the authorized uses of the property.

(b) “Rezoned” does not include:

(A) Changes in the authorized uses of the property that were imposed before July 1, 1995, by the government that regulates zoning of the property;

(B) Satisfaction of conditions or restrictions on the authorized uses of the property that were imposed before July 1, 1995, by the government that regulates zoning of the property;

(C) Changes in the authorized uses of the property imposed by a government other than the government that regulates zoning of the property; or

(D) The issuance of a conditional use permit.

(2) The Entire Property is Rezoned. The assessor will calculate a new MAV for the entire property tax account for the current assessment year, if:

(a) The entire property has been rezoned, and

(b) After January 1 of the preceding assessment year and on or before January 1 of the current assessment year, the entire property is used consistently with the rezoning.

Example 1: In 1998 the zoning ordinance was modified to allow additional permitted uses to the zone and was approved by the governing body. The designation on the zoning map did not change. Last year the entire property was developed under one of the new permitted uses.

Prior Year Values: Real Market Value (RMV) = \$250,000; MAV = \$97,088; Assessed Value (AV) = \$97,088.

Current year RMV of the affected portion = \$750,000.

Current year changed property ratio (CPR) for this property type = .800.

Because the rezone affects the entire property, multiply the current year RMV of the entire property by the CPR. This is the MAV for the entire property.

$\$750,000 \times .800 = \$600,000$ (Current year MAV for the affected portion.)

(3) The Property is Partially Rezoned. The assessor will calculate a new MAV for a portion of the property tax account for the current assessment year, if:

(a) The affected portion of the property has been rezoned, and

(b) After January 1 of the preceding assessment year and on or before January 1 of the current assessment year, the affected portion of the property is used consistently with the rezoning. Use the following steps to determine the MAV for the property.

Example 2: Property was partially rezoned two years ago, and the rezoned portion has now been improved.

Prior year values: RMV = \$250,000; MAV \$97,088; AV = \$97,088.

Prior year RMV of unaffected portion = \$50,000.

Current year RMV of affected portion = \$700,000.

Current year CPR for this property type = .800.

Step 1: Calculate the current year MAV as if the account had not changed.

Multiply the prior year AV by 1.03. Compare the result to the prior year MAV to determine the larger amount. This becomes the current year MAV as if the account had not changed.

Larger of: Prior year AV \times 1.03 compared to prior year MAV = current year MAV of unchanged account.

Larger of: $\$97,088 \times 1.03 = \$100,000$ or $\$97,088$.

$\$100,000 =$ Current year MAV of the unchanged account

Step 2: Calculate the percentage of the unaffected portion.

Determine the prior year's RMV for the unaffected portion of the property. Divide that value by the prior year RMV for the whole account. This is the percentage of the account that is unaffected by the change to the property.

Prior year RMV (unaffected portion) divided by prior year RMV (total account) = percentage of the property that is unaffected.

$\$50,000 =$ prior year RMV for the unaffected portion.

$\$250,000 =$ prior year RMV for the total account.

$\$50,000 / \$250,000 = 20\%$ (Percentage of the account that is unaffected.)

Step 3: Calculate the current year MAV for the unaffected portion.

Multiply the current year MAV (Step 1) by the percentage of the unaffected portion (Step 2). This is the current year MAV for the unaffected portion.

$\$100,000 \times 20\% = \$20,000$ (Current year MAV for the unaffected portion.)

Step 4: Calculate the MAV for the affected portion.

Multiply the current RMV of the affected portion by the CPR. This is the MAV for the affected portion.

$\$700,000 \times .800 = \$560,000$ (Current year MAV for the affected portion.)

Step 5: Calculate the MAV for the account.

Add the MAV for the unaffected portion (step 3) and the MAV for the affected portion (step 4) to get the MAV for the account.

$\$20,000 + \$560,000 = \$580,000$ (Current MAV for the account.)

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98; REV 8-2000, f. & cert. ef. 8-3-00; REV 6-2003, f. & cert. ef. 12-31-03

150-308.156(5)-(C)

Omitted Property -- Allocating Maximum Assessed Value (MAV)

(1) When omitted property is added to the property tax account after January 1 preceding the current assessment year and before January 1 of the current assessment year, only the omitted property portion is considered affected. The existing property is the unaffected portion. The intent is to correct the tax roll for current and prior years as if the omitted property had been a regular part of those tax rolls.

(2) To correct the first year's Assessed Value (AV) when the omitted property is added to the roll :

(a) Multiply the real market value (RMV) of the omitted property for the first year it should have been added to the roll by that year's appropriate changed property ratio (CPR) to determine MAV for the omitted property.

(b) Add the RMV and MAV of the omitted portion to the existing RMV and MAV to get a corrected RMV and MAV for the account.

(c) The lesser of the corrected RMV or MAV is the AV that should have been on the roll had the property been discovered timely.

EXAMPLE 1: Property was built in 2003 and should have been added to the 2004-05 tax roll. The assessor discovers the property in December 2004 and adds it to the 2004-05 tax roll. [Table not included. See ED. NOTE.]

(3) To correct the AV for subsequent years that omitted property should be added to the roll:

(a) Add the omitted property's trended or recalculated RMV to the property's existing RMV to get a corrected RMV for the account.

(b) Multiply the prior year's corrected AV by 1.03 and compare to the prior year's corrected MAV. The greater of the two will be the corrected MAV for the account.

(c) The lesser of the corrected RMV or MAV is the account's AV.

EXAMPLE 2: Property was built in 2003 and should have been added to the 2004-05 tax roll. The assessor discovers the property in December 2008, and adds it to the 2004-05 through 2008-09 tax rolls. RMV trending is 5 percent per year. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF of tables.](#)]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98; REV 5-2009, f. & cert. ef. 7-31-09

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

150-308.159

Calculation of Maximum Assessed Value (MAV) for Lot Line Adjustments

(1) For purposes of calculating MAV when properties are subject to a lot line adjustment, the portion of the property that is "affected" includes:

(a) All the land comprising the properties subject to the lot line adjustment.

(b) Buildings or structures when a new lot line divides the building or structure.

NOTE: An example of how to perform the mathematics of this rule is incorporated throughout the rule based upon the following information:

The zoning for both tax lot 100 and tax lot 200 is RR-5 (Rural Residential 5-acre minimum) requiring a minimum of five acres before a dwelling may be built.

Before the lot line adjustment, tax lot 100 was a vacant 4-acre lot that was unbuildable due to its size. Undersized lots sell for \$7,000 per acre, making the real market value (RMV) of this unbuildable tax lot \$28,000. The associated MAV for this tax lot was \$22,400. Tax lot 200 is a vacant 8-acre lot that is buildable under the current zoning. Buildable lots sell for \$15,000 per acre, making the RMV of this tax lot \$120,000. The associated MAV for this tax lot is \$96,000.

After the lot line adjustment both lots are 6 acres in size and are buildable under the current zoning. Because buildable lots sell for \$15,000 per acre, it makes the RMV of each tax lot \$90,000.

The changed property ratio (CPR) to be used in this example is .800.

(2) Calculate the total MAV of the affected portion before the lot line adjustment as follows:

(a) For each account subject to the lot line adjustment:

(A) Divide the affected portion's RMV by the total RMV of the account.

Tax Lot (TL) 100: $\$28,000/\$28,000 = 1.00$

TL 200: $\$120,000/\$120,000 = 1.00$.

(B) Multiply the result of (A) by the property's total MAV to determine the MAV attributable to the affected portion.

TL 100: $1.00 \times \$22,400 = \$22,400$.

TL 200: $1.00 \times \$96,000 = \$96,000$.

(b) Add the MAV attributable to the affected portion for each account to determine the total MAV of the affected portion before the lot line adjustment.

$\$22,400 + \$96,000 = \$118,400$.

(3) Calculate the total MAV for the affected portion after the lot line adjustment as follows:

(a) For each account subject to the lot line adjustment, multiply the new RMV of the affected portion by the appropriate CPR to determine the MAV for the affected portion as follows.

TL 100: $\$90,000 \times .800 = \$72,000$.

TL 200: $\$90,000 \times .800 = \$72,000$.

(b) Add the MAV for the affected portion of each account to determine the total MAV of the affected portion after the lot line adjustment.

$\$72,000 + \$72,000 = \$144,000$.

(4) Compare the total MAV of the affected portion before the lot line adjustment to the total MAV of the affected portion after the lot line adjustment as follows:

Before = \$118,400. After = \$144,000.

(a) If the total MAV of the affected portion after the lot line adjustment is equal to or lesser than the total MAV of the affected portion before the lot line adjustment: Add the MAV for the affected portion of each account to any unaffected MAV for that account to determine the total MAV for each account.

The example does not fit this description. Continue to paragraph (b).

(b) If the total MAV of the affected portion after the lot line adjustment is greater than the total MAV of the affected portion before the lot line adjustment, the MAV for the affected portion of each account must be proportionally reduced.

The example fits this description. Proceed to paragraph (A).

(A) Divide the total MAV of the affected portion before the lot line adjustment by the total MAV of the affected portion after the lot line adjustment to determine the proportionate reduction.

$\$118,400/\$144,000 = .822222$.

(B) Multiply the proportionate reduction by the MAV of the affected portion after the lot line adjustment for each account.

TL 100: $.822222 \times \$72,000 = \$59,200$.

TL 200: $.822222 \times \$72,000 = \$59,200$.

(C) Add the MAV of the affected portion after the proportionate reduction in (B) to any unaffected MAV for that account to determine the total MAV for each account.

TL 100: \$59,200 + \$0 = \$59,200.
TL 200: \$59,200 + \$0 = \$59,200.
Stat. Auth.: ORS 305.100, 308.156
Stats. Implemented: ORS 308.159
Hist.: REV 6-2003, f. & cert. ef. 12-31-03

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

150-308.205-(E)

Valuation of Contaminated Property

(1) DEFINITIONS:

(a) "Contaminated site" means real property that, on the assessment date:

(A) Is on the National Priority List of the Environmental Protection Agency;

(B) Is included by the Department of Environmental Quality in an inventory of confirmed releases pursuant to ORS 465.225;

(C) Is an illegal drug manufacturing site as defined in ORS 453.858; or

(D) Is demonstrated as provided under Section (2) of this rule to have had a release of a hazardous substance as defined in ORS 465.200.

(b) "Contaminated site" does not include any permitted release or permitted facility approved by the Department of Environmental Quality for storage or disposal of a hazardous substance.

(c) "Cost to cure" means the discounted present value of the estimated after tax cost of the remaining remedial work specific to the subject property to remove, contain, or treat the hazardous substance. Cost to cure may include the cost of environmental audits, surety bonds, insurance, monitoring costs, and engineering and legal fees. The costs must be directly related to the clean up or containment of a hazardous substance.

(2) DEMONSTRATING CONTAMINATION OF SITE: A property is defined as a contaminated site under Section (1)(a)(D) above if it is shown that the property has had a release of a hazardous substance. This will be demonstrated through:

(a) the submission of reliable, objective information such as engineering studies, environmental audits, laboratory reports or historical records; or

(b) evidence that the release has been reported to the Department of Environmental Quality.

(3) APPRAISING CONTAMINATED SITES: The real market value of a contaminated site shall be determined in accord with this rule. The appraiser shall consider the Sales Comparison Approach, the Cost Approach, and the Income Approach. For a particular contaminated site, it may be that all three approaches cannot be applied, however, each shall be investigated for its merit. In all cases, actual market data are the most reliable indicators.

(a) The Sales Comparison Approach may be used to determine the real market value of a contaminated site by comparison with verified sales of similarly contaminated sites. If no sales exist of property similarly contaminated, a comparison may be made to sales of properties without contamination. Adjustment factors shall be developed to account for the influence of contamination based upon a cost to cure analysis. These factors shall be applied to the subject property.

Adjustments shall be considered for the following:

(A) Limitations upon the use of the contaminated site due to the nature and extent of the contamination or due to governmental restrictions related to contamination;

(B) The increased cost to insure or finance the property;

(C) The potential liability for the cost to cure;

(D) Governmental limitations and restrictions placed upon the transferability of all or any portion of the contaminated sites;

(E) Other market influences.

(b) The Cost Approach may be used to determine the value of the contaminated site without the contamination. The cost to cure may be deducted as a measure of functional obsolescence.

(c) The Income Approach should use market rental data. If market rental data are not available, the property's actual income may be used.

(A) The income stream may be adjusted to reflect the estimated annual cost of remedial work specific to the subject property to remove, contain, or treat the hazardous substance during those years the cost is incurred. The annual cost of remedial work may include the cost of environmental audits, surety bonds, insurance, monitoring costs, and engineering and legal fees. The costs must be directly related to the clean up or containment of a hazardous substance.

(B) If the capitalization rate is derived from properties with similar contamination, no adjustment should be made to that rate. If the rate is developed from properties without contamination, or a built-up rate is used, consider adjustments for the increased present and contingent future risk of ownership, difficulties in future appreciation or depreciation, and the effect upon the ability to sell or transfer the property; that is, the liquidity of an investment in the property.

(C) Alternately, an income approach projecting the income stream as if the subject property was not contaminated, may be used when the cost to cure is deducted from the resultant value indicator.

(d) The market may respond to contamination in a variety of ways. In all cases, actual market sales and income data are the most reliable indicators.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.205

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; RD 9-1997, f. & cert. ef. 12-31-97

150-308.234

Appraisal of Real Property

The following constitutes standards for the valuation of real property except for property assessed under ORS 308.505 to 308.665 and ORS 308.805 to 308.820.

(1) Industrial property. In the case of industrial properties, appraisals must conform with the following conditions:

(a) Basic data and supplemental data for an appraisal must be the same as required in ORS 308.290 and 308.411. Valid data in any previous appraisal such as property descriptions, inventory listing, maps, etc., may be used in the appraisal.

(b) An appraisal as provided by the industrial property return process is not an appraisal contemplated under ORS 308.234.

(c) A valuation review as provided in OAR 150-308.205(2) is an appraisal as contemplated under ORS 308.234, if the valuation review meets the requirements of 308.411.

(d) Nothing in this rule is intended to invalidate any assessment that appears on the assessment roll.

(2) All other real property. Real property must be valued at its real market value (RMV) using methods approved by the department and the results must meet the performance standards required by this rule.

(a) The following definitions apply for the purposes of this rule:

(A) "Coefficient of dispersion" (COD) is the average absolute deviation of a group of numbers from the median expressed as a percentage of the median. In ratio studies, it refers to the average absolute deviation from the median ratio, expressed as a percent of the median ratio.

(B) "Homogeneous" describes a market area where the properties have a high degree of similarity in one or more of the following: type, use, quality, or condition.

(C) "Market area" is defined as a group of properties that share important characteristics affecting their value. It may be defined along physical/geographical or abstract boundaries or, as in the case of commercial property, according to use. Properties included in a market area do not have to be contiguous.

(D) "Nonhomogeneous" means market areas that do not meet the definition of "homogeneous."

(b) ORS 308.232 requires that all real property be valued at 100 percent of its RMV. Achieving and maintaining RMV is measured by the ratio study. Ratios must be computed for each market area,

where possible. In market areas where the amount of sales data is insufficient for statistical analysis, one or more of the following actions should be taken to provide adequate data:

- (A) A two-year sales sample may be used;
- (B) Comparable market areas may be combined; or
- (C) Appraisal ratio data may be included.

(c) Criteria for results-based valuation standards:

(A) RMV at 100 percent.

(B) COD standards for measuring equity of RMV: [Formula not included. See ED. NOTE.]

(C) Exceptions to COD standards. When a market area does not meet the standards because of a market anomaly, the correction may be delayed until the following year, waived, or have alternate standards applied, as approved by the Department of Revenue.

(d) The department will determine compliance with standards of this rule by annual reviews of the results determined by the county.

(A) If compliance deficiencies are found, the department must make written notification to the assessor of the deficiencies and identify appropriate corrective action. Within 30 days of notification of the deficiencies, the assessor must respond in writing to the department as to the action to be taken to correct the identified deficiencies.

(B) In the event an assessor's program has been found to be deficient and the assessor does not take action to correct the deficiencies as outlined in the department's written notification, the department will take action as required by ORS 308.062.

[ED. NOTE: Formulas referenced are not included in rule text. Click here for PDF copy of formula(s).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.234

Hist.: 8-65; 1-66; 3-70; 9-70; 9-71; 8-72; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; REV 4-1998, f. & cert. ef. 6-30-98; REV 9-1998, f. 12-11-98, cert. ef. 12-31-98; REV 12-1998, f. 12-29-98, cert. ef. 12-31-98; REV 6-2001, f. & cert. ef. 12-31-01; REV 11-2010, f. 7-23-10, cert. ef. 7-31-10

150-308.242(3)

Stipulation Procedures

(1) The phrase "the convening of the board" in ORS 308.242 (3)(b) means the first meeting of the year during which the Board of Property Tax Appeals (BOPTA) officially opens the session under ORS 309.026.

(2) The assessor may change the roll after December 31 and without an order of the board when:

(a) A petition is filed with BOPTA under ORS 309.100;

(b) The assessor and the petitioner sign a stipulation that specifies a reduction in value prior to the date the board convenes as required by ORS 309.110(2); and

(c) The stipulation is delivered to the clerk of the board prior to the time the board convenes.

Stat. Auth.: ORS 305.100, 305.102

Stats. Implemented: ORS 308.242, 309.110

Hist.: REV 7-2005, f. 12-30-05, cert. ef. 1-1-06

150-308.250

Cancellation of Personal Property Assessments

(1) The assessor must cancel the personal property assessment for any taxpayer whose taxable personal property in the county has a total assessed value (AV) below the threshold value computed annually under ORS 308.250(4).

(2) The department will notify the assessor of the threshold value no later than March 1 of the tax year for which the threshold value applies.

(3) After the first year of cancellation, the taxpayer must complete and file Form 150-553-004, Confidential Personal Property Return, annually with the assessor by the personal property return due date under ORS 308.290. The taxpayer must check the box that indicates the assessor cancelled the AV the previous year and must include the following:

- (a) Taxpayer's name, address, and phone number;
- (b) If applicable, the business name, address, and type of business;
- (c) Location of property, if different from (a) and (b) above; and
- (d) Assessor's account number.

(4) The department will provide to the assessor the Confidential Personal Property Return on which the taxpayer may make the claim in subsection (3).

(5) If the taxpayer fails to file the form required in section (3) of this rule, the assessor will determine the AV of taxable personal property based on available information. Such information may be obtained from a phone call to the taxpayer or a review of taxpayer's property or records. If the assessor finds that the total AV of the taxpayer's property within the county is equal to or greater than the threshold value, the assessor must place the computed value on the next assessment and tax roll.

(6) The assessor may review the taxpayer's taxable personal property or business records to verify that the value of the taxable personal property is less than the threshold value. If the assessor finds that the value of the taxable personal property is equal to or greater than the threshold value, the assessor must add the value of all taxable personal property to the assessment and tax roll.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.250

Hist.: RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 9-1997, f. & cert. ef. 12-31-97; REV 6-2003, f. & cert. ef. 12-31-03

CHAPTER 309

EQUALIZATION OF PROPERTY TAXES

150-309.022(1)

Training for Board of Property Tax Appeals (BOPTA) Members

(1) Each person appointed as a member of a BOPTA pool must complete training approved by the department in the year they are first appointed and at least every other year thereafter. If there is a break in service for any member of any pool, the first year of the new appointment is considered the same as their original appointment year. Training must be specific to BOPTA.

(2) BOPTA pool members that have completed training approved by the department are eligible to sit on a board. However, if an untrained member is required to sit on a board in order to establish a quorum, the member must read the current BOPTA Manual prior to sitting on a board and sign an affidavit stating they have done so. The affidavit is to be made a part of the record of the board and a copy sent to the department.

(3) The department may approve various types of training for board members based upon educational effectiveness, cost and accessibility to members. Approved training may include but not be limited to the following: in-service training sponsored by the department; individual workbook with examination; EdNET; or interactive computer-based multimedia training.

(4) Notwithstanding Section (1) of this rule, for years in which no petitions are filed, board members are not subject to BOPTA training requirements for that year.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.022

Hist.: 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 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; RD 9-1997, f. & cert. ef. 12-31-97; REV 10-2002, f. & cert. ef. 12-31-02

150-309.024

Record of Board of Property Tax Appeals Meetings

An administrative record of the proceedings of the board of property tax appeals must be kept by the county clerk.

(1) The record must be kept in a manner that meets the retention requirements of OAR chapter 166.

(a) The record of board proceedings may be either a written summary or audio recording.

(b) The records must be organized in a manner that facilitates retrieval of a particular proceeding such as by date of meeting, name of petitioner, or assigned number.

(c) The record may be maintained as a separate record called Board of Property Tax Appeals Proceedings.

(2) The administrative record of the board must include, but is not limited to:

(a) A copy of the order appointing board members to the pools described in ORS 309.067 or a copy of the minutes of the meeting of the county governing body during which the pools were appointed;

(b) Oaths of office of members;

(c) Verification of training;

(d) Designation of legal counsel, if appropriate;

(e) Affidavit of publication of notice of session and copies of all published notices;

(f) Record of appointment of board appraiser, if applicable;

(g) Daily or weekly agendas; and

(h) Summary of actions required by OAR 150-309.360.

(3) The individual record of each meeting held during which the board makes a decision or obtains material that will be used in making a decision, must include, but is not limited to:

(a) The date of the meeting;

(b) A list of those present, including all members and any person who presents evidence;

(c) The substance of any discussion on any matter;

(d) All material presented as evidence;

(e) All motions and who made them;

(f) Results of all votes and how each member voted;

(g) Petitions, marked with date received and assigned number;

(h) Authorizations to represent or powers of attorney;

(i) Defective petition notices, if applicable;

(j) Hearing notices, if applicable;

(k) The board's order, which must contain the original or facsimile signatures, including orders issued pursuant to stipulations filed at or after the time the board convenes;

(l) Stipulations filed at or after the time the board convenes;

(m) Stipulations filed with the clerk of the board under ORS 308.242(3); and

(n) Requests to withdraw a petition. Publications: The publication referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(6).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.024

RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 9-1997, f. & cert. ef. 12-31-02, Renumbered from OAR 150-309.012(5); REV 12-2004, f. 12-29-04, cert. ef. 12-31-04; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07

150-309.026(2)-(A)

Limitations on Increase in Value by Board of Property Tax Appeals

(1) For purposes of this rule, "property tax account" means the administrative division of property used by the assessor for listing the property on the assessment roll.

(2) The board of property tax appeals (BOPTA) lacks jurisdiction under ORS 309.026 to increase the total real market value (RMV), the total specially assessed value (SAV), the maximum assessed value (MAV), or assessed value (AV) of property because the statute specifies that BOPTA may only hear petitions to reduce the value of property.

(3) When BOPTA receives a petition requesting an increase in the value of property, the board must act on the petition in the following manner:

(a) When BOPTA receives a petition requesting an increase or resulting in an increase in the total RMV, SAV, MAV or AV of property in a property tax account, the board must dismiss the petition for lack of jurisdiction.

(b) When BOPTA receives a petition requesting an increase in the RMV of either the land or improvement component, the board may increase that component provided the change does not result in an increase to the total RMV, SAV, MAV, or AV of the property in the property tax account.

(4) When BOPTA receives a petition requesting a reduction in the value of property, the board must act on the petition in the following manner:

(a) When BOPTA receives a petition requesting a reduction in total RMV that does not specify a reduction in value of either the land or improvement component, the board may increase or decrease either component provided the net result sustains or reduces the total RMV, SAV, MAV or AV of the property in the property tax account.

(b) When BOPTA receives a petition requesting a reduction in either the land or improvement component of the RMV of property and no change to the other component, the board may act only on the component for which the reduction is requested.

(c) When BOPTA receives a petition requesting a reduction in either the land or improvement component of the RMV of property and the petition is silent as to the requested value of the other component, the board must sustain the value of the component for which the petition is silent unless subsection (4) (a) of this rule applies.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.026

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92, Renumbered from 150-309.026(2)(e); RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.026(2), REV 5-2004, f. 7-30-04, cert. ef. 7-31-04; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07; REV 6-2009, f. & cert. ef. 7-31-09

150-309.026(2)-(B)

BoPTA Lack of Jurisdiction for Designated Utilities and Companies Assessed by the Department

The board of property tax appeals (BoPTA) must dismiss, for lack of jurisdiction, petitions for the reduction of the assessed, specially assessed, real market, and maximum assessed value of designated utilities and companies assessed by the Department of Revenue under ORS 308.505 to 308.665 and 308.805 to 308.820, commonly referred to as centrally assessed property. The process for appealing the value of centrally assessed property is described in 308.595(3). The notification requirements of 309.100(5) do not apply to dismissal for lack of jurisdiction identified in this rule.

Stat. Auth.: ORS 305.100, 306.115 (1)

Stats. Implemented: ORS 309.026

Hist.: REV 2-2005, f. 6-27-05, cert. ef. 6-30-05

150-309.067(1)

Nonoffice-holding Residents Appointed to Board of Property Tax Appeals (BOPTA) Pools

As used in ORS 309.020(5) and 309.067(1)(b), a nonoffice-holding resident is a county resident who is not:

- (1) A member of the county governing body;
- (2) A member of the governing body of any taxing district within the county;
- (3) An elected official of the county;
- (4) A person employed or hired by the county or any taxing district within the county;
- (5) A former county assessor, or any appointee acting in the place of the assessor, that held the office or appointed position during the assessment or tax year subject to appeal to BOPTA; or
- (6) A person previously employed in or hired by the office of the assessor during the assessment or tax year subject to appeal to BOPTA.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.067

Hist.: RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 6-1994, f. 12-15-94, cert. ef. 12-30-94, Renumbered from 150-309.010(1)-(d); RD 9-1997, f. & cert. ef. 12-31-97; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07; Renumbered from 150-309.067(1)(b), REV 17-2008, f. 12-26-08, cert. ef. 1-1-09

150-309.067(1)(b) [Renumbered to 150-309.067(1)]

150-309.072

Records Included in Journal of Governing Body

The following records from sessions of the board of property tax appeals shall be made a part of the journal of the county governing body:

- (1) The date the members were appointed;
- (2) The positions to which the members were appointed;
- (3) A record of the date the board convened and the date the board adjourned.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.072

Hist.: RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 9-1997, f. & cert. ef. 12-31-97

150-309.100(2)-(A)

Filing Petitions With The Board of Property Tax Appeals (BOPTA)

(1) Only the county clerk or deputy clerk, acting as the clerk of BOPTA, has authority to accept petitions to BOPTA. No other county office can accept petitions.

(2) Petitions received prior to the filing dates must be returned to petitioner together with a notice of the proper filing dates. Petitions cannot be filed and clerks cannot accept petitions prior to the filing dates specified in ORS 309.100(2).

(3) Petitions to the board of property tax appeals filed under ORS 309.100 and transmitted electronically by facsimile (FAX) will be accepted as valid petitions to the board. If the FAX is unreadable with regard to any information required under OAR 150-309.100(3)-(A), the petition is deficient under 150-309.100(3)-(B).

(4) A faxed petition will be considered timely filed if it is received in the office of the county clerk by midnight of the filing deadline as evidenced by the electronic acknowledgment of receipt produced by the county's FAX machine.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: RD 6-1986, f. & cert. ef. 12-31-86; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.100-(A), REV 10-2002, f. & cert. ef. 12-31-02

150-309.100(2)-(B)

Withdrawing Petitions Filed with a Board of Property Tax Appeals

(1) For purposes of this rule, 'petitioner' and 'representative' have the meaning given in OAR 150-309.100(3)-(C).

(2) A petition filed with a board of property tax appeals may be withdrawn as described below for any reason prior to the time the board issues the order for the petition. A request for withdrawal must be in writing and filed with the clerk of the board.

(3) A petition signed by a petitioner may be withdrawn by:

(a) The petitioner; or

(b) A representative, if the representative provides written authorization signed by the petitioner after the date the petition was signed.

(4) A petition signed by a representative may be withdrawn by:

(a) The petitioner;

(b) The representative who signed the petition; or

(c) Another person representing the petitioner if that representative provides written authorization signed by the petitioner after the date the petition was signed by the original representative.

(5) The board must issue an order of dismissal for each petition for which a request for withdrawal has been submitted unless a stipulation has been filed under ORS 308.242(3) prior to the time the board convenes.

(6) The clerk of the board must keep the request for withdrawal and the board's order in the administrative record of the board described in OAR 150-309.024.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: 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 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.100(1), REV 10-2002, f. & cert. ef. 12-31-02; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07

150-309.100(3)-(A)

Contents of Board of Property Tax Appeals (BOPTA) Petitions

- (1) For purposes of this rule, "petitioner" is used as defined in OAR 150-309.100(3)-(C).
- (2) The purpose of a petition is to inform BOPTA and the assessor of the nature of the claim for relief. For this reason, petitions must include the following information:
 - (a) Petitioner's name and address.
 - (b) Facts on which the appeal is based.
 - (c) The value of the property as requested by petitioner.
 - (d) The value on the current tax roll that is being appealed. If a copy of the tax statement is attached, the value being appealed need not be included on the petition.
 - (e) The assessor's account number for the property. The assessor's account number may be a unique identification number or a map and tax lot number. If a copy of the tax statement is attached, the account number need not be included on the petition.
 - (f) For personal property, a list of the individual items, or categories and schedules that identifies the property being appealed and the values requested.
 - (g) The name of petitioner's authorized representative (if applicable).
 - (h) The mailing address of the petitioner or the petitioner's authorized representative where the hearing notice and order are to be mailed.
 - (i) Notation of whether the petitioner or petitioner's authorized representative wishes to be present at the hearing.
 - (j) A written declaration that the contents of the petition are true and made subject to the statutory penalties for false swearing.
 - (k) The signature of petitioner or petitioner's authorized representative.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: 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, Renumbered from 150-309.100(2) to 150-309.100(3); RD 2-1992, f. 5-28-92, cert. ef. 6-1-92; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92, Renumbered from 150-309.100(3); RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 9-1997, f. & cert. ef. 12-31-97; REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; Renumbered from 150-309.100; REV 10-2002, f. & cert. ef. 12-31-02

150-309.100(3)-(B)

Board of Property Tax Appeals (BOPTA) Defective and Amended Petition Process

For purposes of this rule, "petitioner" is used as defined in OAR 150-309.100(3)-(C).

- (1) The clerk of BOPTA will review the filed petitions for compliance with OAR 150-309.100(3)-(A).
- (2) If the petition is defective, the clerk will provide written notice to the petitioner unless a representative is named on the petition. If a representative is named on the petition, the clerk will provide written notice to the petitioner's representative. The notice may be personally delivered or mailed to the mailing address on the petition. If the petitioner's representative has not provided a mailing address and the notice cannot be personally delivered, the clerk will provide notice of the defective petition to the petitioner.
- (3) The notice must include the following information:
 - (a) The nature of the defect,
 - (b) The time allowed by section (4) or section (6) of this rule to correct the defect, and
 - (c) A statement that failure to correct the defect within the time allowed will result in dismissal of the appeal without further notice.
- (4) If the board clerk provides notice of a defective petition by mailing or personal delivery more than 20 days before the last day of the board session described in ORS 309.026, the petitioner or

petitioner's representative has 20 days from the date the notice of defective petition was mailed or personally delivered, or until the last day for filing a petition with BOPTA, whichever is later, to correct the defect. Time is computed from the first day following the date the written notice was mailed or personally delivered and includes the last day unless the last day falls on a legal holiday, Saturday, or Sunday. The time is then extended to the next working day. Corrected petitions may be faxed to the county clerk and will be considered timely filed under the guidelines listed in Section (4) of OAR 150-309.100(2)-(A).

(5) If the board clerk provides notice of a defective petition by mailing or personal delivery within 20 days of the last day of the board session described in ORS 309.026, the board clerk may give the notice described in section (3) of this rule by any practical means such as telephone, fax, or letter. In this circumstance, the petitioner or petitioner's representative has until 3:00 p.m. of the last day of the board session to file an amended petition correcting the defect. However, if the petitioner or petitioner's representative appears at the hearing, all corrections must be made at that time.

(6) The board must dismiss the petition as defective if the petitioner or petitioner's representative does not correct the petition within the time periods prescribed in Sections (4) and (6) of this rule.

(7) In addition to amending a petition to comply with OAR 150-309.100(3)-(A) under (4) above, any petition may be amended up to and including the time of the hearing for the following reasons:

(a) To add or delete land or improvements that are components of the account originally appealed.

(b) To add a separate account that together with the original account appealed creates a "parcel" within the meaning of OAR 150-308A.256(1)(a). A petition may not be amended to include a separate account that is not part of an identified parcel.

(c) To add a manufactured structure account that is sited on the original account under appeal.

(d) To designate or change an authorized representative.

(e) To change the value requested.

(8) If, after the board has adjourned, the clerk discovers petitions that the board did not act upon, the clerk must notify the petitioner or petitioner's representative within 10 days. The notice must be in writing and indicate the petitioner's right to appeal to the Magistrate Division of the Oregon Tax Court.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.100(1)-(A); REV 10-2002, f. & cert. ef. 12-31-02; REV 6-2003, f. & cert. ef. 12-31-03; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04, Amended 12-31-13.

150-309.100(3)-(C)

Those Authorized to Sign Petitions to the Board of Property Tax Appeals (BOPTA)

(1) For purposes of appeals filed with BOPTA,

(a) "Petitioner" means an owner of the property or person with an interest in the property that obligates the person to pay taxes imposed on the property.

(b) "Representative" means a person described in section (4) or (5) of this rule.

(2) If the petitioner is a business or other legal entity, a person who can legally bind the business or other legal entity may sign the petition. For example:

(a) For a corporation: officers such as president, vice-president, secretary, treasurer, CEO, or managing officer.

(b) For a limited liability company (LLC): a member or the manager of an LLC.

(c) For a church: a pastor, rector, deacon, president of the board, or senior board member.

(d) For an association: the president or managing officer.

(e) For a partnership: a general partner.

(f) For a sole proprietorship: the owner.

(g) For a trust: a trustee, managing member, or managing agent.

(h) For any business entity: an employee regularly employed in the tax matters of the business.

(3) If the petitioner is a person who holds an interest in the property that obligates the person to pay the taxes imposed on the property, proof of the obligation must accompany the petition to the board. An interest that obligates the person to pay the taxes:

(a) Includes a contract, lease, or other intervening instrumentality; but,

(b) Does not include mortgage agreements in which the mortgagee (the company that holds the mortgage) agrees to pay the taxes.

(4) An attorney at law authorized to practice in Oregon may represent a petitioner. Written authorization to represent is not required. The attorney's assigned Oregon State Bar Association number must be included on the petition.

(5) The following persons may sign a petition and act as the petitioner's representative before BOPTA if they have written authorization from the petitioner or proper court appointment. The petition must be accompanied by a power of attorney, court appointment, or other signed authorization that specifically grants that person the authority to represent the petitioner in tax matters.

(a) Any relative of an owner of the property. For purposes of this rule, the term "relative" means any of the following:

(A) A spouse;

(B) A son, grandson, daughter, granddaughter, stepson or stepdaughter;

(C) A brother, brother-in-law, sister, sister-in-law, stepbrother, or stepsister;

(D) A father, mother, stepfather, stepmother, or grandparent;

(E) A nephew or niece; or

(F) A son-in-law, daughter-in-law, father-in-law or mother-in-law.

(b) A person duly qualified to practice as a certified public accountant or public accountant in the State of Oregon. The accountant's Oregon certificate or license number must be included on the petition.

(c) A legal guardian or conservator who is acting on behalf of an owner of the property.

(d) A real estate broker or principal real estate broker licensed under ORS 696.022.

(e) A state certified appraiser or state-licensed appraiser licensed under ORS 674.310 or an appraiser registered under ORS 308.010.

(f) The lessee of the property.

(g) A person who holds a general power of attorney signed by an owner of the property. The person filing the petition must provide a copy of the general power of attorney with the petition.

(6) A board must issue a formal order dismissing any petition it receives that is not signed by a person authorized under ORS 309.100 or this rule.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: 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, Renumbered from 150-309.100(2)(c); RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 2-1992, f. 5-28-92, cert. ef. 6-1-92; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; 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 8-1998, f. 11-13-98, cert. ef. 12-31-98; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; Renumbered from 150-309.100(2)-(C), REV 10-2002, f. & cert. ef. 12-31-02; REV 6-2003, f. & cert. ef. 12-31-03; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07

150-309.100(5)

BOPTA Hearing Notice Mailed to Representative

If a person listed under ORS 309.100(4)(a) is authorized to represent a petitioner at a board of property tax appeals hearing and the representative has requested to be present at the hearing, the BOPTA clerk must mail or personally deliver the hearing notice to the representative. If the representative has not provided a mailing address and the notice cannot be personally delivered, the clerk will provide notice of the hearing to the petitioner.

Stat. Auth.: ORS 305.100, 306.115

Stats. Implemented: ORS 309.100

Hist.: REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-309.100-(D)

Definition of Person Who Holds an Interest in the Property and Procedures for Transfers of Ownership or Interest

This rule supplements the definition of “petitioner” found in OAR 150-309.100(3)-(C).

(1) The petitioner in an appeal to the board of property tax appeals (BOPTA) under ORS 309.100 must possess or acquire legal standing to appeal during the petition filing period. The petition filing period begins the date following the date the tax statements are mailed for the current tax year and ends December 31 or the last day for filing a petition under ORS 305.820.

(2) For purposes of appealing to BOPTA, a person who holds an interest in the property as described in subsection (3) of this rule, that obligates the person to pay the taxes imposed on the property shall be defined as a person or entity that:

(a) Holds an interest in the property that obligates the person or entity to pay all or a portion of the taxes imposed on the property for the current tax year at the time the petition is filed; or

(b) Has held an interest in the property that obligated the person or entity to pay all or a portion of the taxes imposed on the property for the current tax year after July 1 but prior to the time the petition is filed; or

(c) Will hold an interest in the property by the last day for filing a petition with BOPTA that will obligate the person or entity to pay all or a portion of the taxes imposed on the property for the current tax year.

(3) Standing to appeal to BOPTA as a person who holds an interest other than an ownership interest must be established through an intervening instrumentality such as a contract or lease that proves the person or entity is obligated to pay all or a portion of the taxes imposed on the property for the current tax year. Escrow instructions signed by a seller in a transaction that is consummated during the period from July 1 through the last day for filing a petition with BOPTA may also be used to establish such an interest.

(4) When an ownership or other interest is transferred on or after July 1 but prior to the end of the petition filing period or a question arises regarding ownership or the existence of a present obligation to pay taxes, BOPTA must determine whether the petitioner has standing to appeal. The following examples are intended to give guidance to the clerk for purposes of determining whether a Notice of Defective Petition should be sent under OAR 150-309.100(3)-(B) and to the board in its final determination regarding the standing of the petitioner:

Example 1: The clerk of the board receives a petition on November 5 and reviews the petition on November 20 according to the guidelines in OAR 150-309.100(3)-(C) and this rule. When the clerk reviews the petition, the county records indicate that the petitioner sold the property on October 30. Because the petitioner did not own the property when the petition was filed, the petitioner must establish standing as a person who holds an interest in the property that obligates the petitioner to pay the taxes imposed on the property for the current tax year. The petitioner can do so by submitting a copy of the escrow instructions or other document that shows the petitioner must pay all or a portion of the property taxes for the current tax year.

Example 2: The clerk of the board receives a petition on October 29 and reviews the petition on November 19 according to the guidelines in OAR 150-309.100(3)-(C) and this rule. When the clerk reviews the petition, the county records indicate that the petitioner sold the property on August 13. Because the petitioner did not own the property when the petition was filed, the petitioner must establish standing as a person who holds an interest in the property that obligates the petitioner to pay the taxes imposed on the property for the current tax year. Even though the petitioner sold the property prior to the beginning of the petition filing period, the petition will be allowed if the petitioner has a present obligation to pay the taxes as demonstrated by a copy of the escrow instructions or other document that shows the petitioner must pay all or a portion of the property taxes for the current tax year.

Example 3: The clerk of the board receives a petition on December 4. The clerk reviews the petition on December 10. The petitioner has included a copy of an earnest money agreement to purchase property with a projected closing date of December 28. The clerk sends a Notice of Defective Petition

on December 17 asking the petitioner to provide proof that the petitioner owned the property on December 31 or the last day for filing a petition under ORS 305.820. The petitioner is given 20 days as provided in OAR 150-309.100(3)-(B) to provide proof of ownership. The clerk also has the option of waiting until after December 31 to send the notice to allow more time for county ownership records to be updated. If proof is provided (or county records are updated) that confirms the petitioner owned the property by December 31, the petitioner has standing to appeal to BOPTA as the owner of the property.

Example 4: The clerk of the board receives a petition on December 23. The petitioner includes a copy of an earnest money agreement to purchase property with a projected closing date of January 19. The language of the earnest money agreement does not include a present obligation for the petitioner to pay the taxes imposed on the property. The petitioner lacks standing to appeal because the petitioner will not own or hold an interest in the property that obligates the petitioner to pay the taxes imposed on the property until after the deadline for filing a petition with BOPTA.

(5) Lenders that hold an interest in property as security against a loan generally lack standing to appeal to BOPTA. See OAR 150-309.100(3)-(C) subsection (3)(b). However, in the event of a default or foreclosure proceeding, the lender may acquire standing if specific language in the contract allows or requires the lender to assume the tax obligation or through actual assumption of ownership prior to the deadline for filing a petition.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.100

Hist.: REV 11-2009, f. 12-21-09, cert. ef. 1-1-10

150-309.110

Department Review of Board Orders

(1) If the clerk of the board, assessor, or tax collector finds a clerical error in an order or believes the board lacked jurisdiction to take an action, and the time period during which the board can correct the order has passed, the clerk, assessor, or tax collector may file a request with the Department of Revenue to review the order as a question of fact of interest to the department, under the authority granted by ORS 306.115.

(a) The request must be in writing and include a copy of the hearing record and the board order.

(b) The department must mail a copy of the request to the petitioner or the petitioner's designated representative at the address shown on the board's order.

(2) The department will review the request, determine whether the board order contained a correctable error, and issue a decision.

(a) The department must mail a copy of the decision to the petitioner or the petitioner's designated representative, the clerk of the board of property tax appeals, the assessor, and the tax collector.

(b) If the department determines the board order did contain an error, the decision will include an order to direct the officer in charge of the roll to correct the roll.

(c) The department may correct board orders issued during the current tax year or the two tax years immediately preceding the current tax year.

(3) Decisions of the department may be appealed to the Magistrate Division of the Oregon Tax Court within 90 days of the date the decision is mailed.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 1-1996(Temp), f. 6-7-96, cert. ef. 7-1-96 thru 12-26-96; RD 2-1997(Temp), f. & cert. ef. 9-15-97 thru 3-9-98; Repealed by RD 9-1997, f. & cert. ef. 12-31-97; REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-309.110(1)-(B), REV 17-2008, f. 12-26-08, cert. ef. 1-1-09

150-309.110-(A)

Board of Property Tax Appeals (BOPTA) Procedures When Assessment Roll Changed After Petition is Filed Under ORS 308.242(2)

(1) If the assessor reduces the value of property under ORS 308.242(2) after a petition has been filed with BOPTA, the roll is certified, but prior to January 1 of the tax year, the following procedures apply if a petition has been filed with BOPTA and no stipulation has been filed with the board prior to the time and date the board convenes:

(a) The board will schedule a hearing and notify the petitioner of the time and place the board will meet to resolve the petition.

(b) If When the value requested in the petition is requesting a value higher than or equal to the adjusted value, the board must issue an order dismissing the petition.

(c) If When the value requested in the petition is requesting a value lower than the adjusted value, the board must review the adjusted value and issue an order sustaining or correcting the adjusted value.

(2) If the assessor reduces the value of property under ORS 311.205 after a petition has been filed with BOPTA, the board will act on the petition in the following manner:

(a) The board will schedule a hearing and notify the petitioner of the time and place the board will meet to resolve the petition.

(b) If the value requested in the petition is higher than or equal to the adjusted value, the board must issue an order dismissing the petition.

(c) If the value requested in the petition is lower than the adjusted value, the board must review the adjusted value and issue an order sustaining or correcting the adjusted value.

(3) Notwithstanding (1)(b) and (2)(b) of this rule, the board will issue an order to sustain or reduce the adjusted value if the petitioner amends the value requested pursuant to section (5) of OAR 150-309.100(3)-(B) prior to or during the board hearing.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-309.110(1)-(E), REV 17-2008, f. 12-26-08, cert. ef. 1-1-09

150-309.110(1)

Contents of Board Order for Property not Specially Assessed

(1) Orders issued by the board of property tax appeals for property that is not specially assessed must contain the following information when the petitioner has appealed the real market value of the property:

(a) The real market value of each component (land, improvements, manufactured structure) and the total real market value of the property on the current tax roll.

(b) The real market value of each component (land, improvements, manufactured structure) and the total real market value of the property as found by the board.

(c) The real market value of the exception on the current tax roll, if applicable.

(d) The real market value of the exception as found by the board, if applicable.

(e) The total maximum assessed value of the property on the current tax roll.

(f) The total maximum assessed value as found by the board.

(g) The total assessed value on the current tax roll.

(h) The total assessed value as found by the board.

(2) Orders issued by the board of property tax appeals for property that is not specially assessed must contain the following information when the petitioner has appealed the assessed value of the property, but has not appealed the real market value of the property:

(a) The total maximum assessed value of the property on the current tax roll.

(b) The total maximum assessed value as found by the board.

(c) The total assessed value on the current tax roll.

(d) The total assessed value as found by the board.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; Administrative correction 12-14-98; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04

150-309.110(1)-(A)

Mailing of Board Orders

(1) The clerk of the board will keep the order containing the original or facsimile signatures as the official record of the action of the board.

(2) The clerk of the board must mail a copy of the original order to the mailing address shown on the petition unless the order is personally delivered at the hearing.

(3) If a person listed under ORS 309.100(4)(a) is authorized to represent a petitioner at a board of property tax appeals hearing, the clerk of the board must mail or deliver a copy of the original order of the board to the representative. In such a case, the clerk of the board is not required to mail or deliver a copy of the order to the petitioner. If the representative has not provided a mailing address and the order cannot be personally delivered, the clerk will mail the order to the petitioner.

(4) Copies of orders mailed to petitioners or petitioners' representatives must be mailed within five days of the date issued and no later than five days after the board has adjourned.

(5) Copies of orders must be delivered to the officer in charge of the roll and the assessor on the same day they are mailed or delivered to the petitioner or the petitioner's representative.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: RD 6-1986, f. & cert. ef. 12-31-86; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 9-1997, f. & cert. ef. 12-31-97; REV 6-2003, f. & cert. ef. 12-31-03; REV 12-2004, f. 12-29-04, cert. ef. 12-31-04, Amended 12-31-13.

150-309.110(1)-(B) [Renumbered to 150-309.110]

150-309.110(1)-(C)

Adjustments to Personal Property Value

Whenever the board of property tax appeals reduces personal property value, the order shall list the real market value of the individual items or categories/schedules as submitted on the petition, and the values ordered by the board.

Example 1: If the petitioner is appealing the value of a single item of personal property, the order shall list the real market value on the tax roll of the item being appealed; the real market value of the item as corrected or sustained by the board; the total real market value on the tax roll of all property assessed to the account; and the total real market value of all property assessed to the account as corrected or sustained by the board.

Example 2: If the petitioner is appealing all of the items in a schedule as listed in the personal property return filed under ORS 308.290, the board's order shall show the total real market value on the tax roll of the personal property listed in the schedule; the total real market value for the schedule as corrected or sustained by the board; the total real market value on the tax roll of all property assessed to the account; and the total real market value of all property assessed to the account as corrected or sustained by the board.

Example 3: If the basis of the appeal is the model year, purchase date and price, or the valuation factor used to arrive at the value of any or all of the items in all five schedules, the board's order shall state the basis for any changes.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: 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 6-1994, f. 12-15-94, cert. ef. 12-30-94; RD 9-1997, f. & cert. ef. 12-31-97

150-309.110(1)-(D)

Disposition of Appeals of Property Assessed as an Undivided Interest

(1) Any owner of property assessed as an undivided interest may petition the board of property tax appeals for a reduction in the value of the property under ORS 309.100. An appeal filed by an owner of property assessed as an undivided interest will be treated as an appeal on behalf of all the owners of all the undivided interests in the property. The owner filing the appeal will be considered the primary petitioner.

(2) When the board receives a petition of the value of property assessed as an undivided interest, the board must:

(a) Determine the real market value of the whole property as if it were under single ownership.

NOTE: The assessor may issue separate tax statements for each undivided interest in real property (ORS 308.125), but the value attributed to each interest is not an issue that can be brought before the board.

(b) If the real market value determined under (a) is reduced, apportion the value by the proportional share of each undivided interest. Apportion a maximum assessed value and assessed value for each interest.

(c) Issue an order in the name of the primary petitioner that addresses both the value of the whole property and the value attributed to each interest. Mail a copy of the order to all other persons owning a percentage interest in the property.

(3) Refunds resulting from appeals of the value of property assessed as an undivided interest will be distributed according to the procedure outlined in Section (4) of OAR 150-311.806-(A).

(4) Notwithstanding (1) above, if the property is subject to a timeshare plan, an appeal of the value of the property must be filed by the managing entity as agent for the owners of the property as specified in ORS 94.808(3).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.110

Hist.: REV 6-2003, f. & cert. ef. 12-31-03

150-309.110(1)-(E) [Renumbered to 150-309.110-(A)]

150-309.115(2)(b)

Changes to an Adjudicated Value

Annual indexing factors in each subsequent year shall be applied to the prior year's equalized value. The assessor shall apply the same adjustments in the same manner to adjudicated values as applied to values in the same property class in the same clearly defined neighborhood.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.115

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89

150-309.115(2)(e)

Additions, Remodeling and Rehabilitation

For purposes of ORS 309.115(2)(e), "additions, remodeling and rehabilitation" does not include maintenance. Maintenance includes, but is not limited to, painting and replacement of defective components with components of like utility.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.115

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.115(2)(f) by REV 6-2003, f. & cert. ef. 12-31-03

150-309.200-(A)

Assessor's Ratio Study for Tax Purposes: Definitions

(1) Appraisal area is an area in a county generally composed of one or more school districts, a city or other political subdivision, or any other logical division established by the county assessor for conducting an orderly reappraisal of taxable property as required by ORS 308.234.

(2) A market area is a group of properties that generally shares important characteristics that influence value. Each market area should contain a sufficient number of accounts to ensure an adequate sale sample for analysis.

(3) Appraisal ratio is the percentage relationship between the real market value for the prior year and an estimate of the current year's real market value made by a qualified appraiser for a particular property.

(4) Appraisal ratio study is a statistical compilation of appraisal ratios for a representative group of properties in the county randomly selected on a property class basis to produce an indication of the ratio of the prior year's real market value to the current year's real market value for all taxable properties in a particular class of property within the county, in a particular class of property within an appraisal area, or in a particular class of property within a market area.

(5) Assessor's ratio study is required to be filed with the clerk of the board of property tax appeals.

(6) Class is a classification of property described in OAR 150-308.215(1)(4).

(7) Current assessment roll is the roll being prepared for the tax year beginning July 1, of the current calendar year.

(8) Current real market value is the property's real market value, or for specially assessed properties the statutory value, as of the January 1, assessment date for which the roll is being prepared.

(9) New construction is a new structure or structures added to the current assessment roll or value added by completion of construction, remodeling, renovation or other physical improvement of existing property.

(10) Properties added to the roll are any properties on the current assessment roll which were not assessed on the prior year's roll. They include value added by changed status of specially assessed properties and value added through partitioning or subdividing properties.

(11) Qualified appraiser is an appraiser registered pursuant to ORS 308.010 or who is licensed or certified under 674.310.

(12) Ratio study is a study which estimates:

(a) The percentage relationship between the total prior year's real market value of each class of taxable property on the prior assessment roll and the total current real market value of the same properties in each class on the current assessment roll; and

(b) The percentage relationship between the total prior year's real market value of each class of taxable property on the prior assessment roll and the total current real market value of the same properties in each class on the current assessment roll within each appraisal area, or market area.

(13) Sales ratio is the percentage relationship between the real market value for the prior assessment year and the selling price for a particular property.

(14) Sales ratio study is a statistical compilation of sales ratios designed to produce an indication of the real market value ratio of each property class, and the real market value ratio of each property class within each appraisal area, or market area.

(15) Taxable property includes all locally assessed property, real and personal, not exempt from taxation (whether appraised by the assessor or the Department of Revenue). It does not include properties assessed by the Department of Revenue pursuant to ORS 308.505 to 308.660.

(16) Real market value ratio is the percentage relationship between the prior year's real market value of a class of taxable property on the prior assessment roll and the current real market value of the same property on the current assessment roll.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.200

Hist.: 12-19-75; 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 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 2-1996, f. 12-23-96, cert. ef. 12-31-96; RD 9-1997, f. & cert. ef. 12-31-97

150-309.200-(B)

Contents of the Assessor's Certified Ratio Study

The Assessor's Certified Ratio Study shall be prepared in accordance with OAR 150-309.200-(C), completed according to instructions provided by the Department of Revenue, and consist of the following items:

- (1) Table of Contents.
- (2) Certification of assessor's ratio study and adjustment program.
- (3) Analysis of valuation methods and procedures.
- (4) Introduction (purpose of report, format of the report, etc.).
- (5) Reconciliation of real market value forecast analysis.
- (6) Time trend analysis.
- (7) County map showing appraisal areas.
- (8) Listing of property class codes and descriptions. If the county has not yet converted to basic property class codes, as required by OAR 150-308.215(1), provide a cross reference listing.
- (9) Ratio computations, conclusions and identification of each study area whether an adjustment will be made or not, with supporting data in conformance with the current edition of the Assessor's Ratio Procedures Manual:
 - (a) Pertinent sales listings and supplemental studies.
 - (b) Computations of statistical data and conclusion explanations.
- (10) Summary of the valuation plan indicating those areas to be revalued, reappraised, or recalculated.
- (11) Summary of adjustments pages for all planned adjustments to bring all properties to 100% real market value (including all areas with no planned adjustments).
- (12) An after ratio study for areas revalued, reappraised or recalculated. The after ratio study is a sales to real market value ratio study that is designed to test whether or not a county's annual valuation program has produced real market values that meet the statutory requirement to bring all properties to 100% of real market value.

[Publications: The publication(s) referred to or incorporated by reference in this rule is available from the agency pursuant to ORS 183.360(2) and ORS 183.355(6).]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.200

Hist.: 12-19-75; 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 2-1996, f. 12-23-96, cert. ef. 12-31-96; REV 13-1999, f. 12-30-99, cert. ef. 12-31-99

150-309.200-(C)

Preparation of the Sales Ratio Study

- (1) The collecting, recording, confirming, analyzing, and formatting of the sales data used in the sales ratio study and any other data to be used in preparing the certified ratio study must be done under the supervision of the county assessor in conformance with the current Assessor's Ratio Procedure Manual and Data Exchange Manual published by the department.
- (2) Deviations from the procedures contained in the manual must be approved by the department.
- (3) The sales data file, if electronically maintained, must have the format required by OAR 150-306.125(1).
- (4) Counties must prepare and complete a Certified Ratio Study for all property classes each year on or before July 1. The assessor must file a copy of the study with the department no later than July 1 of each year. The department will consider an extension for cause, to last no later than August 1, if a request is filed in writing with the department prior to July 1.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.200

Hist.: 12-19-75; TC 17-1979, f. 12-20-79, cert. ef. 12-31-79; RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 6-2001, f. & cert. ef. 12-31-01

150-309.360

Administration of Appeals Process

(1) The Board of Property Tax Appeals clerk shall summarize orders on a form provided by the Department of Revenue.

(2) The completed form shall be sent to the Department of Revenue within 45 days after adjournment.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.360

Hist.: RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1997, f. & cert. ef. 12-31-97

