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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 150
DEPARTMENT OF REVENUE

FILED

04/25/2018 2:45 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Exemptions and Special Assessments of Land, Special Purpose Property Valuation

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/22/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Lois Williams
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955 Center St NE
Salem, OR 97301

Filed By:
Lois Williams
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/22/2018

TIME: 9:00 AM - 11:00 AM

OFFICER: Assigned Staff

ADDRESS: Fishbowl Conf Room,
Department of Revenue
955 Center St NE
Salem, OR 97301

NEED FOR THE RULE(S):

150-308-0240 – Real Property Valuation for Tax Purposes. Clearly defining what constitutes “no immediate market value” and how to value just compensation to the owner, for special purpose properties pursuant to Real Market Value statutory requirements. Moving language for partial exemptions and special assessments of land to new rule 150-308-0245 because it is not relevant to appraising a property for Real Market Value purposes. Also, minor, non-substantive language changes are being made for clarification.

150-308-0245 – Partial Exemptions and Special Assessments of Land. The language for partial exemptions and special assessments of land is being removed from OAR 150-308-0240, Real Property Valuation for Tax Purposes, because it is not relevant to appraising a property for Real Market Value purposes. Also, minor, non-substantive language changes are being made for clarification.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes and Oregon Administrative Rules, both of which are available online or from the agency.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal or economic impact due to these rule changes as they are clarifying existing statutes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. There is no impact to state agencies and a de minimis effect on the counties and the public. These changes tend to be clarifying or interpretive in nature and do not affect the cost to comply.

2a. Oregon has approximately 120,500 small businesses with fewer than 250 employees(*) that employ 64(**) of the state's workforce. Oregon has approximately 99,300 small businesses with fewer than 100 employees. Based on this information, we estimate Oregon has approximately 97,000 small businesses with fewer than 50 employees who are subject to these rules(**).

(*)Oregon Employment Department https://www.qualityinfo.org/-/most-oregon-employers-have-fewer-than-10-employees?utm_campaign=November2016&utm_medium=email&utm_source=newsletter&utm_content=Oregon%20Statewide
(**)(1,515,708-405,702-138,712)/1,515,708

(***)Oregon Employment Department <https://www.qualityinfo.org/documents/10182/79531/111616%20-%20Businesses%20by%20Size%20of%20Firm%2050%20or%20Fewer%20Employees>

b. There is a de minimis effect on those subject to the rules, as these changes tend to be clarifying or interpretive in nature and do not affect projected reporting, record-keeping or other administrative activities, or costs.

c. None known.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

We communicated and worked with small business liaison groups such as the Oregon State Bar Tax Section to obtain their input into how this rule will affect their clients, some of whom are small businesses. We also reached out to the Oregon State Association of County Assessors (OSACA) for their input into how this rule could affect the small business community.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Department of Revenue did not use a formal Advisory Committee for these rules; however, we did seek and receive input from industry representatives as well as from the counties and other taxpayer groups on these rule changes. No Administrative Rule Advisory Committee was consulted because the above groups were contacted and they have the interest and expertise necessary to provide adequate feedback on the proposed rule; therefore, a committee is unlikely to provide further benefit.

RULES PROPOSED:

150-308-0240, 150-308-0245

AMEND: 150-308-0240

RULE SUMMARY: Clearly defining what constitutes "no immediate market value" and how to value just compensation to the owner, for special purpose properties pursuant to Real Market Value statutory requirements. Moving language for partial exemptions and special assessments of land to new rule 150-308-0245 because it is not relevant to appraising a property for Real Market Value purposes. Also, minor non-substantive language changes are being made

for clarification.

CHANGES TO RULE:

150-308-0240

Real Property Valuation for Tax Purposes ¶

(1) For the purposes of this rule, the following words and phrases have the following meanings:¶

(a) A "Unit of property" means 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, that~~ 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 150-308-0310. 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 real market value.¶

(e) "Highest and best use" means the reasonably probable use of vacant land or an improved property that is legally permissible, physically possible, financially feasible, and maximally productive, which results in the highest real market value.¶

(f) "Just compensation to the owner" means the amount of compensation for a property that an owner would expect for the casualty loss or taking through condemnation of their property. Just compensation is the real market value of the property at its highest and best use. ¶

(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 not all three approaches ~~cannot be applied, however, are applicable. However, each approach~~ must be investigated for its merit in each specific appraisal.¶

(b) The real market value of a unit of property ~~shall~~may 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~~may 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~~may 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, and 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; ~~h. 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 150-307-0010 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 ~~Es~~Special Purpose Property: ~~Es~~¶¶

~~(a) Special purpose 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 purpose 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.¶¶~~

~~(b) Some, but not all, special purpose property may be designed without concern for marketability. ¶¶~~

~~(4c) 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. Market sales data for the property at its highest and best use may not exist for a special purpose property, which is what is meant by the phrase "no immediate market value" in ORS 308.205(2)(c). ¶¶
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.¶¶~~

~~(7) This rule is effective January 1, 2016, re there is no immediate market value, real market value is 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 determined as of the date of assessment 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.~~

Statutory/Other Authority: ORS 305.100, 308.205

Statutes/Other Implemented: ORS 308.205

RULE SUMMARY: The language for partial exemptions and special assessments of land is being removed from OAR 150-308-0240, Real Property Valuation for Tax Purposes, because it is not relevant to appraising a property for Real Market Value purposes. Also, minor, non-substantive language changes are being made for clarification.

CHANGES TO RULE:

150-308-0245

Partial Exemptions and Special Assessments of Land

(1) Valuation of Land Under Improvements Having Only Partial Exemption. This rule does not apply to those cases where land is not eligible for inclusion in the exemption.¶¶

(a) The land under an improvement, when part of the improvement is receiving an exemption, is exempt in an amount of value that is proportional to the exempted and taxable portions of the improvement based on the real market 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.¶¶

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.¶¶

(b) 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, any portion of the land or improvement that is not used or 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 percent of the building and parking are used by an exempt entity. One-half (50 percent) or 5,000 square feet of the building is exempt, one-half (50 percent) 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 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.¶¶

(c) 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.¶¶

(2) Valuation of Land Under Improvements Having Only Partial Special Assessment: The procedures described in section (1) of this rule also apply to properties receiving a partial special assessment, such as a partial historical designation.

Statutory/Other Authority: ORS 305.100, 308.205

Statutes/Other Implemented: ORS 308.205