

# Board of Property Tax Appeals Clerks' Manual

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Prepared by  
Oregon Department of Revenue  
Property Tax Division



# BOPTA Clerks' Manual

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# Chapter 1

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**As of July 2017**

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**As of July 2017**

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**Contact Information for Clerks of the Boards of Property Tax Appeals**  
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**Contact Information for Clerks of the Boards of Property Tax Appeals**  
**As of July 2017**

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# Chapter 2

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## The BOPTA clerk

The county clerk is officially the clerk of the board of property tax appeals (BOPTA), but many county clerks appoint a deputy clerk to act as the BOPTA clerk. The clerk handles all of the administrative duties of the board(s) and serves as the liaison between board members, taxpayers, and the assessor.

ORS 309.024

### What are the clerk's duties?

- Work with the governing body to appoint members to pools.
- Select members from pools to sit on board(s).
- Log in petitions.
- Screen petitions.
- Send defective petition notices.
- Schedule first meeting of board.
- Post notice of session.
- Notify board members of training dates.
- Post hearing agendas.
- Schedule hearings.
- Send hearing notices.
- Keep record of meetings, if delegated to do so.
- Prepare orders for members' signatures.
- Mail orders or deliver orders at the hearings.
- Amend orders if delegated by board to do so.
- Keep the official record of the board.
- Complete summary of actions report.
- Select board counsel.
- Arrange for board appraiser, if needed.
- Arrange for security, if needed.
- Arrange for board member stipends and reimbursements.
- Attend clerk's training.

A more detailed explanation of these tasks is contained throughout this manual. Chapter 2 of the *Board of Property Tax Appeals Manual* also contains useful information on these topics.

# Chapter 3

## Board of Property Tax Appeals calendar

<b>Date</b>	<b>Action</b>	<b>Who</b>	<b>Reference</b>
September or October	Attend BoPTA clerk's training	Clerk	Non-statutory
Before October 15	Work with governing body to find pool members.	Clerk	Non-statutory
On or before October 15	Appoint pools.	Gov. Body	ORS 309.067
	File ratio study with clerk.	Assessor	ORS 309.200(3)
After tax statements are mailed	Accept petitions.	Clerk	ORS 309.100(1)
	Keep log of petitions received.	Clerk	ORS 309.024
	Update computer software.	Clerk	Non-statutory
	Reserve meeting room if necessary.	Clerk	Non-statutory
After October 15 and while board is in session	Select members from pools.	Clerk	ORS 309.020
Month of December	Send training notices to pool members.	Clerk	ORS 309.022
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
January	Post notices of the session three weeks before the beginning of the session	Clerk	ORS 309.025
Before board convenes	All pool members complete training as prescribed by us.	Board	ORS 309.025
	Enter affidavit of posting into record.	Clerk	Non-statutory
	Notify members of first meeting.	Clerk	Non-statutory
	Determine where daily meeting notices will be posted.	Clerk	ORS 309.024
	Confirm who acts as legal advisor.	Clerk	ORS 309.024
	Confirm whether clerk will hire a board appraiser.	Clerk	ORS 309.024
	Deliver ORS 308.242 stipulations to clerk.	Assessor	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.	Chair	ORS 309.026(1)
	Take and administer oaths of office.	Board	ORS 309.070
	Enter oaths of office in record.	Clerk	ORS 309.070
	Authorize clerk or one member to correct clerical errors in orders.	Board	ORS 309.110(3)

<b>Date</b>	<b>Action</b>	<b>Who</b>	<b>Reference</b>
On or after first Monday, 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. Enter training certificates into board record.	Board Clerk	Non-statutory 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 us, if necessary. Prepare orders for signature.	Clerk	Non-statutory ORS 309.110(1)
Within five days after signing	Mail board orders.	Clerk	ORS 309.110(1) OAR 150-309-0160
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 orders and amended orders from regular session.	Clerk	OAR 150-309-0160
			ORS 309.110(6)
Through June 30	Reconvene board to amend orders to correct errors of jurisdiction.	Chair	ORS 309.110(3)
	Issue amended orders to correct clerical errors.	Clerk or member	ORS 309.110(6)
Not later than five days after date signed.	Mail 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 us.	Clerk	OAR 150-309-0260
Between adjournment and June 30	Arrange board member stipend and/or reimbursement payout.	Clerk	Non-statutory
June 30	Term ends.	Board	ORS 309.020(2)

## Important BOPTA dates

Governing body appoints members to pools	October 15 or at request of county clerk
Filing period begins	After date tax statements mailed
Post notice of session	In January, three weeks before the beginning of the session.
Filing period ends	Dec. 31 or next business day if Dec. 31 is a holiday
Deadline for assessor to file ORS 308.242 stips. with clerk	Prior to time board convenes
Session begins	On or after 1st Monday in February
Last day to adjourn	April 15
Last day to amend orders	June 30
Board term ends	June 30
Summary due to us	45 days after adjournment

# Chapter 4

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## Preparing for the board session

The clerk should complete the following tasks to prepare for the session, where applicable:

- Prepare for appointment of board members. (See Chapter 5.)
- Reserve hearing room (if applicable).
- By October, all BOPTA petition forms, miscellaneous forms, and manuals will be updated. You can access them at [www.oregon.gov/dor/forms](http://www.oregon.gov/dor/forms). You can create a link from your county's website to the BOPTA forms or, if you prefer, download the forms and re-post them to your county's website.
- Order audiotapes as applicable.
- Talk to your supervisor (if applicable) about staffing requirements.
- Update software if necessary.
- Determine whether board members must attend training.
- Contact board members regarding training requirements.
- Arrange for parking and access to building for board members.
- Talk to the assessor about who they will send to represent the assessor at the hearings and any scheduling preferences they might have.
- Talk to the county clerk about the policy regarding hiring a board appraiser.

# Chapter 5

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## Appointment procedures

The county clerk and designated BOPTA clerk (if any) are instrumental in the appointment of the board of property tax members in their county.

Potential BOPTA members are appointed by the county governing body to two “pools” from which the county clerk selects the members that form the board or boards. The statute states that the appointment of the pools shall be made on or before October 15 or at any other time upon the request of the county clerk. In the department’s opinion, the phrase “at any other time upon the request of the county clerk” was meant to allow for additional appointments in the event a member resigns, not to allow for delaying the initial appointments until after October 15. Appointment to the pools is made by order of the governing body. A copy of the record of the appointment goes into the board record.

The governing body appoints the potential members to the *Chairpersons’ pool* and the *Nonoffice-holding pool*. These two pools are made up of the following appointees:

- Pool one—Chairpersons’ pool
  - Members of the governing body; or
  - Nonoffice-holding residents of the county.
- Pool two—Nonoffice-holding pool
  - Nonoffice-holding residents of the county.

The citizens appointed to the Chairpersons’ pool should be willing to serve as chair of the board.

### **What is the definition of a nonoffice-holding resident of the county?**

A nonoffice-holding resident can’t be:

- A member of the governing body of the county.
- A member of the governing body of a 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.
- A person previously employed in or hired by the office of the assessor during the tax year subject to appeal to BOPTA.

## **Who is charged with selecting the board members from the pools?**

The county clerk selects the members to sit on the board from the pools appointed by the governing body. The clerk can select members from the pools to make as many boards as are necessary to complete the board(s) functions. Each board selected by the clerk consists of:

- One person from the Chairpersons' Pool; and
- Two persons from the nonoffice-holding pool.

## **What should the clerk do to prepare for the appointment of the board members?**

- Talk to someone in the commissioner's office to see if there's been any change in the procedure for appointment.
- Schedule time on the governing body's agenda for the appointment.
- Talk to the appropriate party about reimbursement for members.
- Determine whether the county uses an application form.
- Determine whether the county interviews potential board members.
- If the county interviews potential board members, who performs the interviews and are the interview questions prepared?
- Does the county have guidelines that members must adhere to in order to sit on the board?

## **How does the county find board members?**

- Advertise.
- Talk to people.
- Use the same members as were used previously.

## **Can a member of the board of property tax appeals also be appointed to the county budget committee?**

No. ORS 294.336 states that appointed members of the county budget committee can't be employees, officers, or agents of the local government. We believe that members of the board of property tax appeals can be considered officers or agents of the county and are not eligible to serve as an appointed budget committee member.

## **What is the term of BOPTA members?**

The term begins on the day of appointment and ends on June 30.

Oregon laws and administrative rules related to this segment of this chapter:

ORS 309.020

ORS 309.067

OAR 150-309-0050

## **Other board appointments**

### **Legal counsel:**

The county clerk has discretion to select who will serve as legal counsel for the board. Legal counsel for the board can be either the district attorney or county counsel; or in the case of a conflict of interest, the county clerk may appoint independent counsel.

A notation of who will represent the county as legal counsel should be included in the record of the board.

### **Board appraiser:**

The appointment of a board appraiser is also at the discretion of the county clerk.

An appraiser hired to assist the board 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 assessor.

If a board appraiser is appointed, a notation of the appointment should be included in the record of the board.

ORS 309.024



# Chapter 6

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## Department of Revenue—Approved training

Oregon law requires that members of the board pools complete training approved by the Department of Revenue before serving on the board of property tax appeals.

The law doesn't require that the department provide a specific type of training. The training may consist of classroom training, a self-study program with an examination, interactive computer training, or video conferencing.

Attendance at the training is required:

- In the initial year for all new members.
- Every other year for other members.

Members of the pools who return after a break in service are considered new members and are required to complete training in the first year they are re-appointed.

### What should the county do when a member can't attend training?

If a BOPTA member doesn't attend Department of Revenue-approved training when required to do so, the untrained member can't sit on the board unless this person would establish a quorum of two members. In such a situation, the member must read the most current Board of Property Tax Appeals Manual and sign an affidavit stating that they have done so. Reading the manual and signing the affidavit shouldn't be considered an alternative to attending required training. Allowing an untrained member to sit on the board is an option that should be used only in the rare situation where at least two *trained* members can't perform the board's functions.

### Is there ever an exception to the training requirements?

Yes. Board members are not required to attend training if no petitions are filed.

### Is the BOPTA clerk required to attend training?

There is no requirement in the law regarding the clerk's attendance at the BOPTA member training. However, the county and the public both benefit when the clerk is knowledgeable about the process and administers the program effectively.

### Is the board appraiser required to attend training?

No. If the county hires a board appraiser, the appraiser isn't required to attend Department of Revenue-sponsored training.

### Verification of attendance

The clerk should notify the board members of the type of training available and of the location and dates of training if applicable. The clerk should also arrange for transportation to the training for the members. The clerk should include copies of the members' certificates of attendance in the board record.

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.

ORS 309.022  
OAR 150-309-0010

# Chapter 7

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## Meetings

Meetings of the board of property tax appeals are all public meetings unless the board is holding an executive session. A public meeting is the convening of any governing body during which decisions or recommendations that affect the public are made. Public meetings have certain requirements that must be followed:

- A quorum must be present at any meeting during which decisions are made. A BOPTA quorum consists of two members.
- Public notice must be given.
- Meetings can be held by conference call as long as the public is given notice and opportunity to hear the meeting via speakerphone.
- All official actions of the board must be made by a public vote.

Below are some tips for holding public meetings:

- The room should be easily accessible to the public.
- The room should be large enough to allow the public to view the meeting. This means the room will hold more people than the board, the clerk, and the petitioner.
- If the door is kept closed due to noise, a “public welcome” sign should be posted on or near the door.

### **When does the BOPTA session begin?**

The board of property tax appeals must convene or hold its first meeting 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 ongoing except for weekends, holidays, and periodic recesses.

During the first administrative meeting of the members of the pools, a designated chairperson should lead the members through the checklist in this chapter. The list is also in the *BOPTA Manual*.

### **When does the BOPTA session end?**

The board(s) must adjourn no later than April 15. The board(s) may adjourn before April 15 if it has completed all of its functions.

## **What is an executive session?**

An executive session is a meeting of the board that is closed to the public so that the board can review confidential material. Some important items to remember about executive sessions are:

- When the board is holding an executive session, the “public welcome” sign should be removed and a “confidential hearing in progress” sign should be posted outside the door.
- When the board is ready to render its decision, the “confidential hearing in progress” sign should be removed and the “public welcome sign” posted.

For more information about executive sessions, see *Executive Sessions and Confidentiality* on page 13-1.

Hearing procedures are discussed in Chapter 12.

Oregon laws and administrative rules related to this chapter:

ORS 192.610 (3)

ORS 192.670 (1)

ORS 308.295

ORS 308.296

ORS 309.020

ORS 309.024

ORS 309.026

ORS 309.070

## BOPTA chairperson's first meeting checklist

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1. Convene the session; state the date, time, place of the meeting and those persons present.
2. Take and administer the oath of office to all pool members.
3. Verify the oaths are signed, filed with the county clerk, and entered in the record.
4. Verify that the daily meeting location notice has been posted.
5. Verify all members of the pool have completed required training and enter verification into the board record.
6. Confirm who will act as legal advisor to the board.
7. Discuss procedures for maintaining confidentiality of real and personal property returns. Read and sign the "Secrecy Laws Certificate."
8. Ask the clerk to review the names of the members of the pools selected to sit on the board(s).
9. Reach an agreement with the clerk about whether the clerk shall attend meetings of the board.
10. Decide who will be responsible for keeping the record of the board.
11. If a board appraiser will be hired, discuss the circumstances under which the appraiser will be used.
12. Confer with the clerk to determine whether more than one board will be necessary based on the number of petitions received.
13. Determine the time to be allotted for each hearing.
14. Establish a policy about whether or not the board will swear in witnesses.
15. Establish how to handle telephone conference calls.
16. Establish a policy regarding rescheduling hearings.
17. Establish a policy about security measures and how to handle uncooperative petitioners.
18. Establish a policy of the proof necessary that a petition was filed timely.
19. Discuss what constitutes a quorum.
20. Set a policy about how the board should handle petitions that are not defective, but need additional clarification.
21. Decide whether the board will make their decisions and recalculate values while the taxpayer is present or at another time.
22. 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.
23. 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.
24. Decide on a policy about how the clerk should deal with petitions brought to the office or mailed to the office after the filing deadline.
25. Schedule additional meetings.

# Chapter 8

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## Public notices

Boards of property tax appeals are considered to be “governing bodies” for purposes of the Public Meetings Law and each board must notify the public—through its clerk—of the dates and times when the board will meet to deliberate and make decisions.

The BOPTA clerk notifies the public of the board session in two ways. The first is by posting the *Notice of the Session* and the second is by posting the *daily meeting notices*.

### Notice of the session

The Notice of the session notifies the public of when and where the first meeting of the board will be held and includes a description of the board’s duties. The notice must:

- Include the time and place of the hearings; the board’s duties; the last day for filing petitions; and a statement about executive sessions.
- Post notices in six conspicuous places in the county. The department recommends posting the notice **three weeks before the beginning of the session**.

If the notice is published, an affidavit of publication/posting from the newspaper must still be filed with the clerk and doesn’t substitute for the posting of notice in six conspicuous locations.

### Daily meeting notices

The board must notify the public of its day-to-day activities in a way that gives notice to all interested parties of the board’s meeting agendas for a particular period of time. The notices may include the board’s schedule for just a day or an entire week. The clerk isn’t required to publish the daily or weekly notices. However, the clerk must give notice of the daily agendas to the news media upon request. The notices must be:

- Posted at least **48 hours** in advance of any meeting in which the posted subject will be discussed.
- Posted where all other public notices are posted in the courthouse or other government building.

The board may hold special meetings due to unusual circumstances if the notice is posted within 24 hours of the meeting.

It’s a good idea to include language on the daily or weekly agenda that the board will hear the appeals as time allows for those who don’t attend in person.

ORS 192.630  
ORS 192.640  
ORS 309.025

# Chapter 9

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## The board record

The clerk keeps the official record of board actions.

This includes keeping the minutes for all meetings and hearings and incorporating all other documents into the official record of the board.

ORS 309.024 states that the clerk or deputy clerk shall attend all sessions of the board **at the discretion of the board as approved by the clerk**. To the department's knowledge, all counties use the BOPTA clerk to take minutes of the meetings.

The minutes of meetings may be kept in **audio or written format**. The clerk decides which method is used. If the county keeps an audio record, we recommend that a written record also be kept.

### Written minutes must include the following information:

- Date of the meeting.
- All persons in attendance, including all witnesses and board members.
- The substance of any discussion on any matter.
- A reference to any document discussed.
- All motions, proposals, resolutions, orders proposed, and their disposition.
- The results of all votes and how each member voted by name.

The clerk isn't required to make a verbatim written record of the hearings. The hearing record form designed by the department satisfies the requirements of the written minute law.

**Important:** If an audio record of meetings is kept, check the audio system before the meetings to make sure all voices are audible on the recording.

### The following documents or audio records should be included in the official record of the board:

- Document showing appointment of members by county governing body.
- The minutes from each meeting, including the date of each meeting.
- Signed oaths of office.
- Copies of training certificates.
- Affidavit of posting.
- Record of appointment of board appraiser, if appointment is made.
- Delegation of legal counsel, if counsel designated.
- Daily or weekly agendas.
- All petitions.
- Authorizations to represent.
- Defective petition notices.
- Hearing notices.
- Stipulations showing the **date and time** the stipulation is filed with the clerk, either noted or stamped on the stipulation and entered into your electronic record.
- Written recommendations of assessor.
- Worksheets, if used.

- Orders.
- All evidence presented.
- Summary of Actions report.

The Assessor's Certified Ratio Study is also required to be filed with the county clerk annually. It can be kept with the BOPTA records or filed separately.

Any written evidence, written minutes, or audio minutes obtained or created during an executive session must be kept separately from public records. We suggest stamping "Confidential" on all written records obtained or created during an executive session as soon as the board determines it will be meeting in executive session.

### **How long must board records be retained?**

- Six years in the clerk's office.
- Two years in the assessor's office.

### **How should records be disposed of at the end of the retention period?**

- If the records are public records, you may dispose of them in the manner all other public records are disposed of in your county.
- If the records are confidential records they should be shredded, cut-up, or burned by qualified persons.

### **What records have to be included in the journal of the county governing body?**

ORS 309.072 requires that the following records must be included in the journal:

- 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.

This subject is also discussed in Chapter 2 of the *Board of Property Tax Appeals Manual*.

ORS 192.650  
ORS 309.024  
ORS 309.072  
OAR 166-150-0040

# Chapter 10

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## Standing to appeal

Only certain people qualify under Oregon Revised Statutes and Department of Revenue Administrative Rules to appeal to BOPTA or act as a representative for the petitioner at BOPTA.

### Who qualifies to appeal to BOPTA?

Any owner or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property. The person who has the legal right to appeal is the **petitioner**.

### Who qualifies to file and sign a petition with BOPTA?

- Any owner;
- Any person who holds an interest in the property that obligates the person to pay taxes imposed on the property; or
- A duly authorized representative of one of the above. The representative is filing the petition in the **name of the petitioner**.

### What is an interest that obligates the person to pay the taxes?

A legal agreement that sets out who is responsible to pay the taxes. Examples are a contract, lease, or other document (intervening instrumentality) that specifically says someone other than the owner will pay the taxes. A mortgagee (the company that holds the mortgage for a property) may not appeal the value of property for which they are holding the mortgage.

### Must proof of an obligation to pay the taxes be provided?

If the petitioner isn't the owner of record, the person filing the petition must provide written proof of the obligation to pay the taxes. If the petitioner hasn't attached written proof of the obligation, the petition should be treated as defective.

### Who can sign the petition for a business owner or other legal entity?

A person who can legally bind the business or other legal entity may sign the petition. For example:

- For a corporation: officers such as president, vice-president, secretary, treasurer, CEO, or managing officer.
- For a limited liability company (LLC): a member or the manager of an LLC.
- For a church: a pastor, rector, deacon, president of the board, or senior board member.
- For an association: the president or managing officer.
- For a partnership: a general partner.
- For a sole proprietorship: the owner.
- For a trust: a trustee, managing member, or managing agent.
- For any business entity: an employee regularly employed in the tax matters of the business. The employee doesn't have to provide an authorization from the business owner.



A member of the board of directors generally can't bind a company, but directs the corporate officers to implement the board's policies. If you receive petitions signed by a member of the board of directors, attempt to determine whether the member is qualified to sign the petition or authorize another to do so.

### **Who can file and sign the petition and act as the petitioner's representative without a signed authorization from the petitioner?**

- An Oregon licensed attorney;
- A legal guardian or conservator of the owner. The board may ask the guardian or conservator to authenticate the guardianship or conservatorship;
- An executor of an estate with court appointment;
- Other trustees with proper documentation; or
- A bankruptcy trustee with proper documentation.

### **Who can sign a petition and act as the petitioner's representative with authorization from the petitioner?**

- A relative of the owner. See OAR 150-309-0110 for a list of qualified relatives;
- An Oregon licensed real estate broker;
- An Oregon licensed, certified, or registered real estate appraiser;
- An Oregon licensed CPA or PA, or a CPA from another state who holds a substantial equivalency authorization (S.E.A.) permit from Oregon;
- A lessee, if the lessee isn't obligated to pay the taxes (if the lessee is obligated to pay the taxes, they don't need authorization from the owner of the property, because they qualify to appeal as a person with an interest in the property); or
- Any other person holding a general power of attorney (POA) executed by the owner of the property. A copy of the general POA must be provided with the petition or the petition will be considered defective.

### **Must a petition be accompanied by an authorization to represent if the petition is signed by the owner of the property, but the owner has also designated a representative on the petition?**

No. A separate authorization to represent isn't required if the petition is signed by an authorized petitioner.

### **Who qualifies to appeal when the ownership of property is transferred?**

The answer depends on when the title to the property was transferred. Petitioners may qualify to appeal if they are:

1. The owner(s) of the property when the petition is filed; or
2. A person who holds an interest in the property that obligates them to pay the taxes imposed on the property when the petition is filed.

As discussed previously, an interest that obligates a person to pay the taxes may include a contract, lease, or other document that qualifies as an 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 qualify 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 don't have to provide proof of ownership, because the ownership change has already been processed on the tax roll.

**Example 2:**

An owner 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. (Also see the next question and answer.)

**Can both the buyer and the seller of property file a petition?**

Yes, if they are both qualified to appeal. If two petitions are filed by qualified persons, the clerk should try to schedule one hearing where both parties appear and offer evidence. Both parties should be notified of the time of the hearing. If this isn't possible, the board should hold one hearing, leave the record open and then hold the other hearing. A copy of the board's decision should be sent to both parties. Legal advice to us says that any refund check should be issued in both names, unless the tax collector is directed to do otherwise by the parties appealing.

**Can someone who signs a contract to purchase (earnest money agreement) prior to the filing deadline, but won't sign closing documents until after the deadline appeal the value of the property?**

No. This person isn't qualified to appeal because the person wasn't an "owner" or "a person obligated to pay the taxes" during the petition filing period.

**Who can act as a witness for a petitioner at the hearing?**

A person legally qualified to appeal, or their authorized representative, may send someone to the hearing to act as a witness and provide information. That doesn't mean the person is a representative of the owner. There is no requirement that the witness provide any written authorization from the owner. A witness can't sign the petition, argue the case (provide legal arguments), stipulate with the assessor to the value of the property, or receive the order on behalf of the petitioner. The owner or owner's representative doesn't have to be present at the hearing with the witness.

ORS 309.100  
OAR 150-309-0110  
OAR 150-309-0130

# Chapter 11

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## Petitions

A petition is a request to the board of property tax appeals to reduce the value of property on the tax roll or waive the penalty for the late filing of a real or personal property tax return.

### What values or actions does BOPTA have jurisdiction to hear?

- RMV, RMV of exception, SAV, MAV, MSAV, AV as of January 1;
- RMV, RMV of exception, SAV, AV as of July 1 for any damaged or destroyed property if the taxpayer timely applied for valuation as of July 1;
- RMV, RMV of exception, SAV, MAV, MSAV, AV as of July 1 for property damaged or destroyed by fire or act of God if the value was changed for July 1;
- Corrections to value made under ORS 311.208. This is an appeal of value added to the roll prior to December 1;
- Penalties assessed for the late filing of real or personal property returns.

### When can petitions be filed with BOPTA?

- Petitions can be filed after the date the tax statements are mailed through December 31.
- If December 31 falls on a weekend or a holiday, the due date moves to the following business day.
- Petitions shouldn't be accepted prior to the date the tax statements are mailed.

### How can petitions be filed with BOPTA?

- **Email**—Currently, there is no rule specific to BOPTA that prevents petitions (or evidence) from being emailed to the clerk. We have advised the counties that they can accept an e-mailed PDF file or any scanned image of a signed petition in any format that can be read or printed. This kind of document isn't substantially different from a faxed petition.
- **Faxed**—The petition must be 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.
- **Mailed**—The petition must be postmarked on or before the filing deadline. See the section on *late-filed petitions in this chapter*.
- **Hand-delivered**—The petition must be received in the clerk's office by the filing deadline (not dropped in an exterior mail slot or delivered to another office).

### What does the clerk do with the petition when it's received in the clerk's office?

- Stamp the petition with the date received.
- Log it in. This can be in a computer log or a manual log.
- Assign a petition number.
- Check the petition against the tax roll. Confirm that ownership and values are correct. You may need to check the values again prior to the hearing to make sure the assessor hasn't changed the roll value.
- Check the petition for completeness.
- Send defective notices as appropriate.

- Make copies of the petition for the assessor.
- Determine if a confidential hearing is required.
- Schedule a hearing as per county policy.
- Complete the worksheet or arrange with the assessor to complete the worksheet, if applicable.

### **If a petition is received after December 31, but is postmarked December 31, what date is stamped on the petition?**

One way to resolve this situation is to:

- Stamp all petitions with the date they are received;
- If the petition is received after the filing deadline, but is postmarked on or before the filing deadline, staple the envelope showing the postmark to the petition;
- If the petition is received after the filing deadline, but is also postmarked after the filing deadline, staple a “late” note to the front of the petition and process it as a late-filed appeal.

### **How should petitions that are late-filed be handled?**

It is the board (the addressee) and not the clerk who has the discretion to decide if a petition is late-filed. *See ORS 305.820*. It could be considered an “abuse of discretion” if the board doesn’t offer the petitioner an opportunity to prove that the petition was mailed timely. The Department of Revenue’s attorney recommends that the board allow a petitioner to present proof of timely mailing at the hearing rather than through written evidence, if the petitioner so requests. Based upon this advice, we suggest the clerk use the following procedures for late-filed petitions.

- Schedule a meeting for the board to act on the petition.
- Prepare a Notice of Late Filing and send notice of the meeting to the petitioner—even if the petition indicates the petitioner doesn’t wish to be present. However, before preparing the notice, read the last bullet below.
- Give the petitioner a minimum of five days notice of the hearing.
- Any information provided to the clerk about the timeliness of the petition should be passed on to the board for review.
- If the petitioner can’t provide proof of timely mailing, the board must dismiss the petition.
- If the petitioner provides reasonable evidence of timely mailing to the clerk prior to the hearing, the county may consider not sending a Notice of Late Filing. However, the clerk should present the evidence of timely mailing to the board at the beginning of the hearing. This procedure should also be discussed with the board at the first meeting.
- If the petition is defective as well as late, the board should first hold the hearing to determine whether the petition can be accepted as a timely-filed petition. If the board accepts the petition as timely filed, then the procedure for defective petitions should be followed. If the petitioner is present, the board could ask the petitioner to correct the petition at the hearing. If the petitioner isn’t present or present but doesn’t make the corrections, they must be allowed 20 days to correct the defects.
- **Don’t notify the petitioner of the hearing if the petition was signed after the deadline for filing the petition.** If the petition was signed after the deadline, it couldn’t have been deposited in the mail or delivered prior to the deadline. In this situation, it’s not

necessary to give the petitioner an opportunity to be heard. The board should simply dismiss the petition.

### **What should the clerk do when a petitioner brings a petition to the office after the filing deadline but while the board is still in session?**

Don't accept the petition. Give the taxpayer instructions for filing a complaint with the Magistrate Division of the Oregon Tax Court.

### **What should the clerk do with petitions received after the board has adjourned?**

The clerk isn't required to accept the petition. Provide the taxpayer with instructions for filing a complaint with the Magistrate Division of the Oregon Tax Court. If the petition is received by mail, return it to the taxpayer with a letter explaining that the board has already adjourned its session and include instructions for appealing to the Magistrate Division.

### **What elements are required on a petition?**

- Name of petitioner.
- Name of person acting for business petitioner—only required when no representative is named on the petition.
- Title of person acting for business petitioner—only required when no representative is named on the petition.
- Name of representative—only required if the petition isn't signed by the owner (or person acting as an agent for a business owner) or a person with an interest in the property that obligates the person to pay the taxes imposed on the property.
- Relationship of representative to petitioner—only required if the information isn't provided somewhere else on the form. For example, by the type of license number.
- Representative's license or permit number—only required if the representative is identified as a person who must be licensed.
- The address where the hearing notice and order are to be mailed. Either the petitioner's address or the representative's (if named) address is required on the petition. If the petition is signed by a representative, but the representative's address isn't listed on the petition, attempt to obtain the representative's address by phone. If this isn't possible, send all notices and orders to the petitioner.
- The assessor's account number or a copy of the tax statement.
- The value on the tax roll that is being appealed or a copy of the tax statement.
- The value requested.
- The amount of the penalty for appeals of late-filing penalties. A requested penalty amount isn't required.
- The facts upon which the appeal is based. The petitioner may provide the basis of the appeal by 1) answering the question *"Why do you think the value of your property is incorrect?"*; 2) answering any of the other questions in the Evidence Section of the petition in the affirmative; or 3) attaching a separate written statement that answers the question.
- If the petitioner fails to answer the question *"Why do you think the value of your property is incorrect?"* any other questions in the Evidence Section of the petition, the petition is defective. If the petitioner doesn't answer any of the questions, but attaches an appraisal to the petition, the petition should be considered complete.

- A notation of whether the petitioner or the representative wishes to be present at the hearing.
- A declaration that the facts provided are true. This is provided on the form.
- The signature of the petitioner or representative.
- An authorization to represent or power of attorney—if a representative has submitted the petition and an authorization is required.

If a petition doesn't contain all of the items listed above, it is "defective." If the petition isn't corrected by the amended filing date, the board must dismiss the petition.

### **Is a petition defective if a tax statement isn't attached and the roll value listed on the petition is the prior year's roll value?**

- If the petition lists the prior year's value as the value on the roll and the requested value is lower than the current year's value, assume the petitioner meant to appeal the current year's value. **Don't treat this as a defective petition.**
- If the petition lists the prior year's value as the value on the roll and the requested value is higher than or equal to the current year's value, the petitioner has up until and during the hearing to change the value. If the petitioner has requested to be present at the hearing, send a hearing notice to the petitioner. If the petitioner doesn't change the requested value, the board should dismiss the petition.

### **Is a petition defective if the "RMV from the tax statement or assessor's records" box is left blank and a tax statement isn't attached?**

If the petitioner didn't list the roll value on the petition or attach a copy of the tax statement, **consider the petition defective.** OAR 150-309-0090 requires that the petition include the value being appealed.

### **What should the clerk do with a defective petition?**

- Log it in.
- Assign a petition number.
- Make a copy and stamp the copy "amended."
- Return the stamped copy to the petitioner with the appropriate defective petition notice.
- Check the appropriate items on the defective petition notice. These items should match the line numbers on the petitions (if you are using the department's forms).
- Put an amended filing date on the notice.
- If the petition isn't corrected by the amended filing date, the board must dismiss the petition. The petitioner need not be notified of the time of the hearing during which the board will dismiss the petition.

### **What is the *amended filing date*?**

The amended filing date is the date by which the petitioner's corrected petition must be delivered to the clerk or postmarked. 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 will be December 31 (or later in certain years) or 20 days from when the notice is mailed. If the 20th day falls on a weekend or legal holiday, the amended filing date will be the next business day.

## **May a petitioner appeal a single component of value for real property?**

- The petitioner can appeal any component of real market value on the roll. This means the appeal may be of the land only, the improvement only, a piece of machinery and equipment only, or an untitled manufactured structure only.
- The petitioner can also appeal the total value of the property. This means the petition doesn't have to include a requested value for the land or building components, but only the total value.
- When a petition is filed requesting a reduction in total value without specifying a reduction in the value of either the land or the improvements component, the board may increase or decrease either component provided the net result sustains or reduces the total value of the property.
- When a petition is filed requesting a reduction in one component of the property's value and no change in the other component, the board may only act on the component for which the reduction is requested. However, if the assessor requests the board to act on any other component or the total value, then the board may do so.

## **May the petitioner request an increase in the value of the property?**

The board's jurisdiction doesn't include appeals to increase the overall value of the property because the statute specifies that the board may only hear petitions to reduce the value of property. When the board receives petitions requesting increases in the value of property, the board and the clerk must act on the petitions in the following manner:

- If a petition is filed requesting an increase in the total value of the property, send a defective notice, but don't include an amended filing date if this is the only defect. The petitioner may amend the petition prior to or during the hearing to change the value requested. If the petition isn't 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, don't send a defective notice unless the request will result in an increase to the total value of the property. The board may increase one component of value and reduce the other component so long as there isn't an increase in the total value.

## **Must the petitioner complete the AV portion of the petition?**

Most appeals are based on a difference of opinion between the petitioner and the assessor as to the real market value of the property or the real market value of the exception. This means that for the majority of appeals the petitioner must only complete the RMV portion of the petition.

The board may receive a small number of petitions requesting a decrease in SAV or MAV. In this case, the petitioner should complete the SAV or AV portion of the petition and explain their reasoning in the space provided on the form.

If the clerk can determine that the petitioner should have completed the RMV portion of the petition, but only the SAV or AV portion was completed, the petition should be returned for correction. The defective notice doesn't contain a line for AV. If the clerk determines AV should have been addressed on the petition, the county must add this to the defective notice or make the request for correction in a letter.

## **What components of personal property value can be appealed?**

- The value of an individual item.
- The value of a category.
- The value of a schedule.
- The total value on the roll.

## **Can the petitioner request the value of their property be reduced to zero?**

Yes, this is a valid petition.

## **Can the petitioner request their property be made exempt from taxation?**

No, the board can't exempt property from taxation. It is good policy to notify the taxpayer that the board must dismiss the petition.

## **Who is allowed to withdraw a petition filed with BOPTA?**

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. Whether or not the request can be acted upon by the board depends on the person who filed the petition and the request for withdrawal.

- A petition signed by a petitioner may be withdrawn by:
  - The petitioner; or
  - A representative, if the representative provides written authorization signed by the petitioner after the date the petition was signed.
- A petition signed by a representative may be withdrawn by:
  - The petitioner;
  - The representative who signed the petition; or
  - 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.

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.

## **Can a petition be amended after the filing deadline or the amended filing date?**

Petitioners may amend their petition after the filing deadline or the amended filing date (if the petition was defective) and up to and during 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 150-308-1140.
- To add a manufactured structure account that is sited on the account originally appealed.
- To add or remove an authorized representative.
- To change the value requested.



### **Can BOPTA hear appeals of Department of Revenue-appraised industrial property?**

No. Appeals of Department of Revenue-appraised industrial property must be filed with the Magistrate Division of the Oregon Tax Court on or before the BOPTA filing deadline. If the board receives our industrial property appeal, they must dismiss it. BOPTA doesn't have jurisdiction to act on this type of appeal. However, only BOPTA may hear appeals of late filing penalties regarding all industrial properties.

County-appraised industrial property values must still be appealed to BOPTA.

### **Can BOPTA hear appeals of centrally assessed property?**

No. These appeals must be filed with the director of the Department of Revenue. The appeal must be filed on or before June 15, unless the department failed to properly mail the notice of assessment. In that case, the appeal can be filed up until June 25. If the board receives petitions for centrally assessed property, they must be dismissed.

**What procedures apply if the value on the tax roll is changed after the petition is filed?**

This is discussed in the Chapter 15, *Stipulations and Roll Changes*.

ORS 309.026  
OAR 150-309-0030  
OAR 150-309-0040  
ORS 309.100  
OAR 150-309-0070  
OAR 150-309-0080  
OAR 150-309-0090  
OAR 150-309-0100  
OAR 150-309-0110

# Chapter 12

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## Hearings

Hearings are meetings during which the board hears or reviews evidence regarding petitions filed with the board.

- Hearings for which the petitioner will be present must be assigned a specific date and time.
- Hearings for which the petitioner doesn't wish to be present can be assigned a specific date and time or heard when the board has time available—such as between regularly scheduled hearings if time allows or at the end of the day. If a specific date and time is not assigned the daily or weekly meeting notices should indicate that the board will be hearing these as time is available. However, if a petitioner has indicated they don't want to appear at the hearing, but the petition is late-filed, the petitioner should be given an opportunity to come to the hearing to present evidence of timely mailing. Therefore, the petitioner should be sent notice of the hearing using the Notice of Late Filing. Note that if the petitioner signed the petition after the filing deadline, the petitioner doesn't have to be given notice of the hearing during which the board will dismiss the petition because it wasn't timely filed. More information about late-filed petitions can be found in Chapter 11.
- Hearings can be held beginning the first day of the board session through April 15.

The petitioner must be given at least **five calendar days written notice** of the hearing if they **didn't** check the "I don't wish to be present at the hearing" box on the petition.

Hearing notices **must** be provided to only the representative if an authorized representative is named on the petition.

Hearing notices can be mailed or personally delivered to the petitioner or representative. If you personally deliver the hearing notice, the clerk should ask the petitioner or representative to acknowledge receipt of the notice in writing. If hearing notices are mailed a "Certificate of Mailing" is recommended.

Most counties attempt to schedule hearings of "like property type" together, such as commercial, residential, etc.

ORS 309.100

# Chapter 13

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## Executive sessions and confidentiality

An executive session is a meeting of the board that is closed to the public so that the board can review confidential material.

The BOPTA clerk should make every effort to identify whether a petition must be heard in executive session. The assessor's representative will be able to advise you on how to make this determination by looking at the property class of the property listed on the assessment roll.

A quick rule of thumb, however, is that appeals of personal property and industrial property must generally be heard in an executive session unless:

- The petitioner authorizes disclosure of confidential information or
- The assessor or department won't testify about confidential records in their offices.

In addition, any petition in which the appellant asserts that a trade secret is involved must be heard in an executive session.

The clerk must identify 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.

When the board is holding an executive session, the "public welcome" sign should be removed and a "confidential hearing in progress" sign should be posted outside the door. When the board is ready to render its decision, the "confidential hearing in progress" sign should be removed and the "public welcome sign" posted.

### Authorization to disclose

At the beginning of any potential executive session, the board chair may ask the petitioner if he or she wishes to allow the board to open the meeting to the public and waive the confidential hearing. If the petitioner chooses to authorize disclosure of the confidential information in a public meeting, the clerk should provide the petitioner with the written *Authorization to Disclose* form included in this chapter. If the petitioner authorizes disclosure, all information provided at the meeting by the petitioner or the assessor becomes a public record.

### Minutes of executive sessions

Any information obtained during an executive session is considered confidential and must be maintained as a confidential record in the county clerk's office. The department suggests that the clerk **stamp "Confidential" on all written records** obtained during an executive session as soon as the board opens the executive session. The department also suggests the clerk ask the assessor's representative to clearly identify all confidential material submitted to the board for their review and to notify the clerk if a hearing should be held in executive session because confidential material will be presented.

### Confidentiality of petitions and orders

Petitions to the board are public records. If a petitioner attaches a *Confidential Personal Property Return* or *Real Property Return* to the petition, these documents become public

records as well. However, if the information in the petition is asserted to be a **trade secret**, the portion of the petition that references the trade secret may be exempt from disclosure. In the very rare instance that this might occur, the clerk should hold the petition in a confidential status.

Orders are also public records and the public has the right to inspect the orders upon request. This includes the value of individual items of personal property that the board included in its final decision. As noted in Chapter 15 of the *Board of Property Tax Appeals Manual*, some counties may choose to ask their own legal counsel for advice regarding the public status of orders for industrial and personal property.

### **Who can attend an executive session of the board?**

- The petitioner, if the petitioner is the person who filed the return.
- The authorized BOPTA representative of the person who signed the return, if the assessor or us has received an authorization to disclose to the representative from the taxpayer.
- The appraiser for the county or Department of Revenue.
- Legal counsel for the county assessor or Department of Revenue.
- The board's legal counsel.
- The press.
- The board appraiser.
- The clerk.

### **Can a member of a pool who hasn't been selected to sit on a particular board observe an executive session for training purposes?**

Yes. The Department of Revenue's attorney has advised that any appointed pool member may attend an executive session of the board.

ORS 192.501(2)  
ORS 192.610 to ORS 192.690  
ORS 308.290

*More helpful information on this subject is included in Chapter 15 of the Board of Property Tax Appeals Manual. The BOPTA Manual also includes a checklist and a sample script for the board to use when holding executive sessions.*



## SECRECY LAWS CERTIFICATE

I certify that I have read the following provisions of law prohibiting disclosure of confidential information, that they have been explained to me, that I have been furnished with a copy of the relevant laws, and that I understand them and the penalties for violation of these laws:

<b>Real and Personal Property Laws</b>	ORS 308.290(10)
<b>Industrial Plants</b>	ORS 308.413
<b>Penalties</b>	ORS 308.990(5)

PRINT Your Full Name

County

Office Phone Number

Signature

Date

X

Witness Signature

Date

X

# Chapter 14

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## Recalculation worksheets

Counties are not required to use a recalculation worksheet. However, using a worksheet helps to ensure that the board understands how its decision affects all the values on the roll for the property under appeal. It also simplifies the “order” process, because the numbers the board must read into the record are readily obtainable from the worksheet.

Most counties use either the Department of Revenue worksheet or a similar worksheet programmed into their own computer system. In some counties, the clerk completes the worksheet; in others the assessor’s representative or a board member completes the worksheet.

# Board of Property Tax Appeals

## Value Recalculation Worksheet Instructions

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### General Instructions

There are two recalculation worksheets available. The county may select the one that best meets its needs. The only difference in the two worksheets is that the three column worksheet contains an additional column for the assessor's opinion of value.

*Two Column Worksheet:* The values and the changed property ratio in Column (A) are obtained from the assessor's records. The values in Column (B) are determined by the board.

*Three Column Worksheet:* The values and the changed property ratio in Column (A) are obtained from the assessor's records. The values in Column (B) are those recommended by the assessor. The values in Column (C) are determined by the board.

**Column 1 of the either worksheet should be completed prior to the hearing. Column 2 of the three column worksheet should also be completed prior to the hearing, by the Assessor's Office or using their provided information.**

If the taxpayer has appealed RMV, the board should complete all sections of Column 2 (Two Column Worksheet) or Column 3 (Three Column Worksheet) for each appeal. (Except that if no exception exists this section should be left blank.)

If the taxpayer has appealed only AV and AV is equal to MAV, the board should complete the MAV and AV sections of the worksheet.

### Petition Information Section

- Line 1 - Enter the petitioner's name.
- Line 2 - Enter the account # of the property being appealed.
- Line 3 - Enter the property class for the property on the current tax roll under appeal.
- Line 4 - Enter the hearing date for the appeal.
- Line 5 - Enter the petition number.
- Line 6 - Enter the real market value from the prior year's roll.
- Line 7 - Enter the maximum assessed value from the prior year's roll.
- Line 8 - Enter the assessed value from the prior year's roll.

### Instructions for Column 1

#### Real Market Value Section (from tax roll under appeal)—Column 1

- Line 9 - Enter the RMV for the land.
- Line 10 - Enter the RMV for the structures (bldgs, etc.)
- Line 11 - Enter the RMV for the manufactured structure(s).
- Line 12 - Enter the RMV for any other improvements.
- Line 13 - Enter the total RMV (add lines 9 through 12).

Worksheet Instructions  
Oregon Department of Revenue  
October, 2007



**RMV Exception Section (from tax roll under appeal)—Column 1**

Line 14 - Enter the RMV for the land exception.

Line 15 - Enter the RMV for the structures exception.

Line 16 - Enter the RMV for the manufactured structure(s) exception.

Line 17 - Enter the RMV for any other improvements exception.

Line 18 - Enter the total RMV of the exception (add lines 14 through 17).

**Maximum Assessed Value (from tax roll under appeal)—Column 1**

Line 19 - Enter the MAV without exception value.

Line 20 - Enter the changed property ratio.

Line 21 - Enter the MAV of the exception (line 18 multiplied by line 20); except **leave this line blank** if line 18 qualifies as minor construction. Minor construction is defined as an improvement to real property that results in an addition to real market value, but is not added to MAV because of a value limit. To qualify as minor construction the addition to RMV must be less than or equal to \$10,000 in one assessment year, or less than or equal to \$25,000 over five assessment years.

Line 22 - Enter the total MAV for the property (line 19 plus line 21).

**Assessed Value (from tax roll under appeal)—Column 1**

Line 23 - Enter the total AV for the property (lesser of line 13 or line 22).

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**Instructions for Column 2 or Column 3 (if using 3 column worksheet)**

**Real Market Value Section—Column 2 (2 column) or Column 3 (3 column)**

Lines 9–12 Enter the RMV of each component as sustained or reduced by the board.

Line 13 - Total of lines 9 through 12.

**RMV Exception Section—Column 2 (2 column) or Column 3 (3 column)**

Lines 14–18 Enter the RMV for each exception component as sustained or reduced by the board.

Line 18 - Total of lines 14 through 17

**Maximum Assessed Value—Column 2 (2 column) or Column 3 (3 column)**

Line 19 - Enter the MAV without exception value. This will usually be the same as the number in column 1.

Line 20 - Enter the changed property ratio.

Worksheet Instructions

Oregon Department of Revenue

October, 2007

BOPTA Recalculation Worksheet

Line 21 - Enter the adjusted MAV of the exception as sustained or reduced by the board (line 18 multiplied by line 20). If line 18 now qualifies as minor construction **leave this line blank**. Minor construction is defined as an improvement to real property that results in an addition to real market value, but is not added to MAV because of a value limit. To qualify as minor construction the addition to RMV must be less than or equal to \$10,000 in one assessment year, or less than or equal to \$25,000 over five assessment years.

Line 22 - Enter the total adjusted MAV of the property as sustained or reduced by the board (line 19 plus line 21).

**Assessed Value—Column 2 (2 column) or Column 3 (3 column)**

Line 23 - Enter the total AV of the property as sustained or reduced by the board (**lesser of line 13 or line 22**).

# Chapter 15

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## Stipulations and roll changes

A stipulation is an agreement between the assessor and the petitioner regarding the value of property. A stipulation must be in writing and contain the following information:

- The agreeing party's name(s) (such as owner, lessor, etc.).
- The tax account number.
- The values under appeal.
- The values being agreed to.
- The signature of the petitioner and the assessor's representative.
- The date the agreement is signed.
- The tax year.

The assessor can file a stipulated agreement that relates to a petition filed with BOPTA either before or during the board session. However, the time the stipulation is filed determines the steps the clerk and the board must take to process the petition and the stipulation.

### ORS 308.242 stipulations and roll changes

Under ORS 308.242, the assessor is allowed to:

- Reduce the value of property through December 31 of the tax year, whether or not a petition has been filed with BOPTA. The assessor can do this at the request of the property owner or upon his or her own initiative.
- Change the roll after December 31, if:
  - A petition is filed with BOPTA; and
  - The assessor and petitioner both sign the stipulation prior to the **DATE** the board convenes; **and**
  - The stipulation is filed with the county clerk prior to the **TIME** the board convenes.

The "date the board convenes" is the date the board holds its first meeting and opens the session. The "time the board convenes" is the hour the board opens the first meeting.

If a stipulation is signed prior to the **date** the board convenes and is filed with the board clerk prior to the **time** the board convenes, the board shouldn't hold a hearing for the related petition or issue an order. In such cases, the stipulated agreement resolves the petition.

Therefore, **the DATE and TIME the stipulation is filed with the clerk is very important.**

All stipulations received by the clerk should be **date- and time-stamped upon receipt** so the correct legal procedure can be followed.

Petitions that are resolved by stipulation under ORS 308.242 don't create an adjudicated value under ORS 309.115 because no order is issued.

### Can stipulations be filed after BOPTA convenes?

Stipulations can be filed after the board convenes the session but are treated differently than stipulations filed under ORS 308.242. Petitions for which a stipulation is filed with the clerk at or after the time the board convenes must be scheduled for a hearing and **an order must be issued** by the board.

## **How should the board dispose of petitions when the assessor changes the roll value under ORS 308.242 but doesn't file a stipulation with the clerk?**

OAR 150-309-0140 sets out the procedure to follow when the assessor has changed the roll on or before December 31 and a petition is filed with BOPTA, but **no stipulation** is filed.

The rule states that when the assessor has changed the roll under ORS 308.242, but no stipulation is filed with BOPTA, that the petition should be dealt with in the following manner:

- If the value requested on the petition is higher than or equal to the adjusted roll value, the petitioner has up until the time of the hearing to change the value. If the petitioner has requested to be present at the hearing, the clerk sends a hearing notice to the petitioner. If the petitioner doesn't change the requested value, the board should dismiss the petition. (Reason number three should be checked on the *Order of Dismissal* form.) The roll value shown on the order should be the most current roll value.
- If the value requested on the petition is lower than the adjusted roll value, the board should hold a hearing and sustain or reduce the current roll value. The roll value shown on the order should be the roll value as changed by the assessor under ORS 308.242.

## **Other roll changes**

In addition to roll changes that can be made under ORS 308.242, Oregon law allows for changes in value under ORS 311.205, ORS 311.208 and ORS 311.216. ORS 311.205 allows the assessor to correct clerical errors and certain other errors after the roll is certified. ORS 311.208 allows the assessor to add property to the current year's tax roll if the increase in value is made prior to December 1. ORS 311.216 allows the assessor to add omitted property to the roll for the current and prior years. The board lacks jurisdiction to hear appeals of increases in value made under ORS 311.205 and ORS 311.216 (related to omitted property being added for current and past years). The board does have jurisdiction to hear appeals of increases to current year values made under ORS 311.208 (roll corrections).

## **How should petitions be disposed of when the value of the property has been changed under ORS 311.205, ORS 311.208, or ORS 311.216 after the petition is filed?**

If the change is a **reduction**, the board should use the same criteria noted above for changes made under ORS 308.242. For example:

- If the value requested on the petition is higher than or equal to the adjusted roll value, the petitioner has up until the time of the hearing to change the value. If the petitioner has requested to be present at the hearing, send a hearing notice to the petitioner. If the petitioner doesn't change the requested value, the board should dismiss the petition. (Reason number three should be checked on the *Order of Dismissal* form.) The roll value shown on the order should be the most current roll value.
- If the value requested on the petition is lower than the adjusted roll value, the board should hold a hearing and sustain or reduce the current roll value. The roll value shown on the order should be the value as changed by the assessor under ORS 311.205.

If the change is an **increase**, the clerk should determine whether the increase was made under ORS 311.205, ORS 311.208, or ORS 311.216. The board can only hear increases in value made under ORS 311.208. If the change is made under a different statute, the board should review the value that was on the roll prior to the increase and sustain or reduce the certified value. If the change is made under ORS 311.208, the board reviews and acts on the adjusted value.

# Chapter 16

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## Orders and amended orders

An order is an official document issued by the board that orders the assessor to change or sustain the value on the roll.

### Procedures for issuing BOPTA orders:

- An order must be issued for every petition filed except those resolved by stipulation under ORS 308.242.
- All orders must be signed prior to the board adjourning, which must occur by April 15. This is the only deadline for signing orders.
- Orders must be signed by **at least two** of the members who heard the appeal.
- Orders may be personally delivered at the hearing or mailed.
- If the petitioner is being represented, the order must be delivered or mailed to the representative.
- If the order is personally delivered to the petitioner at the hearing, the department recommends that the clerk ask the petitioner or representative to acknowledge receipt of the order in writing.
- The type of delivery should be noted in the board record.
- If orders are mailed, they must be postmarked **within five calendar days** of the date the order is signed and no later than five days from the date the board adjourns.
- A copy of the order must be delivered to the assessor and the tax collector on the same day the order is delivered or mailed to the petitioner.
- An order shouldn't be delivered or mailed to any witness that isn't also a qualified representative of the petitioner.

## **Contents of orders**

- The petitioner’s name and address or the representative’s address, if applicable;
- Property identification;
- For real property that isn’t specially assessed, the values listed in OAR 150-309-0150;
- For personal property, a listing of the value of the individual items or categories/schedules as submitted on the petition and acted upon by the board, and the total value of the personal property assessed to the account;
- The tax year subject to the order;
- The date the order is signed;
- The date the order is mailed or delivered;
- The signatures of at least two members who heard the appeal; unless the subject order is being amended and the board has authorized one member or the clerk to sign it.
- The petitioner’s appeal rights. These are not included in the order but must be provided with the order.

## **What date is entered on the order after the phrase “having duly convened”?**

The date the board held its first meeting and convened the session.

## **What date is entered on the order after the phrase “done at \_\_\_\_\_, Oregon”?**

The date the board signed the order.

## **What is the procedure for issuing an amended order?**

The board can issue amended orders to correct errors in orders that have already been issued. Both jurisdictional errors and clerical errors can be corrected through an amended order.

An order can be amended at any time during the board session and after the board session until June 30.

- Errors that are considered errors in jurisdiction must be corrected by the board. This means the chairperson of the board must call a meeting of the board, reconvene the session, discuss the problem, make a decision and sign the amended order. Public notice of the meeting must be given.
- Clerical errors may be corrected by the entire board or by a designated member or the clerk if the designated member or clerk is authorized by the board. At the first meeting of the board, the board should discuss whether it wishes to appoint one member or the clerk to correct clerical errors in orders.

The Department of Revenue may correct errors found after June 30 upon the request of the clerk, assessor or tax collector. The department may correct errors in orders for the current and two prior tax years.

## **Must the board reconvene to amend orders that contain errors?**

If the board is advised by the clerk of an error in an order prior to the deadline for issuing amended orders, the board should make every effort to correct the error.

## **When must the board dismiss a petition?**

The board must dismiss a petition and issue an *Order of Dismissal* when any of the following situations occur:

- The petition isn't filed timely.
- The petition is defective because it doesn't contain all the required elements and isn't corrected by the amended filing date.
- The value requested on the petition is higher than or equal to the value on the current year's tax roll.
- The board lacks jurisdiction to hear the appeal. For example, the board lacks jurisdiction to hear a petition requesting property be made exempt from taxation.
- The petitioner has withdrawn the appeal and a stipulation wasn't filed with the clerk prior to the time the board convened the session.

ORS 305.280

ORS 309.110

OAR 150-309-0160

OAR 150-309-0170

OAR 150-309-0170

## HOW TO APPEAL THE DECISION OF THE BOARD OF PROPERTY TAX APPEALS

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### Where to Appeal

You may appeal most decisions of the board of property tax appeals to the Magistrate Division of the Oregon Tax Court. **The court cannot accept appeals of orders regarding a waiver of a late filing penalty.**

ORS 308.295(5)

ORS 308.296(6)

To appeal the board's decision to the tax court, you must file a legal complaint.

Your complaint must be filed **within 30 days** after the order of the board is mailed or personally delivered to you.

There is a fee for filing an appeal with the Magistrate Division. Currently, that fee is set at \$265.

A written Magistrate Decision may be appealed to the Regular Division of the Oregon Tax Court.

### How to File

You may obtain complaint forms from your county assessor or by calling the Magistrate Division at either 503-986-5650 or 1-800-773-1162. You may also visit the court's website at [www.courts.oregon.gov/tax](http://www.courts.oregon.gov/tax) page.

To file your complaint with the court, send your filing fee and the complaint form to:

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

You may also personally deliver your complaint to the court at:

1241 State Street  
3<sup>rd</sup> Floor  
Salem, Oregon

**Remember!** You only have 30 days from the date of mailing or personal delivery of the board of property tax appeals order to appeal to the Tax Court. If you wait until the last minute, your complaint may arrive after the statutory filing deadline which may result in the dismissal of your appeal.



# Chapter 17

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## Appeals of undivided interests

Some properties may be assessed as undivided interests. This means that a single property has multiple owners. Each owner of the undivided interest in the property may be issued a tax statement that includes a prorated portion of the value of the property. These properties differ from timeshare condominiums in the number of interests involved and in the party held responsible for paying the taxes and filing appeals of value.

Any owner of a property assessed as an undivided interest may file a petition with BOPTA. The owner filing the petition is deemed to be the primary petitioner and can only contest the total value of the property. Therefore, although only one owner has filed a petition, all of the owners obtain the benefit of any reduction resulting from the primary petitioner's appeal.

OAR 150-309-0180 sets out the procedure that the petitioner, the clerk, and the board must follow when a petition appealing the value of an undivided interest is filed. The major points of the procedure are:

- The petitioner must present evidence of the value of the property as if it were under single ownership, not just the value on the roll for the petitioner's percentage or fractional interest in the property.
- The board must determine whether the total RMV on the roll for all of the interests in the property is correct as established by the assessor. The RMV determined by the board for the property as if it was under single ownership is then equally apportioned among the interests.
- The board's order should contain the before and after value of the property as if it were under single ownership and the value apportioned to each interest.
- A copy of the board's order is mailed to each interest holder.

The cover letter should be addressed individually to each interest holder.

# Chapter 18

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## Appeal rights

Except for orders pertaining to petitions for waiver of penalties, orders of the board of property tax appeals are subject to appeal to the Magistrate Division of the Oregon Tax Court. The board's decision may be appealed by the petitioner or the assessor, or by both parties.

The petitioner's **appeal rights** must be provided to the petitioner with the board's order.

To appeal a BOPTA order, the party appealing must file a complaint with the tax court. Complaint forms are available on the court's website at [courts.oregon.gov/tax](http://courts.oregon.gov/tax). There is a fee for filing a complaint with the Magistrate Division.

Complaints must be delivered or postmarked within 30 days of the day the BOPTA decision was mailed or personally delivered.

See the Department of Revenue's website at [www.oregon.gov/dor/property](http://www.oregon.gov/dor/property) for further information about how to appeal a decision of BOPTA.

ORS 305.280

# Chapter 19

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## Summary of actions

The Summary of actions is a report the county is required to file each year with the Department of Revenue that summarizes the actions of the board of property tax appeals. It includes the number of petitions filed, the results of the board's actions, and the impact to the assessed value of the properties appealed. We compile the data into a state-wide summary that is reported annually in the publication, *Oregon Property Tax Statistics*.

The summary is due to the department within **45** days after the end of the board session. It is required by ORS 309.360.

The department provides a Microsoft Excel spreadsheet which the counties use to report the results of the board's actions.

Email this summary to the program manager in the unit at the address listed in Chapter 1.

County:  Tax Year:  Date Submitted:   
 County Contact:  Date Filed with Clerk:

**Summary of Actions  
County Board of Property Tax Appeals**

**1. Appeals of Property Value**

Property Type	(1) Total Accounts		(2) Total Accounts Withdrawn		(3) Total Accts Stipulated Under ORS 308.242		(4) Total AV Stipulated Under ORS 308.242		(5) Total AV Stipulated Under ORS 308.242		(6) Net Accounts Appealed		(7) Number of Net Accounts Sustained RMV		(8) Number of Net Accounts Reduced RMV		(9) Number of Net Accounts Dismissed		(10) Total AV of Net Accounts Before Adjustment		(11) Total AV of Net Accounts After Adjustment	
	Appealed	Withdrawn	Appealed	Withdrawn	Before Adjustment	After Adjustment	Before Adjustment	After Adjustment	Appealed	Withdrawn	RMV	AV	RMV	AV	Before Adjustment	After Adjustment	Before Adjustment	After Adjustment	Before Adjustment	After Adjustment		
Residential	10	0	0	0	0	0	0	0	0	10	3	6	7	0	4	0	0	0	0	1,586,680	1,449,550	
Multi-family	2	0	0	0	0	0	0	0	0	2	2	2	0	0	0	0	0	0	0	2,111,400	2,111,400	
Commercial	2	0	0	0	0	0	0	0	0	2	2	2	0	0	0	0	0	0	0	208,200	208,200	
Industrial	2	0	1	0	0	0	0	0	0	1	1	1	0	0	0	0	0	0	0	4,985,470	4,985,470	
Farm	3	0	0	0	0	0	76,677,400	74,000,000	0	1	1	3	0	0	0	0	0	0	0	29,490	29,490	
Forest	4	2	0	0	0	0	0	0	0	3	3	1	1	1	1	0	0	0	0	233,450	222,380	
Mfd Structure	9	1	0	0	0	0	0	0	0	8	5	5	3	3	3	0	0	0	0	224,710	203,350	
Peis Property	6	0	4	0	61,860	58,000	0	0	0	2	2	2	0	0	0	0	0	0	0	55,200	55,200	
<b>Total</b>	<b>38</b>	<b>3</b>	<b>5</b>	<b>5</b>	<b>\$76,739,260</b>	<b>\$74,058,000</b>	<b>0</b>	<b>0</b>	<b>30</b>	<b>19</b>	<b>22</b>	<b>11</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$9,434,600</b>	<b>\$9,265,040</b>	

**2. Appeals of Exception Value**

Accounts Appealed

**3. Appeals Resolved by Stipulation Filed At or After Time Board Convenes**

Accounts Stipulated

**4. Petitions to Waive Late Filing Penalties**

	Waived (100%) Reduced (Less than 100%)	Sustained Dismissed Withdrawn	Dollar Amount of Penalties Waived or Reduced
	<input type="text" value="1"/>	<input type="text" value="1"/>	<input type="text" value="\$840.00"/>
<b>Total</b>	<input type="text" value="2"/>		<input type="text" value="\$480.00"/>

## Summary of Actions Instructions

- 1. Appeals of property value**
- Column (1): Enter the total number of accounts, including accounts added by Assessor's Office. This includes withdrawn petitions, petitions for which stipulations were filed, and personal property petitions. Include tract property with residential. Don't include petitions for waiver of penalty.
- Column (2): Enter the total number of accounts withdrawn by the petitioner. Don't include petitions for waiver of penalty.
- Column (3): Enter the total number of accounts for which a signed stipulation is filed under ORS 308.242 with the clerk prior to the time the board convenes. No order is issued by the board for these stipulations.
- Column (4): Enter the net accounts appealed. This column should equal column (1) minus columns (2) and (3). These are the accounts for which an order is issued.
- Column (5): Enter the number of net accounts sustained. This number should correspond to the actions shown on the orders. This column should contain the number of accounts, not the value of the accounts or the number of petitions heard.
- Column (6): Enter the number of net accounts reduced. This number should correspond to the actions shown on the orders. This column should contain the number of accounts, not the value of the accounts or the number of petitions.
- Column (7): Enter the number of net accounts raised. This number should correspond to the actions shown on the orders. This column should contain the number of accounts, not the value of the accounts or the number of petitions.
- Column (8): Enter the number of net accounts dismissed. Don't include withdrawn petitions; these should be shown in column 2.
- Column (9): Enter the total assessed value of all net accounts appealed [Column (4)] before adjustment by the board.
- Column (10): Enter the total assessed value of all net accounts appealed [Column (4)] after adjustment by the board.
- 2. Appeals of value involving unit of property**
- Column (1) Enter the number of net units, by action type (Requested, Recognized). Requested includes all times the board had to decide whether a unit of property was comprised, whether they agreed or not. Recognized includes only those where the board took action on the proposed unit of property.
- 3. Total number of late filing penalty appeals heard**
- Column (1) Enter the number of net appeals filed for the reduction or waiver of the late filing penalty. Include all appeals, whether appeal is dismissed or the penalty is waived or reduced.

# Chapter 20

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## Conflict of interest—A guide for public officials

The following is an excerpt from the Oregon Government Ethics Law

### Conflict of interest

**How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?** Oregon Government Ethics law identifies and defines two types of conflicts of interest. An actual conflict of interest is defined in ORS 244.020(1) and a potential conflict of interest is defined in ORS 244.020(12). In brief, a public official is met with a conflict of interest when participating in official action which could or would result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.

**The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could.”** A public official is met with an actual conflict of interest when the public official participates in action that would affect the financial interest of the official, the official’s relative or a business with which the official or a relative of the official is associated. A public official is met with a potential conflict of interest when the public official participates in action that could affect the financial interest of the official, a relative of that official or a business with which the official or the relative of that official is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest:

A city councilor is employed by a building supply business from which the city public works director purchases building materials. City payments on invoices must be submitted to the city council and approved by a vote. The city councilor, who is employed by the building supply business, while participating in a meeting, would be met with an actual conflict of interest when the request to pay the invoice from the business that employs the councilor is presented to the city council for official action.

A member of a fire district board of directors owns a sheetrock contracting business. The fire district is planning to remodel a fire station in the district. To reduce cost, the district will manage the project and solicit bids from contractors for specified work, such as the sheetrock that needs to be installed. The member on the board of directors, who is the contractor, while participating in a meeting of the board of directors, would be met with a potential conflict of interest when the members discuss or act on the invitation for bids on the sheetrock installation.

### Elected officials or appointed members of boards and commissions

These public officials must publicly announce the nature of the conflict of interest before participating in any official action on the issue giving rise to the conflict of interest. [ORS 244.120(2)(a) and ORS 244.120(2)(b)]

- **Potential conflict of interest**—Following the public announcement, the public official may participate in official action on the issue that gave rise to the conflict of interest.
- **Actual conflict of interest**—Following the public announcement, the public official must refrain from further participation in official action on the issue that gave rise to the conflict of interest. [ORS 244.120(2)(b)(A)]

If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement and refrain from any discussion, but may participate in the vote required for official action by the governing body. [ORS 244.120(2)(b)(B)] These circumstances don't often occur. This provision doesn't apply in situations where there are insufficient votes because of a member's absence when the governing body is convened. Rather, it applies in circumstances when **all members of the governing body are present** and the number of members who must refrain due to actual conflicts of interest make it impossible for the governing body to take official action.

**The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:** If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class and that membership is a prerequisite for holding the public official position. [ORS 244.020(12)(a)] For example, if a member of a state board is required by law to be employed in a specific occupation, such as an accountant or a doctor, then the official actions taken by the board member that affect all accountants or doctors to the same degree would be exempt from the conflict of interest disclosure requirements and participation restrictions.

If the financial impact of the official action would impact the public official, relative or business of the public official to the same degree as other members of an identifiable group or "class". The Commission has the authority to identify a group or class and determine the minimum size of that "class." [ORS 244.020(12)(b) and ORS 244.290(3)(a)] For example, if a county commissioner votes to approve a contract to improve or maintain a county road that leads to the property the commissioner owns, but the improvements would also benefit many other property owners to the same degree, the commissioner would be exempt from the conflict of interest disclosure requirements and participation restrictions. The number of persons affected to the same degree as the public official will help to determine whether this exception applies.

If the conflict of interest arises from an unpaid position as officer or membership in a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [ORS 244.020(12)(c)] For example, a city councilor is also an unpaid board member or member at the local YMCA. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure requirements and participation restrictions.

**How is the public announcement of the nature of a conflict of interest recorded?** The public body that is served by the public official will record the disclosure of the nature of the conflict of interest in the official records (minutes, audio/video recording) of the public body. [ORS 244.130(1)]

**Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?** The announcement needs to be made on each occasion when the public official is met with the conflict of interest. Each time a public official is met with a conflict of interest the nature must be disclosed. For example, an elected member of the city council would have to make the public announcement one time when met with the conflict of interest, but only one time in each meeting of the city council. If the matter giving rise to the conflict of interest

is raised at another meeting, the disclosure must be made again at that meeting. Another example would involve an employee in a city planning department who would have to give a separate written notice before each occasion they encounter a matter that gives rise to a conflict of interest. [ORS 244.120(3)]

**If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?** No. Any official action that is taken may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest [ORS 244.130(2)]. However, the public official faces the potential of personal liability for the violation.

From *Public Official Guide* pages 22–25

Adopted October 2010

For additional information, see [www.oregon.gov/ogec](http://www.oregon.gov/ogec)



# Chapter 21

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## 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 ( $\$2,000 / 0.10$ ).

**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 can't be increased due to general ongoing maintenance and repair. Further defined in OAR 150-308-0130.

**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 our *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 doesn’t 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 non-tangible properties, personal property excluded from taxation by statute, and personal property that doesn’t qualify under the taxable personal property test. 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 isn’t in transit, but has come to rest in Oregon.
- 2. The property wasn’t 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 wasn't 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. Most 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 us agreeing to a specific value of property as of a specific date.

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

# Chapter 22

## Oregon Revised Statutes 2017 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, 305, 308, 310, and 311 and all of Chapter 309. You can view all statutes at [www.leg.state.or.us/ors](http://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 ensure orderly retention and destruction of all public records, whether current or noncurrent, and to ensure the preservation of public records of value for administrative, legal and research purposes.

(2) The purpose of ORS 192.005 (Definitions for ORS 192.005 to 192.170) to 192.170 (Disposition of materials without authorization) and 357.805 (Definitions for ORS 357.805 to 357.895) to 357.895 (Rules) is to provide direction for the retention or destruction of public records in Oregon in order to ensure the retention of records essential to meet the needs of the Legislative Assembly, the state, its political subdivisions and its citizens, insofar 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 ensure the prompt destruction of records without continuing value. All records not included in types described in this subsection shall be destroyed in accordance with rules adopted by the Secretary of State. [1973 c.439 §1; 1991 c.671 §3; 2015 c.27 §18]

**192.410 Definitions for ORS 192.410 to 192.505.** As used in ORS 192.410 (Definitions for ORS 192.410 to 192.505) to 192.505 (Exempt and nonexempt public record to be separated):

(1) "Custodian" means:

(a) The person described in ORS 7.110 (Custody of records and files) 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 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to 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.** (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 (Definitions for ORS 192.410 to 192.505) to 192.505 (Exempt and nonexempt public record to be separated) 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 (Hearing to expel minor students or to examine confidential medical records) shall contain only the material not excluded under ORS 332.061 (Hearing to expel minor students or to examine confidential medical records) (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 (Executive sessions permitted on certain matters) 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 (Definitions for ORS 192.410 to 192.505) to 192.505 (Exempt and nonexempt public record to be separated).

(4) A public body may charge a person a fee under ORS 192.440 (Copies or inspection of public records) 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 telephone 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 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to 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]

**192.672 State board or commission meetings through telephone or electronic means; compensation and reimbursement.** (1) A state board or commission may meet through telephone or other electronic means in accordance with ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690).

(2)(a) Notwithstanding ORS 171.072 (Salary of members and presiding officers) or 292.495 (Compensation and expenses of members of state boards and commissions), a member of a state board or commission who attends a meeting through telephone or other electronic means is not entitled to compensation or reimbursement for expenses for attending the meeting.

(b) A state board or commission may compensate or reimburse a member, other than a member who is a member of the Legislative Assembly, who attends a meeting through telephone or other electronic means as provided in ORS 292.495 (Compensation and expenses of members of state boards and commissions) at the discretion of the board or commission. [2011 c.272 §1]

**Note: 192.672** (State board or commission meetings through telephone or electronic means) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**192.680 Enforcement of ORS 192.610 to 192.690; effect of violation on validity of decision of governing body; liability of members.** (1) A decision made by a governing body of a public body in violation of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) shall be voidable. The decision shall not be voided if the governing body of the public body reinstates the decision while in compliance with ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690). A decision that is reinstated is effective from the date of its initial adoption.

(2) Any person affected by a decision of a governing body of a public body may commence a suit in the circuit court for the county in which the governing body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690), by members of the governing body, or to determine the applicability of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) to matters or decisions of the governing body.

(3) Notwithstanding subsection (1) of this section, if the court finds that the public body made a decision while in violation of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690), the court shall void the decision of the governing body if the court finds that the violation was the result of intentional disregard of the law or willful misconduct by a quorum of the members of the governing body, unless other equitable relief is available. The court may order such equitable relief as it deems appropriate in the circumstances. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney fees at trial and on appeal, by the governing body, or public body of which it is a part or to which it reports.

(4) If the court makes a finding that a violation of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) has occurred under subsection (2) of this section and that the violation is the result of willful misconduct by any member or members of the governing body, that member or members shall be jointly

and severally liable to the governing body or the public body of which it is a part for the amount paid by the body under subsection (3) of this section.

(5) Any suit brought under subsection (2) of this section must be commenced within 60 days following the date that the decision becomes public record.

(6) The provisions of this section shall be the exclusive remedy for an alleged violation of ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690). [1973 c.172 §8; 1975 c.664 §3; 1979 c.644 §6; 1981 c.897 §42; 1983 c.453 §2; 1989 c.544 §1]

**192.685 Additional enforcement of alleged violations of ORS 192.660.** (1) Notwithstanding ORS 192.680 (Enforcement of ORS 192.610 to 192.690), complaints of violations of ORS 192.660 (Executive sessions permitted on certain matters) alleged to have been committed by public officials may be made to the Oregon Government Ethics Commission for review and investigation as provided by ORS 244.260 (Complaint and adjudicatory process) and for possible imposition of civil penalties as provided by ORS 244.350 (Civil penalties).

(2) The commission may interview witnesses, review minutes and other records and may obtain and consider any other information pertaining to executive sessions of the governing body of a public body for purposes of determining whether a violation of ORS 192.660 (Executive sessions permitted on certain matters) occurred. Information related to an executive session conducted for a purpose authorized by ORS 192.660 (Executive sessions permitted on certain matters) shall be made available to the Oregon Government Ethics Commission for its investigation but shall be excluded from public disclosure.

(3) If the commission chooses not to pursue a complaint of a violation brought under subsection (1) of this section at any time before conclusion of a contested case hearing, the public official against whom the complaint was brought may be entitled to reimbursement of reasonable costs and attorney fees by the public body to which the official's governing body has authority to make recommendations or for which the official's governing body has authority to make decisions. [1993 c.743 §28]

**192.690 Exceptions to ORS 192.610 to 192.690.** (1) ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) do not apply to the deliberations of the Oregon Health Authority conducted under ORS 161.315 (Right of state to obtain mental examination of defendant) to 161.351 (Discharge by agency), the Psychiatric Security Review Board, the State Board of Parole and Post-Prison Supervision, state agencies conducting hearings on contested cases in accordance with the provisions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance committee operating under the provisions of ORS 9.568 (State lawyers assistance committee), meetings of the personal and practice management assistance committees operating under the provisions of ORS 9.568 (State lawyers assistance committee), the county multidisciplinary child abuse teams required to review child abuse cases in accordance with the provisions of ORS 418.747 (County teams for investigation), the child fatality review teams required to review child fatalities in accordance with the provisions of ORS 418.785 (Child Fatality Review Teams), the peer review committees in accordance with the provisions of ORS 441.055 (Health care facility medical staff and bylaws), mediation conducted under ORS 36.252 (Agricultural mediation services coordinated by State Department of Agriculture) to 36.268 (Provision of mediation services contingent on funding), any judicial proceeding, meetings of the Oregon Health and Science University



Board of Directors or its designated committee regarding candidates for the position of president of the university or regarding sensitive business, financial or commercial matters of the university not customarily provided to competitors related to financings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or substantial change in use of, significant real or personal property, or related to health system strategies, or to Oregon Health and Science University faculty or staff committee meetings.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to ORS 469.530 (Review and approval of security programs). [1973 c.172 §9; 1975 c.606 §41b; 1977 c.380 §19; 1981 c.354 §3; 1983 c.617 §4; 1987 c.850 §3; 1989 c.6 §18; 1989 c.967 §§12,14; 1991 c.451 §3; 1993 c.18 §33; 1993 c.318 §§3,4; 1995 c.36 §§1,2; 1995 c.162 §§62b,62c; 1999 c.59 §§45a,46a; 1999 c.155 §4; 1999 c.171 §§4,5; 1999 c.291 §§25,26; 2005 c.347 §5; 2005 c.562 §23; 2007 c.796 §8; 2009 c.697 §11; 2011 c.708 §26]

### **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.

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]

**308.162 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]

Note: 309.025 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 309 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**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**

### **Chapter 10 (Portion) - Property Tax Rates and Amounts; Tax Limitations; Tax Reduction Programs**

#### **Unit of property**

310.160 (1)

(1) For purposes of determining whether the taxes on property to be imposed on any property exceed the limits imposed by section 11b, Article XI of the Oregon Constitution, the unit of property to be considered shall consist of all contiguous property within a single code area in the county under common ownership that is used and appraised for a single integrated purpose, whether or not that property is taxed as a single account or multiple accounts.

#### **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]

## Chapter 23

# Oregon Administrative Rules

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**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 306, 308, and 311. You can view all rules at [www.leg.state.or.us/ors](http://www.leg.state.or.us/ors).

### OARs filed through August 15, 2012

#### DEPARTMENT OF REVENUE

#### CHAPTER 306 (Portion)

#### PROPERTY TAX GENERALLY

##### 150-306-0050

##### Supervisory Authority

(1) ORS 306.115 is an extraordinary remedy that gives the Department of Revenue authority to order a change or correction to a separate assessment of property. An assessor or taxpayer may request a change or correction by filing a petition with the department. A petition must meet the requirements of OAR 150-306-0060.

(2) The department may correct any errors or omissions in the assessment or tax roll under ORS 306.115(2) through (4), including but not limited to clerical errors and errors in property value, classification, or exemption.

(3) Before the department will consider the substantive issue in a petition (for example, value of the property, qualification for exemption, etc.), the petitioner has the burden of showing that the requirements for supervisory jurisdiction, as stated in ORS 306.115 and section (4) of this rule, have been met. The department will base its determination on the record before it.

(a) The department may request supplemental information from the petitioner if it determines the petition is inadequate. The department may dismiss the petition if the petitioner does not provide the requested information within the time specified.

(b) If a determination can be made from the written information, a supervisory conference will not be held.

(c) If a determination cannot be made from the written information, a supervisory conference will be held. At a supervisory conference, the department will consider only whether the requirements of ORS 306.115 and this rule have been met. The substantive issue in the petition will not be considered.

(d) If the department determines that it has the authority under ORS 306.115(3) to consider the substantive issue in the petition, it will hold a merits conference, if necessary, to consider the substantive issue. If the department determines that it does not have the authority to consider the substantive issue in the petition, the petition will be denied.

(4) The department will consider the substantive issue in the petition only when:

(a) The assessor or taxpayer has no remaining statutory right of appeal; and

(b) The department determines that an error on the roll is likely as indicated by at least one of the following standards:

(A) The parties to the petition agree to facts indicating likely error; or

(B) There is an extraordinary circumstance indicating a likely error. Extraordinary circumstances under this provision are:

(i) The taxation of nonexistent property, property that is exempt as a matter of law without an application, or property outside the taxing jurisdiction;

(ii) Taxpayers' computational or clerical errors in reporting the value of personal property pursuant to ORS 308.290;

(iii) Instances in which a bona fide purchaser had no notice of a real property roll correction made under ORS Chapter 311 during the appeal period set forth in 305.280;

(iv) A clerical or jurisdictional error exists in an order from a county Board of Property Tax Appeals;

(v) An increase in maximum assessed value above the 3% limitation during the years for which the department has supervisory jurisdiction where there has been no change to the property that qualifies as an exception under ORS 308.146(3), and there is no dispute involving valuation judgment, the identification of activity as general ongoing maintenance and repair, or an account modification under 308.162; or

(vi) Instances in which a question of fact exists which is of interest to the department, does not fall within any other provision of ORS 306.115 or this rule and does not involve an error in valuation judgment.

(5) The department may correct the assessment or tax roll with respect to a separate assessment of property for the current tax year, for either or both of the tax years immediately preceding the current tax year, or for any combination of such years. The requirements of ORS 306.115 and this rule must be met for each year that a correction is to be made. The department may make a correction under 306.115(3) only when:

(a) The requirements of subsections (4)(a) and (4)(b) of this rule have been met and the department determines that an error exists on the roll; or

(b) The requirements of section (6) of this rule have been met.

(6) Notwithstanding the requirements of section (4) of this rule, the department may correct the roll when:

(a) The assessor requests a reduction in value; or

(b) The taxpayer and assessor stipulate to an assessment change.

(7) The remedies provided by ORS 306.115 should not be viewed as substitutes for the ordinary appeal remedies provided by other sections or the provisions of 305.288.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 306.115

Hist.: RD 4-1984(Temp), f. & cert. ef. 8-6-84; RD 7-1984, f. 12-5-84, cert. ef. 12-31-84; RD 9-1985, f. 12-26-85, cert. ef. 12-31-85; RD 10-1987(Temp), f. & cert. ef. 11-1-87; RD 2-1988, f. 1-11-88, cert. ef. 1-15-88; RD 6-1991, f. 12-30-91, cert. ef. 12-31-91; RD 5-1992, f. & cert. ef. 12-29-92; RD 10-1992, f. 12-30-92, cert. ef. 12-31-92, Renumbered from 306.115-(B); RD 2-1997(Temp), f. & cert. ef. 9-15-97 thru 3-9-98; RD 9-1997, f. & cert. ef. 12-31-97; REV 1-1999(Temp), f. 3-2-99, cert. ef. 3-3-99 thru 8-3-99; REV 3-1999, f. & cert. ef. 9-1-99; REV 13-1999, f. 12-30-99, cert. ef. 12-31-99; REV 5-2003, f. & cert. ef. 12-31-03; REV 8-2012, f. 12-18-12, cert. ef. 1-1-13; REV 1-2013, f. & cert. ef. 3-28-13; Renumbered from 150-306.115, REV 43-2016, f. 8-12-16, cert. ef. 9-1-16

## **150-306-0060**

### **Sufficiency of a Petition**

(1) A petitioner must be one of the following for each of the years that supervisory jurisdiction is requested:

(a) An owner of the property;

(b) A person holding an interest in the property that obligates the person to pay taxes imposed on the property. An interest that obligates the person to pay taxes includes a contract, lease, or other intervening instrumentality;

(c) The assessor of the county in which the property is located; or

(d) The clerk or tax collector of the county in which the property affected by the petition is located, if the petition involves a clerical or jurisdictional error in an order from a county Board of Property Tax Appeals.

(2) The purpose of a petition is to inform the department and the nonpetitioning participant of the nature of the claim for relief. For this reason, petitions to the department must include the following information:

- (a) Specific facts asserted that satisfy the conditions of OAR 150-306-0050;
- (b) A statement of the specific result requested by the petitioner;
- (c) Petitioner's address and phone number;
- (d) The signature of the petitioner or authorized representative, verified by a written declaration that the contents of the petition are true and made subject to the statutory penalties for false swearing;
- (e) The assessor's tax account number or identification number of the property in question;
- (f) In a petition regarding an act or omission by a county tax official or the department, a copy of the written notice of the act or omission that is the subject of the petition must be attached.

(A) The department will review all petitions filed (except those filed pursuant to ORS 308.584, relating to properties centrally assessed by the department) and determine their compliance with this rule. If the department finds a petition to be deficient in any material respect, the department will provide written notice of the deficiency to the petitioner by a letter mailed to the address appearing on the filing. The petitioner has 30 days from the mailing date of the notice to provide the information requested by the department. If the deficiency is not cured within the 30-day period, the petition may be dismissed without further proceedings.

(B) Any petition which is filed by someone who does not appear to be a proper petitioner, or authorized representative pursuant to ORS 305.230, will not be considered a valid petition. The petition will be returned to the sender. The petition may be refiled at a later time with the appropriate authorization. However, the filing date is the day the petition from a proper petitioner or an authorized representative is deemed to be filed or received pursuant to 305.820.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 306.115

Hist.: 12-31-77; RD 8-1983, f. 12-20-83, cert. ef. 12-31-83, Renumbered from 150-305.275; RD 10-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1991, f. 12-30-91, cert. ef. 12-31-91; RD 1-1997(Temp), f. 6-13-97, cert. ef. 7-4-97 thru 12-31-97; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 4-1999, f. 12-1-99, cert. ef. 12-31-99, Renumbered from 150-305.275-(A); REV 3-2001, f. 7-31-01, cert. ef. 8-1-01; REV 8-2012, f. 12-18-12, cert. ef. 1-1-13; REV 1-2013, f. & cert. ef. 3-28-13; Renumbered from 150-306.115-(A), REV 43-2016, f. 8-12-16, cert. ef. 9-1-16

## **CHAPTER 308 (Portion)**

### **ASSESSMENT OF PROPERTY FOR TAXATION**

#### **150-308-0100**

##### **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

#### **150-308-0110**

##### **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:  $\$193,000 \times 40\% = \$77,200$ .

(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

### **150-308-0120**

#### **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.

RMV of the unaffected portion / total prior year RMV = 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).

Unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from demolition or removal.

Example: \$90,000 x 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

## **150-308-0130**

### **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

### **150-308-0160**

#### **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

### **150-308-0170**

#### **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

### **150-308-0180**

#### **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

### **150-308-0190**

#### **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

### **150-308-0200**

#### **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 = 0.800.

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.

$\$750,000 \times 0.800 = \$600,000$  (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 = 0.800.

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.

$\$700,000 \times 0.800 = \$560,000$  (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

#### **150-308-0210**

##### **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

## 150-308-0220

### 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 0.800.

(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:  $\$90,000 \times 0.800 = \$72,000$ .

TL 200:  $\$90,000 \times 0.800 = \$72,000$ .

(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.

$\$118,400/\$144,000 = 0.822222$ .

(B) Multiply the proportionate reduction by the MAV of the affected portion after the lot line adjustment for each account.

TL 100:  $0.822222 \times \$72,000 = \$59,200$ .

TL 200:  $0.822222 \times \$72,000 = \$59,200$ .

(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

## 150-308-0240

### 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

## 150-308-0270

### 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

## **150-308-0380**

### **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

## **150-308-0400**

### **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

#### **150-308-0410**

##### **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**

#### **150-309-0260**

##### **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

### **150-309-0020**

#### **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 150-309-0260.

(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

### **150-309-0030**

#### **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

### **150-309-0040**

#### **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

### **150-309-0050**

#### **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 150-309-0050]**

#### **150-309-0060**

#### **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

### **150-309-0070**

#### **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 150-309-0090, the petition is deficient under 150-309-0100.

(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

### **150-309-0080**

#### **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 150-309-0110.

(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

#### **150-309-0090**

##### **Contents of Board of Property Tax Appeals (BOPTA) Petitions**

(1) For purposes of this rule, "petitioner" is used as defined in OAR 150-309-0110.

(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

## 150-309-0100

### Board of Property Tax Appeals (BOPTA) Defective and Amended Petition Process

For purposes of this rule, "petitioner" is used as defined in OAR 150-309-0110.

(1) The clerk of BOPTA will review the filed petitions for compliance with OAR 150-309-0090.

(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 150-309-0070.

(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 150-309-0090 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 150-308-1140. 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.

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.

## 150-309-0110

### 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

## 150-309-0120

### **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

## 150-309-0130

### **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 150-309-0110.

(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 150-309-0100 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 150-309-0110 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 150-309-0110 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 150-309-0100 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 150-309-0110 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

#### **150-309-0140**

#### **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 150-309-0100 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

### **150-309-0150**

#### **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

### **150-309-0160**

#### **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]**

#### **150-309-0170**

##### **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

#### **150-309-0180**

##### **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

#### **150-309-0210**

##### **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

#### **150-309-0220**

##### **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

#### **150-309-0230**

##### **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

## **150-309-0240**

### **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

### **150-309-0250**

#### **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

### **150-309-0260**

#### **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