

150-280.075

Tax Election Ballot Measure Requirements

- (1) All ballot titles are required to contain essentially the same language within the standard format as outlined in ORS 250.035.
- (2) The caption is limited to not more than 10 words. The purpose is to identify the type of tax presented for voter approval. The name of the municipal corporation and dollar figures must not be included in the caption.
- (3) The question is limited to 20 words that plainly state the purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure. The question must contain the following:
 - (a) The name of the municipal corporation. The word "district" may be substituted for the full name of the municipal corporation if the full name appears in the ballot measure summary;
 - (b) The amount of property tax in dollars and cents, or the tax rate per \$1,000 of assessed value;
 - (c) The purpose of the tax, such as operating, capital project, or establishing a permanent rate limit;
 - (d) The first fiscal year the tax is to be imposed; and
 - (e) The length in years that the proposed tax is to be imposed.
- (4)(a) Directly after the question for a proposed new local option tax, the following statement is required: "This measure may cause property taxes to increase more than three percent."
- (4)(b) In lieu of the statement required by subsection (a) of this section, for a question that is requesting the renewal of a current local option tax, the following statement is required: "This measure renews current local option taxes." To qualify as a renewing measure, a measure must ask for the same tax rate or annual dollar amount as the current local option tax, or a lower rate or amount, and be for substantially the same purpose as the current local option tax.
- (c) The statement required by subsection (a) or (b) of this section is not included in the 20-word limitation.
- (5) The summary is limited to 175 words and explains the purpose of the tax in plain language. It must not advocate a yes or no vote on the question. The summary must contain the following:
 - (a) As the first sentence, except for elections held in May or November of any year: "This measure may be passed only at an election with at least a 50 percent voter turnout." This statement is not included in the 175-word limitation;

(b) For a dollar amount local option, the total amount of money to be raised by the measure, and;
(c) For a tax rate local option, an estimate of the amount of taxes to be raised in each year in which the tax will be imposed.

(6) If an estimated tax impact is included in the summary of a measure requesting an annual dollar amount levy, it must also contain the following statement: "The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate and may reflect the impact of early payment discounts, compression and the collection rate." This statement is not included in the 175-word limitation.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 280.060

150-308.671

Removal of certain elected exempt property from correlated system real market value of centrally assessed property.

(1) Under ORS 308.671, a company may elect to have one of three types of property exempted from ad valorem property taxation.

(a) Licenses granted by the Federal Communication Commission (FCC),

(b) Franchises, or

(c) Satellites that are used to provide communication services directly to retail customers, or that are being constructed for such use, and FCC licenses related to the use of the satellites to provide communication services.

(2) ORS 308.555 authorizes the department to value all property of a centrally assessed company as a unit. Unit valuation means valuing an integrated group of assets functioning as an economic unit as "one thing," without reference to the market value of any individual assets. To determine a company's unit value, the department considers one or more of the cost, income and stock and debt approaches to value, reconciling the approaches to arrive at "unit value" also referred to as the "correlated system value."

(3) Under ORS 308.671(3), the value of exempt property listed in section (1) above is equal to the cost of the property carried in the accounting records of the company, less accrued depreciation reserve for that property. This is the exempt property net book value ("exempt

NBV”). A company must provide in its Annual Statement the book cost and accrued depreciation reserve for the elected exempt property to obtain the exemption.

(4) The department removes exempt property values of various types (for example motor vehicles) from a company’s correlated system value because the income, cost, or stock and debt approaches may be weighed and reconciled differently in any given tax year for any given company depending on the availability and quality of information. Because exempt NBV, for purposes of ORS 308.671, is a cost amount, the department will directly subtract that amount from the correlated system value if that value is based solely on the cost approach. Where the correlated system value is based on income and/or stock and debt approaches, as well as cost, the department must subtract the amount of exempt NBV that is actually reflected in the correlated system value. Consistent with the department’s long-standing market-to-book ratio method of subtracting exempt FCC licenses under the former OAR 150-307.126, a market-to-book ratio will be used for all of the exempt property under ORS 308.671.

(5) The market-to-book ratio is derived by dividing the company’s correlated system value by the total NBV of the company’s taxable property (including the exempt NBV). The resulting ratio is multiplied by the company’s exempt NBV, and that amount is then subtracted from the company’s correlated system value.

Stat. Auth.: ORS 305.100, 308.205(2), 308.655

Stats. Implemented: ORS 308.671

150-307.455

Oregon Food Processor Property Tax Exemption

(1) Definitions:

(a) “Assessor” means the county assessor, or the Oregon Department of Revenue (DOR) if DOR is responsible for the appraisal of the facility under ORS 306.126.

(b) “Certified” means that Oregon Department of Agriculture (ODA) has inspected the qualified machinery and equipment (M&E) and has provided written verification to the food processor that the M&E is eligible for exemption under ORS 307.455.

(c) "Newly acquired" means new or used M&E that is first purchased or leased by a food processor not more than two years (24 months) prior to placing it into service. Leased equipment may be exempt only if the food processor is responsible for the payment of the property taxes under the terms of the lease

agreement. Newly acquired property does not include existing equipment that has been refurbished or reconditioned in the time frame provided by this rule.

(d) "Placed into service" means the date the M&E is first used or in such condition that it is readily available and operational for its intended commercial use. It does not include property that is being tested or is in the process of being erected or installed on the January 1 assessment date.

(e) "Qualified M&E" means property, whether new or used, that is newly acquired by a food processor and placed into service prior to January 1 preceding the first tax year for which an exemption under this section is sought, and that consists of:

(A) Real property M&E that is used by a food processor in the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood; or

(B) Personal property M&E that is used in an integrated processing line for the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood.

(f) "Real Market Value" (RMV) of the property, for the purpose of determining the late filing fee pursuant to ORS 307.455, means the invoice cost of the qualified M&E, installation, engineering, and all miscellaneous costs including machinery process piping, foundations, power wiring, interest during installation, and freight.

(2) A food processor seeking an exemption under ORS 307.455 must make a request to ODA for certification. The request must:

(a) Be made in writing on a form provided by ODA and pursuant to ODA administrative rules;

(b) Include a listing on the Food Processor Certification of Qualified Machinery and Equipment form provided by DOR of all qualified M&E for which certification is sought;

(c) Be made at any time after M&E becomes "qualified M&E"; and

(d) Be filed with ODA at least two weeks prior to March 1 in order that ODA may certify the property prior to the March 1 deadline for timely filing of the exemption claim with the assessor. Later requests for certification may be made, but the resulting certification may be after the March 1 claim filing deadline.

(3) Upon receiving the request for certification, the Food and Safety Division of ODA will:

(a) Schedule a site visit with the food processor;

(b) Inspect the M&E that is the subject of the listing submitted to ODA for which certification is sought;

(c) Determine if the subject M&E constitutes qualified M&E; and

(d) Provide written certification to the food processor approving or denying the subject M&E as qualified M&E. The written certification is provided by ODA on the listing of qualified M&E submitted by the food processor.

(e) Denial of certification of certain property by the ODA is a contested case for the purpose of ORS Chapter 183.

(4) Following the certification process, the food processor must file an exemption claim form with the assessor. The claim must:

(a) Be filed on a completed Food Processor Exemption Claim form provided by DOR;

(b) Include the written certification signed and dated by ODA; and

(c) Be filed on or before March 1, or under section (8) of this rule.

(5) The filing of an exemption claim form is separate from the filing of a property tax return.

(6) The assessor will return any exemption claim form not meeting the requirements of subsection (4)(a) and (b) of this rule to the food processor.

(7) If the assessor returns an exemption claim form for completion, the food processor must return the exemption claim form to the assessor by March 1 for the claim to be considered as timely filed.

(8) An exemption claim form that is filed after March 1, and on or before December 31 of the assessment year during which the exemption is claimed, must be accompanied by a late filing fee pursuant to ORS 307.455(2)(b). If the late filing fee is not included with the claim form, no exemption will be allowed.

(a) The late filing fee is the greater of \$200 or one-tenth of one percent of RMV of the property that is the subject of the claim form.

(b) The certified listing required by subsection (4)(b) of this rule that is included with a late filed exemption claim must show the RMV of each piece of qualified M&E. The RMV is reported on the certified listing form, as directed by that form's instructions.

(9) Upon the assessor's receipt of a completed exemption claim form, and late filing fee if applicable, the assessor will compare the certified listing of all qualified M&E with the schedule of real and personal property M&E included on the property tax return. The property tax return must clearly identify the M&E that has been certified as qualified M&E by ODA.

(10) Eligible M&E is exempt for the first qualifying tax year and the following four tax years as long as it continues to qualify as of January 1 of each year.

(a) Qualified M&E that is used to process grains or bakery products must in total, based on the certifications for the site for the initial exemption year, have a cost of initial investment of \$100,000 or more to be exempted.

(b) In addition to subsection (10)(a), qualified M&E that is used to process bakery products may be exempted:

(A) Based on processing to create bakery products, even if not from raw or fresh ingredients,

(B) If not used to additionally process or re-process previously created bakery products, and

(C) If processed at a site where 10 percent or less of total sales at the site are retail sales.

(c) The food processor must notify the assessor if any of the exempt M&E becomes ineligible for the exemption. Property becomes ineligible when it no longer constitutes qualified M&E as defined in this rule.

(d) The assessor may require verification of the M&E's continued qualification for exemption.

(11) Denial of the exemption may be appealed to the Oregon Tax Court pursuant to 305.275.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 307.459

Stats. Implemented: ORS 307.455

150-307.475

Hardship Situations

(1) "Exemption" includes total exemptions, partial exemptions, and special assessments including, but not limited to, those listed in ORS 308A.706(1)(d). Relief under this section does not apply to the provisions of ORS 311.666 to 311.735.

(2) "Good and sufficient cause" is an extraordinary circumstance beyond the control of the taxpayer or the taxpayer's agent or representative that causes the taxpayer to file a late application for an exemption, cancellation of tax, or redetermination of value pursuant to ORS 308.146(6) with the assessor or local governing body.

(a) Extraordinary circumstances include, but are not limited to:

(A) Illness, absence, or disability that substantially impairs a taxpayer's ability to make a timely application. The substantial impairment must have existed 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.

(B) Delayed receipt of a disability certification, a death certificate, or other documentary justification necessary for the filing of an application for exemption, cancellation of tax, or redetermination of value, unless the taxpayer, with ordinary prudence, could have obtained the required information in a timely manner.

(C) Reasonable reliance on misinformation provided by county assessment and taxation staff or Department of Revenue personnel.

(D) Active duty military service during the tax year for which the application for the exemption was filed but only when the petitioner has applied and otherwise qualified for the exemption

under ORS 307.286. The department may not recommend the assessor accept a late filed application for the exemption due to this circumstance unless the petition to the department is filed timely or the deadline for filing a petition with the department is extended under section (4) of this rule.

(b) If none of the other extraordinary circumstances described in subsection (2)(a) of this rule apply, the department cannot find that good and sufficient cause exists if the late filing is due to:

(A) The taxpayer's inadvertence, oversight, or lack of knowledge regarding the filing requirements.

(B) Financial hardship.

(C) Reliance on misinformation provided by a professional such as a real estate broker, attorney, or CPA.

(3) "Military service," as used in section (4) of this rule, includes the period of time that National Guard members are called into federal service for more than 30 days under 32 USC 502(f), as well as the time that members of the Army, Air Force, Navy, Marine Corps, or Coast Guard, and military reservists are ordered to report to active duty.

(4) Notwithstanding ORS 307.475(3), the Servicemembers' Civil Relief Act (SCRA), 50 USC app. 526, suspends the deadline for filing a petition for hardship relief during the period that a service member is in active duty military service with the armed forces.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.475

150-308.156-(B)

Rezoned Property -- Calculating Maximum Assessed Value (MAV)

(1) For the purposes of determining MAV under ORS 308.142 to 308.166 and this rule, the following definitions apply:

(a) "Primary use" means an activity or combination of activities of chief importance on the site and is one of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use, such as mixed use buildings with commercial use on the ground floor and residential use on upper floors.

(b) "Accessory use" means a use or activity that is incidental and subordinate to the primary use of the property. A use designated as "accessory" or "auxiliary" by an applicable zoning code is presumed to be accessory unless that designation is clearly inconsistent with the ordinary legal meaning of "accessory," as determined by relevant criteria such as the relative size of the area used and the impact of the use on the surrounding neighborhood. Accessory uses may include, but are not limited to:

(A) In residential zones, recreational activities, hobbies, home businesses, or pet raising;

(B) In commercial office zones, cafeterias, health facilities, or other amenities primarily for employees;

(C) In commercial retail zones, offices or storage of goods;

(D) In industrial zones, storage, rail spurs, lead lines, or docks;

(E) Parking in any zone, unless commercial parking is designated or allowed as a primary use, such as for parking structures; and

(F) Accessory structures such as accessory dwelling units limited in size, garages, car ports, decks, fences, and storage sheds.

(c) "Type of use" means one of the uses defined in OAR 150-308.215(1)-(A)(8).

(d) "Floor area ratio" means the relationship of the total allowed area of above ground floors of a building to the total area of the parcel of land on which it is sited.

(e) "Site coverage ratio" means the relationship of the total area covered by the footprint of a building to the total area of the parcel of land on which it is sited.

(f) "Rezoned" means on or after July 1, 1995, the governmental body that regulates zoning:

(A) Made any change in the zone designation, including but not limited to an overlay, plan district, or floating zone designation, of the property;

(B) Made a change in one or more of the permitted primary types of use of the property; or

(C) Made a change in:

(i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;

(ii) The allowed floor area ratio; or

(iii) The allowed site coverage ratio.

Example 1: The zone designation on a zoning map is changed from light industrial to commercial. Property has been rezoned.

Example 2: Prior to July 1, 1995, a city's zoning ordinances allowed a small degree of office space, ordinarily a commercial use, in an industrial zone as accessory to industrial uses. No other commercial uses were permitted in that zone. The city later amends the zoning ordinances to allow office space as a primary use of property in those industrial zones. Because the zone now permits both commercial and industrial uses as primary uses, the permitted primary types of use of the property have changed. Property has been rezoned.

Example 3: Any amendment is made to the zoning ordinances increasing the number of dwelling units, other than accessory dwelling units, allowed per acre. Property has been rezoned.

(D) "Rezoned" does not include:

- (i) Changes in the authorized uses of the property that were imposed before July 1, 1995, by the governmental body that regulates zoning of the property;
- (ii) Satisfaction of conditions or restrictions on the authorized uses of the property that were imposed before July 1, 1995, by the governmental body that regulates zoning of the property;
- (iii) Changes in the authorized types of use of the property imposed by a governmental body other than the governmental body that regulates zoning of the property; or
- (iv) Changes in allowed accessory uses.

Example 4: The ordinances governing single-family residential zones are amended to allow a single accessory structure, designated as an "accessory dwelling unit." The accessory dwelling unit is limited in size either to a maximum square footage or in proportion to the primary dwelling. The zoning amendment changes the allowed accessory uses of property. Property has not been rezoned.

Example 5: The ordinances governing single-family residential zones are amended to allow the operation of a home business in a residential zone. The amendment designates the home business as an "accessory use" and imposes limitations on the business to preserve the residential character of the zone in which it is conducted, such as limitations on the type of business conducted or the number of employees allowed. The business activity is incidental to the primary use of the home. Property has not been rezoned.

Example 6: An amendment is made to the zoning ordinance to allow high-technology manufacturing in a light industrial zone. The zone designation has not changed. Light industrial

use and the new use of high-technology manufacturing are both within the same type of use, which is industrial. Property has not been rezoned.

Example 7: An amendment is made to the zoning ordinance to allow a beauty school in a commercial office zone. The zone designation has not changed. Commercial office use and the new use of a beauty school are both within the same type of use, which is commercial. Property has not been rezoned.

(g) “Used consistently with the rezoning” means the property is put to a newly permitted use under the rezoning. It does not include a use that was permitted under the prior zoning. It often includes, but does not require, a physical change to the property.

Example 8: Single-family dwellings are a permitted use under multi-family zoning. If a vacant parcel is rezoned from single- to multi-family, and a new single-family house is later constructed, the new use is not consistent with the rezoning because the use was allowed prior to the rezoning. The exception for property rezoned and used consistently with the rezoning has not occurred.

Example 9: A house in a residential zone is used as a commercial office. The residential zone is changed to a commercial zone in a later year. The property is used consistently with the rezoning because the commercial use was previously a nonconforming use, and is now a newly permitted use under the rezoning. The exception for property rezoned and used consistently with the rezoning has occurred.

Example 10: A city decides to revise their zoning code, and the zone designation for a commercial zone on a map is changed from “C5” to “GC.” However, there is no change to the permitted uses. Although property has been rezoned, no property will be “used consistently with the new zoning” because all of the uses were permitted under the prior zoning.

(2) For the purposes of calculating maximum assessed value when a property is rezoned and used consistently with the rezoning, the portion of the property that is “affected” includes:

- (a) Improvements that are converted to the newly allowed use; and
- (b) All land that supports a newly allowed use, including, but not limited to:
 - (A) Land under newly constructed or converted improvements put to the newly allowed use;
 - (B) Ingress and egress related to the newly allowed use;
 - (C) Access to utilities;
 - (D) Landscaping;

(E) Yard areas; and

(F) Parking.

Example 11: A house in a neighborhood recently rezoned from residential to commercial is converted into a commercial office. The house is used consistently with the new zone and is affected property. All of the land is affected property, unless a portion is clearly distinguishable as “excess” land: land unrelated to the new commercial use.

(3) The assessor will calculate the MAV for the property tax account for the current assessment year under this subsection, if:

(a) The entire property has been rezoned;

(b) The entire property is used consistently with the rezoning; and

(c) Either (a) or (b), or both, took place after January 1 of the preceding assessment year and on or before January 1 of the current assessment year.

Example 12: In 1998, the zoning ordinance was amended to permit additional primary types of use in the zone. The designation on the zoning map did not change. Last year, the entire property was developed for one of the primary types of use first permitted under the 1998 amendment. 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 entire property.)

(4) The assessor will calculate the MAV for the property tax account for the current assessment year under this subsection, if:

(a) The property or a portion of the property has been rezoned;

(b) A portion of the property is used consistently with the rezoning; and

(c) Either (a) or (b), or both, took place after January 1 of the preceding assessment year and on or before January 1 of the current assessment year. Use the following steps to determine the MAV for the property.

Example 13: Property was rezoned from residential to commercial two years ago. A one and a half acre lot has been developed into a bicycle sales and service shop. The shop, including all parking and landscaping, occupies half of an acre. The rest of the land remains undeveloped.

Prior year values: RMV = \$150,000; MAV \$97,088; AV = \$97,088.

Prior year RMV of unaffected portion = \$100,000.

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 x 1.03 compared to prior year MAV = current year MAV of unchanged account.

Prior year AV x 1.03 = $97,088 \times 1.03 = \$100,000$

Prior year MAV = \$97,088

Current year MAV of the unchanged account = \$100,000

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.

\$100,000 = prior year RMV for the unaffected portion.

\$150,000 = prior year RMV for the total account.

$\$100,000 / \$150,000 = 66.7\%$ (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.

$\$100,000 \times 66.7\% = \$66,700$ (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.

$\$66,700 + \$560,000 = \$626,700$ (Current MAV for the account.)

Stat. Auth.: ORS 305.100, 308.156

Stats. Implemented: ORS 308.156