Methods for Valuing Personal Property

2018

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Personal property assessment depends on a taxpayer providing self-reporting property data to county assessors. This reported data is the primary source used by the assessor to determine assessed value. There are, however, other data the assessor’s staff can gather to use to determine value, including comparison of similar businesses, desk audits, phone audits, or field audits. The assessor must use the best information available to make sure all taxable personal property is being assessed accurately.

This manual provides methods and resources to help county assessors and their staffs develop personal property assessments. The assessor can use this manual as an aid in the discovery, audit, and assessment of personal property. Topics include valuation theory and methods, discovery sources, audit procedures, and laws. The intent of this manual is to provide a guide to developing a sound personal property program throughout the state of Oregon.

Elements of a good personal property program include:

- Written office policies and procedures to provide for:
  - Mailing, receiving, and processing returns.
  - Communicating with taxpayers.
  - Verifying assessments.
  - Valuing noninventory supplies.

- Reporting and discovery. An active program that helps taxpayers report taxable personal property is essential. This includes sending out forms, educating taxpayers about filing requirements, and checking for new taxable property.

- Valuation standards. Fair and uniform valuation standards from the market should be developed and applied to all taxable personal property.

- Audit procedures. Questionable personal property accounts should be identified and reviewed.

Finally, this manual relates to personal property valuation and assessment. For a more detailed discussion of valuation theory, consult additional appraisal texts provided by professional appraisal groups, such as Property Appraisal and Assessment Administration, by The International Association of Assessing Officers; The Appraisal of Real Estate, by American Institute of Real Estate Appraisers; and Appraisal Methods for Real Property, by the Oregon Department of Revenue.

If you have questions about this manual or the assessment of personal property, call (503) 945-8278 and ask for personal property or write to:

Oregon Department of Revenue
Property Tax Division
955 Center Street NE
Salem OR 97301
www.oregon.gov/dor
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan. 1</td>
<td>Assessment date at 1:00 a.m.</td>
</tr>
<tr>
<td>April 1</td>
<td>Department provides list of industrial accounts to county.</td>
</tr>
<tr>
<td>April 1</td>
<td>Deadline for taxpayer to file exemption application.</td>
</tr>
<tr>
<td>March 15</td>
<td>Returns are due.</td>
</tr>
<tr>
<td>March 16</td>
<td>Late returns subject to penalty.</td>
</tr>
<tr>
<td>June 2</td>
<td>Late returns subject to penalty.</td>
</tr>
<tr>
<td>July 1</td>
<td>Lien date for personal property.</td>
</tr>
<tr>
<td>July 1</td>
<td>First day to issue advance demand.</td>
</tr>
<tr>
<td>Aug. 2</td>
<td>Late returns subject to penalty.</td>
</tr>
<tr>
<td>Sept. 25</td>
<td>Last day for counties to change values.</td>
</tr>
<tr>
<td>Oct. 25</td>
<td>Tax statements are mailed on or before this date.</td>
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<tr>
<td>Oct. 26</td>
<td>First day to file appeals with BOPTA is the day following the date tax statements are mailed.</td>
</tr>
<tr>
<td>Dec. 31</td>
<td>Last day to file appeals with BOPTA.</td>
</tr>
<tr>
<td>Dec. 31</td>
<td>Last day to petition BOPTA to excuse late filing penalty.</td>
</tr>
</tbody>
</table>
Calendar of events
(tangible taxable personal property)

Jan. 1   The assessment date as of 1:00 A.M.          308.250

Mar. 15  Deadline for filing personal property returns. 308.290

  16   Late filed returns subject to penalty.
        • Returns filed after March 15 but on or before June 1 are subject
              to late filing penalty of 5 percent of the tax owed.
        • Returns filed after June 1 but on or before August 1 are subject to a penalty
              of 25 percent of the tax owed.
        • Returns filed after August 1 are subject to a penalty of 50 percent of
              the tax owed.

April 1  Deadline to file exemption application for certain exempt organizations. 307.112

July 1   Lien date for personal property. 311.405

        1   First day to issue advance demand for personal property sold or moved
              after July 1. 311.465

Sept. 25  Last day to change values on the assessment roll. 308.242

Oct. 25   Tax statements are mailed on or before this date. 311.115

        First day board of property tax appeals accepted by the clerk is the day
        following the date that tax statements are mailed. 309.100

Dec. 31  Last day to file appeals with the board of property tax appeals. 309.100

        31  Last day to petition the board of property tax appeals to excuse late filing
             penalty on returns. 308.295  309.100
Section 1: Valuation
Fundamental appraisal concepts

The final product of any appraisal is an estimate of value and, according to Oregon Revised Statutes (ORS) 308.232, “[a]ll real or personal property . . . shall be valued at 100 percent of its real market value.” While there are many definitions of “value” and kinds of value, ORS 308.205 defines real market value (RMV), or market value. The definition of RMV is as follows:

ORS 308.205 states in part:

1. Real market value of all property, real and personal, means the amount in cash which 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 which 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.

Appraising is not an exact science. There are, however, certain fundamentals and basic appraisal methods which will enable the appraiser to arrive at a logical and supportable estimate of value. Although these principles generally pertain to real property, the theory behind them also applies to personal property.

Basic appraisal fundamentals to consider when valuing property include anticipation, competition, contribution, opportunity cost, and substitution.

The principle of anticipation is that value or present worth is created by the anticipation of future benefits arising from the ownership and use of the property.

The principle of competition states that when substantial profits are being made, competition will move in to dissipate that profit. If the profits become excessive, then the competition will become excessive.

The principle of contribution, also known as marginal productivity, addresses the fact that cost doesn’t always equal value. It’s the amount of value added or subtracted by a component’s presence or absence on a property as it contributes to the total value.

The principle of opportunity cost, considered by many texts to be the same as the principle of substitution, states that the value of a property is measured by the benefits of ownership foregone, or given up, by not choosing or selecting an alternative or competing property.

The principle of substitution says that a property’s value can be based upon the value of an equally desirable substitute property. People tend to pay no more for a property than it would cost to acquire substitute property of equivalent utility, assuming there are no costly delays. The principle also recognizes that the substitute property with the lowest price will attract the greatest demand and widest distribution in the market.

Three approaches

Appraising generally involves three approaches used to develop indications of value independently from one another. These approaches are known as the cost, sales comparison (market), and income approaches to value. These indications of value are then reconciled into one final conclusion of market value.

Each of the three approaches has a recognized format, or procedure, to be used to process the data applicable to that approach into an indication of value. The fundamentals of these approaches are relatively simple, but the application is often complex. The appraiser will be dealing with what are often unpredictable quantities and qualities that can’t be reduced to inflexible rules, regulations, formulas, and tables. The appraiser must have an understanding of the basics involved in each approach, the ability to recognize pertinent data, and the skill to select the proper method and apply it to the specific problem involved.

Anyone interested in a more complete discussion of fundamental appraisal theory may consult the following texts: Property Appraisal and Assessment Administration (Chicago: International Association of Assessing Officer, 1990); Assessment of Personal Property (Chicago: International Association of Assessing Officers, 1988); The Appraisal of Real Estate (Chicago: American Institute of Real Estate Appraiser, 14th Ed.); A Basic Library for Assessors (Chicago International Association of Assessing Officer, 1989).

The valuation process

The valuation process is the step-by-step approach that allows appraisers a framework or methodology to solve valuation assignments. This systematic process should lead the appraiser to a defensible and supportable value conclusion.

The valuation process involves the following:

1. Determination and identification of the property to be appraised.
2. Data collection.
   a. General data.
      1) Social.
      2) Economic.
      3) Governmental.
      4) Environmental.
   b. Specific data.
      1) Sales verification.
      2) Property characteristics.

3. Data analysis and highest and best use conclusion.

4. Estimating value by the three approaches.

5. Reconciliation of the three approaches to value.

6. Final estimate of value.

In mass appraisal, the process may not be readily identifiable due to overlapping areas of responsibility. However, all elements of the appraisal process are involved in any appraisal which estimates market value.
Three approaches to value: The income approach

The income approach is one method of valuing personal property. This approach is based on the principle of anticipation, which states that the market value is the present worth of future benefits (monetary or other) to be received from the ownership of the property.

Income producing property is purchased for the right to receive the future income stream of that property. The appraiser evaluates this income stream in terms of quantity, quality, duration, and shape, and then converts it by means of an appropriate capitalization rate into an estimate of present worth. This estimate is the amount that a prudent investor would be willing to pay now for the right to receive the income stream produced by a particular property. Care must be taken that the rent, expenses, and rates reflect those expected by the typical investor for the type of property being valued. The appraiser must keep in mind that the objective of the appraisal is to estimate market value, allowing the mathematics to reflect the concerns of the typical investor.

Steps in the income approach to value

The basic steps in the income approach are:

1. Estimate potential gross income (monthly payments × 12 months = annual gross income).
2. Deduct allowable expenses such as transportation costs and special installation costs to compute effective gross income.
3. Estimate expenses before discount, recapture, and taxes.
4. Deduct allowable expenses from gross income to determine net operating income (to be capitalized into an estimate of value).
5. Select the proper capitalization rate (reflects recognition of return of investment, return on investment, and effective tax rate).
6. Determine the proper capitalization procedure to be used.
7. Capitalize the net income into an indication of present value.

The capitalization process expressed in terms of a mathematical formula is:

\[
\text{Potential Gross Income} - \text{Allowable Expenses} = \text{Net income before discount, recapture, and taxes}
\]

\[
\text{Net Income} \div \text{Capitalization Rate} = \text{Value}
\]

Summary

The validity of this approach requires that the appraiser follow three guidelines:

1. Build a realistic capitalization rate.
2. Make appropriate adjustments for expenses.
3. Select a proper income approach method.

Small errors in capitalization rates or allowable expenses can make a considerable variation in the final estimate of value. When using the income approach, it should be correlated with the cost and market approaches to arrive at the final value estimate. When properly developed, the income approach can be effectively used to value leased property. It may also be used to value machinery and equipment.
Cost approach

The cost approach to value is the most commonly used method to estimate real market value for the assessment of personal property. The cost approach to value is based partly upon the principle of substitution which states that a person will generally pay no more for an item than the cost of acquiring an equally desirable substitute, assuming no unusual delay.

There are two basic variations for appraising personal property with the cost approach. Mathematically the two basic formulas are:

1. \( \text{Original acquisition cost} \times \text{cost trend index} - \text{accrued depreciation} = \text{real market value} \)

2. \( \text{Replacement or reproduction cost new} - \text{accrued depreciation} = \text{real market value} \)

Original acquisition cost is the cost of acquiring a particular item of personal property at the appropriate level of trade. Total acquisition costs include freight, installation, taxes, and fees. Acquisition costs must be adjusted to current cost new by the use of cost indexes which are available from several sources. Examples of cost trending tables can be found in Marshall and Swift Appraisal Cost Services.

Replacement cost is defined as the estimated cost to construct, at current price, an exact duplicate of the item of personal property being appraised using the same material, construction standards, design, quality, and having the same production capacity and all of the item’s deficiencies, super adequacies, and obsolescence. Reproduction means a facsimile or replica as nearly like the present property as possible.

Replacement cost is the cost of constructing a substitute item equal to the existing item in quality and utility and/or capacity, but using current technology and materials.

Because the assessor will usually have only the original acquisition costs as reported on the personal property listing, the indexed acquisition cost minus accrued depreciation will typically be used to estimate the value of personal property. The indexed acquisition cost is derived by applying a trending index to adjust the acquisition cost to the relative replacement cost new consistent with the current assessment date. Trending tables have been established which follow changes in price levels for various industry types of property over time.

**Depreciation**

After the acquisition cost adjustment, replacement or reproduction cost new is calculated as of the base appraisal date. Elements of depreciation must then be considered to derive a final estimate of current value. Sources of depreciation include physical, functional, and external (economic). Depreciation caused by these sources may be either curable or incurable.

Physical deterioration is loss in value caused by wear and tear or damage. It is deemed curable if the cost to cure is economically justified as of the date of appraisal. If the cost to cure is not economically justified as of the date of appraisal, it is incurable.

**Functional obsolescence** is loss in value caused by outdated or incorrect design; the cost to cure is economically justified as of the date of the appraisal. Incurable functional obsolescence is permanent loss in value caused by outdated or incorrect design that is physically or economically impractical to correct as of the date of the appraisal.

**External or economic obsolescence** is value loss caused by economic forces outside the property. It is seldom curable.

**Depreciation in personal property** is loss in value from any cause including physical deterioration, functional obsolescence, and/or external obsolescence. Physical depreciation of the item results from usage and sometimes environmental effects. Obsolescence is attributable to either functional or economic considerations. Functional obsolescence is relative to the item itself. It generally results from changing styles and technology, causing an item of personal property to be outmoded by constantly changing techniques, designs, and production standards. External obsolescence results from factors that are external to the item of property such as legislation, regulation, commercial and industrial relocation pattern trends, consumer actions for the product of the time, etc. Generally, factors of depreciation will interact to cause items of personal property to have relatively short physical or economic life spans when compared to real property. Together these forces are referred to as accrued depreciation. Accrued depreciation is the difference between the cost new as of the appraisal date and the present value of an item of personal property. It is a measurement of the total loss in value which has already occurred as of the date of the appraisal.

The formula for calculating accrued depreciation is:

Effective age of the item \( \times \) reproduction or replacement cost new = accrued depreciation.

A physical inspection of the various items of personal property will aid the appraiser in the estimation of accrued depreciation. Inspection of the company’s books and maintenance records will greatly assist the appraiser in determining age, use, utility, and physical condition of the item. All of these factors...
must be considered in order to arrive at an estimate of depreciation.

**Measuring depreciation**

Measuring depreciation is the weakest part of the cost approach when appraising personal property. Accrued depreciation can be measured in several ways. A loss in productivity can be capitalized into an indication of value loss using the income approach. Accrued depreciation can also be estimated by direct market comparison using sales of comparable units of personal property. Many county assessors apply the appropriate depreciation percentages listed in the “Personal Property Valuation Guidelines” manual, provided by the Oregon Department of Revenue.

Useful life tables, such as those provided by the department, are helpful in estimating the accrued depreciation applicable to personal property. These tables represent what is typically average for a particular category of items. With few exceptions, they do not distinguish between specific items within a particular business activity. If a particular item is suffering from economic obsolescence, additional consideration for that condition must be added. Although using the department’s depreciation schedule is often the most convenient, easiest, and fastest way to value personal property, it may not be the most accurate.

**Summary**

The cost approach will generally be the principal method of valuing personal property for mass appraisal purposes. Overlooking the inherent weaknesses of the cost approach, the positive aspects promote the use of this method for tax administration. The application of accrued depreciation is a critical step when using the cost approach to value. Depreciation tables create a generally acceptable standard from which appropriate judgments may be determined. Consistent use of such tables when valuing personal property will aid in achieving uniform and equitable assessments. When assessments are challenged, the appraiser must correlate the cost approach with the other two approaches to value.
Sales comparison approach

The sales approach, like the cost approach, is based upon the principle of substitution, that is the belief that a person will pay no more for a property than the price of an equally desirable substitute within reasonable time limits. In this approach, value is estimated by comparing the subject property to similar properties that have sold. The comparison reflects the most direct evidence of market value because the data is based wholly on the actions of the market place.

Proper collection and analysis of sales data, together with the selection of appropriate units of comparison, is critical in applying the sales comparison approach. This sales data must be adjusted based on market conditions and then applied to the subject of the appraisal.

The use of the sales comparison approach may have limited application in the mass appraisal of personal property due to the difficulty of obtaining enough valid market data.

Sales data

Comparable sales data for personal property may not be readily available to the assessor. Sales that are available may not represent the market at the correct level of trade. There may not sufficient data available to allow meaningful and objective analysis. Sales prices on many items of personal property fluctuate with the seasons of the year. Technological changes render many items obsolete overnight. Local, regional and/or national economics, styles, fads, supply, and demand all affect the stability of the personal property markets. The variable nature of personal property further complicates the estimation of market value. If the conditions of a sale give doubt as to the knowledge, ability, or willingness of the parties involved, the sale may not be usable for appraisal purposes.

Many public and private commercial services publish personal property sales and exchange information, commonly referred to as pricing guides, available to assist the appraiser in valuing personal property. These guides are compiled from analysis of large amounts of data, usually on a regional or national basis. They represent what is considered the typical market price for an item in average condition. Many guides also list prices for accessories related to the basic unit. The guides represent regional or national price levels and frequently must be adjusted in consideration of local market conditions.

Pricing guides are useful as aids to the assessor in verifying values as reported by taxpayers. They will provide an indication of value, but must be used in conjunction with other sources of sales data to arrive at a reasonable estimate of market value.

Steps in the sales comparison approach to value

The sales comparison approach assumes the typical buyer will compare sales and asking prices in order to make the best possible purchase. Realizing the market is subject to error, the appraiser must select a sufficient number of sales at the retail level of trade that reflect the highest degree of comparability possible to reflect the market pattern. Comparable properties that require excessive adjustments may yield indications of value that can't be substantiated.

Five steps are generally used in the comparison process:

1. Sort the personal property into common categories; list manufacturer, model, and vintage year.
2. Research and select sales of comparable items of personal property at the current level of trade.
3. Document and confirm sales data.
4. Tabulate and adjust relevant units of comparisons.
5. Reconcile value indications and estimate value of each item of personal property.

Adjustments are always made from the comparable to the subject. If the comparable is better than the subject in a particular feature, a minus adjustment is applied to the sale price of the comparable property. If the comparable property is inferior in some feature, a plus adjustment is applied.

Unlike sales of comparable real property that are normally adjusted upward for time, the sales of personal property normally must be adjusted downward. This negative adjustment is required because depreciation of personal property typically exceeds the effects of inflation.

Summary

When sufficient market data is available, the assessor should take advantage of using the market approach to value. Generally, the assessor will need to develop market comparables to support the assessment of a unit of personal property when the taxpayer contests the assessment. Using the market approach can help the assessor avoid errors inherent in either the income or cost approach. When appropriately developed, the sales comparison approach can be used for:

- Machinery and equipment.
- Leased equipment.
- Motorized vehicles.
- Boats and trailers.
Trade level valuation concept

Property is appraised at the retail level of trade. In appraising tangible personal property, recognize the trade level at which the property is situated. Also recognize that tangible property normally increases in value as it progresses through production and distribution channels. Such property attains its maximum value as it reaches the consumer level. Personal property is valued at the retail consumer level.

The concept of trade level is important to maintain equity in the appraisal system.

The concept of trade level requires that:
1. Ownership in determining value is disregarded.
2. Determining value doesn’t depend on costs.
3. Property carries all increments of value as it moves through the channels of trade.

Trade levels

There are five levels of trade to understand. Trade level is a concept recognized by professional appraisers, attorneys, and the courts. Some statutes mandate the trade level concept in the appraisal process. Many court cases through the years have supported this concept.

1. Manufacturer’s level
   This level should only be used in the appraisal process when the property is in the hands of the manufacturer and in the local manufacturer’s plant.

2. Wholesale level
   As property moves through the channels of trade, it increases in cost by virtue of freight, installation, fees, permits, overhead, intracompany profit, etc. These cost factors added to the property result in equity regardless of ownership. Thus, when property moves from the manufacturer’s level to the wholesale level, the increments of value must be recognized at that level.

3. Distributor level
   In some cases, this level is synonymous with the wholesale level. However, in certain cases there is a difference and, if so, the difference must be recognized in the appraisal process.

4. Retail level
   The retail level is relevant in the appraisal of many properties. This includes the full “laid down cost” of the inventory up to this point. The increment of cost here is substantial since the inventory has moved to the level where it will be sold to the user or consumer.

5. User or consumer level
   This level contains all costs and is the market cost to the consumer since the property has reached its final destination. In the case of “leased equipment” owned by the manufacturer, the user or consumer level is appropriate.
Real property vs. personal property

Why classify property?

Oregon law defines real property and personal property for property tax purposes in Oregon Revised Statutes (ORS) 307.010 and ORS 307.020. The Oregon Tax Court has also decreed that real property must be assessed as real property and personal property assessed as personal property (First National Bank vs. Marion County, 169 Or 595).

Classification procedures

Classification of property as either real or personal is based on ORS 307.010 and ORS 307.020. The Oregon Department of Revenue is responsible for clarifying those statutes, when necessary, with Oregon Administrative Rules (OAR). Administrative rules have the same authority as statutes. The rules that clarify the above-mentioned statutes are OAR 150-307-0010, OAR 150-307-0020, and OAR 150-307-0030.

The Oregon Tax Court ruling in Seven-Up Bottling Co. of Salem Inc. vs. Oregon Department of Revenue (case #2398), 3/87, provides a guide for determining real and personal property. Based on this case, the test for real vs. personal property for assessment purposes is actually a test of affixed or erected upon vs. moveable.

The current view states that if the item of property is “affixed to” or “erected upon” land or buildings and isn’t “moveable,” it’s real property. Conversely, if it’s not “affixed to” or “erected upon” land or buildings and is “moveable,” it is personal property. According to the Tax Court opinion in Seven-Up Bottling Co., “…As a general rule, the Assessor is not required to consider the intention of the parties or the adaptability of the property.”

Defining the terms

Affixed or erected upon. Items of machinery and equipment that are bolted to, screwed to, nailed to, or attached to the building or land in a permanent manner or are, by virtue of their weight, rendered immovable are considered real property. A freestanding walk-in cooler in a convenience store isn’t considered moveable because of its weight. A service counter or gondola in the same store may be screwed, glued, nailed or otherwise attached to the land or building and, therefore, classed as real property. On the other hand, these items may be held in place by virtue of their weight and be readily moveable and, therefore, classed as personal property.

Moveable. Items of property that can be and are readily moved are personal property. A desk, though heavy, is generally considered moveable. A chair with casters is obviously moveable. Freestanding appliances may be heavy but are generally classed as personal property.

Assessment process

In an 1891 Oregon Supreme Court case, Helm vs. Gilroy (20 Or 517), the court stated that the line between real property and personal property is so fine that no rule can fit all cases. A century later, the statement is still accurate. For every clear-cut case there is an exception. Consider the case of DOR appeal #90-3006, California-Oregon Broadcasting Inc. vs. Jackson County, Oregon. It’s clear that, except for eleven foam panels that are attached to the building and are therefore correctly classed as real property, the machinery and equipment is moveable and should be classed as personal property. In other cases, the determination won’t be so clear.

Some real property items may be assessed as personal property when it’s administratively practical. For example, trade fixtures such as signs, gondolas, checkout stands, range hoods, bars, and restaurant booths are actually real property, due to being affixed to a building. However, when a tenant owns them, they may be assessed to the tenant taxpayer.

Judgments between real and personal property must be made with cooperation between the real and personal property sections in the assessor’s office. This is so that assessable property isn’t overlooked or double assessed. Arriving at accurate assessments and providing equitable treatment is the primary goal.
Taxable personal property

All personal property that enhances or promotes the business is assessable. This includes decor or furnishings unless exempt by statute. Items of tangible personal property described by ORS 307.190(2)(a) are taxable whether or not they are fully depreciated for income tax purposes. Decor and furnishings might include:

- Paintings, posters, pictures, or other forms of art used to decorate the office or business.
- Scale models, sculptures, or carvings located in the building or on the grounds.
- Show cases displaying company products that are new, used, or broken.
- Mobiles, rugs, and tapestries.
- Taxidermist work.
- Aquarium displays and equipment used by the business for decoration.
- Vases or pottery.
- Displays.
- Books.
- Antiques.

Examples of taxable personal property to be reported

This list is not complete

| A/V equipment | Freezers | Frozen food cases | Refrigerated cases |
| Air conditioners | Golf carts and course equipment | Grocery equipment | Rental equipment |
| Aircraft equipment | Grocery store fixtures | Handpieces (dental) | Restaurant equipment |
| Alarm systems | Heavy equipment | Hospital equipment | Retail store fixtures |
| Amusement devices | Hotel furniture/fixtures | Ice cream machines | Road construction equipment |
| Appliances—free standing | Ice making machines | Juke boxes | Safe deposit boxes |
| Art work | Laser equipment | Landscaping equipment | Satellite dish relays |
| ATM machines—portable | Lathes | Medical equipment-major | Saw mills—portable |
| Auto diagnostic electric | Leasehold improvements | Medical-high tech equipment | Scanners |
| Auto repair equipment | Libraries | Medical-lab equipment | Scientific equipment |
| Backbars | Lift trucks | Medical-office equipment | Service station equipment |
| Bakery equipment | Liners | Medical-surgical equipment | Sewing/apparel equipment |
| Bank vaults (doors) | Logging equipment | Medical-surgical equipment-major | Shake mills—portable |
| Barber shop equipment | Lottery video terminals | Mining equipment | Sheet metal fabrication |
| Battery chargers | Machine shop equipment | Mobile radio/phones | Shelving |
| Beauty shop equipment | Manufacturing—general | Mobile yard equipment | Shingle mills—portable |
| Bowling equipment | Meat processing equipment | Modular offices | Signs |
| Bulk plant equipment | Medical equipment | Molds | Small hand tools— Barber and beauty |
| Butcher shop equipment | Medical—lab equipment | Motel furniture/fixtures | Carpentery |
| Cabinet shop equipment | Medical-office equipment | Moving equipment | Construction |
| Cable TV systems | Medical-surgical equipment | Office furniture | Landscape |
| CAD/CAM equipment | Medical equipment-major | Office machines | Logging |
| Calculators | Mining equipment | Optical equipment | Mechanics |
| Cameras | Mobile radio/phones | Pagers | Medical |
| Cameras—digital-DVD-Video | Mobile yard equipment | Pallets | Radio and TV and shop |
| Car wash equipment | Modular offices | Pallet jacks | Soft drink equipment |
| Cash register | Molds | Pallets/bins/crates | Sound equipment |
| Cellular phones | Motel furniture/fixtures | Pay phones | Steam cleaners |
| Chain saws | Movie production equipment | Photographic equipment | Survey equipment |
| Chairs | Musical instrument rentals | Pinball machines | Tanning equipment |
| Child care furniture | Newspaper equipment | Pool tables | Tavern equipment |
| Coin counters | Nursing home equipment | Office fixtures | Telephone systems |
| Coin-op laundry equipment | Office furniture | Office machines | Testing equipment |
| Computers | Optical equipment | Pagers | Theatre/projection |
| ConceSSION equipment | Pagers | Pallet jacks | Tire recapping equipment |
| Construction tools | Pallets/bins/crates | Pay phones | Tool boxes |
| Copiers | Pay phones | Photographic equipment | Tractors |
| Costume/tuxedo rentals | Pinball machines | Pool tables | TV sets |
| Decor | Pagers | Printing equipment | Typewriters |
| Dental equipment | Pay phones | Professional equipment | Unlicensed vehicles |
| Desks | Pay phones | Radio and TV broadcast | Utility trailers—unlicensed |
| Dictation equipment | Pay phones | Radio and TV repair equipment | VCRs |
| Dies | Pay phones | Recording studio equipment | Vendor carts |
| Display racks | Pay phones | Refrigerated cases | Vendor machines |
| Dry cleaning equipment | Pay phones | Rental equipment | Ventilating fans |
| Dryers | Pay phones | Restaurant equipment | Video/DVD game rental equipment |
| DVD players | Pay phones | Retail store fixtures | Video games |
| DVDs (movies) | Pay phones | Road construction equipment | Video recording equipment |
| Electronic mfg. equipment | Pay phones | Safe deposit boxes | Video tape/DVD rental equipment |
| Fiberglass/boat molds | Pay phones | Satellite dish relays | Video tapes (movies) and cases |
| Filing cabinets | Pay phones | Saw mills—portable | Walk-in coolers |
| Fish processing equipment | Pay phones | Scanners | Warehouse equipment |
| Fitness equipment | Pay phones | Scientific equipment | Washers |
| Foster home furniture and supplies | Pay phones | Service station equipment | Winery equipment |
| Supplies | Pay phones | Sewing/apparel equipment | Woodworking equipment |
| | | Shake mills—portable | Workbenches |
| | | Sheet metal fabrication | X-ray equipment |
| | | Shelving | |
Section 2: Confidentiality
This chapter is intended to clarify your role in providing taxpayer assistance without violating disclosure laws and policies. Another source of information is the County Disclosure Handbook, 150-303-429. If you have questions about any inquiries for confidential information, talk to your supervisor.

ORS 308.290(7) describes the confidential material for personal property returns. The law states:

“(7)(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.”

The requirements of confidentiality are further described in ORS 192.501.

Under certain conditions, the personal property returns may become public record. When an appeal of value on a personal property return is heard by the board of property tax appeals, the petitioner will be asked if the items listed in the appeal petition are included in a real or personal property return. If the information on the return will be used as evidence to support the petition, the board chair will advise the petitioner of the petitioner’s right to a confidential hearing.

If the petitioner waives the right to a confidential hearing, the minutes of the hearing along with the board’s decision become public record. If the petitioner requests a confidential hearing, the board chair will advise the petitioner to the extent the minutes of the confidential hearing are kept separately. The results of the hearing become public record.

Information that appears on the certified tax roll is available to the public unless otherwise noted.

Authorization to disclose

The law protects all returns from unauthorized disclosure and provides penalties to safeguard confidentiality. The taxpayer, however, may authorize the disclosure of all or part of their records to certain people in a number of ways.

The best way is to have the owner of record submit a signed confidentiality waiver request called “Authorization to Represent Taxpayer and/or Disclose Information.” This form removes all doubt about what records may be revealed. A letter signed by the owner with the same information is also acceptable. Copies of confidential tax returns or reports should not be provided without written authorization.

Even if the taxpayer doesn’t give direct authorization, implied consent is permissible under certain circumstances. If an attorney, tax practitioner, or
knowledgeable employee of the taxpayer calls about a billing which was recently sent to the taxpayer, it can be assumed that the taxpayer referred the matter to them to help resolve. Failure to file notices, verification or an accounting of payments received, penalties, and payoff balance can be included in this category. The fact that there is no signed authorization on file is not a reason to refuse help to a taxpayer.

**Telephone disclosures**

Confidential tax information can be disclosed over the telephone if the caller clearly establishes identification as the owner or authorized representative on file. If the employee has any doubt about the identity of the caller or the caller’s right to receive such information, a written request may be requested or arrangements may be made to mail the requested information to the taxpayer’s address.

**Warrants**

When a warrant for the collection of delinquent personal property taxes is recorded at the county courthouse, it becomes a matter of public record. This does not mean that the tax return and all details surrounding the case have lost their confidential status. The public record includes all information contained on the warrant, including the meaning of any codes. This means you can disclose the tax year, type of tax, what penalties were assessed, etc.

**Secrecy laws certificate**

You must sign this certificate as a condition of employment by the county. Your signature means you have read and understood the disclosure statutes and you are aware of the penalties for unauthorized disclosure.

People working for the county under a contract should sign the certificate if they have potential exposure to confidential materials.

Even though a person has signed the certificate, he or she does not have automatic access to confidential materials. As in all cases, a “need-to-know” must be present to gain access.

**Penalties**

Be careful! Revealing confidential information to the wrong person is serious. Improper disclosure of certain confidential tax information could result in criminal penalties. See ORS 305.990 and 308.990(3). This means you could be fined up to $10,000 or by imprisonment for not more than one year in jail, or both. In addition, you could be liable for civil damages, which are not limited by statute, and dismissed from county service.

**Subpoena**

Subpoenas should be referred to county counsel for handling.

Any prepaid fees accompanying the subpoena must be turned over with the subpoena. In most cases, they are returned to the issuing party.

**Tax court**

Generally, taxpayer information presented to the Tax Court loses its confidential status. The court may close the courtroom and seal the records in some cases.

Third-party information received from other taxpayers cannot be revealed in Tax Court unless the court agrees beforehand to keep the information confidential, unless permission is obtained from the third party to disclose the information.

**Public records**

Every person has the right to inspect any public record of a public body unless otherwise prohibited by law. The disclosure laws prevent personal property records from being examined by unauthorized persons.

An owner has the right to inspect his or her own return. This does not include any third-party information submitted in confidence that may have been attached to the return. The owner under a public records request may examine correspondence, other notes or contact sheets in a file.

**Disposal of confidential materials**

Any letters, documents, notes, printouts, microfiche, or carbons containing confidential taxpayer information must be disposed of separately from normal trash. Even simple notes containing nothing more than a taxpayer’s name, address, or Social Security number are considered confidential. These materials must be disposed of according to county procedures.
<table>
<thead>
<tr>
<th>Person, agency, or public official</th>
<th>May obtain</th>
<th>Required documentation</th>
<th>Reference</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountant</td>
<td>Confidential information as specified by taxpayer with prior written authorization from the taxpayer.</td>
<td>Taxpayer letter of authorization.</td>
<td>ORS 321.684 305.230</td>
<td>Written authorization must include tax year(s), type of return, and the taxpayer’s signature.</td>
</tr>
<tr>
<td>Administrative Law Judge (presiding over Public Utility Commission Water Company hearings)</td>
<td>Confidential information as specified by the taxpayer with prior written authorization from the taxpayer.</td>
<td>Written authorization from the taxpayer.</td>
<td>ORS 308.290(7)</td>
<td>Written authorization must include tax year(s), type of return, and the taxpayer’s signature.</td>
</tr>
<tr>
<td>Adult and Family Services</td>
<td>Information about the income and property of parents who abandon or fail to support children receiving public assistance.</td>
<td>Requests must be in writing. Signed secrecy certificates.</td>
<td>ORS 308.290(7) 412.094</td>
<td>Information to be used only to administer public assistance programs for children.</td>
</tr>
<tr>
<td>Archivist</td>
<td>May examine and receive any information for storage purposes.</td>
<td>Signed secrecy certificate.</td>
<td>ORS 357.875</td>
<td>Archivist must protect confidentiality of information.</td>
</tr>
<tr>
<td>Assessor</td>
<td>Industrial property tax information. Personal property and real property return information.</td>
<td>Signed secrecy certificates by employees of office.</td>
<td>ORS 308.413 308.290 OAR 150-308-0500</td>
<td>On a need-to-know basis in the office where the return is filed, returns filed in more than one county, or transferring property between counties.</td>
</tr>
<tr>
<td>Authorized representative</td>
<td>Information from the documents specified in the authorization form. No third-party information will be disclosed.</td>
<td>Taxpayer letter of authorization to represent.</td>
<td>ORS 321.684 305.230</td>
<td>An associate or employee of the representative may have information only if the authorization is broad enough to include that person.</td>
</tr>
<tr>
<td>Bankruptcy court/trustee</td>
<td>Information from the return required for filing a claim.</td>
<td>Notification of bankruptcy.</td>
<td>ORS 308.290 311.480</td>
<td>A trustee is the legal custodian of a bankrupt estate and has responsibility and authority to pay claims.</td>
</tr>
<tr>
<td>Person, agency, or public official</td>
<td>May obtain</td>
<td>Required documentation</td>
<td>Reference</td>
<td>Notes</td>
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</tr>
<tr>
<td>Board of Property Tax Appeals</td>
<td>Industrial property tax information. Personal and real property return.</td>
<td>Taxpayer letter to represent.</td>
<td>ORS 308.290 308.411</td>
<td>On a need-to-know basis only. The board must convene an executive session.</td>
</tr>
<tr>
<td>Bookkeeper</td>
<td>Confidential information as specified by taxpayer with prior written authorization.</td>
<td>Proper ID and authorization on corporate letterhead or listing from return.</td>
<td>ORS 321.684 305.230</td>
<td>Written authorization must include tax year(s), type of return, and the taxpayer’s signature.</td>
</tr>
<tr>
<td>Corporation officer</td>
<td>Information from the return, utility assessments, and property appraisals.</td>
<td>Signed secrecy certificates by employees of office.</td>
<td>ORS 308.290</td>
<td>Information may be provided to a current corporate officer for any tax year of the corporation.</td>
</tr>
<tr>
<td>County assessor</td>
<td>Industrial property tax information. Personal property and real property return information.</td>
<td></td>
<td>ORS 308.413 308.290 OAR 150-308-0500</td>
<td>On a need-to-know basis in the office where the return is filed, returns filed in more than one county, or accounts transferring property from one county to another.</td>
</tr>
<tr>
<td>County governing body</td>
<td>Confidential information as specified by the taxpayer with prior written authorization from the taxpayer.</td>
<td>Authorization from the taxpayer.</td>
<td>ORS 308.290</td>
<td></td>
</tr>
<tr>
<td>County legal counsel</td>
<td>Any confidential information required for the administration of tax laws.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 308.290 203.145</td>
<td>Has access to files of assessor for purpose of rendering legal services to assessor.</td>
</tr>
<tr>
<td>Department of Revenue employees</td>
<td>Any confidential information required for the administration of the tax laws.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 308.290 321.684</td>
<td>All information is provided on a strict need-to-know basis.</td>
</tr>
<tr>
<td>Division of Child Support, Department of Justice</td>
<td>May have information about the location, income, and property of parents who abandon or fail to support the children receiving public assistance.</td>
<td>Signed secrecy certificate. Requests must be in writing.</td>
<td>ORS 321.684 308.290(7) 180.320 412.094</td>
<td>Information to be used only to administer the public assistance program for children.</td>
</tr>
<tr>
<td>Person, agency, or public official</td>
<td>May obtain</td>
<td>Required documentation</td>
<td>Reference</td>
<td>Notes</td>
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<tr>
<td><strong>Grand jury</strong></td>
<td>Information submitted for the prosecution of violations of the criminal laws in connection with the filing of a return or claim.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 305.225</td>
<td>May not be used for prosecution of non-related crimes. Information loses its confidentiality when it is presented as evidence during a trial.</td>
</tr>
<tr>
<td><strong>Guardian Tax Court</strong></td>
<td>A guardian of an incapacitated person may have information from that person's return. A guardian of a minor may have information from the minor's return.</td>
<td>Letters of guardianship.</td>
<td>ORS 314.840(1)(a)</td>
<td></td>
</tr>
<tr>
<td><strong>Husband or wife</strong></td>
<td>Information from any property return.</td>
<td>Proper identification or written authorization for separately filed returns.</td>
<td>ORS 308.290(7)</td>
<td>A spouse cannot have information from a separately filed tax return without written authorization.</td>
</tr>
<tr>
<td><strong>Individual taxpayer</strong></td>
<td>Information from their own return.</td>
<td>Proper identification.</td>
<td>ORS 192.420 192.501 308.290</td>
<td></td>
</tr>
<tr>
<td><strong>Informant</strong></td>
<td>No information, even if the information provided was useful.</td>
<td></td>
<td>ORS 308.290 314.855</td>
<td></td>
</tr>
<tr>
<td><strong>Internal Revenue Service (IRS)</strong></td>
<td>Information on tax returns of individuals, corporations, partnerships, fiduciaries, and estates.</td>
<td>Must be authorized to request information or have written authorization from taxpayer.</td>
<td>ORS 308.290(7) 321.684 321.381</td>
<td>Information may be exchanged only through the Department of Revenue's IRS liaison or with written authorization from the taxpayer.</td>
</tr>
<tr>
<td><strong>Law enforcement agencies (state)</strong></td>
<td>Taxpayer name, address, ID number, amount of check, check date, altered name and address, and the document itself.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 305.225 321.684</td>
<td>Disclosure can only occur when investigation is for mail theft, forgery, counterfeiting, or check altering.</td>
</tr>
<tr>
<td><strong>Legislative Revenue Office</strong></td>
<td>Information needed for revenue research and estimates.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 308.290(7) (c)(F) 173.850</td>
<td>Information revealing a taxpayer's identity may not be removed from the office.</td>
</tr>
<tr>
<td>Person, agency, or public official</td>
<td>May obtain</td>
<td>Required documentation</td>
<td>Reference</td>
<td>Notes</td>
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<tr>
<td>Lessee</td>
<td>Information regarding valuation of leased property reported on property return filed by lessee.</td>
<td>Proper documentation and identification.</td>
<td>ORS 308.290(7)(d)(B)</td>
<td></td>
</tr>
<tr>
<td>Lessor</td>
<td>Information regarding valuation of leased property reported on the property return filed by lessor.</td>
<td>Proper documentation and identification.</td>
<td>ORS 308.290(7)(d)(B)</td>
<td></td>
</tr>
<tr>
<td>Magistrate Court</td>
<td>Records submitted as evidence in a court case. Once entered, the information normally loses its confidentiality.</td>
<td></td>
<td>ORS 118.525(1) 305.430(2)</td>
<td>Certain records can retain confidentiality if prior arrangements are made with the court.</td>
</tr>
<tr>
<td>Oregon State Police</td>
<td>Information from a tax return for criminal investigations in connection with the filing of a return, report, or claim. Violations include perjury, theft, and forgery.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 305.225 321.684 Information requested for evidence in crimes unrelated to the validity of a return, report, or claim cannot be disclosed.</td>
<td></td>
</tr>
<tr>
<td>Oregon State University</td>
<td>Timber tax information for surveys and programs related to forest management.</td>
<td>Signed timber tax secrecy certificate.</td>
<td>ORS 321.684(1)(e) Information is limited to names and addresses of taxpayers filing timber tax returns under the small owner election.</td>
<td></td>
</tr>
<tr>
<td>Partner of a partnership</td>
<td>Information from a return, utility assessment, or property appraisal of the partnership.</td>
<td>Proper identification.</td>
<td>ORS 308.290 Individual must have been a partner during any part of the requested tax year.</td>
<td></td>
</tr>
<tr>
<td>Person, agency, or public official</td>
<td>May obtain</td>
<td>Required documentation</td>
<td>Reference</td>
<td>Notes</td>
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<tr>
<td>Relative (other than spouse)</td>
<td>Any information pertaining to an authorized year regarding the return, billing, refunds, payments, penalty and interest, or financial information. No restricted third-party information when the information was obtained after the return was filed or in the course of an investigation.</td>
<td>Letter of authorization to represent or power of attorney.</td>
<td>ORS 305.230 321.684</td>
<td></td>
</tr>
<tr>
<td>Reporter</td>
<td>General information only. May not have specific taxpayer information.</td>
<td></td>
<td>ORS 308.290(7)</td>
<td>Refer reporter questions to appointed authority.</td>
</tr>
<tr>
<td>Secretary of State</td>
<td>Information necessary for audit of the county or the Department of Revenue.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 308.290(7) 321.684(2)(f)</td>
<td></td>
</tr>
<tr>
<td>Spouse</td>
<td>Information from any property return.</td>
<td>Proper ID or written authorization for separately filed returns.</td>
<td>ORS 308.290(7)</td>
<td>A spouse cannot have information from a separately filed tax return without written authorization.</td>
</tr>
<tr>
<td>State Archivist</td>
<td>May examine and receive any information for storage purposes.</td>
<td>Signed secrecy certificates.</td>
<td>ORS 321.684(2)(f) 357.875</td>
<td>Archivist must protect confidentiality of information.</td>
</tr>
<tr>
<td>Stockholder/shareholder</td>
<td>Confidential information only with prior written authorization from corporation officer.</td>
<td>Written authorization from corporation officer.</td>
<td>ORS 308.290(7)</td>
<td>Stockholders and/or shareholders cannot have access to corporation returns without prior authorization.</td>
</tr>
<tr>
<td>Tax collector</td>
<td>Information needed to collect delinquent personal property taxes.</td>
<td>Signed secrecy certificate.</td>
<td>ORS 308.290(7)</td>
<td></td>
</tr>
<tr>
<td>Tax Court</td>
<td>Records submitted as evidence in a court case. Once entered, the information normally loses its confidentiality.</td>
<td></td>
<td>ORS 305.430(2)</td>
<td>Certain records can retain confidentiality if prior arrangements are made with the court.</td>
</tr>
<tr>
<td>Person, agency, or public official</td>
<td>May obtain</td>
<td>Required documentation</td>
<td>Reference</td>
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</tr>
<tr>
<td>Tax preparer</td>
<td>Confidential information only with prior written authorization from the taxpayer.</td>
<td>Written authorization to represent.</td>
<td>ORS 308.290(7)</td>
<td>Written authorization must include tax years, tax program, and the taxpayer's original signature.</td>
</tr>
<tr>
<td>Taxpayer</td>
<td>Any information from taxpayer's own return, billings and refunds, payment information, correspondence or other information/data.</td>
<td>Proper identification.</td>
<td>ORS 192.420 192.501 308.290(7)</td>
<td></td>
</tr>
<tr>
<td>Taxpayer’s authorized representative</td>
<td>Any information pertaining to an authorized tax year regarding the return, billings, refunds, payments, penalty and interest, or financial information. No restricted third-party information when the information was obtained after the return was filed or in the course of an investigation.</td>
<td>Written authorization to represent.</td>
<td>ORS 305.230 321.684</td>
<td>An associate or employee of the representative may have information only if the authorization is broad enough to include that person.</td>
</tr>
<tr>
<td>Title/escrow companies</td>
<td>Confidential information only with prior written authorization from the taxpayer. For Senior and Disabled Deferral program, payoff information is not confidential and may be disclosed.</td>
<td>Written authorization from taxpayer.</td>
<td>ORS 314.835 314.840</td>
<td>Information may be disclosed from a recorded warrant.</td>
</tr>
<tr>
<td>Trustee of a trust</td>
<td>Copy of trust agreement.</td>
<td>Written request by trustee.</td>
<td>ORS 128.650</td>
<td>Trustee is the person requested to file the return for the deceased.</td>
</tr>
<tr>
<td>Wife or husband</td>
<td>Information from any property return.</td>
<td>Proper ID or written authorization for separately filed returns.</td>
<td>ORS 308.290(7)</td>
<td>A spouse cannot have information from a separately filed tax return without written authorization.</td>
</tr>
</tbody>
</table>
Section 3: Discovery/Audit Process
Discovery

All taxable personal property is assessed as of the January 1 assessment date in the county where it’s located. Taxable personal property is to be reported by March 15 each year. This includes machinery, furniture, equipment, etc., used previously or presently in a business, including items that have been fully depreciated or expensed for income tax purposes.

Individuals, partnerships, firms, and corporations that fail to file a return are subject to assessment through the discovery process. Complete discovery depends upon county funding, cooperation of the taxpayer (owner, lessee, or lessor), and the resources available. Basic office policies and procedures should be developed that govern the discovery of personal property.

Two of the most common methods of discovering personal property are the self-reporting of the taxpayer and field research by county staff members. A taxpayer who has taxable personal property must report it to the county in which the property has situs. Situs is its location on the assessment date (January 1 of any year). The property is taxable for the entire year at its situs. As county staff do appraisals in the field, they should watch for new businesses and relay that information to the personal property personnel.

The following lists are the most usable and proven methods; however, this list isn’t inclusive.

At the local level information may be obtained from numerous sources.

- Aerial photographs: Aerial photos, if available, can show the location of equipment and new business construction.
- Building permits: Local cities and counties can often provide lists of permits for new commercial construction and remodeling.
- Bulletin boards in stores, cafes, and other places of business: Bulletin boards can be a good source of information on “repair,” “maintenance,” and “personal services” types of companies.
- Business directories: Commercially produced directories can provide listings of businesses by address, business name, telephone number, and “doing business as” (dba). A reverse telephone directory also can be useful.
- Business vehicles: Business names and telephone numbers on vehicles can be a starting point for discovering new businesses.
- Chambers of commerce: Local chambers of commerce can supply names of member businesses or provide membership listings for a specific geographic location.
- City and county business license listings: Local business license listings are one of the most efficient and effective ways to find new businesses.
- Local newspapers: In addition to news stories, some papers publish lists of new businesses and commercial leases. When you scan the newspaper advertisements, play special attention to “Grand Opening” sales and other indicators of change.
- Public health department: A municipal health department may have lists of registered restaurants, hotels/motels, adult foster care homes, and day care centers with the current operators.
- Publications: Phone books newspapers ads, television, trade journals, and the Contractor’s Board directory provide useful information.
- Small business associations: Like chambers of commerce, business associations may be able to provide lists of member businesses.
- Tenant lists: Shopping mall or commercial building managers can supply a listing of the tenants, what the lease covers, when the business started operating, and who owns what fixtures in the building. These listings can be used in conjunction with the directories in building lobbies and hallways. Sometimes tenants in sublet space don’t appear on the tenant listing, but are shown on building directory.
- Trade directory and reports: Professional directories, if available, can help in identifying certain types of businesses.
- Utility companies: Natural gas, electric, cable television, and other utilities may provide business names, owners, and addresses of businesses.

There are also a number of sources at the state level.

Many business activities require state licensing or registration (see Section 9, Licensing/Registration, page 9-1). Other departments with information include:

- Construction Contractor’s Board: The CCB has telephone access for information on builders and landscapers.
- Forestry Department: The Forestry Department can provide information on timber sales. They tell who the purchasers are and where the logging operations are conducting business.
- Marine Board: The Marine Board can provide a list of registered boats. Information includes the name and address of any business that has boats in the state and a description of the property. The Department of Fish and Wildlife can provide information on commercial fishing vessels.
• Oregon Liquor Control Commission: The OLCC can provide license lists and ownership information for businesses over which they have jurisdiction.

• Secretary of State’s office—corporate charters: New corporate charters are recorded with the Secretary of State’s office in Salem. Lists of new and existing businesses may be requested.

• Secretary of State’s office—Uniform Commercial Code (UCC) forms: A UCC form is filed when a piece of equipment is encumbered with a commercial lien. These forms are filed with the Secretary of State’s office in Salem.

• State Lottery: The Lottery office can tell you what equipment is being leased and who is the lessor. See the Appendix for the names and addresses of providers of leased lottery equipment to the state. The lottery equipment leased by the state from a taxable entity is taxable.

Other methods of discovery:

• Drive the county with a tape recorder dictating every business name. Transcribe the information and cross check it with the assessment roll.

• Dexknows.com. This site will list all like businesses, including names, addresses, and telephone numbers. This can also be cross-checked with the assessment roll.

Once the property has been discovered and the owner or person with control identified, the assessor should establish an account for the business and add the account to the assessment roll. If the discovery occurs after the tax roll is certified in October, the property is added to the assessment and tax rolls using the statutory methods described in the section, “ Corrections to the roll.” The assessor determines the value to be added from the best available information.

Under ideal conditions, appraisers would physically list individual personal property items. Time and personnel constraints, however, usually dictate the use of a reporting system on a form completed by the taxpayer or agent, and supplemented by periodic audits.

The internet

A vast amount of information is available on the internet. The State of Oregon has a website, www.oregon.gov; the available information is intended to inform the public about state programs and regulations and may be useful for discovery purposes.

Commercial online services have been created to promote local businesses and may be useful for discovery.
Audit

The assessor should establish an audit program designed to ensure a full and proper listing of all personal property in the county on the assessment date. It’s the assessor’s responsibility to assure all property is being assessed and appraised in a uniform manner. The assessor should establish staff needed, funds required, and programs necessary to accomplish this objective.

It is important to audit for the following reasons:
• Ensure uniformity.
• Ensure correctness of property listed.
• Ensure complete listing of all property.
• Verify that costs listed conform to office standards; i.e., cost includes freight, fees, permits, licenses, material, and installation.

Emphasis should be placed on:
• Major accounts.
• Accounts with significant changes from the previous year.
• Accounts that have leased equipment.
• Accounts that are suspected of being improperly reported.

This could include accounts with poor filing habits. All accounts should be physically audited periodically. Remember that the purpose of an audit is to verify that all personal property items have been reported and the information given is accurate.

In determining whether all assessable items have been reported, special attention should be directed to standby, permanently idled, retired, fully depreciated, and uninstalled equipment. Regardless of book value, such equipment should be listed and valued unless specifically exempted. The status and sites of personal property as of the assessment date determines its assessability for tax purposes.

Additional criteria that may be used when selecting accounts to audit include:
• Chose a value range, compare similar businesses, and audit those with variances.
• Using the state recommended classification system (or the county’s version of it), select types of businesses and compare the assessed value of the businesses.
• Review returns of all new businesses and use the review as an opportunity to train the persons responsible for completing the form.

A carefully planned, managed, and properly administered audit program is a tremendous asset to any county. The program usually is cost effective and, if properly managed, gives credibility to the assessor’s office.

Typical audit program (step-by-step approach)

Desk/office audits: Since Oregon counties utilize a self-declaration system, a review of each return is necessary. These audits are conducted in the office using guidelines established by the assessor to make sure the return is complete. The return should contain correct information as to the type of business, situs, owner, mailing address, and other useful information. It should also contain an adequate listing of personal property for the type of business being conducted. Changes should be identified and those needing more information should be set aside for the next phase.

Telephone audits: These are one of the quickest and least expensive ways to discover personal property. They are conducted in the office by phone and are used to verify reported data and gather the “additional information” needed after desk audits. Questions should be direct and to the point. Let the taxpayer volunteer information about size, market share, number of employees, expansion, and whatever information gives the auditor a clearer picture of the business and the equipment. Many businesses have a “bare minimum” of equipment. Use benchmark listings as a “checklist” if necessary. This type of audit can be used for a majority of small- to moderate-sized businesses. All non-filers should be contacted.

Correspondence audits: These are generally the same as telephone audits but are more formal. Details can be requested by correspondence when a taxpayer’s listing is reviewed. Care must be taken to follow-up on correspondence; it’s very easy for the taxpayer to ignore a letter. They are more productive if “targeted” to specific taxpayers rather than general form letters.

Tax return audits: These are more in-depth audits in which information on an income tax return is compared with information on the personal property return. Request a copy of the federal or state income tax return from the taxpayer. Ask for records including the fixed asset list, depreciation schedule, expensed items, and records of assets no longer listed. Comparing the information on the returns will reveal any items that are expended and not reported.

Physical inspections: This can range from the “drive by and see” inspection to the “visit, list, and count” inspection. It can be the most expensive and time
consuming of all audit methods. They can be very productive if a systematic method (cycle area, map and tax lot, like business type, etc.) is used. Staff must be adequately trained in communication skills and appraisal methods. Useful tools are “benchmark” lists, copies of prior returns, business trade journals, etc. These help inform the appraiser as to what to look for and typical real market value.

Field audits: These audits should be conducted by the personal property staff on a regular basis. Purpose of the field audit is to verify that all personal property items have been reported accurately. Compare the findings with the prior year return. When commercial appraisers visit accounts, they could take a listing of the prior year’s return information and compare it with the assets currently on site.
Corrections to the roll

Corrections or modifications to the roll are handled differently depending on the time of year they are made. For most of the year, the assessor updates and corrects the assessment roll; for part of the year, it is the collector who corrects the tax roll. The roll is the assessment roll while it is in the assessor’s office; when it is delivered to the tax collector, it becomes the tax roll or, in some counties, the assessment and tax roll.

The assessor determines the value as of January 1 of all taxable property within county; this becomes the assessment roll. The assessor has control of the roll from January 1 through the date the roll is certified and delivered to the tax collector.

The assessor must deliver the roll to the tax collector in time to ensure tax statements will be mailed by October 25. Once the assessment roll is delivered to the collector, it becomes the tax roll (ORS 311.115). It’s the collector who has control of the roll for the remainder of the fiscal/tax year.

Updates and changes

From the January 1 assessment date through September 25, the assessor updates values, revises account information, and does the work necessary to make the assessment roll as accurate as possible.

After September 25, the assessor can make no changes to the roll unless otherwise provided by law (ORS 308.242, 311.208).

Changes authorized by statute include: consolidations and divisions of property, ownership of record, and value updating (those values that existed January 1 but weren’t in existence in the prior assessment year). These changes may be made between September 25 and the time rate calculation is finalized if there is time to ensure tax statements will be mailed on or before October 25.

The authority for making these changes derives from ORS 308.219(2), which states that the entire assessment and tax roll is to be printed as of the date the roll is delivered to the tax collector. This printed roll is the roll as prepared September 25 with all corrections, changes, and additions that have occurred up to the date the roll is delivered to the tax collector.

Additional changes by the assessor

The passage of Ballot Measure 50 in May 1997 and the resulting enabling legislation provided the assessor with two more changes that can be made after the assessment roll is delivered to the tax collector.

The first is a correction that increases value on the current year roll only. ORS 311.208 states that the correction applies only to errors that would be subject to correction under ORS 311.205. The correction must be initiated before December 1. The owner must be notified by mail and the notice must be sent prior to December 1. The notice must state the date and amount of correction, the amount of any additional tax, the date any additional tax due, and the owner’s right to appeal to BOPTA. The correction is made using the process described in ORS 311.205(3).

The second change the assessor can make after the roll has been certified is value reduction under ORS 308.242. This statute prohibits changes in the assessment roll after September 25 except under certain conditions. The statute says the assessor “may make changes in valuation judgment that result in a reduction in the value of the property” after the assessment roll has been certified and on or before December 31 if no petition has been filed with the board of property tax appeals (BOPTA).

The assessor follows the error correction process in ORS 311.205 and ORS 311.216 to 311.232 to make these changes.

If a petition with BOPTA has been filed, the assessor may, up to the time of the convening of the board, stipulate to valuation judgment change that will result in a reduction in the value of the property. The assessor uses the process for correcting errors or omissions outlined in ORS 311.205 to make the reduction on the roll.

Collector corrections

After the assessor delivers the roll to the tax collector, the tax collector, as officer in charge of the roll, may correct the roll to conform with facts. Corrections are made with the agreement of the assessor or the Department of Revenue. Direction for correction must be in writing and must state the type of error and statutory authority for correction [ORS 311.205 (2)(a)].

The roll may be corrected for any year, or years, not exceeding five years prior to the last tax roll certified. The tax resulting from a value correction is deemed assessed and imposed for the year to which correction applies and isn’t considered in calculating the limitation (Measure 5) impact for the year in which it’s billed. The additional value and resulting tax is considered in calculating the limitation impact on an individual account for the year to which the correction applies. The difference between the original tax imposed and the newly calculated imposed tax is added to the roll.

Three specific kinds of roll corrections are authorized by statute after the collector receives the roll: error or omission of another kind, clerical error, and omitted property. The general statute for corrections to the roll is ORS 311.205, and ORS 311.216-232 for omitted property.
Clerical error
ORS 311.205(1)(a) allows the roll to be corrected for clerical errors. Clerical errors are limited to those errors that can be identified just using the records of the assessor or the Department of Revenue. A clerical error is an error in the records that would have been corrected if it had been found prior to the certification of the assessment and tax roll in the year of assessment.

Clerical error is an arithmetic or copying error or misstatement of property value that is apparent from the office records. It’s not a value judgment. Administrative rule 150-311-0140 further defines clerical errors.

The omitted property notification process is used to notify the taxpayer of additional taxes imposed due to clerical error.

Other errors or omissions
The tax collector, as officer in charge of the roll, may correct any other error or omission of any kind except valuation judgment [ORS 311.205(1)(b)], except when the account is under appeal to Tax Court if the correction would result in a reduction of tax owed. Examples of other errors or omissions include correction of the tax limit calculation, elimination of an inaccurate assessment (such as property belonging to another on assessment date), the correction of an error in the assessed value of property resulting from an error in the identification of a unit of property, and correction of value change on appeal.

The process for notifying the taxpayer of additional taxes imposed due to the correction of an error or omission of any kind parallels the omitted property notification process.

Errors of this type are further defined in OAR 150-311-0170.

Omitted property
The assessor may correct the roll to add omitted property using the authority in ORS 311.216–311.232. Omitted property is defined as any part of any real, personal, or centrally assessed property that has been omitted due to the assessor’s lack of knowledge of its existence. However, undervaluation of a property due to the assessor’s failure to consider a portion of the property is not omitted property.

When the assessor discovers omitted property, the property may be added to the current roll and up to the five preceding rolls (ORS 311.216). Upon discovering omitted property, the assessor must notify the property owner of the intention to add the omitted property to the roll (ORS 311.219). The taxpayer has 20 days to show cause why the omitted property shouldn’t be added to the roll (ORS 311.219). Unless cause is found, the assessor corrects the assessment roll and gives the collector a written statement instructing the collector to make changes in the tax roll. The assessor at the time also notifies the taxpayer by written notice, sent by certified mail, of the date and amount of correction (ORS 311.223). The taxpayer may appeal the value of the omitted property to the Magistrate Division of the Tax Court [ORS 311.223(4)]. The taxpayer may not appeal the omitted property value, or correction, to BOPTA. The taxpayer is sent a billing for additional taxes and allowed a discount if these taxes are paid by the 16th of the following month (ORS 311.229). To bill the additional tax in October of the current year, the roll must have been corrected no later than June 30.

OAR 150-311-0210 further clarifies omitted property corrections.

Interest and discount
Interest accrues on all additional tax from the 16th of the month following the month the taxes are billed. Interest accrues at the statutory rate.

The added taxes are treated as though they were extended on the tax roll timely in the year billed. The taxes are considered delinquent when other taxes from the year to which these taxes are added become delinquent.

When value is added to the tax roll under ORS 311.205, 311.206, or 311.216 to 311.232 and the tax that becomes due as a result of the addition is paid before the 16th of the month following the month of the extension, a discount is allowed.

Valuation judgment
ORS 311.205(1)(b) states that 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. Any corrections to accounts that are valued by the Department of Revenue under ORS 306.126 and 308.505 to 308.665 may not be made without the prior approval of the department.

Errors in valuation judgment are those where the assessor or the department would arrive at a different opinion of value. Corrections that aren’t correction of valuation judgment errors include, but aren’t 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.
If the correcting officer is uncertain whether an error or omission is a valuation judgment error, or a correctable error under ORS 311.205, the determination should be considered a valuation judgment OAR 150-311-0150.
All personal property must be assessed at its situs as of January 1 at 1 A.M. unless specifically provided otherwise (ORS 308.250). This includes property temporarily located in Oregon, not in transit, if:

- It’s the intention of the owner that the property be here for the time being,
- The property is performing the function of service for which it was designed in the course of the owner’s business, and
- It’s not in the state solely for repair.

These same guidelines apply to property with a home base in a county (within the state) other than where it’s located. (An example of this is logging equipment in county A, owned by a company with a home base in county B. The equipment in county A is performing its function for the benefit of its owner and is taxable in county A.)
Section 4: Returns
Computation of the personal property return

This is a general guide for computing the personal property return. It deals with most of the problems that arise during the assessment process of personal property, but can’t cover all circumstances. Each county will have to develop specific guidelines depending on the system it uses.

Pre-examination of the returns

- Check the returns for changes in mailing address, situs, name, and dba.
- Remove for later processing accounts to be assessed penalties and accounts to be deleted.
- Retain the envelopes from returns postmarked after the due date; the postmark is the primary evidence of late filing.
- Review returns for completeness. Check to see if the taxpayer has completed the form correctly.
- Make sure entries under Schedule 2 aren’t totals of all equipment. Often the taxpayer will summarize all equipment in this section.
- Verify that equipment entered in Schedule 5 as owned by the taxpayer isn’t listed as leased equipment in Schedule 1.
- Review the prior year’s return, the file folder, and the current return for any special notations.

Schedule 1—Leased or rented property

If leased equipment is reported, check the leasing company list or file to see if the lessor is already being assessed. If the lessor is being assessed, write “lessor” in the total column for that lessor. If the lessor isn’t being assessed, assess the equipment listed to the lessee’s account. Develop a system for cross-referencing leased equipment to avoid either double assessment or not assessing leased equipment.

Schedule 2—Noninventory supplies

Noninventory supplies include paper sacks, printed forms, stationary, business cards, pallets, fuels, medical and dental supplies, carpet samples, cleaning supplies, spare parts, office supplies, fast food containers, restaurant supplies, and all other consumable items. These items don’t become a part of the finished product and won’t be directly sold to the customer. If no supplies are reported, estimate a value based on similar businesses, add a percentage of the assessed value (such as, 3% x 50,000 AV = $1,500 NIS) or refer to prior years’ returns to see what was reported. Review the values entered in each of the supply categories and the total for excessively low or high values.

Schedule 3—Floating property

This schedule is designed to record assessment data about houseboats, boathouses, commercial watercraft, barges, tugs, and similar vessels.

Schedule 4—Libraries

Professional libraries; reference manuals, CDs, and books; technical documents and manuals; federal, state, and local law libraries, etc., are to be reported by the taxpayer along with acquisition dates and costs. Law libraries may be valued by the taxpayer using the market data provided in the Oregon Bar Bulletin. Data provided on compact disc (CD) such as law libraries, graphics files, clip art, photographs, and music are all assessable as library data and should be reported and valued.

Schedule 5—All other property

Most of the furniture, fixtures, machinery, and equipment found in a business will be reported on this schedule unless everything used in the business is leased. Each item of property should be reported clearly enabling the correct classification of the item into the appropriate age/life group. The acquisition date and cost of the item also must be reported. Using the appropriate valuation factor from the personal property valuation guidelines, depreciate the equipment to arrive at real market value. If the information is incomplete, contact the taxpayer for clarification.

Establish office procedures for assessing and taxing reported leasehold improvements. Work with the commercial real property appraisers to be sure all taxable property is assessed but not double assessed.

Most returns should have a value for small hand tools, as there is in-house maintenance in virtually every type of business. Be aware that taxpayers may include values for larger tools that should be reported separately. Verify that the total shown for small hand tools isn’t the total estimate of value for Schedule 5. The value given for small hand tools is accepted at the taxpayer’s estimate.

Total value

Enter the total real market value for each schedule on the appropriate line in the upper right hand corner on the front of the return. Add all value totals from Schedules 1 through 5 and enter the total RMV on the front of the return.

Because the penalty for late filing or not filing a return is based on the tax levied, the penalty can’t
be determined until taxes are calculated in October. You will need to record the date the return was postmarked so the applicable penalty can be computed.

Compare the total value against last year’s total. If there is a large difference in value, review the additions/deletions. If there is no explanation for the large increase/decrease, re-check your depreciation factors, calculations, and entries. If there are still unexplained differences, contact the taxpayer.

Be aware that certain items of property shown on the taxpayer’s list of depreciable assets may be exempt from taxation such as licensed motor vehicles, aircraft, and watercraft and computer software other than the operating system. Some items listed may be real property such as leased office space, wall-to-wall floor covering, or sprinkler systems. These items shouldn’t be included in the determination of the real market value of the taxable personal property.
Depreciation

Depreciation is a loss or reduction in value from any cause. Depreciation can be divided into three categories: physical, functional, and economic. Under each of these types of depreciation there is curable and incurable.

• Curable physical deterioration is loss in value due to breakage, damage, or wear and tear; the financial benefit of curing the problem must exceed the cost of the cure.

• Incurable physical deterioration is loss in value due to breakage, damage, or wear and tear; the cost of the cure must exceed the financial benefit of the cure.

• Curable functional obsolescence is a loss in value due to inadequate, super adequate, or obsolete design; the financial benefit of curing the problem exceeds the cost of the cure.

• Incurable functional obsolescence is a loss in value due to inadequate, super adequate, or obsolete design; the cost to cure exceeds the financial benefit of the cure.

• External or economic obsolescence is a loss in value due to diminished desirability or utility as a result of economic forces outside the property, e.g., changes in government regulations.

Physical deterioration in machinery and equipment is loss of value due to breakage, normal disintegration, and wear and tear on the machinery in service.

Functional obsolescence in machinery and equipment is usually measured in terms of the impact that cost of operation has on the income the machine yields, or the impact that reduced production capacity has on the potential income.

Economic obsolescence in machinery and equipment is the loss in value arising from forces outside the property itself. This might be caused by laws enacted. For example: logging on federal land compared to private land.

Accrued depreciation is the difference between the property’s replacement cost and its market value. Accrued depreciation is generally estimated based on the relationship of effective age to total economic life:

\[
\text{Effective age} \div \text{total economic life} = \% \text{ of depreciation}
\]

Effective age is defined as the age indicated by the condition and utility of the property.

Economic life is defined as the estimated period of time that the property will contribute value.

**Percent good**

When using the market-related cost approach, the appraiser develops a market depreciation (remaining percent good) that doesn’t separate these categories of depreciation. Extraordinary properties may require special analysis.

To accurately and uniformly measure market depreciation, the appraiser must develop depreciation benchmarks. The benchmarks should be established for personal property by category.

After categorizing the personal property and estimating replacement cost new, estimate the remaining percent good. Percent good is the key to the market-related cost approach. However, depreciation measurement is the weakest part of the cost approach applied to personal property units.

The percent good ties the cost approach to the market by measuring the remaining percent good after all forms of depreciation have been determined.
Appeals

Taxpayers have the right to appeal the value of personal property when the taxpayer believes the county assessor has wrongly estimated the value of the property. They may also appeal the penalties charged for late filing of a current year’s real or personal property return.

BOPTA appeals

The taxpayer may appeal to BOPTA. The petition may be filed with the clerk of the board anytime after the date tax statements are mailed, but no later than December 31.

When the taxpayer appeals, the burden of proof is on the taxpayer. Convincing evidence must be presented that the assessor’s estimate of value is wrong. The taxpayer must show the value requested is correct. The value the board considers is the value of the property as it existed on the January 1 assessment date of the tax year.

The county BOPTA may determine:

• Whether the assessor’s value fairly reflects real market value for the tax year.

The board may waive all or a portion of a penalty imposed for the late filing of a return if:

• The taxpayer can prove there was good and sufficient cause for the late filing, or

• The year for which the return was filed was both the first year that a return was required to be filed and the first year you filed a return.

An appeal to BOPTA must contain a list of the individual items or the schedules/categories that identify the property being appealed, the value(s) on the tax roll, and the value(s) being requested. The board doesn’t have jurisdiction to act on an incomplete or incorrect (defective) petition. If a petition is defective, it should be returned to the petitioner for correction. If not corrected within the time limit allowed, the board must dismiss the appeal.

After logging the original petition, the clerk should attach a copy of the original petition to the “Notice of Defective Petition” and return the copy to the petitioner. The clerk may stamp the copy of the petition “amended” for easy reference when it’s returned.

• The petitioner has no less than 20 days from the mailing date of the notice, to amend the petition.

• The petition must be dismissed as defective if it isn’t amended as of the time of the hearing.

Board procedures

The taxpayer doesn’t have to appear before BOPTA. If the petitioner elects not to appear, evidence must be included with the petition.

If the petitioner elects to appear before the board, evidence doesn’t need to be included with the petition. The petitioner will receive at least five days written notice of the hearing. When the petitioner appears, a copy of any evidence to be considered must be given to the board. This information won’t be returned. Neither side needs to be represented by legal counsel.

The board will consider evidence from the petitioner and the county assessor. If the board is reviewing information contained in a confidential personal property return, the hearing will be in executive session unless the taxpayer waives the right to a confidential hearing.

The board will notify both parties in writing of the decision. If either side isn’t satisfied with the decision, they have a right to appeal.

Appeals filed with county assessor

Taxpayers have the right to appeal the penalty imposed for late filing. Upon application of the taxpayer, the assessor may waive the liability for property tax late filing penalties if the taxpayer:

• Has never filed a personal property tax return in this state;

• Has failed to file a property tax return for one or more consecutive years;

• Hasn’t previously received relief from property tax late filing penalties under ORS 308.295(7) or 308.296(8); and

• Files an application for relief from property tax late filing penalties that satisfies the following:

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.

The county assessor may allow the application for relief from property tax late filing penalties if the assessor finds the reason given by the taxpayer in the application are sufficient to excuse the failure to file 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 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.

**Appealing county board decisions**

**Step 1.** The petitioner may appeal to the Magistrate Division of the Oregon Tax Court. There is a filing fee for all Magistrate Division appeals.

Decisions made by the Magistrate Division can be appealed to the Regular Division of the Oregon Tax Court and then to the Oregon Supreme Court.

**Step 2.** File a complaint.

To appeal, a complaint must be filed within 30 days (not a month) after the board’s order is mailed.

**Trial and hearing procedure**

Both the trials and hearings at the Magistrate’s Division are informal. Since neither party is bound by the decision of the county board, new evidence and arguments may be presented at this level of hearing. When a decision is reached, both parties will be contacted by mail.

**Appealing the Magistrate’s Division decision to the Oregon Tax Court**

If an appeal is made to the Magistrate’s Division and either party disagrees with the decision, an appeal may be filed with the Regular Division of the Oregon Tax Court. To appeal, a complaint must be filed with the court clerk within 60 days (not two months) after the date of the Magistrate’s decision. The clerk will notify all parties of the trial date and time.

**Appealing the Tax Court decision to the Oregon Supreme Court**

If either party isn’t satisfied with the Tax Court decision, there is one final step in the appeal process: appeal to the Oregon Supreme Court.

For more information, read the section on appeals in the *Board of Property Tax Appeals Manual* published by the Oregon Department of Revenue. Additional information can be found in information circulars published by the Oregon Department of Revenue.
# Appeals Matrix

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<td>Assessor</td>
<td>No deadline</td>
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<td>Magistrate</td>
<td>Within 90 days</td>
<td>ORS 311.223</td>
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<td>BOPTA penalty decision</td>
<td>None</td>
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<td>Magistrate</td>
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<td>Special assessments—denial or disqualification</td>
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*Taxpayers may wish to consult their own legal counsel to determine if an exception applies.
Section 5: Using Computers
The use of computers by counties to capture the information for the assessment and tax rolls is widespread. Many counties use personal computers (PCs) in conjunction with large mainframes or networks. For other counties, personal computers alone can meet their needs.

If a county is capturing the assessment roll information on a computer, then the information needed to develop a process for listing data from the personal property returns is available.

Programs to access the information must be designed carefully. The information should be easy to input, easy to modify, and easy to extract in a useful format. Key elements needed from the database include account number, name of business, owner, mailing address, situs address, map/tax lot, tax code, value, date received, and timely/late file notation. Other useful information includes telephone number(s), business type classification, identification of all industrial accounts and whether the state or county has jurisdiction, whether one owner has multiple properties, and cross references to leased equipment and to the real property account.

A typical automation cycle is incorporated in processing returns. After changes are noted on existing accounts, these changes are entered into the database, printed out (called a hard copy), then reviewed for accuracy. Many systems use this routine to apply valuation factors to a database of equipment. It reduces errors because information entered correctly won’t change unless it’s done manually. This eliminates the need to calculate a return item by item and then total those calculations.

With proper design, valuation factors can be entered once each year and applied to each account. The equipment list can be updated once each year for additions and deletions for each account. This list is then carried over to subsequent years.

Counties may want to consider encouraging taxpayers to file their equipment database on computer disk if the information can be easily adapted to the county’s system. Utilizing an asset list on disk would eliminate the need for individual line-item data entry. Elements necessary would include an asset description, age, purchase date, and cost. Details on saving the file in a compatible format, completing the rest of the filing form, and signing the “Taxpayer’s declaration” could be addressed by the taxpayer and county representative.

Many counties have used automation to set up a classification system for personal property. Other uses include developing typical values for non-filers and for unreported items in businesses.

Another benefit of automation is the ability to use information for audit lists, trending analysis, benchmark studies, and comparative analysis (conformity testing). A well-designed program can save countless hours of manual labor.
A standardized personal property classification system is available for use by county assessors’ offices. Using the system provides easy and rapid identification of types of businesses and simplifies research for appeals, studies, annual maintenance, and field reviews. The system can facilitate internal audit procedures and expedite error checking. A classification system can enhance the efficiency of the assessor’s office.

This system, when fully implemented, would consist of a three-digit property class number placed on each account. Counties are encouraged to use the full system. If a county weren’t able to incorporate the full system, an abbreviated version using the ten main categories would work.

The primary category number is always the first digit of the class. Classes are:

1 – Industrial.
2 – Small manufacturing/shops.
3 – Contractors.
4 – Professional offices.
5 – Stores.
6 – Dining/entertainment.
7 – Housing/rental/accommodations.
8 – Service (personal and other).
9 – Exempt accounts.
0 – Miscellaneous.

This system is designed to be refined by subdividing the primary categories into smaller units with the second and third digit providing small units of comparison. For example, a logging company would be found in the “Contractors” category and the first digit would be a “3.” The subclass would be “1” for logging and the last digit would further identify the size and type of operation. A large operator, such as Weyerhaeuser, would be a class “311.” See an example of the system on the following page.

Exempt accounts are those with a first digit of “9.” These are accounts that, for a variety of reasons, have no taxable value. This classification would include accounts of a taxpayer with less than $10,000 of total personal property value in the county and accounts of tax exempt entities.

Miscellaneous accounts are, for the most part, leasing and rental companies, many of which file one return for several different locations.
|               |          | 2. Logging—Large $500K-$1M |
|               |          | 3. Logging—Average $100K-$500K |
|               |          | 4. Logging—Average $50K-$100K |
|               |          | 5. Logging—Small $25K-$50K |
|               |          | 6. Logging—Small, less than $25K |
|               |          | 7. Logging—Chipping equipment |
|               |          | 8. Logging—Aerial services |
|               |          | 9. Logging—Reforestation salvage |
|               |          | 0. |
| 2. Road construction & excavation | 1. Construction—Road |
|               | 2. Oiling—Road maintenance |
|               | 3. Pipeline installation |
|               | 4. Cable installation—TV, phone, etc. |
|               | 5. Asphalt—Road building/excavation/concrete paving |
|               | 6. |
|               | 7. |
|               | 8. Septic systems—Installation/service |
|               | 9. Backhoe—Excavation, excavation-small |
|               | 0. Gravel—Except industrial quarry & sand (not ind.) |
|               | 2. |
|               | 3. Pile driving salvage—Marine contractor |
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Addendum

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830.790  Certificate or registration fees.
Oregon Revised Statutes

192.345 Public records conditionally exempt from disclosure. The following public records are exempt from disclosure under ORS 192.311 to 192.478 unless the public interest requires disclosure in the particular instance:

(1) Records of a public body pertaining to litigation to which the public body is a party if the complaint has not been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(2) Trade secrets. “Trade secrets,” as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(3) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

(a) The arrested person’s name, age, residence, employment, marital status and similar biographical information;
(b) The offense with which the arrested person is charged;
(c) The conditions of release pursuant to ORS 135.230 to 135.290;
(d) The identity of and biographical information concerning both complaining party and victim;
(e) The identity of the investigating and arresting agency and the length of the investigation;
(f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
(g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(4) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(5) Information consisting of production records, sale or purchase records or catch records, or similar business records of a private concern or enterprise, required by law to be submitted to or inspected by a governmental body to allow it to determine fees or assessments payable or to establish production quotas, and the amounts of such fees or assessments payable or paid, to the extent that such information is in a form that would permit identification of the individual concern or enterprise. This exemption does not include records submitted by long term care facilities as defined in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for patient care. Nothing in this subsection shall limit the use that can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(6) Information relating to the appraisal of real estate prior to its acquisition.

(7) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections.

(8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.

(9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.

(10) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services under ORS 697.732.

(11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe’s cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.

(12) A personnel discipline action, or materials or documents supporting that action.

(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and 564.100, regarding the habitat, location or population of any threatened species or endangered species.

(14) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented.

(15) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, “computer program” means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. “Computer program” does not include:

(a) The original data, including but not limited to numbers, text, voice, graphics and images;
(b) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or
(c) The mathematical and statistical formulas which would be used if the manipulated forms of the original data were to be produced manually.
(16) Data and information provided by participants to mediation under ORS 36.256.

(17) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

(18) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual’s life or physical safety or jeopardize a law enforcement activity.

(19)(a) Audits or audit reports required of a telecommunications carrier. As used in this paragraph, “audit or audit report” means any external or internal audit or audit report pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to make the operations of the entity more efficient, accurate or compliant with applicable rules, procedures or standards, that may include self-criticism and that has been filed by the telecommunications carrier or affiliate under compulsion of state law. “Audit or audit report” does not mean an audit of a cost study that would be discoverable in a contested case proceeding and that is not subject to a protective order; and

(b) Financial statements. As used in this paragraph, “financial statement” means a financial statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.

(20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS 247.967.

(21) The following records, communications and information submitted to a housing authority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants for and recipients of loans, grants and tax credits:

(a) Personal and corporate financial statements and information, including tax returns;
(b) Credit reports;
(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded;
(d) Market studies and analyses;
(e) Articles of incorporation, partnership agreements and operating agreements;
(f) Commitment letters;
(g) Project pro forma statements;
(h) Project cost certifications and cost data;
(i) Audits;
(j) Tenant files relating to certification; and
(k) Housing assistance payment requests.

(22) Records or information that, if disclosed, would allow a person to:

(a) Gain unauthorized access to buildings or other property;
(b) Identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or
(c) Disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body.

(23) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

(a) An individual;
(b) Buildings or other property;
(c) Information processing, communication or telecommunication systems, including the information contained in the systems; or
(d) Those operations of the Oregon State Lottery the security of which are subject to study and evaluation under ORS 461.180 (6).

(24) Personal information held by or under the direction of officials of the Oregon Health and Science University or a public university listed in ORS 352.002 about a person who has or who is interested in donating money or property to the Oregon Health and Science University or a public university, if the information is related to the family of the person, personal assets of the person or is incidental information not related to the donation.

(25) The home address, professional address and telephone number of a person who has or who is interested in donating money or property to a public university listed in ORS 352.002.

(26) Records of the name and address of a person who files a report with or pays an assessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

(27) Information provided to, obtained by or used by a public body to authorize, originate, receive or authenticate a transfer of funds, including but not limited to a credit card number, payment card expiration date, password, financial institution account number and financial institution routing number.

(28) Social Security numbers as provided in ORS 107.840.

(29) The electronic mail address of a student who attends a public university listed in ORS 352.002 or Oregon Health and Science University.
(30) The name, home address, professional address or location of a person that is engaged in, or that provides goods or services for, medical research at Oregon Health and Science University that is conducted using animals other than rodents. This subsection does not apply to Oregon Health and Science University press releases, websites or other publications circulated to the general public.

(31) If requested by a public safety officer, as defined in ORS 181A.355:

(a) The home address and home telephone number of the public safety officer contained in the voter registration records for the officer.

(b) The home address and home telephone number of the public safety officer contained in records of the Department of Public Safety Standards and Training.

(c) The name of the public safety officer contained in county real property assessment or taxation records. This exemption:

(A) Applies only to the name of the public safety officer and any other owner of the property in connection with a specific property identified by the officer in a request for exemption from disclosure;

(B) Applies only to records that may be made immediately available to the public upon request in person, by telephone or using the Internet;

(C) Applies until the public safety officer requests termination of the exemption;

(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for governmental purposes; and

(E) May not result in liability for the county if the name of the public safety officer is disclosed after a request for exemption from disclosure is made under this subsection.

(32) Unless the public records request is made by a financial institution, as defined in ORS 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records described in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought by an individual described in paragraph (b) of this subsection using the procedure described in paragraph (c) of this subsection:

(a) The home address, home or cellular telephone number or personal electronic mail address contained in the records of any public body that has received the request that is set forth in:

(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction, substitution of trustee, easement, dog license, marriage license or military discharge record that is in the possession of the county clerk; or

(B) Any public record of a public body other than the county clerk.

(b) The individual claiming the exemption from disclosure must be a district attorney, a deputy district attorney, the Attorney General or an assistant attorney general, the United States Attorney for the District of Oregon or an assistant United States attorney for the District of Oregon, a city attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages in the prosecution of criminal matters.

(c) The individual claiming the exemption from disclosure must do so by filing the claim in writing with the public body for which the exemption from disclosure is being claimed on a form prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall list the public records in the possession of the public body to which the exemption applies. The exemption applies until the individual claiming the exemption requests termination of the exemption or ceases to qualify for the exemption.

(33) The following voluntary conservation agreements and reports:

(a) Land management plans required for voluntary stewardship agreements entered into under ORS 541.973; and

(b) Written agreements relating to the conservation of greater sage grouse entered into voluntarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

(34) Sensitive business records or financial or commercial information of the State Accident Insurance Fund Corporation that is not customarily provided to business competitors. This exemption does not:

(a) Apply to the formulas for determining dividends to be paid to employers insured by the State Accident Insurance Fund Corporation;

(b) Apply to contracts for advertising, public relations or lobbying services or to documents related to the formation of such contracts;

(c) Apply to group insurance contracts or to documents relating to the formation of such contracts, except that employer account records shall remain exempt from disclosure as provided in ORS 192.355 (35); or

(d) Provide the basis for opposing the discovery of documents in litigation pursuant to the applicable rules of civil procedure.

(35) Records of the Department of Public Safety Standards and Training relating to investigations conducted under ORS 181A.640 or 181A.870 (6), until the department issues the report described in ORS 181A.640 or 181A.870.

(36) A medical examiner’s report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(37) Any document or other information related to an audit of a public body, as defined in ORS 174.109, that is in the custody of an auditor or audit organization operating under nationally recognized government auditing standards, until the auditor or audit organization issues a final audit report in accordance with those standards or the audit is abandoned. This exemption does not prohibit disclosure of a draft audit report that is provided to the audited entity for the entity’s response to the audit findings.

(38) (a) Personally identifiable information collected as part of an electronic fare collection system of a mass transit system.
Municipal corporation means a:

including compliance with legal requirements applicable to the operation of a municipal corporation.

Fiscal affairs means and includes all activities of any nature giving rise to or resulting from financial transactions, or other equipment or improvements.

Board means the Oregon Board of Accountancy.

Accounts means all books, papers, files, letters and records of any nature or in any form used in conducting the affairs of the municipal corporation or in recording the transactions thereof.

Accountants means all accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy as required by ORS 297.670.

§2; 2015 c.313 §§1,2; 2015 c.550 §§5,6; 2015 c.767 §§56,57; renumbered 192.345 in 2017
c.769 §1; 2011 c.9 §14; 2011 c.285 §1; 2011 c.637 §68; 2013 c.325 §1; 2013 c.768 §107; 2014 c.37 §§1,2; 2014 c.64 §§1,2; 2015 c.14 §2; 2015 c.313 §§1,2; 2015 c.550 §§5,6; 2015 c.767 §§56,57; renumbered 192.345 in 2017]

297.405 Definitions for ORS 297.020, 297.230, 297.405 to 297.740 and 297.990. As used in ORS 297.020, 297.230, 297.405 to 297.740 and 297.990:

Accountants means all accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy as required by ORS 297.670.

Accounts means all books, papers, files, letters and records of any nature or in any form used in conducting the affairs of the municipal corporation or in recording the transactions thereof.

Board means the Oregon Board of Accountancy.

Fiscal affairs means and includes all activities of any nature giving rise to or resulting from financial transactions, including compliance with legal requirements applicable to the operation of a municipal corporation.

Municipal corporation means a:
305.275 Persons who may appeal due to acts or omissions.

(1) Any person may appeal under this subsection to the magistrate division of the Oregon Tax Court as provided in ORS 305.280 and 305.560, if all of the following criteria are met:
   (a) The person must be aggrieved by and affected by an act, omission, order or determination of:
      (A) The Department of Revenue in its administration of the revenue and tax laws of this state;
      (B) A county board of property tax appeals other than an order of the board;
      (C) A county assessor or other county official, including but not limited to the denial of a claim for exemption, the denial of special assessment under a special assessment statute, or the denial of a claim for cancellation of assessment; or
      (D) A tax collector.
   (b) The act, omission, order or determination must affect the property of the person making the appeal or property for which the person making the appeal holds an interest that obligates the person to pay taxes imposed on the property. As used in this paragraph, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.
   (c) There is no other statutory right of appeal for the grievance.
   (2) Except as otherwise provided by law, any person having a statutory right of appeal under the revenue and tax laws of the state may appeal to the tax court as provided in ORS 305.404 to 305.560.
   (3) If a taxpayer may appeal to the board of property tax appeals under ORS 309.100, then no appeal may be allowed under this section. The appeal under this section is from an order of the board as a result of the appeal filed under ORS 309.100 or from an order of the board that certain corrections, additions to or changes in the roll be made.
   (4) A county assessor who is aggrieved by an order of the county board of property tax appeals may appeal from the order as provided in this section, ORS 305.280 and 305.560. [1977 c.870 §5; 1985 c.85 §10; 1987 c.512 §4; 1991 c.459 §12; 1993 c.270 §7; 1995 c.79 §107; 1995 c.650 §7; 1997 c.541 §§85,52a,53; 1999 c.314 §62; 1999 c.340 §2; 2011 c.111 §3]

305.280 Time for filing appeals; denial of appeal.

(1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2) shall be filed within 90 days after the act, omission, order or determination becomes actually known to the person, but in no event later than one year after the act or omission has occurred, or the order or determination has been made. An appeal under ORS 308.505 to 308.665 shall be filed within 90 days after the date the order is issued under ORS 308.584 (3). An appeal from a supervisory order or other order or determination of the Department of Revenue shall be filed within 90 days after the date a copy of the order or determination has been served upon the appealing party by mail as provided in ORS 308.805.
   (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308, 308A, 310, 314, 316, 317, 318, 321 or this chapter, or collected pursuant to ORS 305.620, shall be filed within 90 days after the date of the notice. An appeal from a proposed adjustment under ORS 305.270 shall be filed within 90 days after the date the notice of adjustment is final.
   (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.
   (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of property tax appeals shall be filed within 30 days after the date of the notice of the determination made by the department or date of mailing of the order, date of publication of notice of the order, date the order is personally delivered to the taxpayer or date of mailing of the notice of the order to the taxpayer, whichever is applicable.
   (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a written decision rejecting the petition and shall set forth in the decision the reasons the tax court considered the appeal to be defective. [1977 c.870 §6; 1979 c.687 §1; 1985 c.61 §2; 1991 c.67 §76; 1993 c.270 §8; 1995 c.650 §8; 1997 c.99 §§32,33; 1997 c.541 §§55,56; 1999 c.249 §2; 1999 c.314 §90; 1999 c.340 §3; 2003 c.804 §63a; 2007 c.616 §11; 2009 c.23 §1]
305.501 Appeals to tax court to be heard by magistrate division; exception; mediation; conduct of hearings; decisions; appeal de novo to tax court judge.

(1) Except as provided in subsection (2) of this section, an appeal to the tax court shall be heard by a tax court magistrate unless specially designated by the tax court judge for hearing in the regular division. In any matter arising under the property tax laws and involving a county or county assessor that is designated for hearing in the regular division, the Department of Revenue shall be substituted for the county as a party. The plaintiff or petitioner in the appeal is not required to pay any additional filing fee if the proceeding is specially designated by the tax court judge for hearing in the regular division.

(2) A party to the appeal may request mediation, or the tax court on its own motion may assign the matter to mediation. If the mediation does not result in an agreed settlement within 60 days after the end of the mediation session, the appeal shall, absent a showing of good cause for a continuance, be assigned to a magistrate for hearing.

(3) The tax court, with the assistance of the State Court Administrator, shall establish procedures for magistrate division hearings and mediation.

(4)(a) Subject to the rules of practice and procedure established by the tax court, a magistrate is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, and may conduct the hearing in any manner that will achieve substantial justice. A hearing may be conducted in person or by telephone. Magistrates may confer with each other in order to reach a decision on any matter.

(b) All written magistrate decisions shall be mailed to the parties to the appeal and to the Department of Revenue within five days after the date of entry of the written decision.

(5)(a) Any party dissatisfied with a written decision of a magistrate may appeal the decision to the judge of the tax court by filing a complaint in the regular division of the tax court within 60 days after the date of entry of the written decision.

(b) If a decision of a magistrate involves any matter arising under the property tax laws and a county was a party to the proceeding before the magistrate, the Department of Revenue may file a notice of appeal whether or not the department had intervened in the proceeding before the magistrate. In such cases, the department shall appear before the tax court judge in any proceeding on appeal.

(c) If a decision of a magistrate involves any matter arising under the property tax laws and a party other than a county appeals the decision to the tax court judge, the Department of Revenue shall be the defendant.

(d) Appeal to the judge of the tax court is the sole and exclusive remedy for review of a written decision of a magistrate.

(6) Appeal of a final decision of a magistrate before the judge of the tax court shall be as provided in ORS 305.425 (1) and 305.570.

(7) If no appeal is taken to the tax court judge within 60 days, the decision of the magistrate shall become final. The tax court shall enter a judgment enforcing all final decisions of the magistrate, which judgment shall be binding upon all parties. ORS 305.440 (2) applies to the final determination of any property tax matter. [1995 c.650 §11; 1997 c.872 §20; 1999 c.340 §1; 2005 c.345 §9; 2007 c.283 §1; 2012 c.48 §13]

305.820 Date when writing, remittance or electronic filing deemed received by tax officials.

(1) Any writing or remittance required by law to be filed with or made to the Department of Revenue, county board of property tax appeals, county assessor or tax collector (designated in this section as the “addressee”) which is:

(a) Transmitted through the United States mail or by private express carrier, shall be deemed filed or received on the date shown by the cancellation mark or other record of transmittal, or on the date it was mailed or deposited if proof satisfactory to the addressee establishes that the actual mailing or deposit occurred on an earlier date.

(b) File electronically pursuant to a rule of the department adopted under ORS 306.265 and 309.104 that authorizes the electronic filing and that meets the specifications and requirements of the rule, shall be deemed to be filed and received on the date actually received by the addressee, or on the date stated on the electronic acknowledgment of receipt that is sent by the addressee.

(c) Lost in transmission through the United States mail or private express carrier, shall be deemed filed and received on the date it was mailed or deposited for transmittal if the sender:

A) Can establish by competent evidence satisfactory to the addressee that the writing or remittance was deposited on or before the date due for filing in the United States mail, or with a private express carrier, and addressed correctly to the addressee; and

B) File with the addressee a duplicate of the lost writing or remittance within 30 days after written notification is given by the addressee of its failure to receive such writing or remittance.

(2) Whenever any writing or remittance is required by law to be filed or made on a day which falls on a Saturday, or on a Sunday or any legal holiday, the time specified shall be extended to include the next business day.

(3) As used in this section:

(a) “Private express carrier” means a carrier described under ORS 293.660.

(b) “Writing or remittance” includes, but is not limited to, “report,” “tax return,” “claim for credit,” “claim for refund,” “statement,” “notice of appeal,” “petition for review,” “notice of election,” “documentary proof,” “a claim for exemption, a claim for deferral, a return of property, a claim for cancellation of an assessment, an application for a special assessment, and remittances. [Formerly 306.440; 1965 c.344 §27; 1993 c.44 §2; 1993 c.270 §23; 1997 c.154 §11; 1997 c.541 §87]
305.990 Criminal penalties.
(1) Any person who willfully presents or furnishes to the Department of Revenue any statement required under ORS 305.160, which statement is false or fraudulent, commits perjury and upon conviction shall be punished as provided by law therefor.
(2) Any person who gives testimony before the Director of the Department of Revenue which is false or fraudulent, commits perjury and upon conviction shall be punished as provided by law therefor.
(3) Any public officer who neglects or refuses to perform any of the duties imposed on the public officer by law as to the assessment, levying or collection of taxes commits a Class A misdemeanor.
(4) Violation of ORS 305.815 is a Class A misdemeanor.
(5) Violation of ORS 305.260 is a Class A misdemeanor. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter. [Formerly 306.990; 1973 c.402 §6; subsection (5) enacted as 1973 c.402 §25(2); subsection (6) enacted as 1977 c.790 §5; 1985 c.105 §2; 2011 c.597 §179]

306.245 Standard forms for tax statement and personal property tax return.
(1) In order to achieve uniformity in assessment and collection of property taxes throughout the state, the Department of Revenue shall prescribe a form for use by counties using automated data processing equipment and a form for use by counties not using automated data processing equipment for each of the following categories:
(a) The tax statement referred to in ORS 311.250.
(b) The personal property tax return referred to in ORS 308.290.
(2) Counties must use the forms prescribed by the department under subsection (1) of this section.
(3) In prescribing the forms under subsection (1) of this section, the department shall consult with the appropriate county officers and employees and shall take into account the equipment available in each county.
(4) The department shall provide and shall bear the cost of each category of form described in subsection (1) of this section for each year in which the county uses the form prescribed under subsection (1) of this section for the category. [1979 c.241 §52; 1981 c.804 §110; 1987 c.158 §178; 1991 c.459 §34; 2003 c.400 §1]

307.020 Definition of “personal property”; inapplicability to certain utilities.
(1) As used in the property tax laws of this state, unless otherwise specifically provided:
(a) “Intangible personal property” or “intangibles” includes but is not limited to:
(A) Money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or certificates secured by mortgages.
(B) All shares of stock in corporations, joint stock companies or associations.
(C) Media constituting business records, computer software, files, records of accounts, title records, surveys, designs, credit references, and data contained therein. “Media” includes, but is not limited to, paper, film, punch cards, magnetic tape and disk storage.
(D) Goodwill.
(E) Customer lists.
(F) Contracts and contract rights.
(G) Patents, trademarks and copyrights.
(H) Assembled labor force.
(I) Trade secrets.
(b) “Personal property” means “tangible personal property.”
(c) “Tangible personal property” includes but is not limited to all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.
(2) Subsection (1) of this section does not apply to any person, company, corporation or association covered by ORS 308.505 to 308.665. [Amended by 1959 c.82 §1; 1977 c.602 §1; 1993 c.353 §1; 1997 c.154 §27; 2005 c.94 §30]

307.030 Property subject to assessment generally.
(1) All real property within this state and all tangible personal property situated within this state, except as otherwise provided by law, shall be subject to assessment and taxation in equal and ratable proportion.
(2) Except as provided in ORS 308.505 to 308.665, intangible personal property is not subject to assessment and taxation. [Amended by 1993 c.353 §2; 1997 c.154 §28]

307.040 Property of the United States; certain electricity transmission system property leased to United States.
(1) As used in this section, “United States” means the federal government or an agency or instrumentality of the federal government.
(2) Except as provided in ORS 307.050, 307.060, 307.070 and 307.080, all property of the United States, its agencies or instrumentalities, is exempt from taxation to the extent that taxation of the property is forbidden by law.
(3) Notwithstanding ORS 308.505 to 308.665, for purposes of this section, property the title to which is held by a person other than the United States and that is leased to the United States under a lease or lease-purchase agreement is property of the United States if:
(a) The property is operated or used in furtherance of a statutory responsibility of the United States with respect to a high-voltage electricity transmission system that the United States owns and operates within the Pacific Northwest;
(b) The property is constructed on or affixed to real property interests of the United States; and
(c) Upon expiration of the lease or lease-purchase agreement, the United States has an option to purchase the property for a nominal price, if the debt incurred by the person to acquire the property has been paid. [Amended by 1953 c.698 §7; 2013 c.336 §1]

307.050 Property of the United States held under contract of sale. Whenever real and personal property of the United States or any department or agency of the United States is the subject of a contract of sale or other agreement whereby on certain payments being made the legal title is or may be acquired by any person and that person uses and possesses the property or has the right of present use and possession, then a real market value for the property shall be determined, as required under ORS 308.232, without deduction on account of any part of the purchase price or other sum due on such property remaining unpaid. The property shall have an assessed value determined under ORS 308.146 and shall be subject to tax on the assessed value so determined. The lien for the tax shall neither attach to, impair, nor be enforced against any interest of the United States in the real or personal property. This section does not apply to real or personal property held and in immediate use and occupation by this state or any county, municipal corporation or political subdivision of this state, or to standing timber, prior to severance, of the United States or any department or agency of the United States that is the subject of a contract of sale or other agreement. [Amended by 1953 c.698 §7; 1965 c.159 §1; 2001 c.509 §6]

307.060 Property of the United States held under lease or other interest less than fee; deduction for restricted use. Real and personal property of the United States or any department or agency of the United States held by any person under a lease or other interest or estate less than a fee simple, other than under a contract of sale, shall have a real market value determined under ORS 308.232, subject only to deduction for restricted use. The property shall have an assessed value determined under ORS 308.146 and shall be subject to tax on the assessed value so determined. The lien for the tax shall attach to and be enforced against only the leasehold, interest or estate in the real or personal property. This section does not apply to real property held or occupied primarily for agricultural purposes under the authority of a federal wildlife conservation agency or held or occupied primarily for purposes of grazing livestock. This section does not apply to real or personal property held by this state or any county, municipal corporation or political subdivision of this state that is:
(1) In immediate use and occupation by the political body; or
(2) Required, by the terms of the lease or agreement, to be maintained and made available to the federal government as a military installation and facility. [Amended by 1953 c.698 §7; 1959 c.298 §1; 1961 c.433 §1; 1969 c.241 §1; 1975 c.656 §1; 1981 c.405 §2; 1991 c.459 §38; 1997 c.541 §99; 2001 c.509 §7]

307.090 Property of the state, counties and other municipal corporations; payments in lieu of taxes on city-owned electric utility property.
(1) Except as provided by law, all property of the state and all public or corporate property used or intended for corporate purposes of the several counties, cities, towns, school districts, irrigation districts, drainage districts, ports, water districts, housing authorities, public universities listed in ORS 352.002 and all other public or municipal corporations in this state, is exempt from taxation.
(2) Any city may agree with any school district to make payments in lieu of taxes on all property of the city located in any such school district, and which is exempt from taxation under subsection (1) of this section when such property is outside the boundaries of the city and owned, used or operated for the production, transmission, distribution or furnishing of electric power or energy or electric service for or to the public. [Amended by 1953 c.698 §7; 1957 c.649 §1; 1975 c.568 §1; 1977 c.673 §1; 1991 c.851 §2; 2005 c.832 §1; 2009 c.804 §1; 2013 c.768 §125]

307.100 Public property held by taxable owner under contract of purchase. Whenever real and personal property of the state or any institution or department thereof, or any county, municipal corporation or political subdivision of the state is the subject of a contract of sale or other agreement whereby on certain payments being made the legal title is or may be acquired by any person and such person uses and possesses such property or has the right of present use and possession, then such property shall be considered, for all purposes of taxation, as the property of such person. No deed or bill of sale to such property shall be executed until all taxes and municipal charges are fully paid thereon. This section shall not apply to standing timber, prior to severance thereof, of the state or any political entity referred to above which is the subject of a contract of sale or other agreement. [Amended by 1965 c.159 §2]

307.110 Public property leased or rented by taxable owner; exceptions.
(1) Except as provided in ORS 307.120, all real and personal property of this state or any institution or department thereof or of any county or city, town or other municipal corporation or political subdivision of this state, held under a lease or other interest or estate less than a fee simple, by any person whose real property, if any, is taxable, except employees of the state, municipality or political subdivision as an incident to such employment, shall be subject to assessment and taxation for the assessed or specially assessed value thereof uniformly with real property of nonexempt ownerships.
(2) Each leased or rented premises not exempt under ORS 307.120 and subject to assessment and taxation under this section which is located on property used as an airport and owned by and serving a municipality or port shall be separately assessed and taxed.
(3) Nothing contained in this section shall be construed as subjecting to assessment and taxation any publicly owned property described in subsection (1) of this section that is:
   (a) Leased for student housing by a school or college to students attending such a school or college.
   (b) Leased to or rented by persons, other than sublessees or subrenters, for agricultural or grazing purposes and for other than a cash rental or a percentage of the crop.
   (c) Utilized by persons under a land use permit issued by the Department of Transportation for which the department’s use restrictions are such that only an administrative processing fee is able to be charged.
   (d) County fairgrounds and the buildings thereon, in a county holding annual county fairs, managed by the county fair board under ORS 565.230, if utilized, in addition to county fair use, for any of the purposes described in ORS 565.230 (2), or for horse stalls or storage for recreational vehicles or farm machinery or equipment.
   (e) The properties and grounds managed and operated by the State Fair Council under ORS chapter 565, if utilized, in addition to the purpose of holding the Oregon State Fair, for horse stalls or for storage for recreational vehicles or farm machinery or equipment.
   (f) State property that is used by a public university listed in ORS 352.002 or the Oregon Health and Science University to provide parking for employees, students or visitors.
   (g) Property of a housing authority created under ORS chapter 456 which is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the housing authority. For purposes of this paragraph, “persons of lower income” has the meaning given that term in ORS 456.055.
   (h) Property of any county or city, town or other municipal corporation or political subdivision of this state that is used for affordable housing or is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the county or city, town or other municipal corporation or political subdivision of this state. For purposes of this paragraph, “affordable housing” and “persons of lower income” have the meanings given those terms in ORS 456.055. The exemption under this paragraph shall be granted upon compliance with ORS 307.162.
   (i) Property of a health district if:
      (A) The property is leased or rented for the purpose of providing facilities for health care practitioners practicing within the county; and
      (B) The county is a frontier rural practice county under rules adopted by the Office of Rural Health.
   (j) Property of a port if:
      (A) The port:
         (i) Is organized under ORS chapter 777; and
         (ii) Has a board of commissioners appointed by the Governor; and
      (B) The property is:
         (i) Located in a county with a population of less than 450,000; and
         (ii) Used or held for future use by a person other than the port pursuant to an agreement that obligates the person to provide common carrier rail freight service to shippers.
   (4) Property determined to be an eligible project for tax exemption under ORS 285C.600 to 285C.639 and 307.123 that was acquired with revenue bonds issued under ORS 285B.320 to 285B.371 and that is leased by this state, any institution or department thereof or any county, city, town or other municipal corporation or political subdivision of this state to an eligible applicant shall be assessed and taxed in accordance with ORS 307.123. The property’s continued eligibility for taxation and assessment under ORS 307.123 is not affected:
      (a) If the eligible applicant retires the bonds prior to the original dates of maturity; or
      (b) If any applicable lease or financial agreement is terminated prior to the original date of expiration.
   (5) The provisions of law for liens and the payment and collection of taxes levied against real property of nonexempt ownerships shall apply to all real property subject to the provisions of this section. Taxes remaining unpaid upon the termination of a lease or other interest or estate less than a fee simple, shall remain a lien against the real or personal property.
   (6) If the state enters into a lease of property with, or grants an interest or other estate less than a fee simple in property to, a person whose real property, if any, is taxable, then within 30 days after the lease, or within 30 days after the date the interest or estate less than a fee simple is created, the state shall file a copy of the lease or other instrument creating the interest or estate with the county assessor. This section applies notwithstanding that the property may otherwise be entitled to an exemption under this section, ORS 307.120 or as otherwise provided by law. [Amended by 1953 c.698 §7; 1961 c.449 §1; 1969 c.675 §18; 1971 c.352 §1; 1979 c.689 §4; 1981 c.381 §1; 1987 c.487 §1; 1989 c.659 §2; 1991 c.459 §40; 1999 c.851 §3; 1995 c.337 §1; 1995 c.376 §3; 1995 c.698 §9; 1997 c.478 §2; 1997 c.541 §101; 1997 c.819 §12; 1999 c.760 §1; 2001 c.67 §2; 2001 c.114 §8; 2003 c.662 §11a; 2005 c.777 §17; 2013 c.287 §1; 2013 c.386 §1; 2013 c.492 §31; 2013 c.768 §133]

Note: The amendments to 307.110 by section 4, chapter 287, Oregon Laws 2013, apply to property tax years beginning on or after July 1, 2023. See section 5, chapter 287, Oregon Laws 2013. The text that applies to property tax years beginning on or after July 1, 2023, is set forth for the user’s convenience.

307.110.

(1) Except as provided in ORS 307.120, all real and personal property of this state or any institution or department thereof or of any county or city, town or other municipal corporation or political subdivision of this state, held under a lease or other interest or estate less than a fee simple, by any person whose real property, if any, is taxable, except employees of the state,
municipality or political subdivision as an incident to such employment, shall be subject to assessment and taxation for the assessed or specially assessed value thereof uniformly with real property of nonexempt ownerships.

(2) Each leased or rented premises not exempt under ORS 307.120 and subject to assessment and taxation under this section which is located on property used as an airport and owned by and serving a municipality or port shall be separately assessed and taxed.

(3) Nothing contained in this section shall be construed as subjecting to assessment and taxation any publicly owned property described in subsection (1) of this section that is:

(a) Leased for student housing by a school or college to students attending such a school or college.
(b) Leased to or rented by persons, other than sublessees or subrenters, for agricultural or grazing purposes and for other than a cash rental or a percentage of the crop.
(c) Utilized by persons under a land use permit issued by the Department of Transportation for which the department’s use restrictions are such that only an administrative processing fee is able to be charged.
(d) County fairgrounds and the buildings thereon, in a county holding annual county fairs, managed by the county fair board under ORS 565.230, if utilized, in addition to county fair use, for any of the purposes described in ORS 565.230 (2), or for horse stalls or storage for recreational vehicles or farm machinery or equipment.
(e) The properties and grounds managed and operated by the State Fair Council under ORS chapter 565, if utilized, in addition to the purpose of holding the Oregon State Fair, for horse stalls or for storage for recreational vehicles or farm machinery or equipment.
(f) State property that is used by a public university listed in ORS 352.002 or the Oregon Health and Science University to provide parking for employees, students or visitors.
(g) Property of a housing authority created under ORS chapter 456 which is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the housing authority. For purposes of this paragraph, “persons of lower income” has the meaning given that term in ORS 456.055.
(h) Property of any county or city, town or other municipal corporation or political subdivision of this state that is used for affordable housing or is leased or rented to persons of lower income for housing pursuant to the public and governmental purposes of the county or city, town or other municipal corporation or political subdivision of this state. For purposes of this paragraph, “affordable housing” and “persons of lower income” have the meanings given those terms in ORS 456.055. The exemption under this paragraph shall be granted upon compliance with ORS 307.162.
(i) Property of a health district if:

(A) The property is leased or rented for the purpose of providing facilities for health care practitioners practicing within the county; and
(B) The county is a frontier rural practice county under rules adopted by the Office of Rural Health.

(4) Property determined to be an eligible project for tax exemption under ORS 285C.600 to 285C.639 and 307.123 that was acquired with revenue bonds issued under ORS 285B.320 to 285B.371 and that is leased by this state, any institution or department thereof or any county, city, town or other municipal corporation or political subdivision of this state to an eligible applicant shall be assessed and taxed in accordance with ORS 307.123. The property’s continued eligibility for taxation and assessment under ORS 307.123 is not affected:

(a) If the eligible applicant retires the bonds prior to the original dates of maturity; or
(b) If any applicable lease or financial agreement is terminated prior to the original date of expiration.

(5) The provisions of law for liens and the payment and collection of taxes levied against real property of nonexempt ownerships shall apply to all real property subject to the provisions of this section. Taxes remaining unpaid upon the termination of a lease or other interest or estate less than a fee simple, shall remain a lien against the real or personal property.

(6) If the state enters into a lease of property with, or grants an interest or other estate less than a fee simple in property to, a person whose real property, if any, is taxable, then within 30 days after the date of the lease, or within 30 days after the date the interest or estate less than a fee simple is created, the state shall file a copy of the lease or other instrument creating or evidencing the interest or estate with the county assessor. This section applies notwithstanding that the property may otherwise be entitled to an exemption under this section, ORS 307.120 or as otherwise provided by law.

307.122 Property held under lease, sublease or lease-purchase by institution, organization or public body other than state.

(1) Real or personal property of a taxable owner held under lease, sublease or lease-purchase agreement by an institution, organization or public body, other than the State of Oregon, or a public university listed in ORS 352.002, granted exemption or the right to claim exemption for any of its property under ORS 307.090, 307.130, 307.136, 307.140, 307.145, 307.147 or 307.181 (3), is exempt from taxation if:

(a) The property is used by the lessee or, if the lessee is not in possession of the property, by the entity in possession of the property, in the manner, if any, required by law for the exemption of property owned, leased, subleased or being purchased by it; and
(b) It is expressly agreed under the terms of the lease, sublease or lease-purchase agreement that any tax savings resulting from the exemption granted under this section shall inure solely to the benefit of the institution, organization or public body.

(2) To obtain the exemption under this section, the lessee or, if the lessee is not in possession of the property, the entity in possession of the property, must file a claim for exemption with the county assessor, verified by the oath or affirmation of the president or other proper officer of the institution or organization, or head official of the public body or legally authorized delegate, showing:

(a) A complete description of the property for which exemption is claimed.
(b) If applicable, all facts relating to the use of the property by the lessee or, if the lessee is not in possession of the property, by the entity in possession of the property.

(c) A true copy of the lease, sublease or lease-purchase agreement covering the property for which exemption is claimed.

(d) Any other information required by the claim form.

(3) If the assessor is not satisfied that the tax savings resulting from the exemption granted under this section will inure solely to the benefit of the institution, organization or public body, before the exemption may be granted the lessor must provide documentary proof, as specified by rule of the Department of Revenue, that the tax savings resulting from the exemption will inure solely to the benefit of the institution, organization or public body.

(4)(a) The claim must be filed on or before April 1 preceding the tax year for which the exemption is claimed, except:

(A) If the lease, sublease or lease-purchase agreement is entered into after March 1 but not later than June 30, the claim must be filed within 30 days after the date the lease, sublease or lease-purchase agreement is entered into if exemption is claimed for that year; or

(B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), the claim may be filed within the time specified in ORS 307.162 (2).

(b) The exemption first applies for the tax year beginning July 1 of the year for which the claim is filed.

(5)(a) An exemption granted under this section continues as long as the use of the property remains unchanged and during the period of the lease, sublease or lease-purchase agreement.

(b) If the use changes, a new claim must be filed as provided in this section.

(c) If the use changes due to sublease of the property or any portion of the property from the tax exempt entity described in subsection (1) of this section to another tax exempt entity, the entity in possession of the property must file a new claim for exemption as provided in this section.

(d) If the lease, sublease or lease-purchase agreement expires before July 1 of any year, the exemption terminates as of January 1 of the same calendar year.

(A) If the lease, sublease or lease-purchase agreement is entered into after March 1 but not later than June 30, the claim must be filed within 30 days after the date the lease, sublease or lease-purchase agreement is entered into if exemption is claimed for that year; or

(B) If a late filing fee is paid in the manner provided in ORS 307.162 (2), the claim may be filed within the time specified in ORS 307.162 (2).

(c) A true copy of the lease, sublease or lease-purchase agreement covering the property for which exemption is claimed.

(d) Any other information required by the claim form.

307.120 Property owned or leased by municipalities, dock commissions, airport districts or ports; exception; payments in lieu of taxes to school districts.

(1) Real property owned or leased by any municipality and real and personal property owned or leased by any dock commission of any city or by any airport district or port organized under the laws of this state is exempt from taxation to the extent to which such property is:

(a) Leased, subleased, rented or preferentially assigned for the purpose of the berthing of ships, barges or other watercraft (exclusive of property leased, subleased, rented or preferentially assigned primarily for the purpose of the berthing of floating homes, as defined in ORS 830.700), the discharging, loading or handling of cargo therefrom or for storage of such cargo directly incidental to transshipment, or the cleaning or decontaminating of agricultural commodity cargo, to the extent the property does not further alter or process an agricultural commodity;

(b) Held under lease or rental agreement executed for any purpose prior to July 5, 1947, except that this exemption shall continue only during the term of the lease or rental agreement in effect on that date; or

(c) Used as an airport owned by and serving a municipality or port of less than 300,000 inhabitants as determined by the latest decennial census. Property owned or leased by the municipality, airport district or port that is located within or contiguous to the airport is exempt from taxation under this subsection if the proceeds of the lease, sublease or rental are used by the municipality, airport district or port exclusively for purposes of the maintenance and operation of the airport.

(2) Those persons having on January 1 of any year a lease, sublease, rent or preferential assignment or other possessory interest in property exempt from taxation under subsection (1)(a) of this section, except dock area property, shall make payments in lieu of taxes to any school district in which the exempt property is located as provided in subsection (3) of this section. The annual payment in lieu of taxes shall be one quarter of one percent (0.0025) of the real market value of the exempt property and the payment shall be made to the county treasurer on or before May 1 of each year.

(3)(a) On or before December 31 preceding any year for which a lease, sublease, rental or preferential assignment or other possessory interest in property is to be held, or within 30 days after acquisition of such an interest, whichever is later, any person described in subsection (2) of this section shall file with the county assessor a request for computation of the payment in lieu of tax for the exempt property in which the person has a possessory interest. The person shall also provide any information necessary to complete the computation that may be requested by the assessor. The request shall be made on a form prescribed by the Department of Revenue.

(b) On or before April 1 of each assessment year the county assessor shall compute the in lieu tax for the property subject to subsection (2) of this section for which a request for computation has been filed under paragraph (a) of this subsection and notify each person who has filed such a request:

(A) That the person is required to pay the amount in lieu of taxes to the county treasurer on behalf of the school district;

(B) Of the real market value of the property subject to the payment in lieu of taxes; and

(C) Of the amount due, the due date of the payment in lieu of taxes and of the consequences of late payment or nonpayment.

(c) On or before July 15 of each tax year the county treasurer shall distribute to the school districts the amounts received for the respective districts under subsection (2) of this section. If the exempt property is located in more than one school district, the amount received shall be apportioned to the school districts on the basis of the ratio that each school district’s
permanent limit on the rate of ad valorem property taxes bears to the total permanent limit on the rate of ad valorem property taxes applicable to all of the school districts in which the property is located.

(4) If a person described in subsection (2) of this section fails to request a computation or make a payment in lieu of taxes as provided in this section, the property shall not be exempt for the tax year but shall be assessed and taxed as other property similarly situated is assessed and taxed.

(5) Upon granting of a lease, sublease, rental, preferential assignment or other possessory interest in property described in subsection (1)(a) of this section, except dock area property, the municipality, dock commission, airport district or port shall provide the county assessor with the name and address of the lessee, sublessee, renter, preferential assignee or person granted the possessory interest.

(a) Except as provided in ORS 748.414, only real or personal property, or a proportion of the property, that is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for

(c) All real or personal property of a rehabilitation facility or any retail outlet of the facility, including inventory.
(d) All real and personal property of a retail store dealing exclusively in donated inventory, if the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are used to support a welfare program.

(e) All real and personal property of a retail store if:
(A) The retail store deals on a regular basis in inventory at least one-half of which is donated and consigned;
(B) The individuals who operate the retail store are all individuals who work as volunteers; and
(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and the sales proceeds used exclusively to support a welfare program.

(f) The real and personal property of an art museum that is used in conjunction with the public display of works of art or used to educate the public about art, but not including any portion of the art museum’s real or personal property that is used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.

(g) All real and personal property of a volunteer fire department that is used in conjunction with services and activities for providing fire protection to all residents within a fire response area.

(h) All real and personal property, including inventory, of a retail store owned by a nonprofit corporation if:
(A) The retail store deals exclusively in donated inventory; and
(B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose purpose is to:
   (i) Acquire property and construct housing for resale to individuals at or below the cost of acquisition and construction; and
   (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

(i) All real and personal property, including inventory, of a retail store owned by a nonprofit corporation if:
(A) The retail store deals exclusively in donated inventory;
(B) The retail store operates with substantial support from volunteers; and
(C) All net proceeds of the retail store sales are donated:
   (i) To a nonprofit corporation that provides animal rescue services;
   (ii) To a manufacturer or provider of goods or services in return for which an entity described in sub-subparagraph (i) of this subparagraph receives an equivalent value of goods or services from the manufacturer or provider;
   (iii) To an entity that provides spaying and neutering services for pets of individuals residing in households with an annual household income at or below 80 percent of the area median income; or
   (iv) For the purpose of aiding domesticated animals, regardless of whether the animals are in the custody of the county shelter, in furtherance of the purpose for which the nonprofit corporation was organized.

(3)(a) Upon compliance with ORS 307.162, real and personal property owned or leased by a history museum or science museum shall be exempt from property taxes if the property:
(A) Is used to fulfill the mission of the museum as provided in the articles of incorporation and bylaws of the museum; and
(B) Is used or occupied for one or more of the following purposes:
   (i) As a food service facility or concession stand selling food and refreshments to museum visitors, volunteers or staff within the museum buildings or on museum grounds.
   (ii) As a retail store selling inventory, at least 90 percent of which is museum-related, within the museum buildings or on museum grounds.
   (iii) As a parking lot, the use of which is permitted without charge for not fewer than 355 days during the property tax year, for museum visitors, volunteers or staff employed by the museum.
   (iv) As a theater located in a museum building showing entertainment or educational features, at least 75 percent of which are museum-related.
   (v) As unimproved land that is not specially assessed and that is contiguous with the land on which the museum is situated.
   (vi) For displays, storage areas, educational classrooms or meeting areas.
(b) The exemption granted under this subsection does not apply to property used or occupied as a hotel, water park or chapel or for any commercial enterprise.

(4) An art museum or institution shall not be deprived of an exemption under this section solely because its primary source of funding is from one or more governmental entities.

(5) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property is not limited to relieving pain, alleviating disease or removing constraints. [Amended by 1955 c.576 §1; 1959 c.207 §1; 1969 c.342 §1; 1971 c.605 §1; 1974 c.52 §3; 1979 c.688 §1; 1987 c.391 §1; 1987 c.490 §49; 1989 c.224 §50; 1991 c.93 §4; 1993 c.655 §3; 1995 c.470 §4; 1997 c.599 §1; 1999 c.90 §31; 1999 c.773 §1; 2001 c.660 §26; 2003 c.77 §4; 2005 c.832 §16; 2007 c.70 §75; 2007 c.614 §4a; 2007 c.694 §1; 2008 c.45 §4; 2009 c.5 §14; 2009 c.909 §14; 2010 c.82 §14; 2011 c.7 §14; 2012 c.31 §14; 2013 c.377 §14; 2014 c.52 §16; 2015 c.701 §46; 2017 c.686 §1]

Note: The amendments to 307.130 by section 48, chapter 701, Oregon Laws 2015, apply to property tax years beginning on or after July 1, 2019. See section 49, chapter 701, Oregon Laws 2015. The text that applies to property tax years beginning on or after July 1, 2019, including amendments by section 2, chapter 686, Oregon Laws 2017, is set forth for the user’s convenience.
(2) The exemption provided under subsection (1) of this section continues until the end of the earliest tax year in which
(b) Granted exemption under ORS 307.130 (2)(a) by the county in which the property is located.
(a) Offered, occupied or used as low-income housing; and
from ad valorem property taxation, if, for the tax year beginning on July 1, 2012, the property was actually:
exclusively occupied or used in the benevolent or charitable work carried on by the nonprofit corporation, and is exempt
is not limited to relieving pain, alleviating disease or removing constraints.
(4) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property
source of funding is from one or more governmental entities.
(3) An art museum or institution shall not be deprived of an exemption under this section solely because its primary
shelter, in furtherance of the purpose for which the nonprofit corporation was organized.
(iv) For the purpose of aiding domesticated animals, regardless of whether the animals are in the custody of the county
or used to educate the public about art, but not including any portion of the art museum’s real or personal property that is
the sales proceeds used exclusively to support a welfare program.
(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and
used to support a welfare program.
(B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose purpose is to:
(A) The retail store deals exclusively in donated inventory; and
(h) All real and personal property, including inventory, of a retail store if:
(1) As used in this section:
(A) The retail store deals on a regular basis in inventory at least one-half of which is donated and consigned;
(B) The individuals who operate the retail store are all individuals who work as volunteers; and
(C) The inventory is either distributed without charge as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are
used to support a welfare program.
(e) “Welfare program” means a program to provide food, shelter, clothing or health care, including dental service, to
needy persons without charge.
(2) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums, volunteer
fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:
(a) Except as provided in ORS 748.414, only real or personal property, or a proportion of the property, that is actually
and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.
(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for
for fewer than 355 days during the tax year.
(c) All real or personal property of a rehabilitation facility or any retail outlet of the facility, including inventory.
(d) All real and personal property of a retail store dealing exclusively in donated inventory, if the inventory is distributed
without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are
used to support a welfare program.
(e) All real and personal property of a retail store if:
(A) The retail store deals exclusively in donated inventory, if the inventory is distributed
without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are
used to support a welfare program.
(d) All real and personal property of a retail store dealing exclusively in donated inventory, if the inventory is distributed
without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are
used to support a welfare program.
(c) All real or personal property of a rehabilitation facility or any retail outlet of the facility, including inventory.
(b) “Nonprofit corporation” means a corporation that:
(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or
(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code as defined in ORS 305.842.
(c) “Rehabilitation facility” means a facility defined in ORS 344.710 or a facility that provides individuals who have
physical, mental or emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,
even if remuneration is received by the individual.
(d) “Volunteer fire department” means a nonprofit corporation organized to provide fire protection services in a specific
response area.
(e) “Art museum” means a nonprofit corporation organized to display works of art to the public.
(b) “Nonprofit corporation” means a corporation that:
(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or
(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code as defined in ORS 305.842.
(c) “Rehabilitation facility” means a facility defined in ORS 344.710 or a facility that provides individuals who have
physical, mental or emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,
even if remuneration is received by the individual.
(d) “Volunteer fire department” means a nonprofit corporation organized to provide fire protection services in a specific
response area.
(e) “Welfare program” means a program to provide food, shelter, clothing or health care, including dental service, to
needy persons without charge.
(2) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums, volunteer
fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:
(a) Except as provided in ORS 748.414, only real or personal property, or a proportion of the property, that is actually
and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.
(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for
for fewer than 355 days during the tax year.
(c) All real or personal property of a rehabilitation facility or any retail outlet of the facility, including inventory.
(d) All real and personal property of a retail store dealing exclusively in donated inventory, if the inventory is distributed
without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are
used to support a welfare program.
(e) All real and personal property of a retail store if:
(A) The retail store deals on a regular basis in inventory at least one-half of which is donated and consigned;
(B) The individuals who operate the retail store are all individuals who work as volunteers; and
(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and
the sales proceeds used exclusively to support a welfare program.
(f) The real and personal property of an art museum that is used in conjunction with the public display of works of art
or used to educate the public about art, but not including any portion of the art museum’s real or personal property that is
used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.
(g) All real and personal property of a volunteer fire department that is used in conjunction with services and activities
for providing fire protection to all residents within a fire response area.
(h) All real and personal property, including inventory, of a retail store owned by a nonprofit corporation if:
(A) The retail store deals exclusively in donated inventory; and
(B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose purpose is to:
(i) Acquire property and construct housing for resale to individuals at or below the cost of acquisition and construction; and
(ii) Provide loans bearing no interest to individuals purchasing housing through the program.
(i) All real and personal property, including inventory, of a retail store owned by a nonprofit corporation if:
(A) The retail store deals exclusively in donated inventory;
(B) The retail store operates with substantial support from volunteers; and
(C) All net proceeds of the retail store sales are donated:
(i) To a nonprofit corporation that provides animal rescue services;
(ii) To a manufacturer or provider of goods or services in return for which an entity described in sub-subparagraph (i)
of this subparagraph receives an equivalent value of goods or services from the manufacturer or provider;
(iii) To an entity that provides spaying and neutering services for pets of individuals residing in households with an
annual household income at or below 80 percent of the area median income; or
(iv) For the purpose of aiding domesticated animals, regardless of whether the animals are in the custody of the county
shelter, in furtherance of the purpose for which the nonprofit corporation was organized.
(3) An art museum or institution shall not be deprived of an exemption under this section solely because its primary
source of funding is from one or more governmental entities.
(4) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property
is not limited to relieving pain, alleviating disease or removing constraints.

Note: Sections 1 and 2, chapter 7, Oregon Laws 2014, provide:
Sec. 1. (1) For purposes of ORS 307.130 (2)(a), real or personal property of a nonprofit corporation is actually and
exclusively occupied or used in the benevolent or charitable work carried on by the nonprofit corporation, and is exempt
from ad valorem property taxation, if, for the tax year beginning on July 1, 2012, the property was actually:
(a) Offered, occupied or used as low-income housing; and
(b) Granted exemption under ORS 307.130 (2)(a) by the county in which the property is located.
(2) The exemption provided under subsection (1) of this section continues until the end of the earliest tax year in which
the property described in subsection (1) of this section:
(a) Is no longer actually offered, occupied or used as low-income housing;
(b) Changes ownership other than by sale or transfer to a nonprofit corporation under whose ownership the property
continues to be offered, occupied or used as low-income housing; or
(c) Is leased in its entirety by the nonprofit corporation claiming the exemption, other than by leases for occupancy of
individual units as low-income housing. [2014 c.7 §1]

Sec. 2. (1) Section 1, chapter 7, Oregon Laws 2014, applies to property tax years beginning on or after July 1, 2012.
(2) The exemption provided under section 1, chapter 7, Oregon Laws 2014, may not be granted for tax years beginning
on or after July 1, 2022. [2014 c.7 §2; 2016 c.40 §1]

307.190 Tangible personal property held for personal use; inapplicability to property required to be registered,
floating homes, boathouses and manufactured structures.
(1) All items of tangible personal property held by the owner, or for delivery by a vendor to the owner, for personal use,
benefit or enjoyment, are exempt from taxation.
(2) The exemption provided in subsection (1) of this section does not apply to:
(a) Any tangible personal property held by the owner, wholly or partially for use or sale in the ordinary course of a trade
or business, for the production of income, or solely for investment.
(b) Any tangible personal property required to be licensed or registered under the laws of this state.
(c) Floating homes or boathouses, as defined in ORS 830.700.
(d) Manufactured structures as defined in ORS 446.561. [Amended by 1953 c.698 §7; 1969 c.648 §1; 1977 c.615 §2; 1985
c.614 §1; 1987 c.601 §5; 2003 c.655 §63]

307.315 Nursery stock. Nursery stock, as defined in ORS 571.005 (5), whether bare root, or whether balled or
heeled or growing in containers in or upon the ground, is exempt from ad valorem taxation in the hands of the grower or wholesalers.
[1971 c.285 §2; 1979 c.692 §1]

307.325 Agricultural products in possession of farmer.
(1) The items of personal property described in subsection (2) of this section which, on the assessment date, are owned and
in the actual or constructive possession of the farmer who produced them or who has procured them for use or consumption
in the farm operations of the farmer, shall be exempt from taxation.
(2) The items referred to in subsection (1) of this section are as follows:
(a) Grain.
(b) Seed.
(c) Hay.
(d) Fruit.
(e) Vegetables.
(f) Nuts.
(g) Hops.
(h) Wool.
(i) Fish.
(j) Poultry.
(k) Butter, cheese and evaporated, condensed or concentrated milk.
(L) Mint.
(m) Bivalve mollusks.
(n) Livestock.
(o) Fur-bearing animals.
(p) Bees.
(q) Vermiculture supplies and products. [1965 c.429 §2; 1979 c.692 §2; 1987 c.691 §1; 2001 c.753 §11; 2005 c.657 §5]

307.390 Mobile field incinerators. Mobile field incinerators owned by farmers or by groups of farmers that are
exclusively used for sanitizing grass seed fields by means other than open field burning shall be exempt from taxation if they
are purchased within five years after they are certified as a feasible alternative to open field burnings by the Department of
Environmental Quality pursuant to ORS 468A.555 to 468A.620 and 468A.992. [1971 c.678 §2; 1977 c.650 §12]

307.391 Field burning smoke management equipment. Radio communications equipment, meteorological equipment
or other tangible personal property used in connection with the operation of the field burning smoke management program
established under ORS 468A.555 to 468A.620 and 468A.992 is exempt from ad valorem property taxation. [2001 c.753 §18]

307.394 Farm machinery and equipment; personal property used in farm operations; limitation.
(1) The following tangible personal property is exempt from ad valorem property taxation:
(a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating,
harvesting or placing in storage of farm crops;
(b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products;
(c) Machinery and equipment used primarily to implement a remediation plan as defined in ORS 308A.053 for the period of time for which the remediation plan is certified; or
(d) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination of these activities.

(2)(a) Items of tangible personal property, including but not limited to tools, machinery and equipment that are used predominantly in the construction, reconstruction, maintenance, repair, support or operation of farm machinery, and equipment and other real or personal farm improvements that are used primarily in animal husbandry, agricultural or horticultural activities, or any combination of these activities, are exempt from ad valorem property tax.
(b) An item of tangible personal property described in paragraph (a) of this subsection is exempt from ad valorem property tax only if the person that owns, possesses or controls the item also:
(A) Owns, possesses or controls the farm machinery, equipment and other real and personal farm improvements for which the item is used; and
(B) Carries on the animal husbandry, agricultural or horticultural activity, or combination of activities, in which the farm machinery, equipment or other real and personal farm improvements are used. [2001 c.753 §15; 2009 c.776 §8]

307.397 Certain machinery and equipment used in agricultural, aquacultural or fresh shell egg industry operations.
(1) The following items of real property machinery and equipment or tangible personal property are exempt from ad valorem property tax:
(a) Frost control systems used in agricultural or horticultural activities carried on by the farmer;
(b) Trellises used for hops, beans or fruit or for other agricultural or horticultural purposes;
(c) Hop harvesting equipment, including but not limited to hop pickers;
(d) Oyster racks, trays, stakes and other in-water structures used to raise bivalve mollusks; or
(e) Equipment used for the fresh shell egg industry that is directly related and reasonably necessary to produce, package and ship fresh shell eggs from the place of origin to market, whether bolted to the floor, wired or plumbed to interconnected equipment, including but not limited to grain bins, conveyors for transporting grain, grain grinding machinery, feed storage hoppers, cages, egg collection conveyors and equipment for washing, drying, candling, grading, packaging and shipping fresh shell eggs.
(2) A real property building, structure or improvement is exempt from ad valorem property tax if it:
(a) Is used primarily to grow plants for agricultural or horticultural production;
(b) Is covered with polyethylene, fiberglass, corrugated polycarbonate acrylic or any other transparent or translucent material designed primarily to allow passage of solar heat and light; and
(c) Does not have a permanent heat source other than radiant heating provided by direct sunlight. [2001 c.753 §16; 2009 c.776 §11]

307.398 Irrigation equipment.
(1) Center pivots, wheel lines or movable set lines are exempt from ad valorem property tax.
(2) As used in this section:
(a) “Center pivot” means a piece of self-propelled machinery that rotates around a riser for the purpose of sprinkling a circular tract of land. “Center pivot” includes all of the component parts of the center pivot irrigation system that are ordinarily located above the ground on the land to be irrigated and that can be disconnected from the riser and moved to another point. A center pivot constitutes personal property.
(b) “Center pivot irrigation system” means an irrigation system that uses pumping stations and pipelines to convey water from its source to a riser to which a center pivot may be connected and used for sprinkling.
(c) “Riser” means a pipe located in the field to be irrigated that rises vertically through the surface of the ground. [2001 c.753 §17]

307.400 Inventory. Items of tangible personal property consisting of inventory, including but not limited to materials, supplies, containers, goods in process, finished goods and other personal property owned by or in possession of the taxpayer, that are or will become part of the stock in trade of the taxpayer held for sale in the ordinary course of business, are exempt from ad valorem property tax. [Formerly 310.608; 1983 c.600 §2; 1987 c.691 §2; part renumbered 307.402 in 1991; 1995 c.379 §1; 1997 c.325 §22; 2001 c.753 §12]

307.402 Beverage containers. Any beverage container having a refund value as required under ORS 459A.700 to 459A.740 is exempt from ad valorem tax. [Formerly 310.608; 1983 c.600 §2; 1987 c.691 §2; formerly part of 307.400]

307.455 Definitions; application for exemption; exemption; limitations.
(1) As used in this section and ORS 307.457:
(a) “Assessor” means the county assessor, or the Department of Revenue if under ORS 306.126 the department is responsible for appraisal of the facility at which the qualified machinery and equipment is located.
(b) “Bakery product” has the meaning given that term in ORS 625.010.
(c) “Dairy products” has the meaning given that term in ORS 621.003.
“Food processor”:  
(A) Means a person engaged in the business of freezing, canning, dehydrating, concentrating, preserving, processing or repacking for human consumption raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood in any procedure that occurs prior to the point of first sale by the processor.

(B) Does not include:  
(i) Persons engaged in the business of producing alcoholic beverages or marijuana items as defined in ORS 475B.015.
(ii) A person engaged in the business of producing bakery products unless the person has been issued a wholesale license by the State Department of Agriculture.

(e) “Integrated processing line” does not include forklifts, trucks or other rolling stock used to transport material to or from a point of manufacture or assembly.

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

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

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

(2) On or before March 1 preceding the first tax year for which property is to be exempt from taxation under this section, a food processor seeking an exemption under this section shall apply to the assessor for exemption. The application shall be on a form prescribed by the Department of Revenue and shall include any information required by the department, including a schedule of the qualified machinery and equipment for which certification is sought.

(b) Notwithstanding paragraph (a) of this subsection, the assessor may approve an application that is filed after March 1, and on or before December 31 of the assessment year, if the statement is accompanied by a late filing fee of the greater of $200 or one-tenth of one percent of the real market value of the property that is the subject of the application.

(c) The assessor shall review the application and, if the machinery and equipment that is the subject of the application constitutes qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, shall approve the application and exempt the qualified machinery and equipment.

(d) If any of the machinery and equipment that is the subject of the application does not constitute qualified machinery and equipment certified by the State Department of Agriculture under ORS 307.457, the assessor shall exclude the nonqualified machinery and equipment from the application.

(3) Qualified machinery and equipment for which an application has been approved under subsection (2) of this section shall be exempt for the tax year for which the application was approved and for the next four succeeding tax years, if as of the assessment date for each year the property constitutes qualified machinery and equipment.

(4) The duration of the exemption under subsection (3) of this section may not be extended as the result of the value of changes to qualified machinery and equipment that are attributable to rehabilitation, reconditioning or ongoing maintenance or repair.

(5) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process grains or bakery products may not be granted exemption under this section unless the qualified machinery and equipment has a total cost of initial investment of at least $100,000 to the food processor.

(6) Notwithstanding subsection (3) of this section, qualified machinery and equipment that is used to process baked products may not be granted exemption under this section if proceeds from retail sales made at the processing site constitute more than 10 percent of all proceeds from sales made at the processing site. [2005 c.637 §3; 2015 c.827 §1; 2016 c.105 §1; 2017 c.21 §102]

Note: Section 7, chapter 637, Oregon Laws 2005, provides:
Sec. 7. Property may not qualify for a first year of exemption under ORS 307.455 for a tax year beginning on or after July 1, 2020. [2005 c.637 §7; 2011 c.656 §1; 2013 c.210 §1]

Note: Section 5, chapter 827, Oregon Laws 2015, provides:
Sec. 5. The State Department of Agriculture shall submit, in the manner provided by ORS 192.245, a report on the impact that the amendments to ORS 307.455 by section 1 of this 2015 Act have had on the use of the exemption for qualified food processing machinery and equipment to the interim committees of the Legislative Assembly related to revenue not later than September 15, 2018. [2015 c.827 §5]

307.457 Certification of eligibility of machinery and equipment.  
(1) At the request of a food processor or on the State Department of Agriculture’s own initiative, the department shall certify the eligibility of qualified machinery and equipment for exemption under ORS 307.455.

(2) The method of certification under this section shall be provided by rules adopted by the State Department of Agriculture, after consultation with the Department of Revenue.

(3) A decision by the State Department of Agriculture to deny certification of certain property may be appealed to the Director of Agriculture as a contested case under ORS chapter 183.

(4) The State Department of Agriculture may fix, assess and collect, or cause to be collected, fees on food processors for the certification of qualified machinery and equipment under subsection (1) of this section. The fees must be in an amount
reasonably necessary to cover the costs of the certification and of the administration of this section. The fees must have a uniform basis, but the scale of fees may vary according to the location of the qualified machinery and equipment.

307.580 Property of industry apprenticeship or training trust.
(1) If not otherwise exempt by law and upon compliance with ORS 307.162, all real and personal property or proportion thereof owned or being purchased by an industry apprenticeship or training trust is exempt from property taxation if:
   (a) The trust is organized pursuant to a trust instrument solely for the purpose of aiding or assisting in the implementation or operation of one or more apprenticeship or training programs that conform to and are conducted under ORS 660.002 to 660.210;
   (b) The property or proportion thereof that is the subject of the exemption is actually and exclusively occupied and used in the implementation or operation of an apprenticeship or training program or programs that are established under, conform to and are conducted under ORS 660.002 to 660.210; and
   (c) The trust is considered an organization exempt from federal income taxes under the federal Internal Revenue Code or other laws of the United States relating to federal income taxes.
   (2) If property described under subsection (1) of this section would be exempt from taxation except that it is held under lease or lease-purchase agreement by the trust rather than owned or being purchased by it, the property shall be exempt from taxation upon compliance with and subject to ORS 307.112.
   (3) No exemption shall be allowed under subsection (1) or (2) of this section if the property is used in the implementation or operation of an apprenticeship or training program that discriminates with respect to its participants on the basis of age, race, religion, sex or national origin. [1983 c.619 §2]

307.824 Findings and declarations. The Legislative Assembly finds and declares that:
(1) The public policy of this state is to facilitate the transition of older logging equipment to newer equipment designed and manufactured to be as environmentally sensitive as current technology can provide, consistent with the need to match the equipment to the specifics of the site being harvested.
(2) Personal property taxes paid on logging equipment act as a disincentive to a transition to environmentally sensitive technology, because older equipment has a lower assessed value and therefore generates a correspondingly reduced property tax liability. In contrast, newer equipment, the use of which benefits the environment more than the use of older equipment, has a higher assessed value and a correspondingly higher property tax liability.
(3) A property tax incentive is a means of facilitating the transition to newer, environmentally sensitive equipment and accomplishing the declared public policy. [1999 c.957 §2]

307.827 Environmentally sensitive logging equipment.
(1) Environmentally sensitive logging equipment is exempt from ad valorem property taxation.
(2) As used in this section:
   (a) “Environmentally sensitive logging equipment” means logging equipment that was originally manufactured after 1992.
   (b) “Logging equipment” means machinery and equipment:
      (A) Used in logging or forest management operations involving timber harvest, including the felling, bucking, yarding, loading or utilization of timber, logs or wood fiber in the forest, or used in reforestation, forest vegetation restoration, site preparation, vegetation control, stand and tree improvement or thinning;
      (B) That is specifically designed for activities related to water quality or fish and wildlife habitat protection in the forest; or
      (C) Consisting of excavators used in logging road construction, maintenance, reconstruction or improvements, including the closing or obliterating of existing forest roads.
   (c) “Logging equipment” does not include:
      (A) Equipment used in nonforest applications for more than 20 percent of the tax year, as measured by the operating hours of the equipment.
      (B) Equipment used in the manufacturing or milling of forest products.
      (C) Power saws, hand tools, blocks or pulleys that are not a part of the equipment, rigging, shop equipment or support equipment.
      (D) Logging equipment that is exempt from tax under ORS 307.831. [1999 c.957 §3; 2009 c.852 §1]

307.831 Skyline and swing yarders. Logging equipment consisting of a skyline yarder and carriage in the form of a mobile tower or swing yarder that is capable of full log suspension during inhaul is exempt from ad valorem property taxation. [1999 c.957 §6]

307.835 Cargo containers. All cargo containers principally used for the transportation of cargo by vessels in trade and ocean commerce shall be exempt from taxation. The term “cargo container” means a receptacle:
   (1) Of a permanent character and accordingly strong enough to be suitable for repeated use;
   (2) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading; and
(3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another. [1979 c.783 §1]

Note: Section 2, chapter 783, Oregon Laws 1979, provides:
Sec. 2. Cargo containers, as defined in ORS 307.835, are exempt from taxation for tax purposes in the county of the person, whether it be an owner, shipper, the agent of the person, or a storehouse or warehouse operator of the agent of the person, the person commits a Class B misdemeanor. [1959 c.659 §5; 2011 c.83 §8; 2011 c.597 §180]

308.105 Personal property.
(1) Except as otherwise specifically provided, all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment prescribed by law.
(2) Personal property may be assessed in the name of the owner or of any person having possession or control thereof. Where two or more persons jointly are in possession or have control of any personal property, in trust or otherwise, it may be assessed to any one or all of such persons. [Amended by 1955 c.720 §1; 1961 c.683 §1]

308.120 Partnership property; liability of either partner for whole tax. Partners in mercantile or other business may be jointly taxed in their partnership name, or severally taxed for their individual shares for all personal property employed in such business. If they are jointly taxed, either or any of such partners shall be liable for the whole tax.

308.149 Definitions for ORS 308.149 to 308.166. As used in ORS 308.149 to 308.166:
(1) “Area” means:
(a) The county in which property, the maximum assessed value of which is being adjusted, is located, including the area of any city located within the county that has adopted an ordinance or resolution pursuant to ORS 308.151;
(b) The city in which property, the maximum assessed value of which is being adjusted, is located, if the city has adopted an ordinance or resolution pursuant to ORS 308.151; or
(c) 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 308.681.
(2)(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 308.681.
(3)(a) “Average real market value” means the value determined by dividing the total real market value of all property in the same area in the same property class by the total number of properties in the same area in the same property class.
(b) In making the calculation described under this subsection, the following property is not taken into account:
(A) New property or new improvements to property;
(B) Property that is partitioned or subdivided;
(C) Property that is rezoned and used consistently with the rezoning;
(D) Property that is added to the assessment and tax roll as omitted property; or
(E) Property that is disqualified from exemption, partial exemption or special assessment.
(c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of average real market value in the case of property centrally assessed under ORS 308.505 to 308.681.
(4) “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.
(5) “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.
(6)(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.

(7) “Property class” means the classification of property adopted by the Department of Revenue by rule pursuant to ORS 308.215, except that in the case of property assessed under ORS 308.505 to 308.681, “property class” means the total of all property set forth in the assessment roll prepared under ORS 308.540. [1997 c.541 §9; 1999 c.579 §20; 2012 c.30 §2; 2017 c.414 §3]

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]

308.210 Assessing property; record as assessment roll; changes in ownership or description of real property and manufactured structures assessed as personal property.

(1) The assessor shall proceed each year to assess the value of all taxable property within the county, except property that by law is to be otherwise assessed. The assessor shall maintain a full and complete record of the assessment of the taxable property for each year as of January 1, at 1:00 a.m. of the assessment year, in the manner set forth in ORS 308.215. Such record shall constitute the assessment roll of the county for the year.

(2) Except as provided in subsections (3) and (4) of this section, the ownership and description of all real property and manufactured structures assessed as personal property shall be shown on the assessment roll as of January 1 of such year or as it may subsequently be changed by divisions, transfers or other recorded changes. This subsection is intended to permit the assessor to reflect on the assessment roll the divisions of property or the combining of properties after January 1 so as to reflect the changes in the ownership of that property and to keep current the descriptions of property. The assessor shall also have authority to change the ownership of record after January 1 of a given year so that the assessment roll will reflect as nearly as possible the current ownership of that property.

(3) The assessor shall not indicate any changes, divisions or transfers of properties which occurred before, on or after January 1 as a result of the division of a larger parcel of land until all ad valorem taxes, fees and other charges placed upon the tax roll on the entire parcel of property that have been certified for collection under ORS 311.105 and 311.110 have been paid. However, if the owner of one of the portions of the larger property is a public body only the change, division or transfer of that portion shall be recognized.

(4) The assessor shall not reflect on the assessment roll any combining of properties unless all ad valorem taxes, fees or other charges charged to the tax accounts to be combined that have been certified for collection under ORS 311.105 and 311.110 have been paid. However, if the owner of the affected property is a public body, this subsection shall not apply.

(5) The assessor shall notify the planning director of a city of all divisions of land within the corporate limits of the city and the planning director of a county of all divisions of land outside the corporate limits of all cities and within the county, including, but not limited to, divisions of land by lien foreclosure, divisions of land pursuant to court order and subdivisions within 30 days after the date the change in the tax lot lines was processed by the assessor. The requirements of this subsection do not apply to divisions for assessment purposes only.

(6) As used in this section, “public body” means the United States, its agencies and instrumentalities, the state, a county, city, school district, irrigation or drainage district, a port, a water district and all other public or municipal corporations in the state exempt from tax under ORS 307.040 or 307.090. [Amended by 1957 c.324 §1; 1969 c.454 §1; 1977 c.718 §1; 1981 c.632 §2; 1983 c.473 §1; 1983 c.718 §1; 1991 c.459 §90; 1991 c.763 §27; 1993 c.6 §4; 1995 c.610 §1; 1997 c.541 §154]

308.232 Property to be valued at 100 percent real market value and assessed at assessed value. All real or personal property within each county not exempt from ad valorem property taxation or subject to special assessment shall be valued at 100 percent of its real market value. Unless the property is subject to maximum assessed value adjustment under ORS
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.

308.250 Valuation and assessment of personal property; property not subject to taxation in certain cases; annual notice authorized; form attesting no change in property; 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) Notwithstanding subsection (1) of this section:

(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 property is not subject to ad valorem property taxation for that year.

(b) Manufactured structures of a taxpayer are not subject to ad valorem property taxation for any assessment year in which:

(A) In a county with a population of more than 340,000 but less than or equal to 570,000, the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of the taxpayer is less than $12,500.

(B) In a county with a population of more than 570,000, the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of the taxpayer is less than $25,000.

(c) A signed form returned to the county assessor within the time required under ORS 308.290 shall be sufficient to make the taxable personal property of the taxpayer identified in the notice not subject to ad valorem property taxation for the subsequent property tax year.

(d) Notice provided under this subsection shall:

(A) State that the taxpayer’s personal property is not subject to ad valorem property taxation for the current property tax year.

(B) Include a form prescribed by the Department of Revenue by rule on which the taxpayer may attest by signing the form that the taxpayer has not added or deleted any taxable personal property since the prior assessment year.

(C) State that, if the taxpayer has added or deleted personal property since the prior assessment year, the taxpayer is required to submit to the county assessor a signed business personal property return with an updated asset detail list on or before March 15.

(3)(a) On or around January 1 of each year, the county assessor may provide notice to each taxpayer whose taxable personal property is not subject to ad valorem property taxation for the current property tax year under subsection (2)(a) of this section.

(b) Notice provided under this subsection shall:

(A) State that the taxpayer’s personal property is not subject to ad valorem property taxation for the current property tax year.

(B) Include a form prescribed by the Department of Revenue by rule on which the taxpayer may attest by signing the form that the taxpayer has not added or deleted any taxable personal property since the prior assessment year.

(C) State that, if the taxpayer has added or deleted personal property since the prior assessment year, the taxpayer is required to submit to the county assessor a signed business personal property return with an updated asset detail list on or before March 15.

(c) A signed form returned to the county assessor within the time required under ORS 308.290 shall be sufficient to make the taxable personal property of the taxpayer identified in the notice not subject to ad valorem property taxation for the subsequent property tax year.

(d) 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 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 under subsection (2)(a) or (b) of this section by multiplying $12,500 or $25,000, as applicable, by the appropriate indexing factor determined as provided in subparagraph (A) of this paragraph.

(E) 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.

(F) 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 §6]
308.256 Assessment, taxation and exemption of watercraft and materials of shipyards, ship repair facilities and offshore drilling rigs.

(1) Watercraft of water transportation companies shall be assessed as provided in ORS 308.505 to 308.665.

(2) Watercraft described in ORS 308.260 shall be assessed as provided in ORS 308.260.

(3) The following watercraft shall be exempt from taxation:

(a) Watercraft not owned or operated by water transportation companies, as described in ORS 308.515, and that are customarily engaged in the transportation of persons or property for hire wholly outside the boundaries of this state.

(b) Watercraft owned or operated by water transportation companies, as described in ORS 308.515, and not assessed by the Department of Revenue, that are customarily engaged in the transportation of persons or property for hire wholly or in part outside the boundaries of this state. The exemption under this paragraph does not apply to watercraft that engage in the transportation for hire of persons on offshore trips that originate and terminate at the same port, and that have a valid marine document issued by the United States Coast Guard or any other federal agency that succeeds the United States Coast Guard in the duty of issuing marine documents.

(c) The assessed value of the property of a water transportation company, as described in ORS 308.515, that is not subject to assessment by the Department of Revenue under the provisions of ORS 308.550 (3).

(4)(a) Watercraft over 16 feet in length in the process of original construction, or undergoing major remodeling, renovation, conversion, reconversion or repairs on January 1 are exempt from taxation. For the purposes of this subsection, the term “major” shall include all remodeling, renovation, conversion, reconversion or repairs to a watercraft in which the expenditures for parts, materials, labor and accessorial services exceed 10 percent of the market value of the watercraft immediately prior to the remodeling, renovation, conversion, reconversion or repairs.

(b) Watercraft subject to assessment by the Department of Revenue under ORS 308.505 to 308.665 are exempt under paragraph (a) of this subsection only if on or before the due date for filing the statement described in ORS 308.520 for the year for which exemption is claimed, the owner or operator files with the department sufficient documentary evidence that the property qualifies for the exemption.

(c) The owner or operator of watercraft subject to local assessment shall file the documentary evidence required under paragraph (b) of this subsection with the county assessor on or before April 1 of the year for which exemption is claimed.

(5) All other watercraft not otherwise specifically exempt from taxation nor licensed in lieu thereof shall be assessed in the county in which they are customarily moored when not in service or if there is no customary place of moorage in the county in which their owner or owners reside or, if neither situs applies, then in the county in which any one of the owners maintains a place of business.

(6) Watercraft described in subsection (5) of this section shall be assessed at assessed value, except as follows:

(a) Ships and vessels whose home ports are in the State of Oregon and that ply the high seas or between the high seas and inland water ports or terminals shall be assessed at four percent of the assessed value thereof.

(b) Vessels that are self-propelled, offshore oil drilling rigs whose home ports are in the State of Oregon shall be assessed at four percent of the assessed value thereof.

(c) All other ships and vessels whose home ports are in the State of Oregon shall be assessed at 40 percent of the assessed value thereof.

(7) The assessor shall cancel the assessment in whole or proportionate part on all parts and materials in the inventory of shipyards and ship repair facilities as of January 1 of the assessment year, but only upon receipt prior to April 1 of the assessment year of sufficient documentary proof that prior to April 1 of the assessment year the parts or materials so assessed were physically attached to or incorporated in watercraft undergoing major remodeling, renovation, conversion, reconversion or repairs as described in subsection (4) of this section, within the boundaries of this state. [1957 c.342 §2 (enacted in lieu of 308.110 and 308.255); 1965 c.431 §1; 1967 c.293 §32; 1987 c.347 §1; 1991 c.459 §103; 1993 c.18 §69; 1993 c.270 §29; 1997 c.541 §164; 1999 c.398 §1; 2005 c.94 §45]

308.260 Watercraft used for reduction or processing of deep-sea fish; machinery and equipment; assessment; taxation.

(1) Any ship, vessel or other watercraft shall be assessed and taxed in the manner provided in this section if:

(a) On or after January 1 of any assessment year, the ship, vessel or other watercraft is docked or moored in any waters subject to the jurisdiction of the State of Oregon; and

(b) The ship, vessel or other watercraft is employed or used as a plant for the reduction or processing, but excluding canning, of deep-sea fish.

(2) Immediately on docking or mooring, the owner or person in charge of a ship, vessel or other watercraft described in subsection (1) of this section shall notify the county assessor. The county assessor shall assess it, together with all machinery and equipment thereon, at its assessed value determined under ORS 308.146 and 308.232. Upon determination of value, the owner or person in charge shall:

(a) Pay the exact amount of taxes, special assessments, fees and charges, if the assessor is able to compute the exact amount; or

(b) If the assessor is unable to compute the exact amount at the time the property is assessed, either pay to the tax collector the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees and other charges to become due, or deposit with the tax collector a bond with a good and sufficient undertaking in the amount that the assessor
consider adequate to ensure payment of the taxes to become due. The bond amount may not exceed twice the amount of the taxes, special assessments, fees and other charges computed by the assessor under this subsection.

(3) It shall be unlawful to operate a floating reduction or processing plant until the county assessor has been notified and the tax paid as provided in this section. If the owner or person in charge fails to notify the assessor, or proceeds to operate the plant before full payment of the tax, the owner or person in charge shall forfeit to the county, for the use of the several taxing jurisdictions interested, a sum equal to twice the amount of the tax. The forfeiture may be recovered by the assessor in an action brought in the name of the county in any court having jurisdiction over the action. In the action, the penalty shall be preferred before all other debts or claims.

(4) No mistake in the name of the owner of any floating reduction or processing plant shall affect the right to collect the tax or to recover the penalty under this section.

(5) The county assessor is authorized to levy, collect and remit to the tax collector, or the tax collector is authorized to collect, taxes under conditions described in this section. Either the assessor or tax collector is authorized to allow any discount or rebate otherwise provided by law for payment of taxes before the regular due date or dates. ORS 311.370 shall apply to all taxes collected before the regular due date or dates.

(6) Appeals of assessments of floating reduction or processing plants shall:

(a) Be heard by the county board of property tax appeals in the same manner as assessments of other properties are appealed; and

(b) Be made as provided in ORS 308.146 and 308.232. [Amended by 1975 c.780 §5; 1979 c.350 §4; 1981 c.804 §42; 1991 c.459 §104; 1993 c.270 §30; 1997 c.541 §165; 2005 c.94 §46]

308.285 Requiring taxpayer to furnish list of taxable property. Every county assessor may require any taxpayer to furnish a list of all the taxable real and personal property owned by, or in the possession of the taxpayer and situated in the county. The list shall be signed by the taxpayer, or the managing agent or officer, and shall be verified by oath. Only information that will aid the assessor in arriving at the maximum assessed value, assessed value and real market value shall be required in the list. [Amended by 1971 c.574 §1; 1981 c.804 §48; 1991 c.459 §107; 1997 c.541 §168]

308.290 Returns; personal property; exception; real property; combined real and personal returns for industrial property; 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 15 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 15 of each year.

(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 state-appraised industrial property as defined in ORS 306.126 shall file a combined return of the real and personal property with the Department of Revenue.

(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 a state-appraised 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.
(d) If the department has delegated appraisal of the state-appraised industrial 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 state-appraised industrial property shall be filed with the department on or before March 15 of each year.

(6) 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.

(7)(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 lessee 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.

(8) If the assessed value of any personal property in possession of a lessee is less than the maximum amount described in 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 §§3,4; 2011 c.204 §§2,3; 2013 c.205 §2; 2015 c.36 §10; 2015 c.38 §1; 2017 c.420 §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, that has not filed a return within the time fixed in ORS 308.290, 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 state-appraised 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; 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; 2015 c.36 §11; 2015 c.38 §3]

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, that has not filed a return within the time fixed in ORS 308.290, 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 15, 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) A taxpayer who files a return to which this section applies after August 1, 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; 2015 c.38 §4]

308.297 **Personal property returns to note penalty for delinquency.** Any personal property tax return form given to a taxpayer by an assessor or the Department of Revenue shall contain within it a printed notice, or be accompanied by a printed notice, of the penalty for delinquency in filing a personal property tax return. [1967 c.405 §2; 1985 c.604 §7]

308.300 **Penalty for neglecting to file real property or combined return with intent to evade taxation.**

(1) Except as provided in subsection (2) of this section, any person, managing agent or officer who, with intent to evade taxation, refuses or neglects to make any return required by ORS 308.290 and to file it with the assessor or the Department of Revenue within the time specified shall be subject to a penalty of $10 for each day of the continuance of such refusal or neglect. Such penalty may be recovered in a proper action brought in the name of the county in any court of competent jurisdiction or as provided for a penalty for delinquency.

(2) This section does not apply to the failure to file a personal property return. [Amended by 1991 c.459 §109; 1997 c.819 §7; 2015 c.38 §5]

308.302 **Disposition of penalties.** All penalties collected pursuant to ORS 308.030, 308.295, 308.296 or 308.300 shall be credited to the general fund of the county. [1953 c.49 §2; 1977 c.884 §31; 1999 c.655 §4]

308.316 **Examining witnesses, books and records; reference of matter to department upon failure to produce records or testify.**

(1) The county assessor, for the purpose of ascertaining the correctness of any assessment or for the purpose of making any assessment, and the officer having possession of the roll, for the purpose of discovering any omitted value or property under ORS 311.216 to 311.232, may examine or cause to be examined by any agent or representative designated by the assessor or officer any books, papers, records or memoranda bearing on the value, possession, ownership or location of any property, and may require the attendance of the taxpayer or any other person having knowledge in the premises. The assessor may administer oaths to such persons, take their testimony, and require proof material to the information requested. Examination shall be made and testimony taken during regular business hours at the taxpayer’s or person’s place of business in the county, or at another place convenient to the parties.

(2) If any person fails to permit the examination of any books, papers or documents considered by the assessor to be pertinent to the investigation or inquiry being made, or to testify to any matter in the premises, the assessor shall refer the matter to the Department of Revenue, stating in full the facts governing the request and refusal. The department may require the assessor to present additional facts, or the department may conduct other inquiries necessary to a consideration of the matter. If the department finds that the examination should be made or the testimony taken, it shall take any action it considers appropriate under the powers granted to it by law, including the subpoenaing and examination of witnesses, books and papers pursuant to ORS 305.190, to the end that the property under consideration is ratably assessed according to law.

(3) For the purposes of this section the words “county assessor” or “assessor” mean both the county assessor and the officer described in ORS 311.216 to 311.232 having possession of the roll. [1955 c.610 §2; 1981 c.804 §51]

308.330 **Duty of assessor to assess properly.** No assessor shall willfully or knowingly:

(1) Omit to assess any person or property assessable.

(2) Assess any property or class of property under or over its value, as provided in ORS 308.146. [Amended by 1981 c.804 §53; 1997 c.541 §172]

308.335 **Department testing work of county assessors; supplementing assessment list; special assessor.**

(1) The Department of Revenue, upon its own volition or at the request of the county governing body, may examine and test the work of county assessors at any time, and shall have and possess all rights and powers of such assessors for the summoning of witnesses and examination of persons and property, and for the discovery of property subject to taxation.

(2) If the department ascertains that any taxable property is omitted from the assessment list, or not assessed or valued according to law, it shall bring that fact to the attention of the assessor of the proper county in writing. If the assessor neglects or refuses to comply with the request of the department to place the property on the assessment list, or to correct the incorrect assessment or valuation, the department may prepare a supplement to the assessment list, which supplement shall include all property required by the department to be placed on the assessment list and all corrections required to be made. The supplement shall be filed with the assessor’s assessment list and shall thereafter constitute an integral part thereof to the exclusion of all portions of the original assessment list inconsistent therewith.

(3) If the department ascertains that the work of a county assessor is not being carried out as provided by law, the department shall notify the governing body of that fact by written report. If applicable, the report shall contain recommendations for appointment of a special assessor as provided under ORS 308.055. [Amended by 1989 c.796 §19; 1993 c.270 §32]

308.425 **Taxes on destroyed or damaged property; proration; reduction; effect of repair.**

(1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, 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 tax collector for proration of the taxes imposed on the property for the tax year.

(2) Application for proration of taxes under subsection (1) of this section shall be made not later than the end of the tax year or 60 days after the date the property was destroyed or damaged, whichever is later.

(b) If proration under this subsection results in an overpayment of taxes paid, the amount of the overpayment shall be refunded in the manner prescribed in ORS 311.806.

(4) That portion of the property that is damaged property and that is subsequently repaired shall be considered to be new property or new improvements to property under ORS 308.153 for the assessment year in which the repairs or replacements are first taken into account. [1971 c.497 §1; 1974 c.14 §1; 1975 c.778 §1; 1975 c.780 §20; 1981 c.804 §61; 1983 c.85 §1; 1991 c.459 §132a; 1997 c.541 §196; 1999 c.20 §1; 2003 c.655 §64; 2007 c.450 §2; 2015 c.31 §2]

308.558 Taxation of aircraft; criteria; apportionment; exemption of aircraft of foreign-owned carriers.

(1) Aircraft shall be subject to assessment, taxation and exemption, as provided in this section.

(2) Any aircraft used or held for use by an air transportation company that is operating pursuant to a certificate of convenience and necessity issued by an agency of the federal government shall be assessed and taxed under ORS 308.505 to 308.665.

(3) Any aircraft used or held for use by an air transportation company to provide scheduled passenger service, whether or not the company is operating pursuant to a certificate of convenience and necessity issued by a federal agency, shall be assessed and taxed under ORS 308.505 to 308.665.

(4) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year is exempt from ad valorem property taxation for the tax year beginning in the calendar year.

(5) Any aircraft that is used or held for use by a foreign-owned carrier is exempt from ad valorem property taxation.

(6) Subject to allocation or apportionment for out-of-state service, all other aircraft not otherwise specifically exempt from taxation or licensed in lieu thereof, and not subject to assessment by the Department of Revenue under ORS 308.505 to 308.665, shall be assessed in the county from which they are customarily operated when not in service, or if there is no customary place from which operated, then in the county in which their owner or owners reside, or if neither situ applies, then in the county in which any one of the owners maintains a place of business. [1987 c.601 §4; 1993 c.18 §70; 1995 c.79 §131; 2005 c.135 §1]

308.865 Notice and payment of taxes before movement of mobile modular unit.

(1) A person may not move a mobile modular unit to a new situs within the same county or outside the county until the person has:

(a) Given notice of the move to the county tax collector; and

(b) Paid all property taxes and special assessments for the current tax year and all outstanding delinquent property taxes and special assessments for all past tax years.

(2) Upon receiving notice of a move, the county tax collector shall send copies of the notice to the county assessor and the Department of Transportation.

(3) In computing taxes and special assessments on a mobile modular unit that will become due, the following apply:

(a) If the assessor can compute the exact amount of taxes, special assessments, fees and charges, the assessor is authorized to levy and the tax collector is authorized to collect such amount.

(b) If the assessor is unable to compute such amount at such time, the owner shall either pay an amount computed using the value then on the assessment roll for the mobile modular unit or that value which next would be used on an assessment roll and the assessor’s best estimate of taxes, special assessments, fees and other charges.

(c) ORS 311.370 applies to all taxes collected under this subsection. [1969 c.605 §14; 1971 c.529 §31; 1973 c.91 §5; 1977 c.884 §10; 1979 c.350 §10; 1983 c.311 §1; 1985 c.16 §455; 1985 c.416 §§1,1a; 1991 c.459 §172; 1993 c.551 §3; 1993 c.696 §12; 1997 c.541 §§221,221a; 1999 c.359 §8; 2003 c.655 §65]

Note: 308.865, 308.866, 308.875, 308.880 and 308.905 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.866 Definition of mobile modular unit; statement of value; receipt.

(1) As used in ORS 308.865 and this section, “mobile modular unit” means a prefabricated structure that is more than eight and one-half feet wide, is used for commercial or business purposes and is capable of being moved on the highway.
(2) The owner as of January 1 of each year of a mobile modular unit that is taxed as personal property shall submit no later than the following March 1 a statement of the value of the unit and of its location. The owner shall submit the statement to the county assessor of the county in which the unit is located on January 1 of the year for which the statement is submitted. An owner who fails to provide the statement is subject to the late filing penalty as provided in ORS 308.295. The Department of Revenue shall prescribe the form of statement.

(3) When taxes on a mobile modular unit have been paid in accordance with the provisions of ORS 308.865, the tax collector shall issue the owner of the unit a receipt indicating that the taxes have been paid.

(4) Notwithstanding any other provision of law, the county tax collector shall accept a cashier’s check or money order in payment of taxes on a mobile modular unit. [1993 c.551 §§1,2; 1995 c.256 §4; 1997 c.541 §223; 2003 c.655 §66]

Note: See note under 308.865.

308.875 Manufactured structures classified as real or personal property; effect of classification on other transactions. If the manufactured structure and the land upon which the manufactured structure is situated are owned by the same person, the assessor shall assess the manufactured structure as real property. If the manufactured structure is owned separately and apart from the land upon which it is located, the assessor shall assess and tax the manufactured structure as personal property. A change in the property classification of a manufactured structure for ad valorem tax purposes does not change the property classification of the structure with respect to any transactions between the owner and security interest holders or other persons. Manufactured structures classified as personal property need not be returned under ORS 308.290. [1969 c.605 §16; 1971 c.529 §12; 1973 c.91 §6; 1983 c.748 §4; 1985 c.16 §456; 1993 c.696 §13; 2003 c.655 §67]

Note: See note under 308.865.

308.880 Travel or special use trailer eligible for ad valorem taxation upon application of owner.

(1) The owner of any travel trailer described in ORS 801.565 that is being used either as a permanent home or for other than recreational purposes may apply to the assessor in the county in which it has situs to have the travel trailer assessed for ad valorem taxation. If the assessor determines that the travel trailer is being used either as a permanent home or for other than recreational uses, the assessor shall place the travel trailer on the assessment and tax rolls the same as if it were a manufactured structure. The assessor shall accept the travel trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the travel trailer in the county deed records or assist in obtaining an ownership document for the travel trailer under ORS 446.571. Any travel trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes.

(2) The owner of any special use trailer described in ORS 801.500 that is eight and one-half feet or less in width may apply to the assessor of the county in which it has situs to have the special use trailer assessed for ad valorem taxation. If the assessor determines that the special use trailer is eight and one-half feet or less in width and is permanently situated in one place, the assessor shall place the special use trailer on the assessment and tax rolls in the same way as if it were a manufactured structure. The assessor shall accept any special use trailer plate for the vehicle and return the plate to the Department of Transportation, and shall, as appropriate, record the special use trailer in the county deed records or assist in obtaining an ownership document for the special use trailer under ORS 446.571. Any special use trailer placed on the assessment and tax rolls under this section is considered a manufactured structure for all purposes. [1969 c.605 §59; 1971 c.529 §5; 1983 c.338 §907; 1993 c.696 §14; 1995 c.79 §135; 2003 c.655 §68; 2005 c.94 §56]

Note: See note under 308.865.

308.990 Penalties.

(1) Violation of ORS 308.320 (3) or of ORS 308.330 is a Class A misdemeanor. The judgment of conviction of any assessor for such a violation shall work a forfeiture of the office of the assessor.

(2) Any taxpayer or managing officer thereof who fails to furnish, after written demand so to do by the assessor or the county board of property tax appeals having jurisdiction or the Department of Revenue, any statement, required by ORS 308.335 or required by the director under the authority of ORS 308.335, that is willfully false or fraudulent, commits a Class A violation.

(3) Any person, firm, association or corporation, or agent or managing officer thereof, who presents or furnishes to the Director of the Department of Revenue any statement, required by ORS 308.335 or required by the director under the authority of ORS 308.335, that is willfully false or fraudulent, commits a Class A violation.

(4) Any person who willfully presents or furnishes to the director any statement required by ORS 308.505 to 308.665 that is false or fraudulent commits perjury and, upon conviction, shall be punished as otherwise provided by law for such crime.

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is a Class A misdemeanor. [Subsections (3) and (4) of 1959 Replacement Part enacted as 1955 c.488 §2; subsections (3) and (4) of 1959 Replacement Part renumbered as part of 321.991; subsection (7) enacted as 1969 c.605 §58; 1971 c.529 §33; 1977 c.884 §11; subsection (5) enacted as 1981 c.139 §4; 1997 c.154 §44; 1997 c.541 §88; 1999 c.21 §22; 1999 c.1051 §174; 2011 c.597 §83]
309.026 Sessions; hearing of petitions; applications to waive 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. (a) The board shall hear petitions for the reduction of:
   (i) The assessed value or specially assessed value of property as of January 1 or as determined under ORS 308.146 (6)(a);
   (ii) The real market value of property as of January 1 or as determined under ORS 308.146 (6)(a);
   (iii) The maximum assessed value of property as of January 1 or as determined under ORS 308.146 (5)(a) or (8)(a); and
   (iv) Corrections to value made under ORS 311.208.

3. The board shall hear petitions for a 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 §196; 1993 c.270 §41; 1997 c.541 §227; 1999 c.579 §10; 1999 c.655 §5; 2001 c.422 §1; 2009 c.443 §3; 2015 c.92 §4]

309.100 Petitions; 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 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.

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:
   (i) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the property.
   (ii) A person duly qualified to practice law or public accountancy in this state.
   (iii) A legal guardian or conservator who is acting on behalf of an owner of the property.
   (iv) A real estate broker or principal real estate broker licensed under ORS 696.022.
   (v) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered appraiser under ORS 308.100.
   (vi) The lessee of the property.
   (vii) An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property.
   (viii) 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.
   (ix) The authorization shall be signed by the owner or other person described in subsection (1) of this section.
   (x) 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.
   (xi) 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.
   (xii) 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.

5. 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 §3; 1983 s.s. c.5 §9; 1985 c.318 §3; 1989 c.330 §4; 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]
309.150 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]  

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. For purposes of this paragraph:  
(A) A clerical error is an error on the roll:  
(i) That 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  
(ii) That is the result of an error in the ad valorem tax records of the assessor, or the records of the department for property assessed under ORS 306.126;  
(iii) For which the information necessary to make the correction is contained in the records.  
(B) Clerical 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.  
(c) The officer may correct any other error or omission of any kind. Corrections that are not corrections of errors in valuation judgment include, but are not limited to:  
(i) The elimination of an assessment to one taxpayer of property belonging to another on the assessment date;  
(ii) The correction of a tax limit calculation;  
(iii) The correction of a value on appeal; and  
(iv) 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 from an error in a notice filed under ORS 310.060.  
(D) For purposes of this paragraph, an error in valuation judgment is one in which the assessor or the department would arrive at a different opinion of value.  
(e) The officer shall make any change requested by the department that relates to an assessment of property made by the department under ORS 308.505 to 308.665.  
(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 must be made in writing and state the type of error and the statutory authority for the correction. The officer may correct the roll for any year or years not exceeding five years prior to the last certified roll.  
(b) Any additional taxes resulting from corrections for years prior to the current year are deemed assessed and imposed in the particular year or years to which the corrections apply. Addition of tax to a prior year’s tax roll due to corrections under this section may not be considered in calculating the effect of the tax limitation under Article XI, section 11b, of the Oregon Constitution, for the current year.  
(3) The officer in charge of the roll shall make a correction pursuant to this section in whatever manner is necessary to make the assessment, tax or other proceeding regular and valid. The correction must be distinguishable upon the roll, must include the date of the correction and must identify the officer making the correction.  
(4) Whenever a correction that will increase the assessment to which it relates is to be made after the assessor has delivered the roll to the tax collector, unless the correction is made by order of the department, the officer in charge of the tax roll shall follow the procedure prescribed in ORS 311.216 to 311.232. The provisions of ORS 311.216 to 311.232 with respect to appeals apply under this subsection.  
(5) Corrections that would result in a change in assessed value or real market value of less than $1,000 do 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.  
(6) 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; 2013 c.176 §4]  

311.208 Notice required when current roll corrections increase value; time for payment of additional taxes; appeals.  
(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) Notify the owner of the owner’s appeal rights as determined under subsection (6) of this section.

(5) The correction shall be made by the officer in charge of the roll in the manner described in ORS 311.205 (2), (3) and (5).

(6) A correction made under this section may be appealed as follows:
   (a) For state-appraised industrial property as defined in ORS 306.126, the owner must file an appeal with the tax court in the manner provided in ORS 305.403 not later than December 31 of the current tax year.
   (b) For all other property, the owner must file a petition with the county board of property tax appeals in the manner provided in ORS 309.100 not later than December 31 of the current tax year. [1997 c.541 §280; 2001 c.303 §10; 2013 c.176 §5; 2015 c.36 §13]

311.216 Notice of intention to add omitted property to rolls; treatment of unreported or 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]

311.219 Notice of intention to assess omitted property. Notice shall be given to the person claiming to own the property or occupying it or in possession thereof of the assessor’s intention to add the property to the assessment or tax roll under ORS 311.216 to 311.232 and to assess the property in such person’s name. Where the assessor has reason to believe the property is either no longer in existence or is outside the county, the assessor shall give the notice to the owner or the person in possession on the assessment date of the year or years as to which the property was omitted. The notice shall be in writing, mailed to the person’s last-known address. It shall describe the property in general terms, and require the person to appear at a specified time, not less than 20 days after mailing the notice, and to show cause, if any, why the property should not be added to the assessment and tax roll and assessed to such person. [Formerly 311.209]

311.223 Correction of rolls; filing statement of facts; notice to taxpayer; powers of assessor; appeals.

(1) If the person or party notified as provided in ORS 311.219 does not appear or if the person or party appears and fails to show good and sufficient cause why the assessment shall not be made, the assessor shall proceed to correct the assessment or tax roll or rolls from which the property was omitted. The assessor shall add the property to the tax roll or rolls, with the proper valuation, and extend on the tax roll or rolls taxes at the consolidated rate under ORS 310.147 that is applicable in the code area in which the property was located for each year as to which it was omitted. To carry out the correction of a tax roll or rolls the assessor shall send a written statement to the tax collector instructing the tax collector to make the necessary changes on the tax roll. The statement shall contain all of the information needed by the tax collector to make the changes in the roll and it shall be dated and signed by the assessor or the deputy of the assessor. The tax collector shall then correct the tax roll.

(2) Immediately after the assessor corrects the assessment or tax roll, the assessor shall file in the office of the assessor a statement of the facts or evidence on which the assessor based the correction and notify the taxpayer by written notice, sent by first class mail to the taxpayer’s last-known address, of:
(a) The date and amount of the correction;
(b) If a penalty for failing to timely file a real, combined or personal property return as required by ORS 308.290 is being imposed under ORS 308.295 or 308.296, the amount of the penalty;
(c) An explanation of the collection procedures applicable to the corrected amount, or applicable to the penalty; and
(d) An explanation of the taxpayer’s right to appeal under subsection (4) of this section and the procedures for making the appeal.

(3) To enable the assessor to comply with this section, the assessor is invested with all the powers of the county clerk under the law in force during the years for which correction may be made under ORS 311.216 to 311.232 and thereafter.

(4) Any person aggrieved by an assessment made under ORS 311.216 to 311.232 may appeal to the tax court within 90 days after the correction of the roll as provided in ORS 305.280 and 305.560. If a penalty under ORS 308.295 or 308.296 is imposed for failing to timely file a real, combined or personal property return with respect to the assessment under ORS 311.216 to 311.232, the imposition of the penalty may be appealed to the tax court. The appeal of the penalty must be brought within the same period of time as an assessment under ORS 311.216 to 311.232 may be appealed to the tax court. An appeal of the value assigned under this section, or of any penalty described in subsection (2)(b) of this section, may not be made to the board of property tax appeals under ORS 309.100. [Formerly 311.211; 2001 c.114 §27; 2001 c.303 §1; 2007 c.452 §1; 2011 c.204 §9]

311.229 Taxes added to rolls become liens; delinquency of additional taxes; interest added for willful evasion; prepayment.
(1) When the taxes are added to an assessment or tax roll under ORS 311.216 to 311.232, 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. Notwithstanding ORS 311.226, for purposes of collection and enforcement, the additional taxes added to the roll under this subsection 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 it appears to the satisfaction of the assessor that the omission of the property was due to a willful attempt to evade the payment of taxes on the property, then the assessor shall so advise the tax collector and interest at the rate provided in ORS 311.505 (2) shall be added to the amounts so charged, which interest shall be computed from the date or dates that payment of the charges were properly due, and which interest shall continue to run until payment of the charges.

(3) Additional taxes arising from the assessment of omitted property under ORS 311.216 to 311.232 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(4) For purposes of this section, “additional taxes” includes increases in taxes that have already been extended on the roll. [Formerly 311.213; 1999 c.862 §2; 2001 c.303 §8]

311.232 Mandamus to require placing omitted property on roll. If any officer described in ORS 311.216 to 311.232 fails to comply with ORS 311.216 to 311.232 on the discovery by the officer, or on credible information being furnished by another person, that property has been omitted from taxation, the state, on the relation of any state officer or of any taxpayer of the county in which the failure occurs, may proceed against the officer in any court of competent jurisdiction by mandamus to compel the officer to comply with ORS 311.216 to 311.232. In the trial of the suit the question of what constitutes credible information is a question of fact to be determined by the court trying the case in the same manner other issues of fact are determined. If judgment is rendered that credible information has been discovered by or furnished to the officer, or that the officer has reason to believe that property has been omitted from taxation, the officer shall forthwith place the omitted property on the assessment and tax roll in accordance with ORS 311.216 to 311.232. If judgment is rendered against the officer, the officer shall be liable for all costs of the mandamus suit, and for a reasonable attorney fee at trial and on appeal for relator’s attorney, which shall be taxed as a part of the costs of the suit. If proceedings are instituted under this section on the relation of any private individual, the relator shall give bond to the satisfaction of the court to pay all costs that may be recovered against the relator. [Formerly 311.215; 2017 c.315 §15]

311.235 Bona fide purchaser; when taxes become lien. No ad valorem taxes imposed on real property, a manufactured structure or a floating home purchased by a bona fide purchaser shall be a lien on the real property, manufactured structure or floating home unless at the time of purchase the taxes were a matter of public record. For the purposes of this section, if the tax roll has not been prepared for the tax year in which the purchase occurred, taxes levied or to be levied for the tax year of purchase are taxes which are a matter of public record. A bona fide purchaser is an individual purchaser of a fee simple interest in a single property, who acquires the property in good faith, in an arm’s-length transaction and for fair market value and adequate consideration. [Formerly 311.220]

311.250 Tax statements; rules.
(1) Except as to real property assessed to “unknown owners” pursuant to ORS 308.240 (2), on or before October 25 in each year, the tax collector shall deliver or mail to each person (as defined in ORS 311.605) shown on the tax roll as an owner of real or personal property, or to an agent or representative authorized in writing pursuant to ORS 308.215 by such person, a written statement of property taxes payable on the following November 15.

(2) The failure of a taxpayer to receive the statement described in this section shall not invalidate any assessment, levy, tax, or proceeding to collect tax.
311.405 Tax as lien; priority; effect of removal, sale or transfer of personal property.

(1)(a) All ad valorem property taxes lawfully imposed or levied on real or personal property are liens on such real and personal property, respectively. Such taxes include delinquent taxes on personal property made a lien on real property, and ad valorem property taxes on real or personal property added to an assessment or tax roll pursuant to ORS 311.216 to 311.232.

(b) If machinery and equipment and the real property upon which the machinery and equipment is located are owned by the same persons, all ad valorem property taxes lawfully imposed or levied on the machinery and equipment are a lien on the real property on which the machinery and equipment is located.

(2) Taxes on real property shall be a lien thereon from and including July 1 of the year in which they are levied until paid and, except as otherwise specifically provided by law, such lien shall not be voided or impaired.

(3)(a) Taxes on personal property shall be a lien:

(A) On any and all of the particular personal property assessed and on any and all of the personal property assessed as the same category, as disclosed by the property tax return and assessment list; and

(B) For purposes of distraint, on any and all of the taxable personal property owned by or in the possession or control of the person assessed.

(b) The liens for taxes on personal property shall attach on and after July 1 of the year of assessment and shall continue until the taxes are paid, except as provided in subsection (4) or (5) of this section and ORS 311.410.

(c) Notwithstanding paragraph (a) of this subsection, if possession of personal property that is subject to a perfected security interest is taken by a secured party on default, the lien for taxes on the property shall be limited to the taxes on the particular property and not the taxes on any other property of the debtor.

(4)(a) If a manufactured structure or floating home is removed from the county in which it is assessed to another county in this state on or after January 1 and before July 1 of the assessment year, taxes on the manufactured structure or floating home shall be a lien on the manufactured structure or floating home that attaches as of the day preceding the date of removal.

(b) If a manufactured structure or floating home is removed from the county in which it is assessed to a location that is outside this state on or after January 1 and before July 1 of the assessment year, the manufactured structure or floating home shall be removed from the assessment and tax roll for the corresponding tax year beginning July 1.

(c) The taxes arising from a lien under this subsection may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(d) As used in this subsection, “taxes” means the amount computed using the assessed value then on the assessment and tax roll for the manufactured structure or floating home or the value that next would be used on the assessment and tax roll, if known at the time the lien is created, and the assessor’s best estimate of taxes, special assessments, fees and other charges for the tax year that corresponds to the assessment year in which the removal occurs.

(5)(a) If taxable personal property, other than a manufactured structure or floating home, is removed from the county in which it is assessed, or is sold or otherwise transferred to another owner, on or after January 1 and before July 1 of the assessment year, taxes on the removed, sold or transferred personal property shall be a lien on the personal property described in subsection (3)(a)(A) of this section that attaches as of the day preceding the date of removal, sale or transfer.

(b) The taxes arising from a lien under this subsection may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(6) Where real or personal property is omitted from the assessment or tax roll prepared as of January 1 of the current tax year and notice is given pursuant to ORS 311.216 to 311.232 during such year and the property subsequently is added to such roll pursuant to ORS 311.216 to 311.232, the taxes shall be a lien on such property and no lien shall be created on such property at the same time and in the same manner as taxes became liens on the taxable property not so omitted from the roll.

(7) Taxes on real and personal property omitted from an assessment or tax roll prepared as of the assessment date of a prior calendar or tax year and added to such roll pursuant to ORS 311.216 to 311.232, shall be a lien on such property from and including the date the addition or correction is made on such roll. Where the omitted property consists of any building,
structure or improvement which has been severed or removed from the land, the taxes on such property also shall be a lien against the land. Where the property omitted is personal property, the taxes also shall be a lien on any and all of the taxable personal property of the person assessed from such date of addition or correction. However, no taxes shall become a lien on real or personal property under this subsection where the property was transferred to a bona fide purchaser as defined in ORS 311.235 after the date the roll was certified in such prior tax year and prior to the lien date provided for hereunder.

(8) Each lien, whether on real or personal property, shall include all interest, penalties and costs applicable by law to any of such taxes.

(9)(a) Except as provided in paragraph (b) of this subsection, the liens for ad valorem taxes, including and not limited to the general lien provided by subsection (3)(a)(B) of this section, created under this section are superior to, have priority over and shall be fully satisfied before all other liens, judgments, mortgages, security interests or encumbrances on the property without regard to date of creation, filing or recording.

(b) If it becomes necessary to charge personal property taxes against real property under ORS 311.645, if the county obtains a judgment under ORS 311.455 or records a warrant under ORS 311.625, or if in any other manner personal property taxes are made a lien against real property, any judgment, mortgage or other lien or encumbrance on the real property that is placed of record prior to the date the personal property tax becomes a lien on the real property has priority over the personal property tax lien. [Amended by 1953 c.707 §2; 1955 c.720 §3; 1981 c.346 §1; 1985 c.794 §1; 1991 c.459 §249; 1991 c.903 §4; 1997 c.541 §293; 2001 c.42 §1; 2001 c.229 §1; 2011 c.113 §1; 2012 c.30 §6]

311.410 Effect of property transfer or lease termination on lien and on taxability of property.

(1) Real property or personal property that is subject to taxation on July 1 shall remain taxable and taxes levied thereon for the ensuing tax year shall become due and payable, notwithstanding any subsequent transfer of the property to an exempt ownership or use. Taxes that are unpaid as of the termination of a lease, lease purchase agreement or other instrument resulting in the taxation of the property shall remain a lien on the property as of the day prior to the termination of the lease, lease purchase agreement or other instrument. Real or personal property exempt from taxation on July 1 shall remain exempt for the ensuing tax year, notwithstanding any transfer within the tax year to a taxable ownership or use.

(2) A sale or transfer of personal property or any part of personal property does not affect the lien under ORS 311.405 (3)(a)(A), (4) or (5). Taxes on personal property transferred from a tax exempt to a taxable ownership or use shall be a lien on any and all of the personal property assessed to the person and on any and all of the taxable personal property of the person assessed from and including the date of transfer until paid. The liens shall be subject to this section and ORS 311.405.

(3) Notwithstanding ORS 311.405 (4) or (5), real or personal property is exempt for the ensuing tax year if the property is transferred or changed from a taxable to an exempt ownership or use at any time before July 1 of any year. However, if the property is exempt under a provision of ORS chapter 307 that requires the filing of a claim for exemption, the transfer does not operate to render the property exempt from taxation for the ensuing tax year unless the required claim for exemption is filed on or before the date specified in the applicable statute or within 30 days after the date of acquisition or, if relevant under the applicable exemption statute, the change of use of the property, whichever is later. This section does not limit other statutes that prescribe filing dates for claiming an exemption.

(4) Real or personal property is taxable for the ensuing tax year if the property is transferred or changed at any time before July 1 of any year from an exempt ownership to a taxable ownership or taxable use. Transfer of real or personal property from a tax-exempt use to a taxable use at any time between January 1 and June 30 of any year constitutes notice to the transferee, owner or person in control of the property that the property will be subject to taxation for the ensuing tax year. In the case of real property, the transferee, owner or person in control of the property shall advise the county assessor of the transfer. In the case of personal property, the transferee, owner or person in control of the property shall make a return of the property that lists the information required by ORS 308.290 within 30 days after the transfer.

(5) Real property that is the subject of eminent domain proceedings instituted by a public body shall, for the purposes of this section, be deemed to have been transferred as of the date of payment therefor, the date of entry into possession by the public body or the date of entry of judgment in the eminent domain proceedings, whichever is earlier. [Amended by 1953 c.707 §2; 1963 c.233 §1; 1969 c.237 §2; 1973 c.402 §16; 1977 c.884 §18; 1979 c.692 §11; 1979 c.704 §2; 1981 c.346 §2; 1987 c.756 §9; 1991 c.459 §250; 1993 c.270 §59; 1995 c.513 §3; 1997 c.819 §13; 2001 c.42 §2; 2001 c.229 §2; 2005 c.94 §63; 2007 c.524 §1]

311.465 Summary collection of tax on property about to be removed, sold, dissipated or destroyed.

(1) Subsection (2) of this section applies if:

(a) The county assessor discovers personal property subject to assessment for taxation in any year and taxes imposed on the property in a prior year are delinquent; or

(b) In the opinion of the assessor it seems probable that personal property may be removed from the county, sold, dissipated or destroyed before the taxes on the property otherwise become due and payable and it further appears that the owner or person liable for the taxes had no property subject to taxation in the county during either of the two preceding tax years, or was delinquent in the payment of any tax imposed during the two preceding tax years in respect to property in any jurisdiction, whether within or without the state, or is not financially responsible or intends to depart from the state before the taxes become due.

(2) The assessor may, immediately after listing and valuing the personal property for assessment and taxation, levy, demand and collect for remittance to the tax collector, or the tax collector may collect, the taxes on the property as follows:

(a) If the assessor is able to compute the exact amount of taxes, special assessments, fees and charges, such amount shall be paid to the assessor for remittance to the tax collector or directly to the tax collector; or
(b) If the assessor is unable to compute the exact amount at the time, either:
   (A) There shall be paid the amount that the assessor estimates is needed to pay the taxes, special assessments, fees and
   other charges to become due; or
   (B) There shall be deposited with the tax collector a bond with a good and sufficient undertaking in the amount that the
   assessor considers adequate to ensure payment of the taxes to become due. In no event shall the bond amount exceed twice
   the amount of the taxes, special assessments, fees and other charges computed by the assessor under this paragraph.

(3) Taxes paid or bonded for under subsection (2) of this section shall be entitled to the discount provided by ORS 311.505.
ORS 311.370 shall apply to the amounts assessed and collected under subsection (2) of this section. Any taxes collected under
subsection (2) of this section, and subject to refund on order of the tax court under ORS 311.467, shall be held in the special
account mentioned in ORS 311.370 by the county treasurer until the period for petitioning for review of the assessor’s action
has expired, or, when a review is had, until the review is determined. If the tax court, upon review, orders a refund, the
county treasurer shall make the refund from the special account within three days after entry of the department’s order.

(4) If the owner or person liable for the taxes on the personal property fails to pay the tax on demand by the assessor,
the assessor shall certify the assessment and tax levies made under this section to the tax collector of the county. The taxes
thereupon shall be collected by the tax collector in the manner of collecting delinquent taxes on personal property. The taxes
when so certified by the assessor are delinquent and subject to the provisions of law for the collection of delinquent taxes on
personal property. [Amended by 1955 c.710 §2; 1975 c.780 §12; 1979 c.350 §14; 1981 c.804 §89; 1995 c.650 §67; 1999 c.21 §29]

311.470 Distrainting property about to be removed from state or dissipated. If at any time the tax collector has reason
to believe that personal property, including property classified as real property machinery and equipment, is being removed
or is about to be removed from the state, is being dissipated or is about to be dissipated, the tax collector immediately shall
distrain sufficient of the property or cause sufficient property to be distrained to pay the taxes, together with interest, penalties
and costs, on all the property being removed or about to be removed, being dissipated or about to be dissipated. The tax
collector shall cause such property to be sold or sell such property in the manner provided in ORS 311.640. [Amended by
1973 c.305 §7; 1981 c.346 §8; 2001 c.41 §1]

446.003 Definitions for ORS 446.003 to 446.200 and 446.225 to 446.285 and ORS chapters 195, 196, 197, 215 and 227. As
used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS chapters 195, 196, 197, 215 and 227, the
following definitions apply, unless the context requires otherwise, or unless administration and enforcement by the State
of Oregon under the existing or revised National Manufactured Housing Construction and Safety Standards Act would be
adversely affected, and except as provided in ORS 446.265:

(1) “Accessory building or structure” means any portable, demountable or permanent structure established for use of
the occupant of the manufactured structure and as further defined by rule by the Director of the Department of Consumer
and Business Services.

(2)(a) “Alteration” means any change, addition, repair, conversion, replacement, modification or removal of any
equipment or installation that may affect the operation, construction or occupancy of a manufactured structure.
(b) “Alteration” does not include:
   (A) Minor repairs with approved component parts;
   (B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;
   (C) Adjustment and maintenance of equipment; or
   (D) Replacement of equipment or accessories in kind.

(3) “Approved” means approved, licensed or certified by the Department of Consumer and Business Services or its
designee.

(4) “Board” means the Residential and Manufactured Structures Board.

(5) “Cabana” means a stationary, lightweight structure that may be prefabricated, or demountable, with two or more
walls, used adjacent to and in conjunction with a manufactured structure to provide additional living space.

(6) “Certification” means an evaluation process by which the department verifies a manufacturer’s ability to produce
manufactured structures to the department rules and to the department approved quality control manual.

(7) “Conversion” or “to convert” means the process of changing a manufactured structure in whole or in part from one
type of vehicle or structure to another.

(8) “Dealer” means any person engaged in the business of selling, leasing or distributing manufactured structures or
equipment, or both, primarily to persons who in good faith purchase or lease manufactured structures or equipment, or
both, for purposes other than resale.

(9) “Department” means the Department of Consumer and Business Services.

(10) “Director” means the Director of the Department of Consumer and Business Services.

(11) “Distributor” means any person engaged in selling and distributing manufactured structures or equipment for
resale.

(12) “Equipment” means materials, appliances, subassembly, devices, fixtures, fittings and apparatuses used in the
construction, plumbing, mechanical and electrical systems of a manufactured structure.

(13) “Federal manufactured housing construction and safety standard” means a standard for construction, design and
performance of a manufactured dwelling promulgated by the Secretary of Housing and Urban Development pursuant to

(14) “Fire Marshal” means the State Fire Marshal.
(15) “Imminent safety hazard” means an imminent and unreasonable risk of death or severe personal injury.

(16) “Insignia of compliance” means:
(a) For a manufactured dwelling built to HUD standards for such dwellings, the HUD label; or
(b) For all other manufactured structures, the insignia issued by this state indicating compliance with state law.

(17) “Inspecting authority” or “inspector” means the Director of the Department of Consumer and Business Services or representatives as appointed or authorized to administer and enforce provisions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this section.

(18) “Installation” in relation to:
(a) Construction means the arrangements and methods of construction, fire and life safety, electrical, plumbing and mechanical equipment and systems within a manufactured structure.
(b) Siting means the manufactured structure and cabana foundation support and tiedown, the structural, fire and life safety, electrical, plumbing and mechanical equipment and material connections and the installation of skirting and temporary steps.

(19) “Installer” means any individual licensed by the director to install, set up, connect, hook up, block, tie down, secure, support, install temporary steps for, install skirting for or make electrical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consultation or supervision for any of these activities, except architects registered under ORS 671.010 to 671.220 or engineers registered under ORS 672.002 to 672.325.

(20) “Listed” means equipment or materials included in a list, published by an organization concerned with product evaluation acceptable to the department that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or materials meets appropriate standards or has been tested and found suitable in a specified manner.

(21) “Lot” means any space, area or tract of land, or portion of a manufactured dwelling park, mobile home park or recreation park that is designated or used for occupancy by one manufactured structure.

(22)(a) “Manufactured dwelling” means a residential trailer, mobile home or manufactured home.
(b) “Manufactured dwelling” does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

(23) “Manufactured dwelling park” means any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(24)(a) “Manufactured home,” except as provided in paragraph (b) of this subsection, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, “manufactured home” has the meaning given the term in the contract.

(25)(a) “Manufactured structure” means a recreational vehicle, manufactured dwelling or recreational structure.
(b) “Manufactured structure” does not include any building or structure regulated under the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code.

(26) “Manufacturer” means any person engaged in manufacturing, building, rebuilding, altering, converting or assembling manufactured structures or equipment.

(27) “Manufacturing” means the building, rebuilding, altering or converting of manufactured structures that bear or are required to bear an Oregon insignia of compliance.

(28) “Minimum safety standards” means the plumbing, mechanical, electrical, thermal, fire and life safety, structural and transportation standards prescribed by rules adopted by the director.

(29) “Mobile home” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(30) “Mobile home park” means any place where four or more manufactured structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Mobile home park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

(31) “Municipality” means a city, county or other unit of local government otherwise authorized by law to enact codes.

(32) “Recreational structure” means a campground structure with or without plumbing, heating or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency or transitional
housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, by the director.

(33) “Recreational vehicle” means a vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and as further defined, by rule, by the director.

(34) “Residential trailer” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

(35) “Sale” means rent, lease, sale or exchange.

(36) “Skirting” means a weather resistant material used to enclose the space below the manufactured structure.

(37) “Tiedown” means any device designed to anchor a manufactured structure securely to the ground.

(38) “Transitional housing accommodations” means accommodations described under ORS 446.265.

(39) “Utilities” means the water, sewer, gas or electric services provided on a lot for a manufactured structure. [1975 c.54 §10 (enacted in lieu of 446.002 and 446.004); 1979 c.684 §1; 1983 c.707 §1; 1987 c.274 §1; 1987 c.414 §21; 1989 c.527 §1; 1989 c.648 §§1,1a; 1989 c.683 §1; 1989 c.919 §6b; 1991 c.226 §1; 1991 c.844 §21; 1993 c.744 §47; 1995 c.251 §1; 1997 c.205 §1; 1999 c.758 §7; 2003 c.675 §6; 2005 c.22 §313; 2009 c.259 §25; 2009 c.567 §28; 2013 c.161 §2; 2013 c.196 §21]

**446.525 Special assessment; lien; collection.**

(1) Except as provided in ORS 308.250 (2)(b), a special assessment is levied annually upon each manufactured dwelling that is assessed for ad valorem property tax purposes as personal property. The amount of the assessment is $10.

(2) On or before July 15 of each year, the county assessor shall determine and list the manufactured dwellings in the county that are assessed for the current assessment year as personal property. Upon making a determination and list, the county assessor shall cause the special assessment levied under subsection (1) of this section to be entered on the general assessment and tax roll prepared for the current assessment year as a charge against each manufactured dwelling so listed. Upon entry, the special assessment shall become a lien, be assessed and be collected in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state.

(3) Any amounts of special assessment collected pursuant to subsection (2) of this section shall be deposited in the county treasury, paid over by the county treasurer to the State Treasury and credited to the Mobile Home Parks Account to be used exclusively for carrying out ORS 446.380, 446.385, 446.392 and 446.543 and implementing the policies described in ORS 446.515 and compensating the county for billing and collecting any special assessment under subsection (2) of this section. The Housing and Community Services Department shall pay to a county $1.50 for each special assessment account that the county bills under subsection (2) of this section.

(4) In lieu of the procedures under subsection (2) of this section, the Director of the Housing and Community Services Department may make a direct billing of the special assessment to the owners of manufactured dwellings and receive payment of the special assessment from those owners. In the event that under the billing procedures any owner fails to make payment, the unpaid special assessment shall become a lien against the manufactured dwelling and may be collected under contract or other agreement by a collection agency or may be collected under ORS 293.250, or the lien may be foreclosed by suit as provided under ORS chapter 88 or as provided under ORS 87.272 to 87.306. Upon collection under this subsection, the amounts of special assessment shall be deposited in the State Treasury and shall be credited to the Mobile Home Parks Account to be used exclusively for carrying out ORS 446.380, 446.385, 446.392 and 446.543 and implementing the policies described in ORS 446.515. [1989 c.918 §3; 1999 c.676 §28; 2007 c.71 §134; 2007 c.906 §43; 2015 c.217 §2]

**Note:** See note under 446.515

**508.270 Fishing, boat license fees in lieu of other taxes and licenses on crab pots; reports to county assessor.**

(1) Either the commercial fishing license required by ORS 508.235 or the boat license required by ORS 508.260 is in lieu of all taxes and licenses on crab pots used by a person so licensed or used in connection with a boat so licensed.

(2) Crab pots shall be reported to the county assessor by each owner and listed for ad valorem taxation, but if the owner of such crab pots furnishes documentary proof to the assessor, not later than August 1 of each year, that the owner possesses a current commercial fishing license under ORS 508.235 or that the boat of the owner is currently licensed under ORS 508.260, the assessor shall cancel any assessment made by the assessor of crab pots used by such person or used in connection with such person’s licensed boat. [1969 c.649 §2; 1993 c.270 §69]

**748.414 Funds exempt from certain taxes.** Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment. [1987 c.490 §24]

**801.285 “Fixed load vehicle.” “Fixed load vehicle” means all of the following apply to the vehicle:**

(1) It is a vehicle with or without motive power that is designed and used primarily:

(a) To support and move a permanent load in the form of equipment or appliances constructed as part of or permanently attached to the body of the vehicle;

(b) For transportation of equipment or appliances that are ordinarily kept on or in the vehicle in order that the vehicle may be used for its primary purpose; and
(c) Except for the transportation of permanent load, appliances and equipment described in paragraphs (a) and (b) of this subsection, for purposes other than for the transportation of persons or property over public highways or streets.

(2) It is a vehicle other than the following:
   (a) A travel trailer.
   (b) A tow vehicle, including a tow vehicle with cranes, hoists or dollies.
   (c) A truck-mounted transit mixer or volumetric mixer.
   (d) A self-propelled mobile crane.

(3) It is a vehicle that may include, but is not limited to, the following vehicles:
   (a) Air compressors, air drills, asphalt plants, asphalt spreaders, bituminous plants, bituminous mixers, bituminous spreaders and bucket loaders;
   (b) Concrete batch plants, concrete mixers other than transit mixers or volumetric mixers, cement spreaders, carryalls, crawler cranes, crushers and crushing plants, diggers and ditches, power units and plants;
   (c) Earthmoving scrapers, electric generating equipment, electric load-bank and wiring equipment, front-end loaders, leveling graders, lighting plants and portable wiring, motor graders, payloaders, power hoists, road graders, scoopmobiles, skip hoists, stackers and hoists;
   (d) Athey wheels, backhoes, bituminous and concrete pavement finishers, drag lines, fork lift trucks, log loaders, portable bins, portable parts and storage bins, portable shops, portable storage tanks, power shovels, road rollers, sheepsfoot rollers and paving mixers, towermobiles, welders, yarders;
   (e) Bituminous and concrete finishing machines, elevator equipment, scarifiers and rooters, traction engines, vibro screens and rotary screens, wheeled and crawler tractors other than truck tractors; and
   (f) Apron feeders, grain grinders, grain rollers, sand classifiers and drags, sawmills and special construction equipment, scrap metal balers, scrubber screens and plate feeders. [1983 c.338 §47; 1985 c.71 §1; 1995 c.79 §367; 2003 c.655 §87; 2017 c.539 §1]

801.333 “Manufactured structure.” “Manufactured structure” has the meaning given that term in ORS 446.561. [1993 c.696 §3; 2003 c.655 §89]

801.500 “Special use trailer.”
(1) “Special use trailer” means a trailer described under any of the following:
   (a) A trailer that is eight and one-half feet or less in width and of any length and that is used for commercial or business purposes.
   (b) A trailer that is used temporarily on a construction site for office purposes only.
   (c) A mobile modular unit.

(2) “Special use trailer” does not include any travel trailer. [1985 c.16 §26; 1993 c.696 §7; 2003 c.655 §90a]

801.565 “Travel trailer.” “Travel trailer” means:
(1) A recreational vehicle without motive power that is eight and one-half feet or less in width and is not being used for commercial or business purposes; and
(2) A prefabricated structure that is eight and one-half feet or less in width and that is not being used for commercial or business purposes. [1983 c.338 §104; 1993 c.696 §8; 2003 c.655 §93]

803.585 Registration fees in lieu of certain other taxes and licenses; exemptions.
(1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the registration fees under the vehicle code are in lieu of all other taxes and licenses, except municipal license fees under regulatory ordinances, imposed on vehicles, the owners of such vehicles or the use of or any privilege related to such vehicles. Fixed load vehicles are not exempt from ad valorem taxation by this section.

(2) Travel trailers subject to registration and titling under the vehicle code are not subject to ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxation as provided in ORS 308.880.

(3) This section does not apply to the privilege tax imposed under ORS 320.405 or the use tax imposed under ORS 320.410. [1983 c.338 §221; 1989 c.864 §8; 1991 c.459 §438h; 2003 c.655 §115; 2017 c.750 §117]

820.570 Violating trip permit requirements for manufactured structures; penalty.
(1) A person commits the offense of violating trip permit requirements for manufactured structures if the person does any of the following:
   (a) Moves a manufactured structure on a highway of this state without a trip permit for the movement. This paragraph does not apply to movements of manufactured structures by vehicle transporters as permitted under ORS 822.310.
   (b) Fails to prominently display a trip permit on the rear of a manufactured structure being moved when a trip permit is required for the move.
   (c) Moves a manufactured structure when a trip permit is required without completing the permit prior to the movement.

(2) The offense described under this section, violating trip permit requirements for manufactured structures, is a Class B traffic violation. [1983 c.338 §788; 1985 c.16 §385; 1985 c.416 §9; 2003 c.655 §123]

830.790 Certificate or registration fees. (1) The biennial fee for the original or renewal certificate of number or registration is:
(1) $4.50 per foot, or portion thereof, for all sailboats 12 feet in length or more and for all motorboats.
(b) $6, for boats that are assessed by the Department of Revenue under ORS 308.505 to 308.681.
(c) $6, for amphibious vehicles that are licensed by the Department of Transportation.

(2) Notwithstanding subsection (1) of this section, no fee is required for boats owned by eleemosynary organizations which are operated primarily as a part of organized activities for the purpose of teaching youths scoutcraft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.

(3) Except for the assessment referred to in subsection (1)(b) of this section, the fees provided by this section are in lieu of any other tax or license fee.

(4) The operator of a boat livery holding five or more boats ready for hire may pay a biennial certificate of number fee of $90 plus $10 for each boat instead of the fee otherwise provided in this section. [Formerly 488.732; 1997 c.432 §1; 2003 c.455 §1; 2015 c.627 §1]
150-192-0500
Department Records Exempt from Disclosure

(1) The department shall protect as confidential the material listed in paragraph 2 of this rule and contained in its files relating to business activities of any person. (“Person” as used in this rule is defined in ORS 311.605.) There shall be no access to files containing confidential material except by department employees or by those authorized by the department, by statute, or by court order. Any department employee having access or charged with controlling or maintaining such files shall be familiar with and comply with the department’s procedures regarding security of the confidential material. Each employee shall sign a statement that explains their responsibility for the maintenance of confidentiality of the department’s confidential materials.

(2) The confidential materials included in the above referenced files are:

(a) Real and personal property tax returns and supporting schedules filed under ORS 308.290.

(b) Statements filed by companies such as railroads, gas, electric, and telephone in connection with the assessment of their properties under ORS 308.525.

(c) Reports of gross earnings filed by telephone companies under ORS 308.720 in connection with the in lieu tax on gross earnings.

(d) Statements filed by mutual or cooperative associations engaged in operating electric transmission and distribution systems under ORS 308.810 in connection with the in lieu tax on gross earnings.

(e) Information collected by the department for purposes of establishing values under ORS 321.282 and 321.430. This includes but is not limited to sales of logs, standing timber sales between private parties, logging costs and other costs associated with logging. Particulars of private timber sales and purchases where the sales price was agreed upon on or after October 3, 1989, and log sales and purchases made on or after July 1, 1989, are subject to the confidentiality provisions of 321.381 and are not subject to this rule.

(f) Harvest forecast information obtained by the department from private parties.

(g) “Trade secrets” as defined under ORS 192.501(2).

(h) Research and statistical data of the department which allows identification of confidential material relating to the business activities of any person.

(i) Any information voluntarily submitted to the department in confidence and not otherwise required by law to be submitted when such information should reasonably be considered confidential. Such information includes but is not limited to production records, sale or purchase records, financial statements or similar business records to the extent such information would permit identification of the individual enterprise. It is the finding of the department that public interest would suffer by the disclosure of such information.

(3) It is the policy of the department to protect confidential information in its files. However, if a court lawfully orders the disclosure of confidential data, the department will limit the information disclosed in strict compliance with rulings of the court. Confidential information provided by a taxpayer which is relevant to the determination of the taxability or valuation of the taxpayer’s property may be disclosed in any administrative proceeding in which the taxability or valuation is an issue.

(4) The handling of confidential materials shall be as follows:

(a) The department mail clerk makes distribution to the Property Tax Division which further sorts and directs the mail to the proper work station.

(b) Returns are assembled for processing in restricted areas only.

(c) Confidential material is stored in and returned to files at end of day and protected from visual inspection by unauthorized persons at all times.

(d) Confidential areas are kept secured after working hours.

(e) Materials acquired by field appraisers or delivered by taxpayers will follow procedures in the above form as stated in items c through e.

(5) For public access to department records not exempted from disclosure in ORS 192.501 and 192.502, refer to OAR 150-183-0010 for proper procedure.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 192.501, 192.502
Hist.: 12-31-80, Renumbered from 150-308.290; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; Renumbered from 150-192.501, REV 17-2016, f. 8-10-16, cert. ef. 9-1-16

150-305-0320
Mediation

Any statements made during mediation will be confidential except as provided for in ORS 314.840.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 305.501
Hist.: REV 1-2001, f. 7-31-01, cert. ef. 8-1-01; Renumbered from 150-305.501, REV 49-2016, f. 8-13-16, cert. ef. 9-1-16
Date When Writing or Remittance Deemed Received by Department of Revenue

(1) The term “due date” means the last date or the last day of the period prescribed for filing the writing or remittance and includes any extension of time granted for such filing.

(2) Any writing or remittance received after the due date bearing a legible postmark dated on or before the due date will be considered timely filed if properly mailed and the postmark is that of the United States Postal Service. If the postmark is other than that of the United States Postal Service, the writing or remittance will be considered timely filed if it has been properly mailed and is received not later than the time a writing or remittance postmarked by the United States Postal Service at the same point of origin on the due date would ordinarily be received. If the writing or remittance is not received within the period of time, it may be shown by satisfactory proof to the Department that the writing or remittance was placed in the hands of the United States Postal Service or in the hands of a private express carrier on or before the due date.

(a) Satisfactory proof will consist of one or more of the following:
   (A) If sent by United States registered mail, the date of registration shall be treated as the postmark date.
   (B) If sent by United States certified mail and the sender’s receipt is postmarked by a postal employee, the date of the United States postmark on such receipt shall be treated as the postmark date of the writing or remittance.
   (C) If sent by private express carrier, the date recorded on the transmittal receipt shall be treated as the postmark date.
   (D) If the writing or remittance bears a postmark date that is not legible or bears a postmark date dated later than the due date, it will be treated as having been mailed on or before the due date provided the person who is required to file the writing or remittance establishes by sworn affidavit that it was actually deposited on or before the due date in the hands of a private express carrier or in a government mail receptacle before the last collection of mail for the place in which it was deposited.
   (E) Any writing or remittance having a legible postmark other than that of the United States Postal Service and bearing a proper due date is considered timely filed although not received by the Department within the ordinary delivery time for such class mail if it is established that the delay was due to a delay in the transmission of the mail.
   (b) If the department has no record of receiving a return, the taxpayer may be able to establish satisfactory proof of timely mailing. Examples of evidence the department will consider include:
      (A) A history of timely filing returns with the department;
      (B) Proof of timely filed federal returns;
      (C) Written documentation from the taxpayer which would indicate that the taxpayer had timely filed. Such documentation may include correspondence to the department about refunds not received, or about checks for payment of tax which remain uncashed.
      (3) If the person required to file the document has reason to believe that the mailing of the writing or remittance is so close to the deadline that it could possibly fail to meet the requirements of timely filing, the writing or remittance should be mailed by registered or certified mail so that the sender will be able to obtain an official receipt in verification of the date the document was mailed.
      (4) In order for a writing or remittance to be considered “properly mailed” it must have been placed in a properly addressed envelope or other appropriate wrapper, postage duly prepaid, and placed in the hands of a private express carrier or deposited in a government mail receptacle.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 305.820

150-307-0020

Personal Property Definitions

(1) Goodwill. “Goodwill” is a saleable business asset based on reputation, not physical assets.

(2) Customer list. “Customer list” is a proprietary list containing information regarding a business enterprise’s clients and is part of the business records for that business.

(3) Contracts and contract rights. “Contracts and contract rights” refers to agreements between two or more parties, which establish mutual rights and responsibilities for a stated consideration, and rights created under such agreements. Examples of contracts include but are not limited to:
   (a) Contracts for sale of goods;
   (b) Covenants not to compete;
   (c) Contracts for purchase of supplies;
   (d) Contracts to rent or lease property;
   (e) Contracts to provide financing;
   (f) Contracts for services by employees or others;
   (g) Contracts for permission to use property or processes.

(4) When appraising property utilizing the income approach, the rent attributable to the property shall be based on market rent. “Market rent” is the rental income that the property would most probably command in the open market as of the assessment date. Market rent shall be used for both owner occupied and rented or leased property regardless of the terms of any particular rental or lease agreement encumbering the property.

(5) Trade secret. “Trade secret” means information, including a formula, pattern, compilation, program, device, method,
technique or process that derives independent economic value from not being generally known by other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.020

150-307-0030

Personal Property

Property classified as personal property is: (This list is not exclusive.)

1. Boats and vessels includes all floatable craft. See also ORS 308.260.

2. Merchandise and stock in trade, commonly referred to as inventories, include the following categories:
   a. Merchandise includes all classes of commodities which are obtained in a salable condition and held for sale in the ordinary course of business.
   b. Materials consist of goods purchased for use in manufacturing and upon which further work is necessary before they are available for disposal. Such goods may be raw materials or they may be partially fabricated commodities secured from others. Thus, things which are finished stock or merchandise for one establishment may be raw materials for another. However, when parts are manufactured and held for future use in manufacturing, they may be classed as finished parts but included in raw materials inventory.
   c. Supplies fall within two categories:
      i. Inventory Supplies consist of personal property owned by or in possession of the taxpayer, that are expended in the production of finished goods or will be consumed in the sale of the stock in trade of the taxpayer held for sale in the ordinary course of his business.
      ii. Noninventory Supplies include those items which are not to be expended in the production of finished goods or not to be sold to customers.
   d. Work in process applies to all goods to which manufacturing services have been applied and on which further operation will be necessary before the product is normally ready for disposition. The value of work in process includes material and any labor and factory service (overhead) which have been exerted in bringing the work to the present state of completion.
   e. Finished stock consists of completed products which are available for disposal, comparable to a dealer’s merchandise. See ORS 308.250 — Processor’s Exemptions, and ORS 311.211 — Omitted Property Statutes.
3. Livestock consisting of all domesticated or confined animals, birds, bees, fish and reptiles.
4. Movable machinery, movable tools and movable equipment include items readily movable as opposed to apparently stationary or fixed items. See paragraph (2)(b) of OAR 150-307-0010.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.020
Hist.: 1-54; 3-58; 11-59; 12-61; 12-65; 1-66; 12-66; 3-70; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-307.020(3), REV 53-2016, f. 8-13-16, cert. ef. 9-1-16

150-307-0050

Public Property Leased or Rented by Taxable Owner

1. Qualifying Conditions. The assessor shall assess and tax publicly owned real or personal property for the assessed or specially assessed value thereof uniformly with real property of nonexempt ownerships when the following conditions of a lease or other interest or estate less than fee simple are met. A lease or other possessory interest exists if the occupant is granted exclusive possession of a definitely described area for a specified period of time (term).

2. Exclusive Possession. The test is whether the occupant has sufficient control over the premises to warrant the label of possession. If the occupant can exclude others, including the owner (except for inspection, making repairs etc.) the occupant has possession. But, if the premises must be shared with others, such as a common pasture, the occupant does not have a possessory interest. When the property can be used for many purposes such as farming, recreational, residential, or mining, the right to use it for a single limited purpose might not constitute possession; yet, the same right to use may well be regarded as possessory if the property in question is used for a limited number of purposes. If the property in question is of little use for anything other than mining or recreation, the grant of the right to use it for one of these purposes embraces a substantial part of all of the practical uses to which the land may be put. Therefore, although such use is limited, it could be considered “exclusive.”

a. Revocation. A possessory interest may exist even though the agreement provides that it may be revoked upon notice, for cause or upon the happening of some event. If the use may be terminated, without notice or cause, it may be a mere non-possessory license which is ordinarily revocable at will and without notice.

b. “Management” or “Concession” agreements present special problems. For example, a county and a private corporation agree that the corporation will operate a county owned golf course for the county. Even though the agreement requires the corporation to meet many standards as to services, pricing, personnel etc., the corporation may still have a possessory interest if it has the exclusive right to occupy and operate the facilities without interference from the county and retains the major part of the proceeds. However, if the county is actively involved in the operation and allows the corporation a minor portion of the proceeds as compensation for its services, the corporation may be considered a mere agent or employee of the county.
(c) Parking Lots and Similar Arrangements. If the right is merely a “hunting license” to park in any available space, it is non-possessory. However, if a specific space is assigned, the interest may be possessory if the other conditions are met.

(3) Area. The occupant must have possession of an area that is definitely described or capable of being described.

(4) Term. A possessory interest may be for any period of time the parties agree upon.

(5) Rent. A lease is a contract and requires some sort of consideration in terms of money, goods, services, or other benefits.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.110

150-307-0060
Property Held Under Lease

(1) A new claim must be filed with the county assessor, as required under ORS 307.112(4), when a new lease, new lease purchase agreement, extension of current lease, extension of current lease-purchase agreement or any modification to the existing lease or lease-purchase agreement is made.

(2) The new claim must meet all the requirements of ORS 307.112.

(3) Late filing as provided in ORS 307.162(2) is permitted.

(4) The State of Oregon and the United States government are not permitted to file a claim for exemption under ORS 307.112.

(5) When used in reference to real property or tangible personal property, a lease is a contract of at least one year by which the owner of a property grants the rights of possession, use, and enjoyment of the property to another for a specified period of time in exchange for payment.

(6) Month-to-month tenancy or a general rental agreement is not considered the same as a lease for purposes of an exemption under this statute and will not qualify in an exemption claim.

(7) The assessor must be satisfied that the tax savings resulting from the exemption will inure solely to the benefit of the lessee.

(8) Sufficient documentary proof must be submitted at the time of application. Documentary proof to show the property tax savings is passed on to the lessee includes:

(a) A form prescribed by the department stating that the lessee and lessor agree that the tax savings resulting from the exemption will inure solely to the benefit of the lessee;

(A) The form must be signed by the lessor and lessee; and

(B) The form must specify how the tax savings inures to the lessee.

(b) Other documentation the county assessor deems necessary to prove that the lessee is receiving the full benefit of the tax savings; or

(c) An agreement under the terms of the lease that any tax savings resulting from the exemption will inure solely to the benefit of the lessee.

(9) Insufficient proof or failure to show the tax savings inures to the lessee as described above is grounds for denial of the exemption.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.112

Amend: 150-307-0060
Rule Title: Property Held Under Lease
Notice Filed Date: 10/23/2017

Rule Summary: 2017 Legislative Session (HB 3453) removed the language in ORS 307.112 that required “below market rent” for property leased from an exempt entity to an exempt entity. Amend the rule to be consistent with the new law.

Rule Text: (1) A new claim must be filed with the county assessor, as required under ORS 307.112(4), when a new lease, new lease-purchase agreement, extension of current lease, extension of current lease-purchase agreement or any modification to the existing lease or lease-purchase agreement is made. (2) The new claim must meet all the requirements of ORS 307.112. (3) Late filing as provided in ORS 307.162(2) is permitted. (4) The State of Oregon and the United States government are not permitted to file a claim for exemption under ORS 307.112. (5) When used in reference to real property or tangible personal property, a lease is a contract of at least one year by which the owner of a property grants the rights of possession, use, and enjoyment of the property to another for a specified period of time in exchange for payment. (6) Month-to-month tenancy or a general rental agreement is not considered the same as a lease for purposes of an exemption under this statute and will not qualify in an exemption claim. (7) The assessor must be satisfied that the tax savings resulting from the exemption will inure solely to the benefit of the lessee. (8) Sufficient documentary proof must be submitted at the time of application. Documentary proof to show the property tax savings is passed on to the lessee includes: (a) A form prescribed by the department stating
that the lessee and lessor agree that the tax savings resulting from the exemption will inure solely to the benefit of the lessee; (A) The form must be signed by the lessor and lessee; and (B) The form must specify how the tax savings inures to the lessee. (b) Other documentation the county assessor deems necessary to prove that the lessee is receiving the full benefit of the tax savings; or (c) An agreement under the terms of the lease that any tax savings resulting from the exemption will inure solely to the benefit of the lessee. (9) Insufficient proof or failure to show the tax savings inures to the lessee as described above is grounds for denial of the exemption.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.112

150-307-0080
Guidelines for Exempt Port Property Subject to In Lieu Tax
(1) Definitions: Port property subject to in lieu of payments means property, excepting the dock area, that is leased to a taxable owner and used for discharging, loading or handling of cargo from ships, or for the temporary storage of cargo that is directly incidental to transshipment.
(a) “Discharging, loading, or handling of cargo from ships” is limited to activities during which no change in the cargo can occur while it is being discharged, loaded, or handled.
(b) “Temporary storage of cargo” means storage of cargo temporarily resting in place and awaiting further movement or shipment to another location.
(2) Property Subject to In Lieu of Payment:
(a) Certain properties exempt under ORS 307.120 are subject to one quarter of one percent (.0025) payments in lieu of taxes to schools. Properties subject to the in lieu of payments are those leased, rented or preferentially assigned on January 1, and used for storage of cargo directly incidental to transshipment.
(b) Dock area properties used for the berthing of ships, barges or other watercraft, (except floating homes as defined in ORS 830.700), or the discharging, loading or handling of cargo are exempt and are not subject to the payments in lieu of taxes to schools.
(c) A property not leased, rented or preferentially assigned on January 1, will not be subject to the in lieu of payment for the tax year for which the January 1, assessment date applies.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.120

150-307-0090
Request For Computation of In Lieu Tax Payment
(1) The request for computation of payment in lieu of tax is an annual request.
(2) To receive the in lieu tax computation in any year the taxpayer must:
(a) Have a possessory interest in the property;
(b) File a request using the Department of Revenue prescribed form;
(c) File the request form with the assessor in the county where the property is located;
(d) File the request form in the time prescribed by law;
(e) Provide a true copy of the lease or agreement that establishes the possessory interest; and
(f) Provide any other information the assessor deems necessary to complete the computation.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.120
Hist.: REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; Renumbered from 150-307.120(3)(a), REV 53-2016, f. 8-13-16, cert. ef. 9-1-16

150-307-0120
Review Required in Determining Exempt Status of Property for Charitable Institutions
The following criteria shall be used in determining the qualification for property tax exemption under ORS 307.130 when an application is made by a charitable organization as required in 307.162, 307.112, or 307.166:
(1) Purpose. The purpose of this rule is to set forth, as a guide for assessors, those tests that are commonly applied by the Oregon courts in determining whether property qualifies for exemption under ORS 307.130. This rule does not include all of the principles that have been used by the courts. The assessor must recognize that evaluation of an application for charitable exemption must be made on a case-by-case basis in light of the specific fact situation presented.
(2) Organization:
(a) Applicant must be an incorporated institution;
(b) The corporation must be organized as a nonprofit corporation. This is a mandatory first step for an organization; however the status of an institution as a nonprofit corporation does not conclusively endow it with the attributes of a charity. For example, an organization is recognized by the Internal Revenue Service as income tax exempt within IRC (1954) Section 501(c)(3). However, the standards for determining whether the income of an organization is subject to federal income taxes
and the question of whether property is exempt from property taxes are separate and distinct. Thus, whether a corporation
is a charity is to be determined not only from its charter, but also from the manner in which it conducts its activities;
(c) The organization must separately account for funds and donations committed to charitable use;
(d) The organization must not operate for the profit or private advantage of the organization’s founders and officials;
and
(e) The organization’s articles of incorporation or bylaws must require that its assets be used for charitable purposes
when the organization dissolves.

3) Property Interest:
(a) If application is made under ORS 307.162 the organization must be the owner or purchaser of the property.
(b) If application is made under ORS 307.112 the organization must be the lessee.
(c) If application is made under ORS 307.166 the organization must be the lessee or entity in possession.
(d) Any organization claiming the benefit of property tax exemption in subsection (3)(a), (b), or (c) under ORS 307.130,
must have possession of and be using the property for the stated exempt purpose by June 30 of the year in which the
exemption is claimed.

4) Purpose and Activity:
(a) Any organization claiming the benefit of property tax exemption under ORS 307.130, as a charitable institution, must
have charity as its primary, if not sole, object and must be performing in a manner that furthers that object.
(b) The activity conducted by the charitable institution must be for the direct good or benefit of the public or community
at large. Public benefits must be the primary purpose rather than a by-product. An organization that is established primarily
for the benefit of its members, is not a qualifying charity. For example, a rifle club formed primarily for the pleasure of its
members also provides safety information and instruction. Since the club’s primary purpose is not to provide a direct benefit
to the public, its property is not exempt. An organization that performs a service to a professional organization of private
persons (example: teachers, physicians or architects) is not a charity.
(c) If the activity of the charitable institution relieves a government burden, it is an indicator that the institution may be
charitable. Failure to relieve a government burden will not disqualify an organization as charitable.
(d) An element of gift and giving must be present in the organization’s activities, relating to those it serves. This element
of gift and giving is giving something of value to a recipient with no expectation of compensation or remuneration. Often,
a charitable organization’s product or service is delivered to recipients at no cost or at a price below the market price or
price to the organization of the product or service. Declarations of worthwhile purpose and charitable endeavors must be
manifested in concrete endeavors and tangible reality which benefits the recipient. Unless this element of a gift or giving is
present promises of future worthy endeavors are meaningless by inaction, and give the applicant no preferred status.

(A) Forgiveness of uncollectible accounts does not by itself constitute a gift or giving.
(B) The fact that a business activity actually operates at a loss does not make it charitable.
(C) The fact that an organization charges a fee for its services does not necessarily invalidate its claimed status as
charitable. It is a factor to be considered in the context of the organization’s manner of operation. In determining whether a
fee-charging operation is charitable, it is relevant to consider the following:
(i) Whether the receipts are applied to the upkeep, maintenance and equipment of the institution or are otherwise
employed;
(ii) Whether patients or patrons receive the same treatment irrespective of their ability to pay;
(iii) Whether the doors are open to rich and poor alike and without discrimination as to race, color or creed;
(iv) Whether charges are made to all and, if made, are lesser charges made to the poor or are any charges made to the
indigent.
(D) The fact that individuals provide volunteer labor to assist the organization in performing its activities may indicate
that the organization is charitable. However, it is not a standard in determining whether an organization is charitable per se.
(E) An institution shall not be denied exemption solely because:
(i) Its primary source of funding is from one or more government entities; or
(ii) The purpose or use of the property is not limited to relieving pain, alleviating disease or removing constraints.

5) Use. The property must be used primarily for charitable purposes.
(a) There must be an actual charitable use of the property rather than just a charitable use of the income derived from
the operation of the property. “Destination of income” theory does not qualify the property for exemption. For example, use
of property by a charitable organization as a bingo parlor to raise money for a charitable activity is not an actual charitable
use of the property, and does not qualify the property for exemption.
(b) A retail store operated by volunteers of a qualified organization may receive exemption if at least one-half of the
inventory is donated and consigned. One-half of the inventory refers to the number of items. The total number of donated
and consigned items must be at least equal to the total number items that constitutes new merchandise.
(c) To be eligible for a property tax exemption as a charitable institution, the applicant must be primarily eleemosynary
in nature. Such an institution will demonstrate two elements of charity. First, the institution must perform a function or act
which is good or beneficial for humans and other living things. The second part entails a gift or act of giving. The words “gift”
and “giving” imply a voluntary act. While an institution shall not be deprived of an exemption as a charitable organization
solely because its primary source of funding is one or more governmental agencies.
(d) The property shall be actually used or occupied for the benevolent and charitable work carried on by the organization.
(A) The use of the property must substantially contribute to the furtherance of the charitable purpose and goal of the
organization. For example, a gift shop is located in a hospital qualifying for exemption as a benevolent and charitable institution.
The gift shop sells candy and flowers and may be subject to ad valorem taxation, unless it furthers the charitable purpose and goal of the organization. As another example, a cafeteria is located in a hospital qualifying for exemption as a benevolent and charitable institution. The cafeteria is operated primarily for the use of the hospital staff and is incidentally used by the general public. The cafeteria is being used to contribute to the charitable goal of the hospital, and is exempt from ad valorem taxation.

(B) Only the portion of a property used for literary, benevolent, charitable or scientific purposes shall be granted exemption from ad valorem taxation under ORS 307.130. Property may be in part taxable and exempt. For example, a property otherwise qualifying for exemption, has a barber shop operating within the facility. The portion of the building in which the barber shop is located is subject to ad valorem taxation, unless the barbershop furthers the charitable purpose and goal of the organization.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.130

150-307-0130

Literary Institution Defined

(1) A literary institution is an organization that is devoted to propagation and spread, or live performance of literature, study or use of books and body of writings in prose or verse, and scripts of plays both contemporary and classic.

(2) A literary institution must operate in a manner in which a significant portion of its activities are charitable. Property tax exemption must be denied when charitable activities are not present. OAR 150-307-0120 is the appropriate guideline for determining whether an organization is charitable.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.130

150-307-0240

Exception To Taxable Personal Property

(1) Tangible personal property is assessed and taxed unless statutes specifically grant an exemption.

(2) “Use” of the property is the determining factor for granting an exemption.

(a) Tangible personal property used exclusively for personal use and enjoyment by the owner is granted exemption from property tax.

(b) Tangible personal property used in a trade or business is taxable. A trade or business is an activity performed for any form of compensation, personal reward or gain.

(c) Tangible personal property that is used both for the owner’s personal use and as part of a trade or business is taxable. Example: Household furnishings in a Bed and Breakfast or adult foster home are taxable when used by anyone other than the owner. Items used exclusively by the owner for personal enjoyment are exempt from property tax, such as the bed where the owner sleeps and the armoire or dresser that contains the owners clothes.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.190
Hist.: RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; Renumbered from 150-307.190, REV 55-2016, f. 8-13-16, cert. ef. 9-1-16

150-307-0460

Personal Property Used for Placing Farm Crops in Storage

(1) Definitions:

(a) “Storage of farm crops” refers to the holding area in which a product is placed before processing begins.

(b) “Processing” is altering the crop in any way such as: washing, icing, sorting, grading, waxing, boxing, slicing, or cutting.

(c) “Primary” is the leading use or the use involving the highest percentage of time relative to all the various uses.

Example: If an unlicensed farm vehicle is used 45 percent of the time to move cleaned, sorted, washed and bagged carrots ready for market (PRODUCT); 30 percent of the time to move freshly-picked carrots from the field to the warehouse or cold storage facility; and 25 percent of the time sitting idle, then the vehicle is used primarily in a nonexempt status and is fully assessable, even though that use is not 50 percent or more of the time available.

(2) Machinery and equipment used to place a farm crop in storage are exempt from taxation. However, once processing of the crop is begun, it is no longer a crop, but a product. When the same machinery and equipment are used for both placing in storage and processing the primary use is what determines its assessment status.

Example: Apples are picked and go directly into cold storage. This would be considered “placing in storage of farm crops.” When these same apples are sorted, washed or boxed it becomes a product and placing back into cold storage until sold is not considered “placing in storage of a farm crops.” At this point apples change from a crop to a product.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 307.394
Hist.: RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; REV 4-2002, f. & cert. ef. 7-29-02, Renumbered from 150-370.400; Renumbered from 150-307.394, REV 54-2016, f. 8-13-16, cert. ef. 9-1-16
Hoop Houses

1. Frost control systems include structures used to protect plants from extreme cold and use passive solar gain as their heat source.
2. An example of a qualifying structure is a hoop house which:
   a. Has polyethylene sheeting and arched pipe rafters and wind bracing; and
   b. Has no heating system other than solar gain; and
   c. Is used for frost control; and which may
   d. Use a sprinkling system to assist frost control.
3. An example of a structure that would not qualify as a frost control system is a hoop house which:
   a. Has polyethylene sheeting and arched pipe rafters and wind bracing; and
   b. Has a permanent heat source or climate control system.

Oregon Food Processor Property Tax Exemption

1. Definitions:
   a. “Assessor” means the county assessor, or the Oregon Department of Revenue (DOR) if DOR is responsible for the appraisal of the facility under ORS 306.126.
   b. “Certified” means that Oregon Department of Agriculture (ODA) has inspected the qualified machinery and equipment (M&E) and has provided written verification to the food processor that the M&E is eligible for exemption under ORS 307.455.
   c. “Newly acquired” means new or used M&E that is first purchased or leased by a food processor not more than two years (24 months) prior to placing it into service. Leased equipment may be exempt only if the food processor is responsible for the payment of the property taxes under the terms of the lease agreement. Newly acquired property does not include existing equipment that has been refurbished or reconditioned in the time frame provided by this rule.
   d. “Placed into service” means the date the M&E is first used or in such condition that it is readily available and operational for its intended commercial use. It does not include property that is being tested or is in the process of being erected or installed on the January 1 assessment date.
   e. “Qualified M&E” means property, whether new or used, that is newly acquired by a food processor and placed into service prior to January 1 preceding the first tax year for which an exemption under this section is sought, and that consists of:
      A) Real property M&E that is used by a food processor in the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood; or
      B) Personal property M&E that is used in an integrated processing line for the primary processing of raw or fresh fruit, vegetables, nuts, legumes, grains, bakery products, dairy products, eggs or seafood.
   (f) “Real Market Value” (RMV) of the property, for the purpose of determining the late filing fee pursuant to ORS 307.455, means the invoice cost of the qualified M&E, installation, engineering, and all miscellaneous costs including machinery process piping, foundations, power wiring, interest during installation, and freight.
2. A food processor seeking an exemption under ORS 307.455 must make a request to ODA for certification. The request must:
   a. Be made in writing on a form provided by ODA and pursuant to ODA administrative rules;
   b. Include a listing on the Food Processor Certification of Qualified Machinery and Equipment form provided by DOR of all qualified M&E for which certification is sought;
   c. Be made at any time after M&E becomes “qualified M&E”; and
   d. Be filed with ODA at least two weeks prior to March 1 in order that ODA may certify the property prior to the March 1 deadline for timely filing of the exemption claim with the assessor. Later requests for certification may be made, but the resulting certification may be after the March 1 claim filing deadline.
   3. Upon receiving the request for certification, the Food and Safety Division of ODA will:
      a. Schedule a site visit with the food processor;
      b. Inspect the M&E that is the subject of the listing submitted to ODA for which certification is sought;
      c. Determine if the subject M&E constitutes qualified M&E; and
      d. Provide written certification to the food processor approving or denying the subject M&E as qualified M&E. The written certification is provided by ODA on the listing of qualified M&E submitted by the food processor.
   e. Denial of certification of certain property by the ODA is a contested case for the purpose of ORS Chapter 183.
4. Following the certification process, the food processor must file an exemption claim form with the assessor. The claim must:
   a. Be filed on a completed Food Processor Exemption Claim form provided by DOR;
   b. Include the written certification signed and dated by ODA; and
   c. Be filed on or before March 1, or under section (8) of this rule.
(5) The filing of an exemption claim form is separate from the filing of a property tax return.

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

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

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

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

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

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

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

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

(b) In addition to subsection (10)(a), qualified M&E that is used to process bakery products may be exempted:
   (A) Based on processing to create bakery products, even if not from raw or fresh ingredients,
   (B) If not used to additionally process or re-process previously created bakery products, and
   (C) If processed at a site where 10 percent or less of total sales at the site are retail sales.

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

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

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

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

Stats. Implemented: ORS 307.455
Hist.: REV 17-2008, f. 12-26-08, cert. ef. 1-1-09; REV 6-2016, f. 7-28-16, cert. ef. 8-1-16; Renumbered from 150-307.455, REV 54-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0080
Taxable Personal Property Whose Temporary Situs Is in the State of Oregon
Personal property is assessable under ORS 308.105 if it is in Oregon on the assessment date, January 1, at 1 a.m., and meets the following conditions:

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

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.105

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

150-308-0140
Computation of Changed Property Ratio for Centrally Assessed Property
The ratio of average maximum assessed value to average real market value, also known as the changed property ratio, shall be rounded to two decimal places for purposes of assessed value calculation. See OAR 150-308-0570.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.149
Hist.: REV 9-1997, f. & cert. ef. 12-31-97; REV 8-1998, f. 11-13-98, cert. ef. 12-31-98, Renumbered from OAR 150-1997 Or. Law Ch. 541 Sect. 19; Renumbered from 150-308.149(3), REV 58-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0150
Net Capitalized Additions
(1) Definitions:
(a) For purposes of centrally-assessed property, the term “improvements” means changes in the value of property (as defined in 1997 OR Law Ch. 541, Sect. (7)(1)(b)) as the result of new construction, reconstruction, major additions, remodeling, renovation, rehabilitation or acquisition of property except on-going maintenance and repair. “Improvements” are measured by changes in Oregon net capitalized additions as defined below.
(b) The term “capitalized” refers to company expenditures for certain assets with a useful life typically extending beyond one year. These assets are aggregated in fixed asset accounts subject to annual depreciation charges, rather than repair and maintenance expense accounts. Examples include acquisitions of or changes to buildings, equipment, and personal property such as furniture and fixtures.
(c) The term “net additions” means the difference between the aggregate costs of Oregon assets in the prior and current years. For the 1997–98 implementation year, additions include the change from the 1995–96 base year. In all subsequent years, additions include the change from the prior year.
(d) The term “net capitalized additions” means “net additions” as calculated using capitalized costs in the company’s annual reports.
Examples:
(A) For the current year, a new transformer is added for $100,000 and there are no retirements. The net addition is $100,000.
(B) A seven-year old transformer with a ten-year life expectancy (net book value of $30,000) is retired from service and replaced by a new transformer (cost $100,000). The net addition is $70,000, reflecting the additional 7 years’ life expectancy. (The remaining $30,000 is considered maintenance).
(C) Same as (B) above, except that the new transformer is added to the existing number of transformers. No other transformers are retired; however, $30,000 of other capitalized equipment is retired. The net addition is still $70,000. Typical fixed asset accounting procedures provide for annual removal of retired assets. Using successive years’ account totals to determine maximum assessed value will result in a netting of retirements against true improvements.
(D) Same as (B) above, except that no new transformer is added. The net capitalized addition is $0, since there have been no improvements.
(E) If the change in Oregon assets can only be determined by an allocation of system additions, then these changes shall be allocated to Oregon in the same manner as other company property.
(F) In the case of mobile property, additions shall also include the change in presence in the state as measured by the change in allocation factors.
(e) The term “ongoing maintenance and repair” means expenditures which the company has elected to record as an expense in repair and maintenance accounts rather than aggregate in a fixed asset account as described (1)(b). Items may be expensed because the useful life of the expenditures does not extend over one year, or because their associated dollar amounts are too small to qualify as a capital asset under company capitalization threshold guidelines. Typical examples include spare parts and maintenance supplies.
Example: A private car company maintains a capitalization threshold for its equipment accounts of $2000. The company frequently makes purchases of spare parts for its repair shops. One of these was a bulk purchase of miscellaneous car bearings for $1000, and the company expensed this item. The company also decided to upgrade half of its fleet with a $20,000
investment in specialized bearings which would allow the cars to travel at significantly higher speeds. This investment was capitalized. The expenditure of $1000 would be considered “ongoing maintenance and repair.” The expenditure of $20,000 would be considered an “improvement.” The fact that each expenditure is for bearings is not controlling.

(2) Application of Definitions:
(a) In the case of companies which do not keep fixed asset accounts, the department may make a reasonable analysis of reported assets using capitalization practices under accepted accounting principles.
(b) In cases where the Department of Revenue annual company reporting is based on aggregate account balances, the department will not undertake an item-by-item analysis of the amount and purpose of each expenditure within statutory appraisal timelines. Expensed items shall be considered “ongoing maintenance and repair” and net capitalized additions shall be considered “improvements.” The department may undertake an item-by-item analysis when the appraisal is challenged by the taxpayer in litigation or otherwise.
(c) Typical accounting policies include a “capitalization threshold” of a certain dollar amount for different types of expenditures. The department recognizes that certain assets which qualify as improvements under the law may be expensed as a matter of company policy. In these cases, the department shall presume that the minor construction thresholds of $10,000 and $25,000 are addressed by this accounting convention. The department may make a reasonable adjustment when the application of this approach results in a material error.
(d) Reset the cumulative RMV for minor construction to zero and restart the 5-year period. The following examples may not go below zero.

(3) For purposes of computing maximum assessed value for centrally-assessed property, the aggregate Oregon net capitalized additions shall be adjusted to reflect their real market value as a result of wear, aging, and the impact of market conditions since placement in service. The net capitalized additions shall then be multiplied by the statewide maximum assessed value to real market value ratio for centrally-assessed property (always 1.00 or less). The maximum assessed value shall be compared to the real market value, and the lesser of the two shall be placed on the roll as the company’s assessed value.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.149
Hist.: RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-308.149(5), REV 58-2016, f. 8-13-16, cert. ef. 9-1-16

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 may 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 5-year period. The following examples demonstrate the over $25,000 threshold. RMVs in the following examples are not market trended and/or depreciated.
Example 1: Over $25,000 Not Met. [Example not included. See ED. NOTE.]
Example 2: Over $25,000 Not Met, Prior Years Drop Off. [Example not included. See ED. NOTE.]
Example 3: Cumulative RMV Reset. [Example not included. See ED. NOTE.]
Example 4: Cumulative RMV Reset. [Example not included. See ED. NOTE.]
Example 5: Individual Year and Cumulative Year Adjustments. [Example not included. See ED. NOTE.]
Example 6: Removal of Destroyed Minor Construction. [Example not included. See ED. NOTE.]
[ED. NOTE: Examples referenced are not included in rule text. Click here for PDF copy of example(s).]
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; REV 7-2014, f. 12-23-14, cert. ef. 1-1-15; Renumbered from 150-308.149(6), REV 58-2016, f. 8-13-16, cert. ef. 9-1-16

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 150-308-0310. They are distinguished from platted land as acres 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 use of vacant land or an improved property that is legally permissible, physically possible, financially feasible, and maximally productive, which results in the highest real market value.

(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 150-307-0010 must be added.

(i) Determining highest and best use for the unit of property is necessary for establishing real market value. This determination of highest and best use may include, among others, all possible uses that might result from retaining, altering or ceasing the integrated nature of the unit of property.

(3) Valuation of Special Property: Special 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 special 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.
The current price for data justify their use. Information on the estimated annual dividend for the next period (DCF) model and Capital Asset Pricing Model (CAPM). The appraiser should consider other models if circumstances and (d) Cost of Equity. The two preferred methods for determining the cost of equity capital are the Discounted Cash Flow (c) Preferred Stock. The cost of preferred stock is determined from the current market rates, not the embedded rate. (D) Select rates for each industry group by bond rating after analyzing the data in the steps above.

Cost of Debt. The cost of debt is the current market rate for new securities. The embedded rate on securities previously issued is not a proper measure. In order to determine the cost of debt the appraiser should:

(a) The band-of-investment capitalization rate can readily be converted to an after-tax rate. The after-tax interest rate is substituted for the current cost of debt in the band-of-investment procedure. This after-tax cost of debt is calculated by multiplying the current cost of debt by one minus the corporate tax rate. When the after-tax cost of capital is used, the tax expense of the prospective purchaser must be deducted from the income to be capitalized as though the property had no tax shelter from debt interest to avoid double counting the deduction for income taxes.

(b) Cost of Debt. The cost of debt is the current market rate for new securities. The embedded rate on securities previously issued is not a proper measure. In order to determine the cost of debt the appraiser should:

(A) Refer to the rates for seasoned bond issues from Moody’s Utility, Industrial, and Transportation weekly news reports or other rating services for at least two months immediately prior to the appraisal date. This should be done by bond rating (Aa, A, Baa, etc.) and industry type.

(B) Obtain information on new bond issues by industry type and bond rating from Moody’s Bond Survey or other publications for at least two months immediately prior to the appraisal date.

(C) Consider recommendations on debt rates submitted by industry.

(D) Select rates for each industry group by bond rating after analyzing the data in the steps above.

(c) Preferred Stock. The cost of preferred stock is determined from the current market rates, not the embedded rate.

(d) Cost of Equity. The two preferred methods for determining the cost of equity capital are the Discounted Cash Flow (DCF) model and Capital Asset Pricing Model (CAPM). The appraiser should consider other models if circumstances and data justify their use. Information on the estimated annual dividend for the next period (year) and the expected rate of growth can be obtained from such financial publications as Value Line. The current price for
the common stock is the average price near the appraisal date. The DCF equity rate for the industry group is determined by correlating equity rates of return computed for the companies in the industry capital structure group. [Table not included. See ED. NOTE.] Information on the risk free rate (Rf) can be obtained from the Federal Reserve Bulletin containing rates for U.S. Treasury notes or bonds as near the appraisal date as possible. Data for Beta (Bi) and the market rate (Rm) shall be obtained from a reliable source such as Value Line. A single number for risk premium (Rp) such as those published by Ibbotson Associates, Kidder Peabody, and others may be used. The CAPM equity rate for the industry group is determined by correlating equity rates of return computed for the companies in the industry capital structure group.

(3) Effective Date: This rule first applies to property valuations as of January 1, 1990.

[ED. NOTE: Tables referenced are available from the agency.]

A "unit of property" is the item, structure, plant, or integrated complex as it physically exists on the assessment date.

"Real property" means the real estate (physical land and appurtenances including structures, and machinery and equipment erected upon the land or attached to the land or structures) and all interests, benefits, and rights inherent in the ownership of the physical real estate.

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

If the highest and best use of the unit of property is an operating plant or an operating integrated complex, the real market value will be considered to be a "going concern." The going concern concept recognizes that the value of an assembled and operational group of assets usually exceeds the value of an identical group of assets that are separate or not operational.

Methods and Procedures for Determining the Real Market Value of Industrial Property:

For the valuation of industrial property all three approaches to value (sales comparison, cost, and income), 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.

The market value of a unit of property must not be determined from the market price of its component parts, such as wood, glass, concrete, furnaces, elevators, machines, conveyors, etc., each priced separately as an item of property, without regard to its being integrated into the total unit.

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 transactions. When non-typical market conditions of sale are involved in a transaction (duress, death, foreclosure, bankruptcy, liquidation, 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 non-typical market condition.

(A) Properties utilized in the sales comparison approach, although not necessarily identical, at the very least must be similar in many respects. Adjustments must be made for differences in location, product, production capacity, and all other factors that may affect value. Excessively large adjustments or an excessive number of adjustments is an indication that the properties are not comparable.

(B) When utilizing the sales comparison approach, the appraiser must take into consideration difference between the subject and the comparable properties for physical condition, functional obsolescence and economic obsolescence. Adjustments must be made for differences between the subject and comparable properties for factors such as physical condition, functional deficiencies, operating efficiency, and economic obsolescence. If the properties are functionally or economically equivalent, verification of the equivalency must be included in the appraisal.

Sales for the disposal of properties through auction, liquidation or scrap sales are indicators of market value only when on the assessment date such disposal of the subject property is imminent, or has actually taken place.

The cost approach may utilize either the reproduction, replacement, or the used equipment technique. It is acceptable to use trended historical cost to estimate the reproduction cost new. The value estimate must include all costs required to assemble and construct the unit of property.

When using the income approach, the income from the operation of the property may be utilized for industrial properties and other properties that are not typically leased or rented. When the income from the property’s operation is used, the unit of property must be valued as a going concern. In utilizing the income approach for the valuation of industrial properties, the discounted cash flow technique is one of the appropriate methods to derive a value estimate. Consideration in the discounted cash flow technique is given to items such as the anticipated future free cash flow available to both, the debt and equity holders; inventory valuation methods, intangible assets, income taxes, net working capital, capital reinvestment, etc. When utilizing the discounted cash flow technique, the capitalization or discount rate must be derived in accordance with OAR 150-308-0250.

Determining the 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.

For machinery and equipment, in all the approaches to value, if the highest and best use is continued operation, adjustments must be made to account for the cost of integrating the machinery and equipment into the total unit of the property. These costs include, but are not limited to, freight, installation, wiring, piping and foundation costs.
(5) Basic information for an appraisal. Basic data and procedures in making appraisals normally include the following when applicable:

(a) Location of property by tax codes and tax lot numbers;
(b) Map or sketch of land owned and layout of plant;
(c) Inventory of physical plant;
(d) Reproduction or replacement cost computations, as applicable;
(e) Analysis of depreciation;
(f) Analysis of economics as they affect valuation;
(g) Analysis of sales data, when applicable;
(h) Field inspection;
(i) Research and familiarization with typical properties of the industry;
(j) Annual reports to stockholders;
(k) Fixed assets schedules;
(L) Income statements;
(m) Such other data that may affect value.

(6) Basic information for an appraisal utilizing the industrial property return. Basic data for an appraisal utilizing the industrial property return normally includes the following:

(a) Report of additions;
(b) Report of retirements;
(c) Knowledge of miscellaneous technical and economic conditions that affect value;
(d) Trending factors:
   (A) Separate factors for yard improvements, buildings, and equipment classified as real property must be developed.
   (B) The development of the factors must use data published by the United States Department of Labor, the Oregon Building Construction Trades Council, and other sources the Department of Revenue deems to be reliable indicators of property value over time.
   (C) Data developed by physical inspection together with appraising a segment of the total property or making a general review of the total value under certain circumstances may supplement the data utilized in (A) above.
(e) Depreciation allowances;
(f) Real market value for prior year.

(7) This rule is effective January 1, 2016.

Stat. Auth.: ORS 305.100
Stat. Implemented: ORS 308.205

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
Renumbered from 150-308.205-(E), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0250
Measuring Functional Obsolescence in Industrial Property

(1) The procedure for estimating functional obsolescence for industrial property in the reproduction cost approach is as follows:

(a) The total functional obsolescence equals:

(A) The physically depreciated reproduction cost of the property with a deficiency requiring a substitution or modernization, or a superadequacy, less

(B) The physically depreciated cost of the replacement property with a deficiency requiring a substitution or modernization, or a superadequacy, plus

(C) The cost to cure or the value of the loss (if less).

(b) For an industrial property with a deficiency requiring an addition follow the same steps as listed in subsection (1) (a), except step (A) equals zero.

(c) The result of (1)(a) equals the total functional obsolescence deduction in the reproduction cost approach attributable to the property with a deficiency or superadequacy.

(d) In specific situations, the procedure in subsection (1) can be simplified:

(A) For curable functional obsolescence caused by a deficiency requiring a substitution or modernization, or a superadequacy, functional obsolescence equals the physically depreciated reproduction cost of the property with a deficiency or superadequacy plus the excess cost to cure.

(B) For curable functional obsolescence caused by a deficiency requiring an addition, functional obsolescence equals the excess cost to cure.

(e) For purposes of measuring functional obsolescence, the property with a deficiency or superadequacy in subsection (1) of this rule can be the entire subject property or one or more portions of the property that are being analyzed for the existence of functional obsolescence. If the entire property has multiple deficiencies or superadequacies, multiple applications of the procedure in subsection (1) of this rule may be required to measure the total functional obsolescence.

(f) Some methods of measuring depreciation may capture more than just physical depreciation. The depreciation measured may include elements of functional and external obsolescence.

(A) If in subsection (1)(a)(A) an age-life method is used to estimate the total depreciation of the property with a deficiency or superadequacy, no additional functional obsolescence should be deducted from the depreciated reproduction cost of the individual assets.

(B) If in subsection (1)(a)(A) the selling price of used equipment is used to estimate the depreciation of the property with a deficiency or superadequacy, no additional functional obsolescence should be deducted from the depreciated reproduction cost of the individual assets.

(C) In situations where all functional obsolescence of individual assets is fully captured by the depreciation method used, there may be additional functional obsolescence due to the assemblage of the individual assets into the layout of the property. Functional obsolescence due to layout can be accurately measured using the procedures described in subsection (1) of this rule. However, care must be taken to avoid double counting the functional obsolescence.

(2) The deduction for functional obsolescence in the replacement cost approach equals the cost to cure or the value of
(a) When using the procedure in subsection (1)(a) of this rule to estimate the deduction for functional obsolescence in the replacement cost approach, steps (A) and (B) must equal zero ($0).

(b) When using consistent estimates of reproduction and replacement cost new, physical depreciation, and functional and external obsolescence, the market value indicator from replacement cost approach must equal the market value indicator from the reproduction cost approach. (see example 3) [Example not included, see ED. Note.]

(3) Definitions:

(a) The reproduction cost approach is an appraisal method for estimating market value of the subject property. The formula for this method is: Market Value equals the Reproduction Cost New less physical depreciation less functional obsolescence less external obsolescence.

(B) If curing functional obsolescence is required to allow the existing assets to continue to function at their highest and best use and the requirements of subsection (3)(g)(A) are met, the obsolescence is curable even if the cost to cure is greater than the value of the loss (if less).

(c) The appraisal approach where the appraiser estimates the depreciation using an age-life method is a reproduction cost approach when the starting point is the reproduction cost new. The formula for this method is: Market Value equals the Reproduction Cost New less the depreciation from an age-life analysis less the functional and external obsolescence not captured in the age-life analysis.

(b) The replacement cost approach is an appraisal method for estimating the market value of the subject property as of the appraisal date. The formula for this method is: Market Value equals the Replacement Cost New less physical depreciation less the cost to cure (or the value of the loss, if less) less external obsolescence. The replacement cost new is the cost, as of the appraisal date, to construct a property having equivalent utility to the subject property but built with the most cost-effective materials, design, and layout. The most cost-effective materials, design, and layout is that combination of investment (cash out-flows) and the present value of anticipated after tax net income (cash in-flows) that produces the highest net present value.

(c) Functional Obsolescence is a loss in market value of a subject property when there is a reasonable feasibility of a typical prospective purchaser acquiring, without undue delay, a replacement property possessing an equivalent utility but is more cost-effective in terms of design, materials, or equipment. Functional obsolescence exists only by a comparison between the subject and the replacement property. There is no loss in value due to functional obsolescence unless the physically depreciated reproduction cost of the subject property minus the physically depreciated replacement cost of the replacement property plus the cost to cure (or value of the loss, if less) is greater than zero.

(A) Functional obsolescence due to a deficiency requiring a substitution or modernization is caused by an asset present in the subject property that is substandard compared to the replacement property.

(B) Functional obsolescence due to a deficiency requiring an addition is caused by a component that is missing from the subject property that is present in the replacement property.

(C) Functional obsolescence due to a superadequacy is caused by an asset present in the subject property that is not present in the replacement property and does not contribute to value an amount equal to its cost.

(d) The physically depreciated reproduction cost of the property with a deficiency or superadequacy is the cost, as of the appraisal date, to construct a new replica of that property using the same materials, design, layout, quality of workmanship and embodying the deficiencies and superadequacies of that property less the amount of physical depreciation due to physical deterioration associated with wear and tear, the impact of the elements, and aging.

(e) The physically depreciated cost of the replacement property is the cost, as of the appraisal date, to construct a new property with the equivalent utility to the property with the deficiency or superadequacy using the most cost-effective materials, design, and layout less the appropriate physical depreciation.

(A) For curable functional obsolescence, the appropriate percent of physical depreciation for the replacement property in subsection (1)(a)(B) is equal to the percent of physical depreciation of the replacement property included in the cost to cure in subsection (1)(a)(C) and (3)(h)(A). For example, if curable functional obsolescence is cured by purchasing and installing a new machine, the replacement property is also new (zero depreciation). (See example (3). [Example not included, see ED. Note.] However, if curable functional obsolescence is cured by purchasing and installing a used machine that is 70% physically depreciated, the replacement property must be 70% depreciated. (See example 4)[Example not included, see ED. Note.] (B) For incurable functional obsolescence, the appropriate percentage of physical depreciation for the replacement property in subsection (1)(a)(B) is the same percentage of physical depreciation as the percentage of physical depreciation of the property with a deficiency or superadequacy, as it exists in the uncured condition.

(f) Functional obsolescence is incurable if the cost to cure is greater than the value of the loss.

(g) Functional obsolescence is curable if the cost to cure is less than the value of the loss.

(A) To be considered curable, it must be physically possible, legally permissible, and financially feasible to cure the functional obsolescence.

(B) If curing functional obsolescence is required to allow the existing assets to continue to function at their highest and best use and the requirements of subsection (3)(g)(A) are met, the obsolescence is curable even if the cost to cure is greater than the value of the loss. (See Example 6) [Example not included, see ED. Note.]

(h) The cost to cure equals the net cash out-flow anticipated to be necessary to eliminate the deficiency or superadequacy. This equals:

(A) The physically depreciated replacement cost of the replacement property, plus
(B) The retrofitting cost associated with installing the replacement property in the subject property, plus
(C) The cost to remove the property with a deficiency or superadequacy; less
(D) The salvage value of the property with a deficiency or superadequacy.

(i) The excess cost to cure recognizes that installing an asset in an existing property may cost more than installing the same asset when a property is constructed new on the appraisal date. The excess cost to cure equals:
(A) The retrofitting cost associated with installing the replacement property in the subject property; plus
(B) The cost to remove the property with a deficiency or superadequacy; less
(C) The salvage value of the property with a deficiency or superadequacy.

(j) Retrofitting cost is the cost as of the appraisal date to install an asset in the subject property less the cost as of the appraisal date to install the same asset as part of new construction.

(k) The value of the loss equals the present value of the after-tax loss in anticipated income from the continuing operation of the property with a deficiency or superadequacy compared to the projected operation of the replacement property. For industrial plants, this loss in income is often the result of excess operating costs due to inefficiencies in the subject plant compared to the subject property when cured of the functional obsolescence. The present value includes factors for the time period that the plant will continue to incur the loss in income and an appropriate discount rate. See OAR 150-308-0250 for the appropriate method of calculating the discount rate.

(4) Examples (Assume zero external obsolescence for all examples): [Examples not included. See ED. NOTE.]
Example 1: An example of incurable functional obsolescence due to a deficiency requiring a substitution or modernization. [Examples not included. See ED. NOTE.]
Example 2. An example of incurable functional obsolescence due to a superadequacy. [Examples not included. See ED. NOTE.]
Example 3: An example of curable functional obsolescence due to a deficiency requiring and addition. [Examples not included. See ED. NOTE.]
Example 4: An example of curable functional obsolescence due to a deficiency requiring a substitution. [Examples not included. See ED. NOTE.]
Example 5: An example of a deficiency in the subject plant that does not indicate the presence of functional obsolescence. [Examples not included. See ED. NOTE.]
Example 6: An example of curable functional obsolescence due to a deficiency requiring an addition. [Examples not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 205.320, 308.205, 308.027, 308.156, 308.234, 308.704, 308.709, 308.205, 308.712, 308.714, 309.200, 311.806, 309.200 & 457.450
Hist.: REV 6-2001, f. & cert. ef. 12-31-01; Renumbered from 150-308.205-(F), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0290
Effective Tax Rate

(1) Definitions for this rule:
(a) “Changed property ratio” (CPR) is 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.
(b) “Nominal tax rate” is the tentative consolidated ad valorem property tax rate by code area described in ORS 310.147(2). When applicable, the nominal tax rate can be adjusted to reflect a reduction of tax to meet the limitations identified under Section 11b, Article XI of the Oregon Constitution
(c) “Effective tax rate” for any given property is the nominal tax rate, as described in subsection (1)(b), multiplied by the appropriate CPR, described in subsection (1)(a).
(2) The effective tax rate can be determined by the following methodology:
(a) Select the nominal tax rate known on the assessment date. For example, the assessment date of January 1, 2008 requires the nominal tax rate calculated for the prior tax year, 2007–08.
(b) Multiply the nominal rate by the CPR applicable to the assessment date, considering the subject property classification and location. The result is the effective tax rate.
Example 1: An apartment complex is being valued for assessment purposes, in an area with a changed property ratio of 65% or 0.65 and a nominal tax rate of $19.8615 per thousand of assessed value (1.98615%) or .0198615; the effective tax rate is calculated as follows:
\[
\text{Effective Tax Rate (ETR)} = \text{Nominal Tax Rate (NTR) \times CPR} = \text{Nominal Tax Rate (NTR) \times 0.65} = 0.01291 \text{ or } 1.3\%
\]
Stat. Auth.: ORS 305.100, 308.205, 308.724
Stats. Implemented: ORS 308.205
Hist.: REV 7-2008, f. 8-29-08, cert. ef. 8-31-08; Renumbered from 150-308.205-(G), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0300
Valuation Review of State-appraised Industrial Property.

(1) The department may conduct valuation reviews of state-appraised industrial properties to verify the accuracy of the property’s real market value and maximum assessed value.
(2) Valuation reviews will follow procedures adopted by the Department of Revenue.
(3) The real market value and maximum assessed value of a property may change for the current year and previous
years following the requirements in ORS 311.205 and 311.216, as a result of the valuation review.

(4) The real market value and maximum assessed value of a property may change for subsequent tax years if the result of the valuation review is a change in valuation judgment.

(5) This rule is effective January 1, 2016.

Stat. Auth.: ORS 305.100, 308.205
Stats. Implemented: ORS 308.205

150-308-0370
Determining Taxable Value for Assessment Charges on Property Exempt from Taxation
If a property that is exempt from ad valorem taxation is subject to assessment charges, the assessor shall determine the maximum amount of assessment charges by using the real market value of the property.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.232
Hist.: RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; Renumbered from 150-308.232, REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

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; Renumbered from 150-308.242(3), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

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; Renumbered from 150-308.250, REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0420
Exemption of Watercraft Undergoing Repairs
(1) Watercraft owned or operated by centrally assessed water transportation companies and undergoing “major” repairs as defined in ORS 308.256(4), shall be deemed exempt from taxation if such repairs are in progress as of January 1, of the assessment year, but only upon receipt by the Department of Revenue of documentation included in the annual filing stating the nature, extent, and location of such repairs.
(2) All other assessable Watercraft undergoing “major” repairs as defined in ORS 308.256(4), shall be deemed exempt from taxation if such repairs are in progress as of January 1, of the assessment year.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.256
Hist.: RD 2-1992, f. 5-28-92, cert. ef. 6-1-92; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-308.256(4), REV 57-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0440
Confidentiality — Returns of Taxable Property
Refer to OAR 150-192-0500 for clarification of what is confidential information and how to safeguard that material.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.290
Hist.: TC 7-1980, f. 11-28-80, cert. ef. 12-31-80; RD 8-1988, f. 12-19-88, cert. ef. 12-31-88; Renumbered from 150-308.290, REV 56-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0450
Industrial Property Returns — Incomplete Returns and Late Filing Penalties
(1) Industrial Property Returns are combined returns of real and personal property for state-appraised industrial property. The Industrial Property Return forms and instructions specify the information to be included in the return and submitted to the department.

(2) A taxpayer must submit a substantially complete return by the due date of the return. A return is substantially complete if it contains sufficient information to allow the return to be processed by the department. A return is not substantially complete if:
   (a) It is submitted with blank or missing schedules unless the schedules are appropriately left blank and are labeled with an identifying notation such as “no”, “none”, or “not applicable”; or
   (b) It is submitted with attachments that do not include required information as specified on the schedule.

(3) For the purposes of the late filing penalty imposed by ORS 308.295, a return that is not substantially complete will not be considered “filed”.

(4) If a taxpayer submits a return that is not substantially complete, the department will send the return back to the taxpayer with a request that the return be filed with the required information. The taxpayer will be subject to a late filing penalty under ORS 308.295 if a substantially complete Industrial Property Return is not filed by the due date.

Stat. Auth.: ORS 305.100, 308.290
Stats. Implemented: ORS 308.290
Hist.: REV 4-1998, f. & cert. ef. 6-30-98; REV 2-2002, f. 6-26-02, cert. ef 6-30-02; REV 10-2002, f. & cert. ef. 12-31-02; Renumbered from 150-308.290(4)(b) by REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; REV 4-2015, f. 12-23-15, cert. ef. 1-1-16; Renumbered from 150-308.290-(B), REV 56-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0470
County Contractors Having Access to Confidential Records
Each county must include in all vendor contracts, where a firm’s officers or employees may have access to confidential tax information, a clause prohibiting disclosure of information by any officer or employee of the vendor. The recommended clause follows: The disclosure of confidential information obtained from the administration of tax laws is unlawful. All reports, displays or discussions of confidential information must be clearly labeled and protected by all officers or employees of the firms. Specific reference is made to ORS 308.290 and 308.413.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.290

Amend: 150-308-0470
Rule Title: County Contractors Having Access to Confidential Records
Notice Filed Date: 10/19/2017
Rule Summary: Remove statute references to the Elderly Rental Assistance program that was repealed during the 2015 Legislative Session (SB 296). Make grammatical changes.
Rule Text: Each county must include in all vendor contracts, where a firm’s officers or employees may have access to confidential tax information, a clause prohibiting disclosure of information by any officer or employee of the vendor. The recommended clause follows: The disclosure of confidential information obtained from the administration of tax laws is unlawful. All reports, displays or discussions of confidential information must be clearly labeled and protected by all officers or employees of the firms. Specific reference is made to ORS 308.290 and 308.413.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.290
150-308-0480
Confidentiality of Property Tax Information for Centrally Assessed Companies; Exchange Under Reciprocal Agreements

(1) The following information must be held confidential by the department:
(a) Returns filed under ORS 308.290, 308.525, and 308.810;
(b) Appraisals containing information from returns filed under ORS 308.290, 308.525, and 308.810;
(c) Any data or information obtained during an inspection of the subject property or audit of a company subject to the filing requirements of ORS 308.290, 308.525, and 308.810;
(d) Trade secrets as defined in ORS 192.501(2).
(2) The following information will not be held confidential by the department:
(a) Information contained in the central assessment roll as defined in ORS 308.560;
(b) Appraisal conclusions developed or derived by the department for a company subject to the filing requirements of ORS 308.290, 308.525, and 308.810, including:
   (A) Interstate allocation percentages;
   (B) Capitalization rates;
   (C) Value indicators;
   (D) System values.
(3) For the purposes of exchange under reciprocal agreements authorized in ORS 308.290(7), subject to the limitations of section (4) of this rule, “property tax information” includes:
(a) Information contained in annual returns filed under ORS 308.290, 308.525, and 308.810;
(b) Appraisals conducted under ORS 308.290, 308.505 to 308.660, 308.705 to 308.730, and 308.805 to 308.820;
(c) Any information developed by the department in conjunction with such appraisals including, but not limited to, capitalization rates, market and sales studies, and cost and depreciation schedules;
(d) Any data or information obtained during an inspection of the subject property or audit of a company subject to the filing requirements of ORS 308.290, 308.525, and 308.810;
(e) Any other information regarding unitary valuation, allocation, or taxation.
(4) For the purposes of exchange under reciprocal agreements “property tax information” does not include:
(a) Trade secrets as defined in ORS 192.501(2);
(b) Information or data restricted by order of a court of competent jurisdiction.
(5) Any reciprocal agreement with the federal government or the several states entered into for the purposes of exchange of property tax information must require the reciprocating party to apply the confidentiality standards, limitations, and definitions contained in ORS 192.501, 308.290, 308.413, and this rule to any exchanged Oregon property tax information.
(6) Confidential information must not be exchanged under a reciprocal agreement with another state unless the reciprocal agreement meets the standards specified in section (4) of this rule.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.290

150-308-0510
Definition of Destroyed or Damaged
“Destroyed or Damaged” means that the real or personal property is physically degraded by a qualifying fire or Act of God event. Property whose value is affected only by its proximity to another property physically degraded by a qualifying fire or Act of God event is not considered destroyed or damaged for purposes of proration of tax.

Example: A landslide caused by an Act of God occurs in a subdivision. Some properties in the subdivision are physically damaged or destroyed by the landslide. Other properties in the subdivision are not physically affected by the slide, but may have a degraded market value due to the market attaching a stigma to the subdivision. Only those properties in the subdivision, which were physically degraded by the slide, are “damaged or destroyed” and eligible for a proration of tax under ORS 308.425.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.425
Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; Renumbered from 150-308.425, REV 56-2016, f. 8-13-16, cert. ef. 9-1-16

150-308-0750
Payment of Taxes on Manufactured Structure That Allows Change from Real Property to Personal Property Status
When a manufactured structure that is currently assessed as real property under ORS 308.875 is being moved, the tax collector must allocate the taxes between the manufactured structure and the remainder of the property. The full payment of the taxes on the value attributable to the manufactured structure releases the manufactured structure from the property tax lien.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.865
Hist.: RD 5-1996, f. 12-23-96, cert. ef. 12-31-96; REV 7-2005, f. 12-30-05, cert. ef. 1-1-06; Renumbered from 150-308.865, REV 59-2016, f. 8-13-16, cert. ef. 9-1-16
150-308-0760
Manufactured Structure Classified as Real or Personal Property

(1) When the records in the assessor’s office or the ownership document issued by Building Codes Division of the Department of Consumer and Business Services (DCBS) do not identify the same ownership for a manufactured structure as for the land upon which the structure is located, the assessor must classify the manufactured structure as personal property. However, if the taxpayer submits documentation establishing that the ownership of the manufactured structure and land upon which the structure is located is the same, the assessor must classify the manufactured structure as real property.

Example 1: The land is in the name of Pat Public, Inc., a corporation, and the manufactured structure is in the name of Pat Public. Because a corporation is a different legal entity than an individual, the ownership is not the same, so the manufactured structure must be classified as personal property.

Example 2: A husband and wife are owners of a parcel of land upon which a manufactured structure is located. The ownership document for the manufactured structure is in the husband’s name only. The ownership is not the same and the manufactured structure must be classified as personal property.

Example 3: Pat Public owns a manufactured structure and is buying on contract the parcel of land upon which the structure is located. For purposes of ORS 308.875 the ownership is the same and the manufactured structure must be classified as real property.

(2) When the owner of a manufactured structure has a leasehold estate of 20 years or more, and the lease specifically permits the owner to record that lease in the county deed records, the owner may complete an application as prescribed by DCBS to have the home classified as real property. If the assessor determines that the manufactured structure qualifies for recording as required by ORS 446.626, and the lease has subsequently been recorded in the county deed records, the assessor must then classify the home as real property.

(3) When the owner of a manufactured structure is a member of a manufactured dwelling park nonprofit cooperative formed under ORS 62.800 to 62.815 that owns the land on which the manufactured structure is located, the owner may complete an application as prescribed by DCBS to have the home classified as real property. If the assessor determines that the manufactured structure qualifies for recording as required by ORS 446.626, the assessor must then classify the home as real property.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.875

150-308-0770
Real and Personal Manufactured Dwellings to be Assessed in Like Manner
All manufactured dwellings are assessable.

(1) Under ORS 308.875, the owner of a personal property manufactured dwelling need not file a personal property return on the structure.

(2) The personal property assessment cancellation provided in ORS 308.250 does not apply to such dwellings.

(3) They shall be assessed at 100 percent of real market value.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 308.875
Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-308.875-(B), REV 59-2016, f. 8-13-16, cert. ef. 9-1-16

150-309-0030
Limitations on Increase in Value by Board of Property Tax Appeals

(1) For purposes of this rule;
   (a) “Property tax account” means the administrative division of property used by the assessor for listing the property on the assessment roll.
   (b) “Unit of property” is as defined within ORS 310.160(1).

(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 or accounts constituting a unit of property, the board must dismiss the petition for lack of jurisdiction.
   (b) When BOPTA receives a petition requesting an increase in the RMV of one or more components of a property tax account or accounts constituting a unit of property, 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 tax account, or unit of property.

(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 one or more components of a property tax account or accounts that constitute a unit of property, the board may increase or
(b) When BOPTA receives a petition requesting a reduction in the RMV of one or more components of a property tax account or accounts that constitute a unit of property and no change to other component(s), or the petition is silent as to the requested value of the other components, at the request of the Assessor’s Office, the board may act on any or all components of the tax account or unit of property, or both.

(5) This rule is effective January 1, 2016.

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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.

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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 150-309-0100, 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.

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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; or

(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 150-309-0020.
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 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


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.

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; REV 9-2013, f. 12-26-13, cert. ef. 1-1-14; Renumbered from 150-309.100(3)-(B), REV 26-2016, f. 8-12-16, cert. ef. 9-1-16

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, stepsister, 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
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 150-309-0110 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; Renumbered from 150-309.100-(D), REV 26-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0140
What Is a Clerical Error

(1) Clerical errors are those procedural or recording errors which do not require the use of judgment or subjective decision making for their correction. A clerical error is an arithmetic or copying error or an omission on the roll or misstatement of property value that is apparent from assessor office records without speculation or conjecture, assumption or presumption, and that is correctable without the use of appraisal judgment or the necessity to view the property.

(2) Clerical errors are those which, had they been discovered by the assessor prior to the certification of the assessment and tax roll of the year of assessment, would have been corrected as a matter of course.

(3) An error is a clerical error or omission on the roll if all the facts necessary to correct the error or omission on the roll are contained in the records and could be readily determined by an impartial person examining these records.

(a) Records include, but are not limited to, field notes, the assessment roll, tax cards, deeds, vouchers and appraisal cards and jackets, which are regularly maintained by the assessor’s office and used to determine value.

Example 1: "A" owns a parcel of land with a house on it. "A" divides the land and sells part to "B," but retains that part of the land with the house. The assessor places the value of the house on "B’s" land. The value of the house was placed upon the wrong tax lot. It was not, in the words of 311.207 “from any cause been omitted, in whole or in part, from assessment and taxation on the current assessment and tax rolls ...” It’s on the roll but on the wrong account. Thus, the property was never actually omitted from the roll but clerically placed on the wrong parcel of land.

This comes within the definition of clerical error because it can be corrected solely from the records of the assessor as these records reflect the correct situation which, if discovered by the assessor before certification of the assessment and tax roll, would have been corrected as a matter of course and is correctable without the use of appraisal judgment or the necessity to view the property.

Example 2: A tract of land was zoned agricultural prior to April. Late in April of the same year, this property was rezoned to residential, appraised, and billed accordingly. In July of the same year, the Planning Commission again caused the property to be rezoned to agricultural. When it was reappraised in a later year, the appraiser overlooked the rezoning and appraised the tract on the basis of a residential zone, thus giving it a higher valuation.

Evidence shows that at the last appraisal the appraisal jacket of the taxpayer’s property had the residential zone still on the outside but that there was a note inside of the appraisal jacket indicating the agricultural zoning. Had the appraiser looked inside of the jacket, the appraiser would have seen the latest rezoning note and would not have relied on the residential zone on the outside of the jacket.

This comes within the definition of clerical error because it can be corrected solely from the records of the assessor as these records reflect the correct situation which, if discovered before certification of the assessment and tax roll, would have been corrected as a matter of course. The correction can be made without the use of appraisal judgment or the necessity to view the property because the correct value (i.e., value based on an agricultural zone) appears in the records of the assessor.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.205
Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; Renumbered from 150-311.205(1) (a), REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0150
Error Corrections and Valuation Judgment Under ORS 311.205

(1) Except as provided in ORS 311.205(1)(b), and section (3) of this rule, the officer may not correct an error or omission on the roll of value of land; improvement; personal or other property; or of any part, parcel or portion of land, improvement, personal or other property, if the correction requires that the officer exercise judgment to determine the value, formulate an opinion as to value, or inquire into the state of mind of the appraiser. Mistakes of this nature may be:

(a) Thinking that a house has a basement when it does not;

(b) Making a mathematical error when computing the square footage, the acreage, or some other factor; or

(c) Errors made in calculating a real market value. For example, in appraising bare land, the appraiser may simply multiply the number of acres by the per acre value for that class of land. The appraiser may also then make adjustments to that result for size, shape, configuration, or other factors which affect the value of bare land. If the appraiser makes a mistake in any of these computations or assumptions of fact, these are mistakes that have entered into the appraiser’s determination of judgment and are not subject to correction.

Example 1: Taxpayer owned some 33.07 acres of land. The assessor mistakenly carried the property on the roll as 37.63 acres. The assessor arrived at a value per acre for each classification and then multiplied the per acre value times the number of acres in the tract. Although the assessor used unit values in arriving at a total assessment, the assessor may also have made some adjustments in the final figure for special features or qualities peculiar to the property. The figures may be wrong but the assessor’s judgment of the parcel’s value may be right. Because it is the total assessment that is subject to question, and because more elements than simply the matter of acreage can be used to arrive at a total assessment, this is a case of value judgment and is not correctable.

Example 2: A taxpayer sold two acres of his 8.33 acre parcel. Upon notice of that sale, the assessor’s office started the
administrative process of setting up a new account and revising the value of the old account. The new account cards for the two-acre parcel were set up and the value put on the roll. However, in the administrative process, no change in the acreage and value was made on the old appraisal envelopes and cards for the remaining 6.33 acres. Consequently, the remaining 6.33 acres were placed upon the roll at the same values used prior to the sale. There are two errors to consider here. One is the fact that the assessor placed the original 8.33 acreage on the roll at the same value used prior to the sale. This is an error in valuation judgment, not a clerical error. Although this may appear to be a mathematical error due to the failure of one of the clerks, it could just as well be the assessor mistaken in fact and judgment. The situation is similar to that of an assessor mistaken as to the number of acres or the number of square feet in a given property. The figures may be wrong but the assessor’s judgment of the parcel’s value may be right. Simply “subtracting” the prorated value of the two-acre parcel from the value of the 8.33 acre parcel does not necessarily result in the real market value for the 6.33 acre parcel. The appraiser must also look to the highest and best use, lay of the land, and other considerations that would affect value. In these circumstances, the statutory scheme requires that the taxpayer be sufficiently cognizant of his property values to object and appeal if necessary. Since both the appraisal cards and the assessment roll were not changed, it must be presumed that the assessor intended those values to be used, subject to appeal. The second error is the failure of the assessor to reduce the acreage on the original parcel from 8.33 to 6.33 acres. This is a clerical error because the correct facts are evident from the assessor records and there is no speculation or conjecture as to value.

Example 3: A parcel of land has been carried on the roll for several years as five acres. The parcel sells and the buyer requires a survey. The surveyor arrives at a measurement of 4.72 acres. This is an error in valuation judgment and is not correctable under ORS 311.205(1)(a) as a clerical error or under 311.205(1)(c) as an error or omission on the roll of any kind. Because it is the total assessment that is subject to question, and because more elements than simply the matter of acreage can be used to arrive at a total assessment, this is a case of value judgment and is not correctable. The assessor may correct the acreage on the next assessment and tax roll and reappraise the parcel for value, if necessary.

(2) If it is unclear whether an error or an omission on the roll is a clerical error or an error in valuation judgment, the error or omission on the roll shall be considered an error or omission in valuation judgment. For example, an error in acreage or square footage in the appraiser field notes or a failure to value or list a component upon physical reappraisal may not be corrected because the error may not necessarily have resulted in an error of real market value as finally determined and carried to the assessment and tax roll.

(3) As provided in ORS 311.205(1)(b), the officer in charge of the roll may correct an error in valuation judgment when a timely appeal has been filed in the Magistrate Division or Regular Division of the Oregon 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. The officer may not correct an error in valuation judgment under 311.205(1)(b) in response to an untimely appeal or an appeal that is otherwise not within the jurisdiction of the tax court.

150-311-0160
Roll Correction for Nonexistent Property
Property or improvements, which did not exist, but were included on the assessment roll at the time of the last appraisal shall be corrected, when discovered, under ORS 311.205(1)(b) and 311.206.

150-311-0170
What is an “Error or Omission on the Roll of Any Kind”

(1) The officer may correct an error or omission on the roll of any kind if the correction does not require the exercise of valuation judgment. “Valuation judgment” includes but is not limited to selection of appraisal methodology or the estimation of functional and economic obsolescence adjustments. Errors or omissions that may be corrected under this subsection include, but are not limited to:

(a) The elimination of an assessment to one taxpayer of property belonging to another on the assessment date.
Example 1: If a deed of a sale is never recorded, the assessor records would not reflect the new ownership. Because the records do not reflect the correct information, it is not correctable as a clerical error but is correctable as an error or omission on the roll of any kind.

(b) The assessment of property more than once for the same year or assessment of nonexistent property.

(c) The placement of property on the assessment and tax roll of the wrong county or assessment on behalf of the wrong jurisdiction.
Example 2: A utility company reported certain wire and pipe mileage as being in one code area when it was in fact located in another area.
(d) The elimination or partial elimination of an assessment of property that is entitled to exemption from taxation or special assessment or entitled to partial exemption from taxation.

(e) The elimination or partial elimination of an assessment of personal property resulting from an error made by the taxpayer on a personal property return if the personal property is entitled to exemption or is otherwise not taxable.

(f) The correction of a value changed on appeal.

(g) The application of an incorrect trending or indexing factor.

Example 3: The trending factor developed for the property class in the area is 115. Through a transposition, a factor of 151 is incorrectly applied. This is a correctable error.

(h) The use of the wrong property classification.

Example 4: The property is an improved single family residential property that is classified 1-0-1. The property was incorrectly classed as a 2-0-1 and therefore received the wrong trend factor. Both the property classification and the trend factor may be corrected.

Example 5: The assessor has assessed farm property at market value on the belief that the zoning was not Exclusive Farm Use. Later the assessor discovers the land was in an Exclusive Farm Use Zone and should have been assessed at its farm use value. Because the records of the assessor failed to reflect the proper status of the property, this is not correctable as a clerical error. Because a correction can be made without the use of appraisal judgment, this is not a case of valuation judgment under ORS 311.205(1)(b) and is correctable as an error or omission on the roll of another kind.

(i) The correction of an error or omission in the computation or application of the tax rate.

Example 6: A tax rate error is correctable. A water district shares boundaries with a city. The city annexes property from the water district. The boundary change information was not filed timely with the assessor and the Department of Revenue and should not have been considered in the calculation of the taxes. The county should make the correction to the tax calculation and refund or assess the properties in the districts as appropriate so they have been assessed the correct amount of tax.

(j) The correction of an error or omission on the roll that arises from inaccurate reporting of assets, or of facts about assets by a taxpayer on a return filed under ORS 308.290.

Example 7: A taxpayer reports a machinery asset on both its real and personal property accounts. The cost is double-reported for valuation purposes.

Example 8: A taxpayer reports assets transferred to the site at their net book value rather than original cost. The cost is inaccurately reported for valuation purposes.

This error or omission may be corrected only if the incorrect calculation of value was a result of a simple mathematical extension and does not require a new valuation judgment.

(A) The error or omission may be corrected if the taxpayer subsequently provides accurate asset information, and if no additional or different valuation judgment is required to make the correction.

(B) When a correction of inaccurate reporting of assets or of facts about assets by a taxpayer results in a reduction of tax and a refund under ORS 311.806, no interest is paid under 311.812.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.205
Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; Renumbered from 150.311.205(1)(c)-(B) by REV 6-2003, f. & cert. ef. 12-31-03; Renumbered from 150-311.205(1)(b)-(C), REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0180
Corrections to County Assessment and Tax Rolls Made Under ORS 311.206
When a county makes a change to the roll under ORS 311.205(1)(c) in response to direction from the Department of Revenue the change must be considered as being done by order of the department for purposes of 311.206. No additional notices to the taxpayer are required.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.205
Hist.: REV 8-2000, f. & cert. ef. 8-3-00; Renumbered from 150-311.205(3), REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0210
Property Subject to Assessment as Omitted Property
(1) Omitted property includes any real or personal property, or part thereof, that has been omitted from the certified assessment and tax roll for any reason. Omitted property may include, but is not limited to, a separate freestanding structure or improvement, an addition that increases the square footage of a structure or improvement, a remodel which increases a structure’s real market value, or real or personal property machinery and equipment.

(2) Property may be added to the roll under ORS 311.216 if:

(a) Omitted due to the assessor’s lack of knowledge of its existence,

(b) Improvements are added to or made a part of a property after that property has been physically appraised, and are later discovered by the assessor,

(c) Improvements have been included in error on another account,

(d) Omitted from a return filed pursuant to ORS 308.290, including understatement of costs for new property or improvements to property, or

(e) Omitted for any other reason.

(3) Improvements which are in existence and are an integral part of property which is physically appraised may not later
be revalued and added as omitted property under ORS 311.216. Undervaluation of a property due to the assessor’s failure to consider a portion of the property is not omitted property correctable under 311.216.

(4) When omitted property is discovered and its contribution to an account’s value is added under ORS 311.216, the value of the previously existing portion of the account cannot be adjusted.

Example 1: Two years after a reappraisal, a homesite is developed, and a new single family residence is constructed. The new construction and the site development are discovered on the next physical appraisal. The assessor adds the value of the single family residence and the site development as omitted property under ORS 311.216.

Example 2: “A” owns a parcel of land with a cabin on it. “A” divides the parcel and sells part to “B”, but retains the part with the cabin. The assessor incorrectly places the value of the cabin on “B’s” account. When the error is discovered, “B’s” value can be corrected under ORS 311.205, and “A’s” account must be corrected under ORS 311.216 as omitted property.

Example 3: During a physical appraisal the assessor adds no value contribution for a reinforced concrete floor, and a manger with steel stanchions in a loft barn. The assessor later realizes that the loft barn is undervalued. The reinforced concrete floor and manger with steel stanchions may not be added as omitted property under ORS 311.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.216

150-311-0220

Date Roll Corrected
For purposes of ORS 311.223(4) and 311.229 the “roll is corrected” on the date the assessor sends the notice to the taxpayer’s last known address by first class mail as required in 311.223(2).

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.223
Hist.: REV 3-2001, f. 7-31-01; REV 9-2013, f. 12-26-13, cert. ef. 1-1-14; Renumbered from 150-311.229, REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0230

Definitions
(1) “Distributed in the same manner as other ad valorem property taxes imposed on the property” means to be deposited into the unsegregated tax collections account under ORS 311.385 for the year of billing. The amount of additional ad valorem taxes or penalties attributable to each district must be determined based on the percentage that the total ad valorem property billing tax rate of the district bears to the total billing tax rates for the code area in the year in which the additional taxes are billed. Any non ad valorem taxes, including penalties, must be attributed to the district for which the tax was imposed. In preparing the percentage distribution schedule under 311.390 the tax collector must include any additional taxes resulting from adding omitted property in the calculation.

(2) “Prior to completion of the next general property tax roll” for the purposes of accepting prepayments pursuant to ORS 311.370 means prior to the date on which the roll is next delivered by the assessor to the tax collector as provided in 311.115.

Stat. Auth: ORS 305.100
Stats. Implemented: ORS 311.229
Hist.: REV 11-2000, f. 12-29-00, cert. ef. 12-31-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-311.229, REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0250

Contents of Property Tax Statements
The tax statement shall contain:
(1) The name of the county;
(2) The fiscal year being billed;
(3) The property type;
(4) The account number;
(5) For real property, an identifier which meets one of the requirements of ORS 308.240(1);
(6) For real property:
(a) The real market value of land, the real market value of improvements, and the total real market value of the account for the prior year and for the current year;
(b) If the property is subject to special assessment, the specially assessed value of the account for the prior year and for the current year.
(7) For real property the total assessed value of the account for the prior year and for the current year;
(8) For personal property, the total real market value and the total assessed value for the current year;
(9) If the property is subject to additional taxes or a penalty upon disqualification from special assessment or exemption, notice to that effect;
(10) The amount of delinquent taxes including interest to the due date of the tax statement;
(11) The name of each entity and the total amount of taxes expressed in dollars and cents imposed on the property by
the entity for general governmental purposes, for education purposes and for purposes not subject to the limits of section 11b, Article XI of the Oregon Constitution;

(12) The amount of late filing penalties;
(13) The total amount of current taxes and other charges due on the described property by category;
(14) The net amount of taxes for full payment, two thirds payment or one third payment by the due date;
(15) The place where payments of taxes are to be made;
(16) A warning that foreclosure proceedings will be commenced against real property accounts with an unpaid balance for specified tax years; and
(17) A notice that value may be appealed.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.250
Hist.: REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; Renumbered from 150-311.250, REV 28-2016, f. 8-12-16, cert. ef. 9-1-16

150-311-0260
Prepayment of Property Taxes
Unless authorized by law, no prepayments of property taxes which have not been certified by a taxing district, shall be collected or accepted.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 311.250
Property tax decisions

Court cases, opinions, and orders

Supreme Court

First National Bank of Portland v Marion County et al. (169 Or 595) .................................................................6-85
This case deals with the taxation of bank and trade fixtures. If the statute doesn’t specifically provide for assessing separate interests in real property, such property should be assessed as a unit to the owner of the fee.

James Helm et al. v Wm. Gilroy (20 Or 517) ..........................................................................................................6-107
This case deals with who is responsible for the repayment of taxes on property when it’s leased and the property is affixed to the building. Is it real or personal property?

Oregon Tax Court

King Estate Winery, Inc. v Department of Revenue (14 OTR 169) ...........................................................................6-113
Processing equipment and other items located at a winery are subject to personal and real property taxation.

H-P Ventures, Inc., dba Adventures Video v Department of Revenue (13 OTR 330) ..............................................6-123
The values of videotapes are established from the information of the owner and support the department findings.

Phillippe and Bonnie Girardet v Department of Revenue (13 OTR 44) .................................................................6-131
Land under wine tasting room is taxable and not exempt. It may, however, be entitled to special assessment.

Jackson County Tax Collector v Department of Revenue (12 OTR 498) .................................................................6-145
The tax collector as the addressee may determine what proof is satisfactory to corroborate proof of mailing.

Cove Sportsman Club v Department of Revenue (11 OTR 40) ....................................................................................6-149
Items that belong to a club are taxable.

Seven-up Bottling Co. of Salem v Department of Revenue (10 OTR 400).................................................................6-159
The courts defined the difference between “real” and “personal” property. This decision expands the three-prong test for property. Courts found that the subject property was “affixed” or “erected upon” real property and not readily movable. The courts ruled that property not readily moveable was “real,” not “personal.”

West Foods, Inc. v Department of Revenue (10 OTR 7) ...............................................................................................6-169
Courts found that mushroom growing in plaintiff’s sheds constituted an “agricultural or horticultural use,” but that the subject property, growing beds, wasn’t personal property and therefore not eligible for tax exemption under ORS 310.308 (now ORS 307.400).

Western States Fire Apparatus (4 OTR 11) ..............................................................................................................6-173
Personal property is taxable at its situs. Property located in Oregon temporarily or in transit has no taxable situs in Oregon and isn’t subject to ad valorem taxation.

Durkee v Lincoln County Assessor (TC-MD 020321D) ..............................................................................................6-185
Personal property using an in-place, in-use approach is an acceptable method of valuation.

Department of Revenue

Steve Jonas, Opinion and Order 97-1278, July 1997 .................................................................................................6-195
Value of video tapes.

Oregon Trail Mushroom Co., Opinion and Order 89-0989, December 1996..............................................................6-199
At issue is whether the subject property is tangible personal property and therefore exempt under ORS 307.400 or real property. The distinction is made between “real” and “personal” property.
Hillcrest Vineyard, Opinion and Order 96-0132, May 1996  
Personal property used in the processing of grapes into wine isn’t exempt from taxation. The exemption ends with the processing of the crop, and as the items at issue here are primarily, if not exclusively, used to change the grapes into wine, there can be no exemption under ORS 307.400.

Dennis E. Penheiro, Opinion and Order 94-0825, November 1994  
Penalties are applied to accounts for which returns are filed late. A separate return is to be filed for each tax code area in which property is located. Even though the taxpayer reported several accounts on the same form, he was subject to a penalty on each account.

California-Oregon Broadcasting, Inc., Opinion and Order 90-3006, October 1992  
The issue is the proper classification of the subject property. The county has assessed the property as real property improvements and the taxpayer contends the items are movable personal property.

Meadow Outdoor Advertising, Opinion and Order 84-6534 and 85-0641, June 1987  
The sole issue to be determined is whether the 29 off-premises advertising signs should be assessed as real property or as personal property for ad valorem tax purposes.

Reter Fruit Company, Opinion and Order 3-2482-15, March 1985  
Exemption of farm machinery and equipment used in a fruit packing plant. Differentiates between harvesting process and production. Discusses circumstances wherein items of personal property are taxable and when they aren’t taxable.

Department of Justice opinions

Hay Processing Equipment (September 1991)  
Taxability of farm machinery and equipment when used in conjunction with a farm and used not on a farm. This would include the land under buildings and where equipment is being used.

Taxation of Stored Personal Property (February 1974)  
Personal property is taxable when it isn’t used, but stored. All items of tangible personal property held by the owner, or for delivery by the vendor to him for his personal use, benefit, or enjoyment, are exempt from taxation. Intention of taxpayer.
Argued June 18; reversed October 20; rehearing denied November 17, 1942

FIRST NATIONAL BANK OF PORTLAND v. MARION COUNTY ET AL.
(130 P. (2d) 9)

Taxation—National banks

1. "National banks" are "agencies of the United States", created under its laws to promote its fiscal policies, and the property of such banks may not be taxed under state authority except as Congress consents, and then only in conformity with such restrictions as Congress may impose.

Taxation—Bank fixtures and equipment

2. Since Congress has not consented to the taxation by states of personally of national banks, banking fixtures and equipment of national bank, if taxable at all by the state as the property of the bank, could be taxed only as realty.

Taxation—Trade fixtures

3. If trade fixtures are classified as personally for purpose of taxation, they must be taxed, if at all, as personally and not as realty, and, if such fixtures are a part of the realty and are to be taxed as realty, the assessors have no authority to assess them as personally.

Taxation—National banks

4. National bank's trade fixtures and equipment all, or practically all, of which could be removed from leased premises without any substantial injury to building, could not be taxed to the national bank as "realty".

See 26 R. C. L. 109.
61 C. J., Taxation, 272.

Before KELLY, Chief Justice, and BAILEY, LUSK, RAND, ROSSMAN and BRAND, Associate Justices.

Appeal from Circuit Court, Marion County.

L. G. Lewelling, Judge.

Suit by The First National Bank of Portland against Marion county, A. C. Burk, as sheriff of Marion county, R. Shelton, as assessor of Marion county, and Earl L. Fisher, Charles V. Galloway, and Wallace S. Wharton, as members of and constituting the State Tax Com-
mission of the state of Oregon, to enjoin the foreclosure of an alleged tax lien against property owned by the plaintiff, and for a decree declaring assessment of the tax null and void. From a judgment in favor of the defendants, the plaintiff appeals.

Reversed. Rehearing denied.

V. V. Pendergrass and R. R. Bulivant (Pendergrass, Spackman & Bulivant), all of Portland, for appellant.

Miller B. Hayden, District Attorney, of Salem (George L. Belt, of Salem, on the brief), for respondents Marion county, A. C. Burk, and R. Shelton.

Ralph R. Bailey and James G. Smith, Assistant Attorneys General, on the brief, for respondents Earl L. Fisher, Charles V. Galloway, and Wallace S. Wharton, as members of State Tax Commission.


BAILEY, J. This suit was instituted by The First National Bank of Portland against Marion county, the sheriff and the assessor of Marion county, and the individual members of the state tax commission, to enjoin the foreclosure of an alleged tax lien against property owned by the plaintiff, and for a decree declaring the assessment of the tax null and void. From a decree in favor of the defendants the plaintiff has appealed.

The property here involved, which was attempted to be assessed by Marion county, consists of banking fixtures and equipment located on the first and mezzanine floors and in the basement of the First National
Bank building in Salem, Oregon. The purported tax lien covers attempted assessments of such property for the years 1929 to 1939, inclusive. The banking fixtures and equipment were assessed as real property, to the plaintiff's vendor and later to the plaintiff. The land on which the building is located, together with the building, was during those periods assessed as real property to T. A. Livesley, Inc., an Oregon corporation, the owner of the fee.

1, 2. National banks are agencies of the United States, created under its laws to promote its fiscal policies, and the property of such banks may not be taxed under state authority except as Congress consents, and then only in conformity with such restrictions as Congress may impose: 12 U. S. C. A., § 548; First National Bank of Guthrie Center v. Anderson, 269 U. S. 341, 70 L. Ed. 295, 46 S. Ct. 135. Congress has not consented to the taxation by states of the personal property of national banks; hence the banking fixtures and equipment involved herein, if taxable at all by the state of Oregon as the property of national banks, may be taxed only as real property.

On January 22, 1927, First National Bank in Salem, a national banking association, leased from T. A. Livesley, Inc., for a period of twenty-five years, "the first story and mezzanine floor in the rear or south end" of an eleven-story building, "together with convenient space for a vault, stairway, corridor and lavatory in the basement thereof, and ingress and egress thereto," for the purpose of conducting a general banking business. In a supplemental agreement entered into February 19, 1927, it was provided that "the said lessee is empowered and authorized to remove from said premises so leased all furniture and mov-
able equipment and all improvements and furnishings placed in said premises by said lessee, including oak and walnut woodwork, marble work, lighting fixtures, bronze and iron grillwork, vault doors and all other vault equipment, and the same shall not be considered for the purposes of such lease as fixtures.’’ The premises leased to First National Bank in Salem comprised the entire ground floor of the structure known as the First National Bank building, with the exception of that part thereof used as a general lobby and entrance to the upper floors of the building.

Shortly after entering into this lease, First National Bank in Salem proceeded to install in the leased premises various trade fixtures, including counters, desks, tellers’ cages, wickets, partitions, files and lighting fixtures, a vault door and vault equipment, including safe-deposit boxes, also marble work, including marble counters and check desks, benches and wainscoting on the vestibule walls.

After conducting a banking business on the leased premises for five or six years, First National Bank in Salem went into liquidation. Sometime during the summer of 1933 The First National Bank of Portland, plaintiff herein, purchased from First National Bank in Salem certain assets of the latter bank, including notes, bonds, bank accounts, furnishings and banking equipment. Among the assets so purchased were the following:

‘‘8 upright steel lockers
2 lobby benches
2 marble and bronze glass top lobby check desks
   approximately 3’ 2” x 8’ 8”
1 drinking fountain
3 large and 2 small chandeliers
All cage and counter fixtures, comprising 8 marble front, glass and bronze top cages, with returns, partitions, shelving, backs and doors, and approximately 70 lineal feet of marble front and top counter railing, together with doors, gates and glass plate, forming a part of such fixtures; also safe-deposit booths, bookkeeping room partitions, and all wainscoting, both marble and wood, and mezzanine rail partition, consisting of metal, wood and glass paneling.

One electric wall clock

1 12-inch Herring Hall Marvin Safe Co. circular vault door, four movement time lock, together with frame, casings and architraves.
1 9-inch emergency entrance vault door with Sargent and Greenleaf, 3 movement time lock, together with frame and casings.”

The plaintiff is a national banking association with its principal place of business in Portland, Oregon. It operates a branch bank in Salem in the quarters formerly occupied by First National Bank in Salem, which premises on September 25, 1933, it leased from T. A. Livesley, Inc., for a period of ten years with an option for ten additional years. The leasing agreement contains this provision:

“The lessee has purchased from the First National Bank in Salem all the fixtures, equipment and appurtenances, of every kind and nature, installed by said bank in the leased premises, including, among other things, all oak and walnut woodwork, marble work, lighting fixtures, bronze and iron grillwork, vault doors and vault equipment. All of said fixtures, improvements or appurtenances of every kind and nature, including any that may be hereafter installed in any portion of the leased premises by the lessee, shall belong to the lessee and may be removed by it at any time,
either prior to the termination of this lease or within a reasonable time thereafter."

In the erection of the First National Bank building, T. A. Livesley, Inc., constructed a vault with concrete walls, ceiling and floor. The vault door was supplied by First National Bank in Salem, and with its frame or vestibule was delivered to the premises as a unit. It was installed in the vault opening by the tenant bank, by placing about two inches of sand and cement (not concrete) between the vault walls and the door frame. The door and its frame or vestibule weighed between fifteen and seventeen tons and could be removed by chipping away the sand and cement between the frame and the main walls of the vault, without injury to the building.

The evidence is to the effect that it is customary for banks to remove such vault doors to replace them or to set them up in new quarters. The installation of vault doors is well described by the opinion in San Diego Trust & Savings Bank et al. v. San Diego County et al., 16 Cal. (2d) 142, 105 P. (2d) 94, 133 A. L. R. 416.

Chandeliers furnished by the tenant bank were fastened to the ceiling in the usual manner required by their varying sizes. Much of the banking equipment was fastened to the floor with anchors or bolts of bronze or other metal and was readily removable by unscrewing or cutting the bolts. A large part of the equipment has been moved about by the plaintiff. All, or practically all the banking fixtures and equipment involved herein can be removed without any substantial injury to the building.

At the time First National Bank in Salem leased from T. A. Livesley, Inc., that part of the building which it later occupied, the interior thereof was un-
finished. The bank at its own expense laid a marble floor, painted and decorated the walls and ceiling and installed marble wainscoting. Whether the assessor attempted to assess the marble floor and the painting and decoration of the walls and ceiling to the plaintiff and its vendor does not appear. In relation to this matter the plaintiff in its brief states:

"* * * In so far as the painting and decorations are concerned, appellant agrees that they constitute a part of the building and that it has no interest whatsoever in attempting to remove the paint from the walls.

"In other words, if the county wants to assess the painting and decorations and the marble which appellant's predecessor may have placed upon the floor, it should do so because they constitute a part of the building and such assessment should be to the owner of the building."

For the year 1929 the assessor of Marion county made an assessment against T. A. Livesley, Inc., covering "fr. Lots No. 1 and 2, Block No. 34, value of all lots $20,800.00, value of improvements on town lots, $90,000.00, total value of taxable property as equalized by board of equalization, $110,800.00." Immediately after the name of T. A. Livesley, Inc., appeared the following: "First National Bank in Salem, fr. Lots No. 1 and 2, Block No. 34, value of all lots $........., value of improvements on town lots $25,000.00, total value of taxable property as equalized by board of equalization. $25,000.00."

That notation was continued up to and including the tax year 1933-1934. From 1935 to 1939, inclusive, the property formerly assessed to First National Bank in Salem was taxed under the same description to The First National Bank of Portland, with the
exception that for the years 1937 to 1939, inclusive, the valuation was reduced from $25,000 to $15,000.

On July 6, 1939, pursuant to § 110-820, O. C. L. A., the sheriff of Marion county as tax collector amended the description in the assessment against the banks to read as follows: "All fixtures, equipment and appurtenances of every kind and nature, including among other things, all oak and walnut woodwork, marble work, lighting fixtures, bronze and iron grillwork, vault doors and vault equipment affixed to the premises described as follows: Fractional part of lots 1 & 2 block 34, Salem Original."

The assessments for the years 1929 to 1934, inclusive, were made by Oscar Steelhammer, county assessor. In 1935 Mr. Steelhammer died, and R. Shelton, chief deputy assessor since 1918, was appointed as his successor and has continued in office. Mr. Shelton as a witness was unable to state what property of First National Bank in Salem had been included in the assessments made by Mr. Steelhammer. After Shelton became assessor he continued the assessments under the same designation used by his predecessor in office, without personally checking on the property assessed. He reduced the valuation in 1937, as above noted, because he was of the opinion that The First National Bank of Portland had not acquired all the property formerly assessed to First National Bank in Salem.

The plaintiff contends that the relief sought by it should have been granted for the following reasons: (1) That the banking fixtures and equipment attempted to be taxed by the defendant county were trade fixtures, hence personal property and therefore not taxable to a national bank; (2) that the tax laws of the state make no provision for the assessment of
trade fixtures as real property to the owner thereof who is a lessee of the premises where such fixtures are used; and (3) that the description of the property sought to be taxed is so indefinite and uncertain that the various assessments here involved are, in their entirety, void.

Unless authority be found in the tax laws to assess trade fixtures as real property to the tenant in possession of the premises where such fixtures are used, the assessment in the instant case must be declared void. We shall therefore first consider the second reason advanced by the plaintiff as above noted. The assessments here in question covered, as heretofore stated, a period from 1929 to 1939, inclusive. Attention will necessarily be given first to the laws in effect at the time the first such assessment was made.

Section 69-102, Oregon Code 1930, is in part as follows:

"The terms 'land,' 'real estate' and 'real property,' as used in this act, shall be construed to include the land itself, whether laid out in town lots, or otherwise, above and under water, all buildings, structures, substructures, superstructures and improvements erected upon, under or above, or affixed to the same, and all rights and privileges thereto belonging or in any wise appertaining; also any estate, right, title or interest whatever in land or real property, less than the fee simple".

That section further provides that in all cases in which the grantor of land has, in the deed conveying the same, reserved unto himself "the right to enter upon and use any or all of the surface ground necessary for the purpose of exploring, prospecting for, developing or otherwise extracting" minerals, gases or oils,
such reservation "shall be deemed, and is hereby declared to be, an estate and interest in land". It also declares that all franchises and privileges granted pursuant to any law or municipal ordinance and owned or used by any person or corporation, other than the right to be a corporation, all water rights, water power, and all "mines, minerals, quarries, fossils, and trees in or upon the land" are interests in land.

By § 69-109, Oregon Code 1930, it is provided that lands held on a contract for the purchase thereof and belonging to the state, county or municipality, and school and other state lands, shall be considered for the purpose of taxation as the property of the person so holding the same, and the improvements thereon shall be considered as real property for all purposes of taxation, and as the property of the person so holding the same.

It is specifically provided by § 69-211, Oregon Code 1930, that whenever any mineral, gas, coal, oil or other similar interests in real estate are owned separately and apart from and independently of the rights and interests owned in the surface of real estate, such interests may be assessed and taxed separately from such surface rights and may be sold for taxes in the same manner and with the same effect as other interests in real estate are sold for taxes.

Section 69-231, Oregon Code 1930, provides the mode of assessing property for taxation. By that section the assessor is required to enter upon the assessment roll a full and complete assessment of all property in his county on March 1 of each year, "including a full and precise description of the lands and lots owned by each person therein named, on March 1 of said year, . . . which description shall correspond with the plan or plat of any town laid out or recorded;
and said lands or town lots shall be valued at their true cash value, taking into consideration the improvements on the land and in the surrounding country, and any rights or privileges attached thereto or connected therewith”. The section then provides how the true cash value of property shall be ascertained. It further declares that no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or by the entry of a name other than that of the true owner, if the property be correctly described; “and, provided further, where the name of the true owner, or the owner of record, of any parcel of real property shall be given, such assessment shall not be held invalid on account of any error or irregularity in the description; provided, such description would be sufficient in a deed of conveyance from the owner; or on account of any description upon which, in a contract to convey, a court of equity would decree a conveyance to be made.”

By § 69-242, Oregon Code 1930, the assessor is required to set down in the assessment roll a description of each tract or parcel of land to be taxed. That section further provides how land shall be described.

Section 69-245, Oregon Code 1930, specifies that an undivided interest in land may be assessed and taxed as such.

The procedure to foreclose delinquent real property taxes is prescribed by § 69-807, Oregon Code 1930. The summons in such proceedings must contain a description of the property and the name of the owner or owners of the legal title thereof as the same appears of record, if known.

Section 69-820, Oregon Code 1930, makes further provision in regard to the procedure on foreclosure,
the judgment which shall be entered and the method of sale. It states, among other things, that:

"** The court shall give judgment and decree for such taxes, assessments, penalties, interest and costs, as shall appear to be due upon the several lots or tracts described in said summons and application for judgment and decree, and such judgment and decree shall be a several judgment against and lien upon each tract or lot, or part of a tract or lot, for each kind of tax or assessment included therein."

The same section thus provides for the sale of real property on tax foreclosure:

"At such sale the person offering to pay the amount due on each tract or lot for the least quantity thereof shall be the purchaser of such quantity, which shall be taken from the east side of such tracts or lot, and the remainder thereof shall be discharged from the lien. In determining such piece or parcel of such lot or tract, a line is to be drawn due north and south, far enough west of the eastern point of tract to make the requisite quantity."

Certain amendments of the tax laws were made by the legislature in 1935. The only essential change in the first part of § 69-102, supra, thereby effected was that, after the word "improvements," the following words were added: "machinery, equipment or fixtures". In the last part of the section the provision as to severable interests was expanded to declare that the ownership of standing timber, with a right to enter upon the ground to remove such timber, is an interest in real property: § 69-102, Oregon Code 1935 Supplement.

Section 69-211, supra, was also amended, to provide that, "Whenever any standing timber, or any
mineral, coal, oil, gas or other severable interest in or part of real property is owned separately and apart from the rights and interests owned in the surface ground of such real property,” such interest may be assessed and taxed separately from the surface rights “and may be sold for taxes in the same manner and with the same effect as other interests in real property are sold for taxes”; § 69-211, Oregon Code 1935 Supplement.

The other sections of Oregon Code 1930 hereinabove cited and discussed were not substantially changed until after the making of the last of the assessments here involved.

It is contended by the defendants that the plaintiff and its predecessor in ownership of the trade fixtures here in question owned an interest in the real property where such fixtures were maintained. That would amount to an interest not only in the bank building, but also in the land on which the building stands. The nature of such interest, whether a leasehold or something else, is not made clear by the defendants in their argument. They assert in their brief, however, that, “Under statutes similar to those in Oregon, courts almost universally have held that the interest of the lessee is taxable to the lessee as real property”; and numerous cases are cited by them in support of that statement.

The first of such cases is Aberg v. Moe, 198 Wis. 349, 224 N. W. 132, 226 N. W. 301. The Wisconsin statute involved therein was, as stated by counsel for the defendants, similar to that of Oregon. The Wisconsin statute, however, provided that “all buildings on lands under lease or permit, including buildings located on railroad right of way or on other lands not subject to local assessment, shall be assessed as real estate to the
owners of such buildings." The facts set forth in the opinion indicate that the land was not taxable. The property had been leased and a building constructed thereon, and the assessor attempted to assess the leasehold interest in the property. In passing upon the right to assess such interest, the court said:

"Under the provisions of these statutes throughout the history of the state lands have been assessed to the owner. No doubt the legislature might empower the assessor to assess the leasehold interest against the lessees and so divide up the property for the purposes of taxation. That, however, has never been the policy of our law so far as we know except for a brief period when the state undertook to tax the respective interests of the mortgager and mortgagee separately. The entire property, including all interests in it, is assessed to the owner of the property as defined in the statute, and the right of every person claiming any interest in the property subordinate to the fee, whether under lease, contract, or otherwise, is extinguished if the property be sold in the exercise of the taxing power. If we were now to hold that the interest of the lessee under a lease should be separately assessed, how could it be held in other cases that where assessed to the owner the interest of the lessee could be cut off? If a lease creates a separable taxable interest in the lessee in one case, it does in all cases. The fact that the fee is exempt in one case and not in another does not change the nature of the lessee’s interest. A holding to that effect would involve a complete reversal of the public policy of this state throughout its history, and if a change of that kind is to be brought about it should be done by legislative action, not by a judicial holding made to fit a particular case."

In the case of In re Indian Territory Illuminating Oil Company, 43 Okla. 307, 142 P. 997, which also is
cited by the defendants herein in support of their argument, it was held that gas leases were not subject to taxation as real property or otherwise. The court thus reasoned:

"The provisions of the statute already adverted to provide a complete system for the levying of all taxes upon an *ad valorem* basis; and we can find no warrant in any of them for levying an *ad valorem* tax upon an oil and gas lease as such. Generally, an oil and gas lease, a school land lease, or a lease of any sort, for that matter, undoubtedly is property. But, as we have heretofore stated, property itself is a creature of the law, and the classification thereof for purposes of taxation belongs exclusively to the legislative department. * * *

" * * * It is also observable that in many jurisdictions various interests in real property for purposes of taxation are made severable and assessable in the names of the owners of the respective interests. That, however, is not the case in this state. Under our system of taxation, real property, which for purposes of taxation means the "land itself, all buildings, stocks, improvements, or other fixtures of whatsoever kind thereon and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries or trees under or on the same," must be assessed in the name of the owner of the land."

See also, in this connection, *State v. Shamblin*, 185 Okla. 126, 90 P. (2d) 1053.

In *Jetton v. University of the South*, 203 U. S. 489, 52 L. Ed. 584, 28 S. Ct. 375, cited by the defendants, the statute of Tennessee, in which state the case arose, provided that the interest of a lessee should be assessed to the owner of such interest separately from other interests in the real estate. It was contended by the university that the property owned by it was tax-free
and that therefore the legislature could not provide for the assessment of a leasehold interest in its property. The court held that the legislation in question was valid, and that because it specifically provided that a leasehold interest should be assessed to the lessee the university could not complain.

The cases of *City of Chicago v. University of Chicago*, 302 Ill. 455, 134 N. E. 723, 23 A. L. R. 244, and *Moeller v. Gormley*, 44 Wash. 465, 87 P. 507, are the remaining authorities cited by the defendants to the proposition that under statutes similar to those of Oregon, “courts almost universally have held that the interest of the lessee is taxable to the lessee as real property.” As to the former of these cases, the Illinois statute provides, according to the opinion therein, that, “When real estate which is exempt from taxation is leased to another whose property is not exempt, and the leasing of which does not make the real estate taxable, the leasehold estate and appurtenances shall be listed as the property of the lessee thereof, or his assignee, as real estate.”

*Moeller v. Gormley*, supra, involved the taxation of a lease of state tidelands, and the court in that case, under a statute similar to § 69-102, Oregon Code 1930, did hold that although the fee of the land was exempt from taxation, a leasehold interest in the land could be taxed.

The authorities on which the defendants rely do not support their contention that the leasehold interest in real property should be assessed to the lessee as real property. Quite to the contrary, all those cases, with the exception of *Moeller v. Gormley*, supra, hold that if the statute does not specifically provide for assessing separate interests in real property, such
property should be assessed as a unit to the owner of the fee. Moreover, the facts in Moeller v. Gormley, supra, differ materially from those in the case at bar, for in that instance the land itself was not assessable and there was not an assessment of the fee to the owner thereof and in addition an assessment of a leasehold interest to the lessee.

In 26 R. C. L., Taxation, § 111, page 136, we find the following statement:

"* * * Property is, however, a word of most general import and includes every kind of right and interest, capable of being enjoyed as property and recognized as such, upon which it is practicable to place a money value. Land or any estate or interest therein is undoubtedly property; but inasmuch as a parcel of land is generally taxed as a unit and the different estates or interests therein are not separately assessed, the question of what interests in real estate constitute property does not frequently arise. When, however, the fee of a parcel of land is exempt from taxation and a lesser estate or interest therein is not, such estate or interest may be taxed if it is of such a character as to constitute property."

And in § 318, at page 360 of the same text, this is said:

"Whether taxes on real estate are assessed upon the real estate itself, regardless of ownership, or are assessed upon individuals by reason of their ownership, it is not in most jurisdictions the policy of the law to require the assessors to tax the different estates and interests which may exist in a single parcel of land to the respective owners thereof, but the assessment is a unit upon the sum of the interests."

See also, in this connection, Donovan v. City of Haverhill, 247 Mass. 69, 141 N. E. 564, 30 A. L. R. 358.
This court in *Nehalem Timber Company v. Columbia County*, 97 Or. 100, 189 P. 212, 191 P. 318, also laid down the rule that real property should be assessed as a unit to the owner of the legal estate rather than to the owners of separate interests in it. In that instance the land was owned by the federal government, which had entered into a contract to sell certain timber thereon to the plaintiff timber company. The assessor of the defendant county attempted to assess the timber to the plaintiff as real property. That was done before provision was made by statute for the separate assessment of timber. The court, after quoting the Oregon statute defining real property, which was practically identical with the similar statute in effect in 1929, observed:

"For tax purposes this legislation inseparably yokes the timber to the land on which it is growing. The statute was further amended in 1919, but as only the taxes of 1916 are here involved, no notice will be taken of the latter legislation. It is a general principle that taxes follow the legal title, and this seems to be the sense and spirit of this statute. It refers to the land itself, which includes the growing timber thereon. The taxing power is not concerned with indefinite equities. It is said in section 3586, L. O. L., as so amended, that—

"'No assessment shall be invalidated by a mistake in the name of the owner of the real property assessed, or by the omission of the name of the owner, or the entry of a name other than that of the true owner, if the property be correctly described.'

"All of which indicates that the legal estate alone is the subject of taxation."

The statutes of Oregon relating to taxation make no provision for the assessment of a leasehold interest
to the lessee. In other words, various interests in real property are not, for the purpose of taxation, made severable and assessable in the names of the owners of the respective interests, except in certain specified instances, such as those mentioned by § 69-211, Oregon Code 1935 Supplement, and § 69-245, Oregon Code 1930, as well as "improvements made by persons on lands claimed by them under laws of the United States, the fee of which is still vested in the United States": §§ 69-103 and 69-232, Oregon Code 1930. According to these last two sections, such improvements are classified as personal property.

A further answer to the defendants' argument that the assessments against the banks could be upheld as assessments against their leasehold interests is the fact that there was no attempt to identify the assessed property as leasehold interests.

The defendants make the further assertion that the plaintiff has, and First National Bank in Salem had, an interest in the real property because the trade fixtures used by them in conducting their respective banking businesses were attached to the First National Bank building. No attempt is made to define the interest so owned. The assessor of Marion county testified that the only instance, within his knowledge, of assessing trade fixtures in Marion county to the tenant of leased premises as real property, was the assessment of the plaintiff's equipment and that of First National Bank in Salem; and that in all other cases trade fixtures were assessed by him as personal property.

The defendants contend that it does not make any difference in ordinary cases whether trade fixtures are assessed as personal property or as real property,
because the amount of taxes levied would be the same in either instance. In the case at bar, since the trade fixtures can be assessed against a national bank, if at all, only as real property, an exception has been made by the assessor and they have been classified as real property.

Section 69-726, Oregon Code 1930, provides that all taxes levied against personal property "shall be a debt due and owing from the person against whom said taxes are charged for said personal property", and if such taxes are not paid before becoming delinquent or upon demand of the assessor, the county levying them "may, in addition to the remedies now provided by statute for the collection of taxes against personal property, maintain an action against said person against whom said tax has been levied for the collection thereof"; and upon application of the county, writs of attachment shall be issued by the clerk of the court.

By § 69-721, Oregon Code 1930, the sheriff is required, in collecting taxes against personal property, to levy upon sufficient goods and chattels, belonging "to the person, firm, or corporation or association charged with such taxes, if the same can be found in the county, by taking them into his possession, to pay such delinquent taxes".

The owner of real property has no personal liability for taxes assessed against it unless he "has substantially dissipated, destroyed or removed" the value of such property: § 69-901, Oregon Code 1930.

In the cases of Turner v. Spokane County, 150 Wash. 524, 273 P. 959, Town of Langlade v. Crocker Chair Co., 190 Wis. 226, 208 N. W. 799, and Ford Hydro-Electric Co. v. Town of Aurora, 206 Wis. 489,
240° N. W. 418, it was held that the assessment of certain improvements of real property as personalty instead of realty was null and void.

3. The county assessors of this state may not assess trade fixtures as real or personal property as expediency suggests. If trade fixtures are classified as personal property for the purpose of taxation, they must be taxed, if at all, as personal property, and not as realty. On the other hand, if such fixtures are a part of the real property and are to be taxed as real property, the assessors have no authority to assess them as personalty. If we were to hold that The First National Bank of Portland owns an interest in the tract of land on which the First National Bank building is located, because it is the owner of certain trade fixtures kept and used by it in that building, and that such interest in the real property should be assessed to the plaintiff bank as real property, then it would follow that in all other instances trade fixtures should be assessed to the owner thereof as real property. If the ownership of trade fixtures creates a separable taxable interest in the realty in one case, it does in all cases.

To require the county assessors to assess all trade fixtures in the names of the owners thereof as real property would impose upon them Herculean tasks and result principally in confusion. The law does not contemplate any such procedure.

4. We are not here passing upon the question of whether the plaintiff’s trade fixtures and equipment are real property or personal property within the meaning of those terms as used in our tax law. Nor are we deciding whether or not such trade fixtures and equipment may be taxed to the owner of the legal
estate as fixtures annexed to or improvements of real property. No attempt was made to assess them to the owner of the legal estate. We do hold that under our statutes the various interests in real property for purposes of taxation are not made separable and assessable in the names of the owners of the respective interests except as hereinabove designated.

As there was no authority for the defendant county in this instance to assess the banking fixtures and equipment to the plaintiff as real property, the attempted assessments were void and the relief prayed for by the plaintiff should have been granted. The conclusion which we have reached renders unnecessary a discussion of the other grounds assigned by the plaintiff for a reversal of the decree. The decree appealed from is reversed and the cause is remanded to the circuit court with direction to enter a decree in conformance with this opinion. Costs will not be allowed in this court.

BELL, J., did not participate in the decision or consideration of this case.
JAMES HELM ET AL. v WM. GILROY ET AL.

Preliminary injunction — Provisional remedy — Title. A preliminary injunction is a provisional remedy, the sole object of which is to preserve the subject to controversy in its then condition; and courts of equity in granting or refusing the same, should in no manner anticipate the ultimate determination of the question of right involved.

When appeal will lie from order granting or refusing same. An order granting or refusing a preliminary injunction does not ordinarily partake of the nature of a final judgment to such an extent as to warrant an appeal therefrom; but when the court not only refused the injunction, but entered a decree settling the rights of the parties, an appeal will lie.

Assignee under General Assignment Law, title of. An assignee, under the general assignment law, takes no better title than his assignor, and is affected by all the equities existing against him.

Fixtures. When as between Mortgagor and Mortgagee. Machinery is — as between mortgagee and mortgagor, machinery necessary for and used in the operation of a saw and door and planing mill, when affixed to the building by screws, bolts, pulleys and bands, is a fixture, and subject to the lien of the mortgage.

Jackson county: L. R. Webster, Judge.

Plaintiff appeals. Modified.

The property in controversy in this suit is certain machinery, necessary for and used in operating what is known as a saw and door factory and planing mill at Ashland, Oregon. This machinery was purchased on April 22, 1887, of the Parke & Lacy Machinery Company, of Portland, by defendant Wm. M. Gilroy, and one Youle, who were the owners of the real estate, water-power and building in which the machinery was placed. The agreement between the P. & L. M. Co. and Gilroy & Youle was, in form, a lease for twelve months, at a stipulated rental of $2,093, payable $900 in cash, and balance at stated times during the year; and upon the payment of this rent Gilroy & Youle were to have the right to purchase the property for two dollars. By this lease, Gilroy & Youle agreed that they would not permit the machinery, or any part thereof, to be affixed to real estate. After said machinery was received at Ashland, it was placed in the building prepared for it, and attached thereto by screws, bolts, pulleys and bands in the manner such machinery is usually attached to buildings. Gilroy & Youle used and operated said mill and machinery for some time, when Gilroy purchased the interest of Youle and continued to use and operate the same until May 13, 1889, when he and his wife executed and delivered to one G. F. Pennebaker their mortgage to secure the payment of the sum of $3,500 on or before one year after date, which mortgage was subsequently assigned to plaintiffs. This mortgage in terms only describes the real estate upon which said mill is situ-
ated and its appurtenances. Two days after the execution of
the mortgage, Gilroy made a general assignment for the
benefit of his creditors to defendant Rogers of all his prop-
erty. On January 30, 1890, there remained due from Gilroy
& Youle to the P. & L. M. Co., on the purchase price of said
machinery, $879.89. Rogers paid the same from money in
his hands as assignee, and received from the company a bill
of sale of said machinery. On May 13, 1890, no payments
having been made on the mortgage, plaintiffs commenced a
suit to foreclose the same, making Gilroy and wife and
Rogers defendants, but neither of them appeared or made
defense thereto. On August 11, 1890, the plaintiff filed an
amended complaint, which, among other things, particularly
described said machinery, and alleged that it was a part of
the realty and subject to the lien of plaintiff’s mortgage,
and that defendant Rogers, as assignee of Gilroy, was in
possession of the property and threatened to remove the
machinery and sell and dispose of the same, and would do
so unless enjoined by order of the court, and praying for a
preliminary injunction. Rogers answered, denying that the
machinery was a part of the realty or subject to the lien of
plaintiff’s mortgage, and alleging the purchase by him of
the P. & L. M. Co. A reply having been filed, the cause was
heard before the court on the 26th of August, 1890, and a
decree entered adjudging that the machinery was not part
of the real estate described in plaintiff’s mortgage, nor sub-
ject to the lien thereof; and hence this appeal.

H. K. Hanna, for Appellant.

Austin S. Hammond, for Respondent.

Bean, J.—This case comes here on appeal from an order
denying a preliminary injunction. The record is in a very
unsatisfactory condition. In place of trying the issue between
the parties in the original suit to foreclose plaintiff’s mort-
gage, as should have been done, it seems it was tried on a
proceeding for a preliminary injunction, in aid of the original
suit. In this proceeding, the court, after hearing the evidence,
not only denied the writ, but entered a decree determining
the question as to whether the property in controversy was
subject to the lien of plaintiff’s mortgage, thereby splitting
up the original cause of suit; in the original suit entering a
decree foreclosing the mortgage and ordering the real prop-
property sold to satisfy the amount due plaintiff, and in the ancillary proceedings for an injunction, determining the question as to whether the machinery was a part of such realty, when the entire question should have been put in issue either by the original or an amended complaint and determined by one decree.

A preliminary injunction is only a provisional remedy, the sole object of which is to preserve the subject in controversy in its then condition and without determining any question of right, merely to prevent the further perpetration of wrong, or the doing of any act whereby the right in controversy may be materially injured or endangered. In granting or refusing temporary relief by preliminary injunction, courts of equity should in no manner anticipate the ultimate determination of the question of right involved. They should merely recognize that a sufficient case has or has not been made out to warrant the preservation of the property or rights in situ quo until a hearing upon the merits, without expressing a final opinion as to such rights. (1 High Inj. § 4; Hill's Code, §§ 408, 411.) The granting or refusing such an injunction rests largely within the discretion of the court, and being merely an interlocutory order, made during the progress of the cause, does not ordinarily partake of the nature of a final judgment or decree to such an extent as to warrant an appeal therefrom. (2 High Inj. § 1693.) But in this case, the court not only refused the injunction but entered a decree settling the rights of the parties, and in effect determined the suit so as to prevent a decree therein, so far as this machinery is concerned, and therefore it must necessarily be an appealable order or decree under section 535, Hill's Code; (Smith v. Walker, 57 Mich. 456; Tbd. A. A. & N. Mich. Ry. v. Det. L. & N. R. R. 61 Mich. 9.)

From what has already been said, it follows that so much of the decree of the court below as adjudges and decrees "that the machinery referred to and described in plaintiff's complaint for injunction is not a part of the real estate in controversy in this suit, and not included in plaintiff's mortgage," must be reversed. But since the question seems to have been determined in the court below on a full hearing of the evidence, which is made a part of the transcript, and both parties expressed a desire on the argument that we
should examine the case on its merits, we have concluded to do so.

It is argued for respondent that under the agreement between the P. & L. M. Company and Gilroy & Youle, the machinery in controversy did not become fixtures, but retained its character as chattels, notwithstanding its annexation to the building in which it was placed, and was therefore not subject to the lien of the plaintiff's mortgage. Before discussing this question, it will be well to understand the relationship of the parties to this record. The defendant Rogers, who alone is contesting plaintiff's claim, is the assignee of the defendant Gilroy, plaintiff's mortgagee, under the general assignment law of this state. As such assignee he succeeds only to the rights of his assignor, and is affected by all the equities existing as against him. He takes the property subject to all existing valid liens and charges. He acquires no better title than his assignor, and in this suit can make no defense to the mortgage that his assignor could not make. (Jacobs Bros. & Co. v. Ervina, 9 Or. 52; Commons v. Holman, 11 Or. 284; Burrill on Assignment § 391.) The fact that he may have paid the P. & L. M. Co. with funds belonging to him as assignee the balance due to it from Gilroy & Youle on the purchase price of the machinery, does not change his relationship to the property in any way. It is in effect the same as if Gilroy himself had made the payment. He does not acquire title to this property by virtue of the bill of sale from the P. & L. M. Co., but by virtue of the deed of assignment from Gilroy. While the agreement between the P. & L. M. Co. and Gilroy & Youle was in form a lease, it was in effect a sale, and whatever right if any the company may have had as against this property was never asserted by it. It follows, therefore, that if the property in controversy was subject to the lien of plaintiff's mortgage, as between them and Gilroy, such lien exists as against this defendant. The question then as to whether this machinery became a fixture as to the P. & L. M. Co. is immaterial in this case, and we forbear to express an opinion thereon.

It has often been remarked that the law of fixtures is one of the most uncertain titles in the entire body of jurisprudence. The line between personal property and fixtures is often so close and so nicely drawn that no precise rule has
or can be laid down to control in all cases. Each case must depend largely on its own particular facts. The reports and text-books are filled with decisions and discussions of this question, but none of the rules laid down are infallible or of universal application. We shall not attempt to quote from them, nor enter into any detailed discussion of the the question. We could not hope to throw any new light upon the vexed question. The weight of modern authority, keeping in mind the exceptions as to constructive annexation, admitted by all the authorities to exist, seems to establish the doctrine that the true criterion of an irremovable fixture consists in the united application of several tests: (1) Real or constructive annexation of the article in question to the realty. (2) Appropriation or adaptation to the use or purpose of that part of the realty with which it is connected. (3) The intention of the party making the annexation, to make the article a permanent accession to the freehold, this intention being inferred from the nature of the article affixed, the relation and situation of the party making the annexation, the policy of the law in relation thereto, the structure and mode of the annexation and the purpose or use for which the annexation has been made. (Hendle v. Dillon, 15 Or. 610; Ewell on Fixtures, 2d; Teag v. Hewitt, 1 Ohio St. 511; Thomas v. Davis, 76 Mo. 72; Clove v. Lambert, 73 Ky. 224; Southbridge Sav. Bank v. Stevens Tool Co. 130 Mass. 547.) Applying these rules to the facts in hand, it is clear that the property in controversy as between the mortgagor and mortgagee must be regarded as fixtures. Its annexation to the realty was sufficiently permanent to enable it to be used for the purposes intended, and was of the character usual with such machinery. It is act the plaintiff in that action suffered some damage. This view of the subject disposes of the estoppel.

The defense of the statute of limitations must also fail. Mrs. Owees, under whom defendant claims, says she never set up or intended to claim any land not within the calls of her deed; and, further, it very clearly and conclusively appears from the evidence that for a great many years, whatever authority she exercised over the premises in dispute was permissive on the part of Mr. Abraham; that she fully recognized his title, and that he agreed with her that he would never disturb her as long as she wished to occupy
it. It would be a misnomer and a confusion of all legal
distinctions to call such an occupancy adverse, or to sup-
pose that by a continuance for any length of time it might
be the source of title by adverse enjoyment.

The decree appealed from must therefore be affirmed.

Bean, J., having presided at the trial of this case in the
court below, did not sit here.
ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff (taxpayer) appeals the denial of a property tax exemption for 1994-95, for personal property used in taxpayer's winery. Taxpayer contends that such property is exempt under ORS 307.400 as farm machinery and equipment. The matter has been submitted to the court on taxpayer's Motion for Summary Judgment and defendant's response.

FACTS

King Estate Winery and King Estate Vineyards are owned by Edward J. King, Jr. and managed by the same officers and directors in an integrated operation. Grapes grown in the King Estate Vineyards and grapes from other surrounding vineyards are processed by the winery into wine. The vineyard and the winery are adjacent to each other and located in an exclusive farm use (EFU) zone in Lane County.
The winery building, containing approximately 110,000 square feet, houses a crush pad and equipment used for stemming, crushing, fermenting, storing, and bottling the wine. There is also a laboratory for analysis, a dining room, and guest facilities. The dining room and guest rooms, like the tasting room, are used to entertain guests and clients to promote the sale of the wine.

The tangible personal property in question falls into different classes. Class 6 property consists of barrels, racks, rollers, bungs, staves, portable roto dumps, fume hoods, hoses, fittings, pumps, valves, tanks, seals, washers, and other moveable equipment used to stem and crush the grapes, filter the juice, and ferment and store the wine. Class 9 property consists of furniture and furnishings in the dining room and guest rooms, including bookcases, tables, china, silverware, and chairs. Class 12/14 property consists of computer equipment and related equipment used for making wine, keeping fermentation records, inventory control, sales, accounting, and bookkeeping. Class 15 property consists of rolling stock such as forklifts, scissor lifts, and an electric generator. Finally, there are materials and supplies constituting both inventory and noninventory items.
ORS 307.400(3)\(^1\) exempts certain tangible personal property defined as "inventory" from taxation. "Inventory" includes:

"(a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops; or

"(b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products; or

"(c) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination thereof[.]

ORS 307.400(3).

Inventory also includes tangible personal property unrelated to farming which is stock in trade held for sale in the ordinary course of business. ORS 307.400(3)(f).

ISSUE

Is tangible personal property used in a winery "farm machinery and equipment" within the meaning of ORS 307.400?

COURT'S ANALYSIS

The statutes do not define farm machinery and equipment. However, ORS 215.203, relating to zoning, defines what constitutes "farm use" of land within an EFU zone. This definition is incorporated by reference in ORS 308.345 and ORS 308.370 relating to the special assessment of land as

\(^1\) All references to the Oregon Revised Statutes are to the 1993 Replacement Part.
farmland. In *Anadromous, Inc. v. Dept. of Rev.*, 11 OTR 272 (1989), this court held that the legislature intended special assessment of farmland to be consistent with the exemption of farm machinery and equipment. That is, if land qualifies for special farm use assessment under the definition in ORS 215.203, then machinery and equipment utilized in that particular qualifying activity will constitute farm machinery and equipment for purposes of ORS 307.400.

Both parties acknowledge that vineyards qualify as farm use. The question presented here is whether a winery and wine-tasting rooms are farm use. In *Girardet v. Dept. of Rev.*, 13 OTR 44 (1994), this court held that a winery is in the same relationship to a vineyard as a barn is to an alfalfa farm or a storage shed to an onion farm. In so holding, the court relied upon *Craven v. Jackson County*, 308 Or 281, 779 P2d 1011 (1989). In that case, the Oregon Supreme Court was asked to decide whether a proposed winery and accompanying retail activity was a lawful conditional use in an EFU zone. In examining the statute that defines farm use for EFU zones, the court stated:

"By statute, farm use means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, among other uses. ORS 215.203(2)(a). ""Current employment' of land includes '[l]and under buildings supporting accepted farm practices.' ORS 215.203(2)(b)(F)."

"Fermentation of grapes grown and sale of wine on site represent an accepted farming practice as defined. Wineries, which process the yield of vineyards, and
tasting rooms, which accompany the winery to promote its product, are 'accepted farming practices' because they are 'customarily utilized in conjunction with' vineyards. Those uses are included within an EFU zone." Id., 308 Or at 285.

Although the Supreme Court's analysis is unqualified, this court is now persuaded that it no longer represents the law. Moreover, upon further analysis, this court acknowledges that Girardet went too far and must be overruled.

The guiding principle in statutory construction is always legislative intent. RGE v. Bureau of Labor and Industries, 317 Or 606, 610, 859 P2d 1143 (1993). In attempting to discern legislative intent with regard to what constitutes farm use, it is necessary to consider the context of the statute, i.e., the relationship between ORS 215.203 which defines farm use and allows those uses outright within an EFU zone, and ORS 215.213 and ORS 215.283, which list permitted nonfarm uses and conditional uses within an EFU zone. The problem, as noted in Girardet, is that there is general or overlapping language in both. Specifically, ORS 215.203(2)(b)(F) includes as farm use "[l]and under buildings supporting accepted farm practices." At the same time, ORS 215.213(1)(f) suggests that land under "[n]onresidential buildings customarily provided in conjunction with farm use" would be a permitted use within an EFU zone, but would not be an outright farm use. Likewise, ORS 215.283(1)(f) indicates that land under "[t]he dwellings and other buildings customarily provided in conjunction with farm use" is not farm use.
use. Obviously, land under a building "customarily provided in conjunction with farm use," ORS 215.213(1)(f), will often be "under buildings supporting accepted farm practices," ORS 215.203(2)(b).

If a barn, silo or other farm-type building comes within the description of ORS 215.203, it qualifies as farm use and is allowed outright in an EFU zone. This is true even if it also comes within one of the general descriptions contained in ORS 215.213 or ORS 215.283. Hence, the general descriptions in ORS 215.213 and ORS 215.283 will control only in those factual situations where the building in question does not support accepted farm practices. This appears to be the basis for the Supreme Court’s finding in \textit{Craven} that a winery comes within the definition of an "accepted farm practice." A winery is a building "customarily provided in conjunction with" the farm use of growing wine grapes. Therefore, as the Supreme Court found, it qualified as farm use under ORS 215.203.

However, if a specific land use such as breeding of greyhounds or wineries is listed in ORS 215.213 or ORS 215.283 as a nonfarm use, it is indicative of the legislature’s intent that such use is not considered farm use under the general description in ORS 215.203. The specific listing acts to remove it from qualifying as farm use even if it falls within the general language of ORS 215.203.
"Ordinarily, when the legislature includes an express provision in one statute, but omits such a provision in another statute, it may be inferred that such an omission was deliberate." *Oregon Business Planning Council v. LCDC*, 290 Or 741, 749, 626 P2d 350 (1981).

In 1989, the Oregon legislature specifically added wineries to the list of permitted and conditional uses in ORS 215.213 and 215.283. Or Laws 1989, ch 525. In *Craven*, the Oregon Supreme Court construed ORS 215.213 and ORS 215.283 before those statutes specifically listed wineries. In a footnote, the court pointed out that the 1989 legislature had enacted prospective legislation which listed a winery as a nonfarm or conditional use in ORS 215.213 and ORS 215.283. *Craven*, 308 Or at 286 n3. Consequently, this court must conclude that if the Supreme Court were called upon to construe those statutes as amended, which includes the year in question, it would not find that a winery is a "building supporting accepted farm practices" under ORS 215.203. To do so would render the specific listing of wineries in ORS 215.213 and ORS 215.283 meaningless. It would also render ORS 215.452 meaningless.²

² ORS 215.452(1) provides:

"A winery, authorized under ORS 215.213(1)(t) and 215.283(1)(r), is a facility that produces wine with a maximum annual production of:

"(a) Less than 50,000 gallons and that:

"(A) Owns an onsite vineyard of at least 15 acres;
This court erred in *Girardet* by failing to carry the analysis to its conclusion. The court saw the overlapping general descriptions and relied upon *Craven* in concluding that a winery was a farm use. However, it failed to recognize that for the year in question, ORS 215.213 and ORS 215.203 specifically listed wineries and, therefore, the legislature intended to exclude them from the definition of farm use in ORS 215.203. *Girardet* is overruled.

The court concludes that the legislature did not intend a winery to be a farm use within the meaning of ORS 215.203. Accordingly, machinery and equipment utilized in a winery is not farm machinery and equipment and does not qualify for exemption from property taxes under ORS 307.400. It is possible that some of the subject tangible personal property may constitute

"(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

"(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

"(b) At least 50,000 gallons and no more than 100,000 gallons and that:

"(A) Owns an onsite vineyard of at least 40 acres;

"(B) Owns a contiguous vineyard of at least 40 acres;

"(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or

"(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph."
"inventory" which is stock in trade or held primarily for sale in the course of business. That is a factual issue which is not presently before the court. Now, therefore,

IT IS ORDERED that plaintiff's Motion for Summary Judgment is denied.

Dated this 3rd day of April, 1997.

[Signature]

Carl N. Byers
Judge
H-P VENTURES, INC., dba ADVENTURES VIDEO,
Plaintiff,
v.
DEPARTMENT OF REVENUE,
State of Oregon,
Defendant.

OPINION

The Wasco County assessor determined that certain video tapes owned by Taxpayer are not exempt as "inventory" and assessed them as omitted property for the 1991-92 through 1993-94 tax years. Taxpayer appeals from the Department of Revenue's opinion and order sustaining the omitted property assessments.

FACTS

Taxpayer began operating a small video store in December 1990 in The Dalles. It purchased the bulk of its 2,500 video tapes from a broker in Portland. Ninety percent of the tapes purchased were older movies costing $7.50 and $8.50 each and the remaining 10 percent were newer releases (90 days or less on the market) for which Taxpayer paid $10 to $30 each. Taxpayer also purchases new releases for $60 to $70 each.

The video store receives approximately 80 percent of its gross income from rentals. Its computerized records show the story of each video tape, the number of times it is rented and

OPINION

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how many copies are sold. Taxpayer's witness testified that all of its video tapes are for sale, advertised to the public by posting signs. There are no special racks or locations for sale tapes and only a small percentage of them are marked with a sale price. Taxpayer also special orders video tapes for customers.

Taxpayer's manager prepared and filed a personal property tax return for the 1991-92 tax year. Before doing so the manager talked to staff in the local assessor's office to obtain assistance with the form. The manager testified that he told the assessor's office he believed the video tapes were inventory and therefore exempt. The staff person acknowledged that some video stores claimed the tapes as exempt while others reported them as taxable. Finding no strong disagreement, the manager decided they were exempt and treated them as such. However, in 1993, the assessor's office decided that rental video tapes were taxable and added their value to the rolls for three years as omitted property.

**ISSUES**

Taxpayer's complaint raises three issues:

1. Is the subject property exempt from taxation as inventory under ORS 307.400?

2. If it is not exempt, is the assessor's office estopped from denying that it is exempt?

3. If the subject property is taxable, what is its real market value for the assessment years in question?

**OPINION**
EXEMPTION ANALYSIS

The relevant portions of ORS 307.400 provide: ¹

"(2) All inventory shall be exempt from ad valorem taxation.

"(3) As used in subsection (2) of this section, ‘inventory’ means the following tangible personal property:

* * * * *

"(f) Items of tangible personal property described as materials, supplies, containers, goods in process, finished goods and other personal property owned by or in possession of the taxpayer, that are or will become part of the stock in trade of the taxpayer held for sale in the ordinary course of business."

Taxpayer claims the subject video tapes are exempt as inventory on two separate grounds. First, all of the video tapes in Taxpayer’s video store are for sale and, therefore, constitute inventory. Second, all video tapes including new releases will become part of the inventory held for sale.

Taxation is the rule and exemption is the exception. Exemption statutes are narrowly construed, and the taxpayer must clearly bring itself within the terms of the statute. ⁰ Merci Medical Center, Inc. v. Dept. of Rev., 12 OTH 305 (1992). To construe the statute the court must look to its text and context. PGE v. Bureau of Labor and Industries, 317 Or 606, 859 P2d, 1143 (1993).

The statute exempts property “held for sale in the ordinary course of business.” Taxpayer’s business consists of

¹ All references to the Oregon Revised Statutes are to 1991 Replacement Part.

OPINION

Page 3.
80 percent rentals and 20 percent sales. The court finds that property held for rent is not exempt because it is not "held for sale in the ordinary course of business." The language of the statute indicates the legislature intended to exempt property which is primarily held for sale.

The context of the statute is not particularly helpful. The legislature has used ORS 307.400 as an accumulation bin for agricultural and other exemptions. There is no consistent theme or policy to aid the court in construing the statute. Taxpayer argues that property which "will become" part of the inventory held for sale is also made exempt by the statute. However, a strict but reasonable construction would limit this phrase to property held or used by manufacturing and processing businesses. Otherwise, all personal property could be considered exempt under the philosophy of the ancient but cynical adage that "everything is for sale at the right price." The exemption in question is intended to benefit businesses which sell property in the ordinary course of business. It was not intended to exempt personal property which is used to produce rental income and later sold as an incidental benefit of its ownership.

The court concludes that the exemption is limited to property which is primarily held for sale. Although an incidental rental or property held for sale will not destroy the exemption, the burden of proof is on the taxpayer. In this case,
taxpayer's primary business is renting videos and therefore the video tapes are primarily held for rental.  

ESTOPPEL CLAIM

To meet the requirements of an estoppel claim, Taxpayer must establish: Misleading conduct on the part of an official, good faith reliance on that conduct, and injury. Portland Adventist Hospital v. Dept. of Rev., 8 OTR 381 (1980). Taxpayer has not met this burden. Taxpayer did not present evidence of misleading conduct or reliance by Taxpayer to its damage. Taxpayer does not claim that the assessor gave wrong information or misled its employees. Rather, Taxpayer maintains the assessor knew of its position in 1991 and was obligated to act. When the assessor failed to act, he waived the right to correct the roll. This is a claim of waiver, not estoppel.

The evidence indicates that communication between Taxpayer and the assessor was ambiguous at best. There was no indication that the assessor accepted Taxpayer's characterization or treatment of the video tapes for property tax purposes. Waiver is a voluntary relinquishment of a known right. Waterway Terminals v. P.S. Lord, 242 Or 1, 406 P2d 556 (1965). Taxpayer introduced no evidence to show that the assessor voluntarily and knowingly relinquished the right to challenge Taxpayer's claim of exemption. Moreover, ORS 311.205 gives the assessor five years

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2 If video tapes are held primarily for sale, such as by segregation in a separate rack or location and advertised for sale, they may be exempt even though the primary business of the store is rentals.
to add the property as omitted property. This implies that the legislature allows assessors up to five years to correct their mistakes. See Freightliner Corp. v. Dept. of Rev., 275 Or 13, 549 P2d 662 (1976).

REAL MARKET VALUE

Taxpayer introduced little evidence of value. Taxpayer's former manager testified that, in his opinion, the value of the subject inventory was only $3.50 to $4.50 per tape for the entire inventory. This appears to be based on another video store's offer of $4.50 per tape for the entire inventory. The Department of Revenue's witness, owner of two video stores, testified that the older movies cost approximately $7.50 each and the newer, popular movies cost $25-$30 each. Information provided to the assessor by Taxpayer indicated the average retail selling price per tape was $13.32. The appraiser used $13.50 to arrive at the values for the omitted property.

The correct measure of real market value to be applied in this case is the typical cost to Taxpayer, not the retail price to Taxpayer's customers. What is being taxed are video tapes held primarily for rent. The real market value of video tapes held primarily for rent is the owner's cost of obtaining those tapes. Based on the evidence, the court finds that the average cost of Taxpayer's tapes was $8 for 90 percent of them and $25 for 10 percent or $9.70 ($10 rounded) overall. Accordingly, the court finds the real market value of the omitted property was as follows:

OPINION

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<table>
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<th>Tax Year</th>
<th>Omitted Real Market Value</th>
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<tr>
<td>1992-93</td>
<td>$12,300.00</td>
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<tr>
<td>1993-94</td>
<td>$14,310.00</td>
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</table>

Judgment will be entered in accordance with this opinion. Costs to neither party.

Dated this 1st day of July, 1995.

[Signature]

Judge
13 OTR 44

ATTORNEY REPORT ON COURT DECISION
AFFECTING DEPARTMENT OF REVENUE POLICY OR PROCEDURE
AND RECOMMENDATION ON APPEAL

Case Name: Philippe and Bonnie Giraudet v. Dept. of Revenue Date Decided: 02/09/94
Attorney: James J. McLaughlin Tax Court No.: 3510 DOI File No. 150-303-4TX230-93

SUBJECT AREA:

PROPERTY TAX X TIMBER SEVERANCE TAX
PERSONAL INCOME TAX INHERITANCE/GIFT TAX
CORPORATION EXCISE/INCOME TAX OTHER

DIVISION AFFECTED: Audit X PTD __ Appeals __ Collections

1. PREVAILING PARTY: __ DOR __ COUNTY X TAXPAYER

2. SUMMARY OF DECISIONS ON MAJOR ISSUES: (Identify each issue, the court's decision, and whether the department or the taxpayer prevailed.)

Is the land under a winery building located wholly within a vineyard in an exclusive farm use zone itself a farm use entitled to special assessment under ORS 308.370?

The tax court decided that the land under a winery building was entitled to special assessment, relying upon Craven v. Jackson County, 308 Or 281, 779 P2d 1911 (1989), which it said implicitly overruled Sokol-Blasser v. Dept. of Rev., 8 OTR 196 (1979). The tax court's reading of Craven is not unreasonable, though it is not the only possible reading of Craven and not the reading that the department used.


In the current case, the tax court did not explain why it used a different method of analysis from that used in Kang, nor did the tax court in this case discuss Kang.

ATTORNEY REPORT
3. IMPACT ON DEPARTMENT OF REVENUE POLICY OR PROCEDURE (check all that apply):

☐ No change required
☐ Requires change in department policy or procedure
☐ Rulemaking advised: Specify: ______________________
☐ Legislative action needed: Specify: ______________________
☒ Other (specify): Whether as a tax policy matter, tax reduction or partial exemption for land under winery buildings or the building itself as a farm use is a "good thing" or not is not for the Department of Justice to say.

That policy determination must be made by the Department of Revenue and the elected county assessors. If the better policy is to seek to deny exemption or reduction of tax for land under winery buildings or winery buildings themselves, then the Department of Revenue or the affected assessors must approach the legislature for relief.

4. RECOMMENDATION CONCERNING APPEAL/PETITION FOR REHEARING:

Appeal is not recommended.

Date Notice of Appeal must be filed: Not yet known. Appeal notice due 30 days after judgment filed. Judgment has not yet been filed.

IN:ImbJGG08F4E

2 - ATTORNEY REPORT
IN THE OREGON TAX COURT

PROPERTY TAX

PHILLIPPE and DONNIE GIRARDET,
dba GIRARDET WINE CELLARS,

Plaintiffs,

v.

DEPARTMENT OF REVENUE,
State of Oregon,

Defendant,

DOUGLAS COUNTY ASSESSOR,

Intervenor.

CASE NO. 3510

JUDGMENT

THIS MATTER came on for hearing before this court on cross motions for summary judgment by the parties on the 19th day of January, 1994, the plaintiffs appearing by and through their attorney, David L. Canary, of Garvey, Schubert & Barer, the defendant appearing by the through James McLaughlin, Assistant Attorney General, and the Intervenor waiving its right to orally argue its motion. The court having duly considered the stipulation of facts, the affidavits and the oral and written arguments submitted by the parties, the court finds that there is no genuine issue as to any material fact and that the plaintiffs are entitled to judgment as a matter of law; now, therefore,

IT IS THE HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the subject property, the approximately one-half acre of land beneath plaintiffs' winery and tasting room apart of Douglas County Assessor's Account No. 10813-06/28-07-31B-700,
qualifies as farm use under ORS 215.203(2)(a) because the winery and tasting room, by processing grapes grown from its own vineyards, as well as from other Douglas County vineyards, is an integral part of the agricultural operations of a vineyard which constitutes farm use and, therefore, land under the winery and tasting room is "land under buildings supporting accepted farm practices" qualifying the subject property for special farm use assessment pursuant to ORS 308.370.

2. Douglas County’s disqualification of the subject property for special farm use assessment in this case was improper. Therefore, Douglas County is ordered to reinstate the subject property on the appropriate property tax rolls as subject to special farm use assessment and plaintiffs are entitled to a refund of any ad valorem taxes paid on the difference between the value placed upon the 1992-93 tax rolls for the subject property after disqualification and the special farm use value attributable to farm use property in Douglas County of a similar class, together with statutory interest.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the following money judgment is awarded to plaintiffs:

Money Judgment

Creditor: Phillippe and Bonnie Girardet, dba Girardet Wine Cellars

Creditor’s Attorney: David L. Canary
Garvey, Schubert & Barer
121 S.W. Morrison Street
11th Floor
Portland, Oregon 97204

LAW OFFICES
GARVEY, SCHUBERT & BARER
A PARTNERSHIP OF PROFESSIONAL CORPORATION
ELEVENTH FLOOR
121 S.W. MORRISON STREET
PORTLAND, OREGON 97204-3144
(503) 228-3090
Debtors: Douglas County Assessor and the Oregon Department of Revenue

Debtors' Counsel: Theodore R. Kulogoski Oregon Attorney General James J. McLaughlin Assistant Attorney General 100 Justice Building 1162 Court Street Salem, OR 97310 Counsel for the Department Revenue

Paul E. Meyer Assistant Douglas County Counsel Office of the County Counsel Douglas County Courthouse Roseburg, OR 97470 Counsel for Douglas County

Amount: $105.00

Interest: Simple, 9 percent per annum, from the date of this judgment until paid.

DATED this 22nd day of February, 1994.

CARL N. BYERS, Judge
OREGON TAX COURT

3 - JUDGMENT
CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing (1) PLAINTIFFS' STATEMENT OF COSTS AND DISBURSEMENTS and (2) JUDGMENT on the 14th day of February, 1994, on the following:

Theodore R. Kulonoski
Oregon Attorney General
James J. McLaughlin
Assistant Attorney General
190 Justice Building
1162 Court Street
Salem, OR 97310

Paul Meyer
Assistant Douglas County Counsel
Office of the County Counsel
Douglas County Courthouse
Roseburg, OR 97470

by mailing a complete and correct copy thereof, contained in a sealed envelope, postage prepaid, to said addresses as set forth above and deposited in the United States Mail.

Dated this 14th day of February, 1994.

GARVEY, SCHUBERT & BAKER

By

David L. Canary, OSB 17646
Of Attorneys for Plaintiffs

PAGE 1 - CERTIFICATE OF SERVICE
IN THE OREGON TAX COURT.

Property Tax

No. 3510

PHILLIPPE and BONNIE GIRARDET,
dba GIRARDET WINE CELLARS,

Plaintiffs,

v.

DEPARTMENT OF REVENUE,
State of Oregon,

Defendant,

DOUGLAS COUNTY ASSESSOR,

Intervenor.

ORDER

This matter is before the court on cross motions for summary judgment. Plaintiffs contend that the land under their winery qualifies for special farm use assessment. Defendant and intervenor contend that wineries are nonfarm use.

The parties have stipulated to the facts.1

(Stipulation of Facts at 1.) Plaintiffs own 54 acres in an exclusive farm use zone, of which 18 acres comprise the vineyard. The land in question is approximately one-half acre in size and is surrounded by the vineyard. The winery building has about 10,072 square feet and contains equipment for crushing and fermenting grapes, storage tanks, bottles and barrels, a small

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1 The parties rely upon the Stipulation of Facts submitted to the Department of Revenue for the administrative hearing.
laboratory, a tasting room and wash rooms. (Stipulation of Facts at 2.) The vineyard has the potential for producing 72 tons of grapes which can be processed into about 9,000 to 14,000 gallons of wine. Because the winery has a total production capacity of 25,000 gallons, it can and does use grapes from other vineyards. (Stipulation of Facts at 3.)

ORS 308.370 provides for special assessment of land located within a farm use zone "which is used exclusively for farm use as defined in ORS 215.203(2)." ORS 215.203(2) provides:

"(a) As used in this section, 'farm use' means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. 'Farm use' includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. 'Farm use' also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267(1)(e) or 321.415(5).

"(b) 'Current employment' of land for farm use includes:

"* * * * *"

"(F) Land under buildings supporting accepted farm practices; * * *.*"

2 All citations to Oregon Revised Statutes are to the 1991 Replacement Part.
The legislature apparently recognized that some types of agriculture require more than a barn or silo to store the agricultural product. For example, an orchardist may need to be able to process fruit on his property to the extent of washing, sorting, coating with wax, and packaging. In making the distinction, the legislature has reasonably looked to the usual practices of each industry. The legislature has expressed this approach in ORS 215.203(2)(c) which provides:

"As used in this subsection, 'accepted farming practice' means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

In Sokol Blosser Winery v. Dept. of Rev., 8 OTR 196 (1979), this court construed the quoted language. Applying Oregon's long-established statutory rule of strict construction with regard to exemptions (see Hibernian Benevolent Society v. Kelly, 29 Or 173, 196, 42 P. 3d, 6 (1895), Corbett Inv Est Co. v. State Tax Com., 181 Or 244, 250, 181 P2d 130, 132 (1947)), this court held that converting grapes to wine was not a farm use. That decision found a legislative intent to preserve land used to produce natural products but not land used to produce new products "via processing." 8 OTR at 200. Thus, the land beneath a winery was not entitled to farm use assessment. Id.

Plaintiff contends that Sokol Blosser has been implicitly overruled by Craven v. Jackson County, 308 Or 281, 779
P2d 1011 (1989). In that case, construing ORS 215.203(2)(c), the court stated:

"Fermentation of grapes grown and sale of wine on site represent an accepted farming practice as defined. Wineries, which process the yield of vineyards, and tasting rooms, which accompany the winery to promote its product, are 'accepted farming practices' because they are 'customarily utilized in conjunction with' vineyards. Those uses are included within an EFU zone."

Id. at 285.

Defendant and intervenor contend that Craven is not controlling because it was a zoning case and not for taxation purposes. They argue that the above language is merely dicta. 3

It is not helpful to look at other statutes for guidance. ORS 215.213 and ORS 215.283, provide for specific uses in EFU zones. Both statutes divide the specific uses into two categories, unconditional uses and conditional uses. While some of the unconditional uses are clearly nonfarm uses, such as churches and schools, others are typically considered a farm use. ORS 215.213(f). The conditional uses are likewise a mixture of farm and nonfarm uses within the common meaning of those words.

In reviewing the statutes, particularly past legislative changes, it is clear the legislature has given mixed signals. The distinction between farm and nonfarm uses are not respected in either category or terminology. Reasoning would

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3 The issue before the court was whether the winery and related retail activity were lawful conditional uses in an EFU zone under ORS 215.283(2)(a).
indicate that if a specific use is a farm use it would not
require listing as an approved or conditional use. Nevertheless,
barns and silos are specifically listed. ORS 215.213(1)(f).
Also, the statutes are not consistent in their terminology.
Although ORS 215.213(2) does not characterize the conditional
uses, ORS 215.283(2) does characterize them as "nonfarm uses."
In summary, while these statutes indicate what uses are possible
in an EFU zone, they do not provide a clear basis for inferring
the uses that are considered "farm use" as opposed to "nonfarm
use."

The court finds that the subject land qualifies for
farm use. The building on the land qualifies as "a winery, as
described in ORS 215.452." ORS 215.213(1)(t). In Craven v.
Jackson County, the Oregon Supreme Court directly construed the
very provision at issue here. The court there stated:

"Because a young vineyard is a farm use under
ORS 215.203, a winery building, of the character and
dimensions 'customarily provided' as an integral part
of the agricultural operations constituting that farm
use, qualifies under ORS 215.213(1)(f) as acceptable
use within an EFU zone and may be constructed even
before any grapes grown on the site mature."

Id. at 286.

In short, the Oregon Supreme Court found that a winery
for a vineyard is no different than a barn for an alfalfa grower
or a storage shed for an onion farmer. Although Craven is a land
use case, it addresses the very issue upon which special farm use
assessment is conditioned. Sokol Blosser Winery v. Dept. of Rev.
's overruled. Now, therefore,
IT IS ORDERED that plaintiffs' Motion for Summary
Judgment is granted; and

IT IS FURTHER ORDERED intervenor's Motion for Summary
Judgment is denied.

Dated this 9th day of February, 1994.

[Signature]
JUDGE
February 9, 1994

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Re: Girardet v. Department of Revenue,
    Douglas County Assessor, Intervenor, No. 3510

Gentlemen:

Enclosed is a copy of Judge Carl N. Byers’ Order in the above-entitled matter. The judge asks that counsel for plaintiff prepare a form of judgment and submit it to the court within 10 days from receipt of this letter. In accordance with TC Rule 70 of the Rules of the Oregon Tax Court, opposing party then has 10 days in which to object to the form of judgment submitted, unless such 10-day period is waived.

Very truly yours,

Velma Foster
Deputy Clerk

Encl.
Citation/Title
12 Or. Tax 498, 1993 WL 343935, Jackson County Tax Collector v. Department of Revenue, (Or.Tax 1993)

12 Or. Tax 498

JACKSON COUNTY TAX COLLECTOR, Plaintiff,
v. DEPARTMENT OF REVENUE, State of Oregon, Defendant.

No. 3401.
Oregon Tax Court.

ORDER

TAXATION ©1995
371 ----
371XV Income Taxes
371XV(C) Assessment, Payment and Enforcement
371XV(C)2 Payment and Enforcement
371k1096 Payment in general.

Tax 1993.

Tax collector's policy of requiring a postmark, a letter from the post office, or parcel delivery service, or other credible corroborating evidence as proof of mailing was consistent with ORS 305.820, which gives the tax collector discretion to determine what proof is satisfactory.

Byers, Judge.

This matter is before the court on plaintiff's Motion for Summary Judgment.

FACTS

A taxpayer claimed to have deposited her property tax payment in a United States postal deposit box at about 7:30 a.m. on November 15, 1991. However, the envelope was not postmarked until November 18, 1991. Because the envelope containing the payment was postmarked after November 15, 1991, plaintiff did not allow the three percent timely payment discount and notified the taxpayer that an additional $74.32 was owed. The taxpayer appealed to defendant. After a hearing, defendant found her testimony credible and held she was entitled to the three percent discount. Plaintiff appealed that decision to this court.

LAW

Plaintiff's Motion for Summary Judgment asserts defendant erred as a matter of law. ORS 305.820(1)(a) provides that any remittance sent through the United States mail:

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"[S]hall be deemed filed or received on the date shown by the post-office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the addressee establishes that the actual mailing occurred on an earlier date."

(Emphasis added.)

Plaintiff's position is as follows: As the "addressee," the tax collector has discretion to determine what proof is satisfactory. Plaintiff has exercised this discretion by adopting the following policy:

"Postmark dates are the preferred proof of mailing. Postmark dates are conclusive unless the taxpayer is able to support a claim of earlier mailing with corroborating evidence. Taxpayer may support a claim of timely mailing by presenting a postal receipt, letter from the post office or parcel delivery service, or other credible corroborating evidence. A taxpayer's uncorroborated assertion of timely mailing is not satisfactory proof of mailing."

Plaintiff contends that by accepting the taxpayer's uncorroborated assertion of timely mailing, defendant is overruling plaintiff's policy and depriving plaintiff of the discretion conferred upon that office by statute.

ISSUE

At oral argument, the parties agreed that the tax collector's exercise of discretion is subject to review by defendant. The issue is what standard of review is to be applied. Defendant contends that it is entitled to exercise "de novo" review. Defendant has supervisory authority over the administration of the tax laws (ORS 306.115) and directly reviews appeals from acts or conduct of tax collectors.

Plaintiff contends that defendant's review is restricted to an "abuse of discretion" standard. Plaintiff points out that the statute specifically delegates authority to determine what proof is satisfactory to "the addressee." For defendant to exercise de novo review would be to change the essential directive of the statute.

DISCUSSION

The court finds it is consistent for defendant's supervisory authority to be limited to an "abuse of discretion" standard of review. In using the terms "satisfactory to the addressee," the legislature conferred broad discretion upon individual tax collectors. The legislature must have contemplated that individual tax collectors would implement the statute in different ways. Thus, there is no basis for inferring a need for uniformity. If the legislature wanted uniformity, it could have delegated authority to defendant to promulgate a rule. It is possible to infer that the legislature recognized mistakes occur
in the mail system. The legislature may have felt that individual tax
collectors would be familiar with their local postal systems, their practices,
strengths and failings. For example, the tax collector in a rural area may be
aware of weather conditions, illnesses or breakdowns in vehicles which could
delay postmarking mail. (FN1) In making the delegation, the legislature has
authorized those who deal with the problems on a day-to-day basis at the local
level to make case-by-case decisions.

The court finds it is not unreasonable for the plaintiff to require
corroborating evidence. The policy, as stated, does not require written proof.
The corroborating evidence could be the testimony of an individual who witnessed
the mailing or of a postal employee who explains why the mail was not postmarked
in a timely fashion. Requiring some corroborating evidence is not an abuse of
discretion. It would be an abuse of discretion if plaintiff refused to consider
any evidence other than the postal-office cancellation mark stamped upon the
envelope. Such a policy would foreclose the exercise of any discretion.

The court finds defendant erred in overruling plaintiff's determination
that the taxpayer did not offer satisfactory proof of timely mailing.
Accordingly, defendant's Opinion and Order must be set aside and plaintiff's
Motion for Summary Judgment should be granted. Now therefore,

IT IS ORDERED that plaintiff's Motion for Summary Judgment is granted.

FN1. This is not intended to impeach the postal service's hard-established
reputation that "neither snow, nor rain, nor heat, nor night, stays these
mailers from the swift completion of their appointed rounds."

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IN THE OREGON TAX COURT

Property Tax

No. 2663

COVE SPORTSMANS CLUB, a Non-profit Corporation, and UNION SPORTSMANS CLUB, a Non-profit Corporation,

Plaintiffs,

v.

DEPARTMENT OF REVENUE, State of Oregon,

Defendant.

OPINION

This is a property tax case involving two separate plaintiffs but simple facts. Each of the plaintiffs own a building located on land occupied but not owned by them. Union Sportsman Club (Union) occupies land owned by the Oregon Department of Transportation, Highway Division, under a Land Use Permit. (Ex 4.) Although the permit can be terminated by the owner on six months' notice, Union has occupied the land and its clubhouse has been on the property since 1921. The Cove Sportsmans Club (Cove) is in a similar situation. It occupies land owned by the Episcopal Church under an annual lease. (Ex 3.) While it is only a one-year lease, Cove has occupied the land with its clubhouse since 1952.

Plaintiffs contend for minimal assessed values for their clubhouses on the grounds that without ownership of the
land the buildings have little value. Their reasoning is
sound in that the short-term interest in the land implies
that plaintiffs could be required to move their improvements
on short notice. Since moving the buildings would incur
substantial moving expenses, such a situation could detract
from the market value of the buildings.

The thrust of plaintiffs' valuation evidence was to
the effect that the buildings are to be valued without regard
to the land. That is, in plaintiffs' view, the subject
properties are like buildings which must be moved.
Plaintiffs' evidence indicated that comparable buildings
which must be moved typically sell for anywhere from $200 to
$500. Plaintiffs' witness, a qualified building mover,
tested that it would cost anywhere from $15,000 to $18,000
to move Cove's building and $20,000 to $24,000 to move
Union's building. Under these circumstances, plaintiffs'
appraiser, who could not find any sales of buildings in
comparable circumstances, concluded that the sales of
buildings that must be moved were a valid indication of the
true cash value of the buildings. Reasoning that a
knowledgeable purchaser would not pay much for a building on
land owned by another where the building could be required
to be removed on short notice, he concluded that such
buildings would have only salvage value.

The question, then, is: What effect does the
short-term interest in the land have on the assessed value to
put on the buildings? For purposes of ad valorem taxation the court finds none.

ORS 308.205 defines true cash value as the "market value" of the property as of the assessment date. The first and immediate question that must be answered in this case is whether there is a "market" for the subject buildings. Plaintiffs' evidence established that there was a market, albeit a small one, for houses that must be moved. However, the court finds that this market is not applicable to the subject clubhouses. There was no evidence that the subject clubhouses must be moved. The evidence merely showed that the right to use the land could be terminated within one year or less. This point is significant because, in fact, plaintiffs' use of the respective parcels has never been terminated. The Cove building has been in its present location over 30 years and the Union building over 60 years. Under these circumstances, it would be improper to value the subject buildings as if they must be moved.

ORS 308.205(1) provides that:

"If the property has no immediate market value, its true cash value is the amount of money that would justly compensate the owner for loss of the property."

In the court's view, the best measure of the loss to the owners in this case is the depreciated costs of the buildings. ¹

Defendant argued that the full value of the buildings was taxable to plaintiffs without regard to the

¹
time limitations under the lease or land permit by virtue of the holding in R. L. K. and Co. v. Tax Commission, 249 Or 603, 438 P2d 985 (1968). In that case, the taxpayer operated a government owned property, known as Timberline Lodge, under a special-use permit issued by the United States Forest Service. In holding that the permittee's interest is subject to taxation on the full value of the property, the court explained:

"But we are not concerned with a sale of property in this case; the evaluation is made for the purpose of taxation. The value of property is in its use. The state can tax that value to the person who, for the tax period, is using it. If the possessor is making a full use of the property, the value to him is exactly the same as it would be were he the owner. In effect, the lessee is the owner for each tax year he remains in possession under his lease, subject to any diminution in value resulting from restrictions made applicable to him which would not be applicable to an owner in fee." Ibid at 606.

Although the facts are somewhat different here, the basic rule is the same. Plaintiffs must pay tax on the full value of the buildings because they have full use of them. The land and the buildings combined have a particular value. How the ownership interests may be divided should have no consequence for purposes of taxing property. In this case, the tax is being imposed on the owners of the buildings because the tax law, in effect, ignores the value of any other interests in the property. Swan Lake Mldg. Co. v. Dept. of Rev., 257 Or 622, 478 P2d 393, 480 P2d 713 (1971). By constructing buildings on land in which they hold only a
In the short-term interest, plaintiffs have created a situation where much of the building value contingently resides with the owner of the land. That is, the land owners can affect the value of plaintiffs' interests in the buildings by terminating plaintiffs' rights to use the land. However, this does not diminish the value of the buildings for ad valorem tax purposes. It is merely necessary to recognize that some of the value contingently resides with the owners of the land. Until such time as the owners of the land take action to terminate plaintiffs' use of the land, all of the building value is assessable to the owners of the buildings.

Based upon the above, the court finds that the true cash value of the improvements for the Cove Sportsmans Club as of January 1, 1986, was $22,480 and the true cash value of the improvements for Union Sportsman Club as of January 1, 1986, was $17,720. Defendant to recover it costs herein.

Dated this 10\textsuperscript{th} day of May, 1988.

\begin{flushright}
\textit{Judge}
\end{flushright}
Plaintiffs' appraiser testified that he had no quarrel with the reasonableness of the estimates of defendant but believed that they did not apply because of the different ownership of the land.
IN THE OREGON TAX COURT

Property Tax

No. 2663

COVE SPORTSMANS CLUB, a non-profit corporation, and UNION SPORTSMANS CLUB, a non-profit corporation,
Plaintiffs,
v.
DEPARTMENT OF REVENUE
State of Oregon
Defendant.

ORDER CORRECTING OPINION

It has come to the court's attention that while the pleadings show that the Union Sportsmans Club improvements were assessed as of January 1, 1986 at $17,720, the evidence of true cash value before the court was no greater than $15,500, and this is the value that should be determined by the court in its opinion. Now, therefore,

IT IS HEREBY ORDERED that the opinion in this case issued May 10, 1988 is hereby corrected by deleting the figure $17,720 from line 16 of page 5 of the opinion and inserting the figure of $15,500 as the true cash value of the Union Sportsmans Club improvements as of January 1, 1986.

DATED this 28th day of May, 1988.

OREGON TAX COURT JUDGE

OREGON TAX COURT JUDGE
IN THE OREGON TAX COURT

Property Tax

No. 2663

COVE SPORTSMANS CLUB, a non-profit corporation, and
UNION SPORTSMANS CLUB, a non-profit corporation,
Plaintiffs,

v.

DEPARTMENT OF REVENUE
State of Oregon
Defendant.

In accordance with the written opinion of this court, dated and filed May 10, 1988, as corrected by this court's order of ___, 1988;

IT IS ORDERED AND ADJUDGED:

1. Except as modified below, defendant's Opinion and Order Nos. 86-2237 and 86-2238, dated September 1, 1987, are affirmed.

2. As of January 1, 1986, the true cash value of the improvements owned by the Cove Sportsman's Club, identified as Account No. 354016 1300Al in the records of the Union County Assessor, was $22,480.

3. As of January 1, 1986, the true cash value of the improvements owned by the Union Sportsman's Club identified as Account No. 454018 1900Al in the records of the Union County Assessor, was $15,500.
4. The Union County assessment and tax rolls shall be corrected in accordance with this judgment, and any refund due either plaintiff shall be promptly paid with statutory interest.

5. Defendant is awarded its costs and disbursements in the amount of $50.

DATED this 1st day of June, 1988.

[Signature]
OREGON TAX COURT JUDGE

TEB:gcW/1488t
Court found that the subject property was "affixed" or "erected upon" real property and not readily movable. Therefore, based upon ORS 307.010 and 307.020, the court ruled that the property was "real," not "personal."

Taxation - Real property in general
1. "Real property" includes "machinery, equipment or fixtures erected upon, under, above or affixed to the same." (ORS 307.010(1)).

Taxation - Personal property in general
2. "Personal property" includes "all chattels and movables." (ORS 307.020(3)).

Statutes - Construction and operation - Judicial authority and duty
3. Courts are statutorily mandated not to add to or subtract from a statute but to interpret it according to the terms therein. (ORS 174.010).

Statutes - Construction and operation - Meaning of language
4. In construing a statute, words of common usage are to be given their natural and obvious meaning.

Taxation - Liability of persons and property - Nature of property
5. The context of the "law of fixtures" is to be distinguished from the determination of real and personal property for ad valorem tax purposes.

Taxation - Constitutional requirements - Equality and uniformity
6. Ad valorem tax laws are intended to promote uniformity of taxation and reasonable ease of administration. These objectives cannot be met if assessors must rely on the common law test of "fixtures."

Administrative law - Rules and regulations - Validity
7. Although not binding on the court, an administrative rule is entitled to great weight.

Administrative law - Rules and regulations - Validity
8. To the extent that OAR 150-307.010 attempts to narrow the statute, it is invalid.

Trial held in courtroom of Oregon Tax Court, Salem, on December 16, 17 and 29, 1986.

David A. Rhoten, Salem, represented plaintiff.

Joseph A. Laronge, Assistant Attorney General, Department of Justice, Salem, represented defendant.

CARL N. BYERS, Judge.

Plaintiff is the owner of certain machinery and equipment used in its business of bottling and distributing soft drinks. Plaintiff's property was assessed for the 1984-85 tax year as real property by the Marion County Assessor. Defendant upheld the assessor's characterization of the machinery and equipment and plaintiff appeals to this court seeking a determination that the property is personal property, not real property.1

The property in question consists of the machinery and equipment one would expect to find in a soft drink bottling plant. Numerous conveyors connect the machines used for washing, filling, capping, labeling and packaging the bottles. There are fluid tanks, air compressors, heaters, water treatment and a palletizing machine. All of these are integrated and interrelated by pipes, wiring and conveyors as is necessary to process and produce plaintiff's product. The court viewed the premises to enable it to better understand the evidence submitted in this case.

Much of the testimony related to how the equipment was attached to the buildings or to other equipment. Some of the equipment, such as the large bottle washer, the palletizer and some conveyors is not attached to the building but merely rest in place by virtue of its weight. However, these items are attached to other equipment such as conveyors, pipes or wiring. Some equipment is attached to the building by bolts or screws, but, as plaintiff points out, it could be removed without significant damage to the building. In some areas the building has been modified to accommodate the conveyors, pipes and heating ducts which pass through the walls or the roof.

The single issue before the court is whether plaintiff's machinery and equipment is "movable" within the meaning of ORS 307.020(3).

Plaintiff makes much of the fact that the building in

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1 Plaintiff's counsel explained that while both real and personal property are taxable, real property values are generally trended up with inflation while personal property values are decreased in accordance with certain set depreciation schedules. If this is true, it certainly raises questions as to the accuracy of the assessment in one of the two directions.
which the equipment is housed is not owned by plaintiff and is readily adaptable to other light industrial or commercial uses. For the reasons set forth below, ownership of the building by another party has little bearing on the determination of the issue at hand.²

Resolution of the issue in this case is aided by the fact that the Court can look to two statutes rather than just one. ORS 307.010(1) defines real property while ORS 307.020(3) defines personal property. The issue posed in this case requires the court to draw the line between the two definitions for purposes of administering the tax statutes.

1, 2. The statutory definitions with which we are concerned are as follows:

````"‘Land,’ ‘real estate’ and ‘real property’ include the land itself, above or under water, all buildings, structures, improvements, machinery, equipment or fixtures erected upon, under, above or affixed to the same; * * * ’ (ORS 307.010(1).)"
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last referred to [ORS 174.010] we are not at liberty to give
effect to any supposed intention or meaning in the legislature,
unless the words to be imported into the statute are, in sub-
stance at least, contained in it." Barrett et al. v. Union Bridge
Co., 117 Or 566, 570, 245 P 308, 45 ALR 527 (1926), quoted in
Whipple v. Howser, supra, at 480.

4. Having thus established a line of sight, one for
admonition with regard to statutory construction is approp-
rate.

"In construing a statute, words of common use are to be
taken in their natural and obvious meaning and significance.
That sense of the word is to be adopted which best harmonizes
with the context and promotes the policy and objectives of
the legislation." State ex rel Nielsen v. Ore. Motor Ass'n, 248 Or
133, 137, 432 P2d 512 (1967). See also Canteen Company of

In beginning its search, the court recognizes that the
term "movable" is broad enough in the ordinary sense to cov-
a wide area. Somewhere in that vast semantic plain betwee
the immovable mountain and the constantly moving ocean
to be found the line between real and personal property. The
purpose of the legislature in crafting its definitions was
distinguish the two types of property for purposes of admi-
istering the laws of property taxation. This suggests that
simple rule, one easy to understand and to apply, is desirab-
and intended by the legislature.

Defendant, in the course of administering the pro-
erty tax laws, has promulgated a rule which more specifical-
defines real property with regard to machinery and equi-
ment. OAR 150-307.010(1)(2)(b). (1) and (2) define "erect
upon" and "affixed" as follows:

"'Erected upon' means being permanently situated in one
location on real property and adapted to use in the place. For
example, a heavy piece of machinery or equipment is set upon
a foundation without being fastened thereto, but is an integral
part of the function or design of the facility.

"'Affixed' means being securely annexed to the real prop-
erty. For example, items attached by bolts, screws, nails or
built into the structure are securely annexed; items attached
by electrical connections are not securely annexed."
Plaintiff contends that this rule is "an unconstitutional expansion" of the statute. (Plaintiff's Memorandum, at 18.) Plaintiff asserts that "erected" is synonymous with "built" and that if the subject property falls within the definition of ORS 307.010 it is because it is "annexed," not "erected upon."

Upon examination, the court agrees that the administrative rule goes beyond the statute, but not necessarily in the direction plaintiff claims. Plaintiff claims that the rule is too broad, whereas in the court's view it may be too narrow.


ORS 307.010(1) uses the terms "affixed to," and "erected upon." As can be seen from the regulations quoted above, defendant has interpreted the word "affixed" to mean "securely annexed." While the term affixed in and of itself connotes an element of permanence, the court is not sure that it also connotes "securely." In fact, large items may be found constructively "affixed" to the land or buildings merely by virtue of their weight and size. *Waldorf v. Elliott*, 214 Or 437, 330 P2d 355 (1958).

Likewise, the term "erected upon" does indeed, as plaintiff contends, connote the idea of assembling, building or constructing. The regulation's definition of erected upon contains two elements: (1) That the item be "permanently situated in one location," and (2) that it be "adapted to use in the place." While these elements may be consistent with the concept of being built or constructed upon, they do not constitute a complete definition. Many large machines are brought on

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4 The statute uses the term "affixed," not "annexed." While there may be some overlapping in meaning and general usage, it would appear that the term "affixed" connotes being physically attached while "annexed" is a broader term which implies an addition to something without the particular means by which it is added. *See Webster's Third New International Dictionary 87* (1961).
site in pieces and assembled or "erected." Even large machines which are brought on site as a unit often require special foundations, modification of the building's electrical panels and switches, special wiring, plumbing, venting; access ramps, openings and other forms of construction. In this sense, then, such machines are "erected upon" the real property.

To the extent that the regulation requires more than what the common ordinary words convey, it goes beyond the statute. For example, in subparagraph (4) of OAR 150-307.010(1)(2), the regulation indicates that if, after applying the tests of "annexation and adaptability" there is still doubt, then it is appropriate to look to the "intention of the parties." Again, these are the common law tests relating to law of fixtures. The statute does not use these terms. The statute does not say "affixed with intent" or "affixed and adapted." It simply says "affixed." There is no indication in the statute itself that the legislature intended application of the common law test.

6. Not only is the common law test not required by the statute, it is generally inconsistent with the statute. Ad valorem tax laws are intended to promote uniformity of taxation and reasonable ease of administration. These objectives cannot be met if the assessor must rely upon the common law test.

"[U]niformity of taxation cannot be attained unless a uniform classification of real and personal property is established. Just as assessors are not bound by private agreements, they should not be frustrated or hindered in performing their vital function by the necessity of ferreting out the often undisclosed and secret intentions of lessors and lessees relative to the terms of a lease. For the most part, assessors must be allowed to act on the basis of outward appearances." Trabue Pittman Corp. v. Los Angeles County, 29 Cal 2d 385, 175 P2d 512, 517 (1946).

This view is consistent with the holding in Warm Springs Lbr. Co. v. Tax Com., 217 Or 219, 225, 342 P2d 143 (1959), where the court held that an agreement between parties "cannot control the action of the state when exercising its taxing power." Citing Trabue Pittman Corp. v. County of Los Angeles, supra. If the intent of the parties cannot control for tax purposes, how can the common law test be properly applied?
7. The court recognizes that defendant's administrative rule has been in effect for many years and is entitled to great weight.

"[T]he interpretation of an ambiguous statute by an agency charged with its administration is entitled to great weight, although it is not binding on the courts." Curly's Dairy v. Dept. of Agriculture, 244 Or 15, 21, 415 P.2d 740 (1966).

8. The court also recognizes that it has previously applied the common law test in construing ORS 307.020(3). Bylund v. Dept. of Rev., 9 OTR 76 (1981). Nevertheless, the court now recognizes that the statute is not as narrow as might be interpreted under the common law test. For example, a machine "affixed to" a building is real property regardless of the intent of the parties or its "adaptability." To the extent that the regulation attempts to narrow the statute, it is invalid.

Returning to the issue in this case, having considered the field of meaning from the perspective of real property, it is now appropriate to view the field facing from the ocean and consider the definition of personal property. It is apparent that ORS 307.020(3) emphasizes the notion of movement or movability. Defendant correctly argues that the structure of the statute invites application of the statutory rule of construction ejusdem generis.

"Where general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words. Where the opposite sequence is found, i.e., specific words following general ones, the doctrine is equally applicable, and restricts application of the general term to things that are similar to those enumerated.

"* * * If the general words are given their full and natural meaning, they would include the objects designated by the specific words, making the latter superfluous. If on the other hand, the series of specific words is given its full and natural meaning, the general words are partially redundant. The rule 'accomplishes the purpose of giving effect to both the particular and the general words, by treating the particular words as

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5 In Bylund v. Dept. of Rev., 9 OTR 76 (1981), this court did apply the common law "three-prong test" to determine whether TV cable drops were real or personal property. The court in that case may have been unduly influenced by the fact that the parties all agreed that the three-prong test may be used.
indicating the class, and the general words as extending the provisions of the statute to everything embraced in that class, though not specifically named by the particular words."

"The resolution of this conflict by allowing the specific words to identify the class and by restricting the meaning of general words to things within the class is justified on the ground that had the legislature intended the general words to be used in their unrestricted sense, it would have made no mention of the particular words." 2A Sutherland Statutory Construction § 47.17 (4th ed).

Under this rule, the general terms "machinery," "tools" and "equipment" are more narrowly viewed in light of the specific types of property listed in the statute. As a general rule, the specific types of items listed in the statute are not "affixed" to anything. Consequently, they are "readily movable as opposed to apparently stationary or fixed items." OAR 150-307.020(3). In this light, machinery, tools and equipment which are nailed, bolted, screwed or glued to real property are not "movable" within the meaning of the statute.

The "bright line" sought by plaintiff distinguishing real from personal property may be substantially dimmer and less distinct than hoped for. However, the court believes that the above conclusions provide a view which facilitates administration of the tax laws. As a general rule, the assessor is not required to consider the intention of the parties or the adaptability of the property. He merely has to determine whether the property is "affixed to" or "erected upon" land or buildings. The court recognizes that under this rule there may still be some cases in which there is a question as to whether an item is real or personal property. It is difficult to conceive of a general rule which would aptly fit all the possible types of property. The one principle that abides is that the statute must be the standard.

Applying the above to the subject property, the court finds that most of the subject property is "affixed" or "erected upon" real property. Most of the equipment is bolted or screwed to the walls, ceilings or floor and attached by pipes, ducts and conduits. This equipment is not moved except when modifying the operational layout. In fact, movement of the equipment would be inconsistent with the operation and function it performs. Movement would usually result in misalignment, leaks and faulty application of the products. The very
purpose of the small bolts and screws plaintiff refers to is to prevent movement.

It seems likewise clear that the equipment in question is not "freely movable" as asserted by plaintiff. (Plaintiff's Memorandum, at 8.) "Freely movable" suggests something that, if not designed to be moved on its own wheels, rails or pontoons, could easily be placed on such means of movement and moved. What actually would be required in this case would be the disassembly of a complex arrangement of equipment. Numerous pipe fittings and connections would have to be undone, machinery, pipes and valves would have to be detached from walls, floors and ceilings and a number of holes would have to be patched or plugged in the building. By plaintiffs' own evidence, it would take approximately 20 days to remove the subject property from the building. It would not reasonably take anywhere near the time to remove a like amount of "boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles" or "farming implements" from the building. The difference between the latter types of property and the subject property is that the subject is "affixed to" or "erected upon" real estate while the latter is "readily movable."

In finding that "most" of the subject property is not personal property but real property, the court recognizes that there may be some items which are not real property. Specifically, some of the smaller tanks in the syrup room, which are not attached to the building but are free-standing, and which are not connected with plumbing connections but drained through flexible rubber hoses, are personal property. Such items are readily movable from one part of the room or plant to another. On the other hand, the large stainless steel tank, pictured in Exhibit 5, is attached by solid plumbing connections. Its weight and bulk, as well as the plumbing attachments, render it not "movable." There may be other specific property which is an exception to the court's general finding that the subject machinery and equipment is real property, not personal property. If the parties are unable to agree on such items, they may submit a list of such items to the court for specific determination before judgment is entered. Costs to neither party.
WEST FOODS, INC.

v.

DEPARTMENT OF REVENUE

(TC 1748)

Court found that mushroom growing in plaintiff's sheds constituted an "agricultural or horticultural use" but that the subject property, growing beds, was not personal property and therefore not eligible for tax exemption under ORS 310.608 (now ORS 307.400). The beds were part of the real property and the appraiser's failure to include the beds in the growing rooms resulted in an undervaluation, not an "omission"; therefore, the beds were not subject to additional taxes as omitted property.

Taxation - Exemptions - Statutory provisions

1. Inventory, defined as tangible personal property, including equipment, used in agricultural or horticultural use is exempt from ad valorem taxation. ORS 310.609. (New ORS 307.400).

Taxation - Levy and assessment - Rural or agricultural lands

2. Mushroom growing in plaintiff's sheds constitutes an "agricultural or horticultural use."

Fixtures - Nature and requisites of conversion into realty

3. Plaintiff's growing beds are not personal property. The beds and the buildings housing the beds are a single economic unit and are part of the realty.

Taxation - Mode of assessment - Omissions and defects

4. If any buildings, structures or improvements on lands have been omitted from assessment and taxation, they may be assessed as omitted property. ORS 311.207.

Taxation - Mode of assessment - Omissions and defects

5. Growing rooms (with growing beds as an integral part of the real property) were included in the 1973 appraisal. The failure of the appraiser to include the beds resulted in an undervaluation, not an omission of any "buildings, structures or improvements."

Trial held December 17, 1984, in the courtroom of Oregon Tax Court, Salem.

Gregory R. Mowe, Stoel, Rives, Boley, Fraser and Wyse, Portland, represented plaintiff.

G. F. Bartz, Assistant Attorney General, Department of Justice, Salem, represented defendant.


EDWARD H. HOWELL, Judge Pro Tem.

Plaintiff appeals from an order of the Department of Revenue denying plaintiff's claim for a property tax exemption for certain property used in the growing of mushrooms at its plant in Salem. Originally the true cash value of the mushroom plant was also an issue but at trial the parties have agreed upon the value.
1. The tax year involved is 1980-1981 and at that time ORS 310.608 (now ORS 307.400) provided in pertinent part:

"(2) All inventory shall be exempt from ad valorem taxation.

"(3) As used in subsection (2) of this section, ‘inventory’ means the following tangible personal property:

"(a) Farm machinery and equipment used in the planting, raising, cultivating or harvesting of farm crops or used for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof."

2. The defendant found that the growing of mushrooms did not qualify as a “farm” in relation to the statute allowing an exemption for “farm machinery and equipment.” The growing process for mushrooms consists of preparation of the compost which is a mixture of straw, manure and some topsoil. The compost is pasteurized and placed in wooden racks called growing beds in the growing rooms in concrete block buildings. Mushroom spores are seeded into the compost, the mushrooms harvested and the growing process repeated approximately four times per year. I find that mushroom growing in plaintiff’s sheds constitutes an “agricultural or horticultural use” within the above statute. Except for the fact that mushrooms are grown indoors, I see no difference between mushroom growing and any other farm crop.

The next issue is whether the growing beds constitute personal property as plaintiff contends and therefore are eligible for the exemption.

The growing beds are made of wood and extend the length of the buildings separated by a central aisle. The beds are in tiers extending seven tiers high with a catwalk in the middle. The boards upon which the catwalk rests are “toenailed” into the side walls of the building and the vertical posts are also attached to the ceiling in the same manner. The beds are not bolted or attached to the concrete floor. There was testimony that attaching the beds to the ceiling and walls is only for the alignment and construction of the beds and was not for support of the beds. The bottom bed boards or slats in each of the growing beds upon which the compost is placed are

1 Formerly ORS 310.608 allowed a property tax exemption for farm inventory. In 1975, “inventory” was defined as farm machinery used in “planting, cultivating, or harvesting of farm crops.” In 1977, the definition was broadened to include farm machinery “and equipment” used for “any other agricultural or horticultural use.”
completely loose and are removed and stacked up during the filling and removal of the compost.

In *Marsh v. Boring Furs, Inc.*, 275 Or 579, 551 P2d 1053 (1976), the Supreme Court held that mink pens suspended from sheds that housed the pens were real property. The court quoted Brown on Personal Property (3rd ed 1975) § 16.1, at 517:

"++ + Would the ordinary reasonable person validly assume that the article in question belongs to and is part of the real estate on which it is located—such assumption to be based on a consideration of the nature of the article itself, permanent or temporary; the degree of its attachment, firm or slight, and whether, according to the custom of the time and place the article was an appropriate and ordinary adjunct to the land or building in which it was located?"

The court also stated that if the property is located in a building specially prepared for it a strong inference arises that it was intended to become a part of the realty.

3. In my opinion, the growing beds and the buildings housing the beds are a single economic unit and are part of the realty. While the slats are loose and are removed at times during the replacement of old compost with new compost most of the time the slats are covered with several inches of compost.

**OMITTED PROPERTY**

The defendant contends the county is entitled to assess the growing beds as omitted property for the years 1975 through 1979 under ORS 311.207, which states in part:

"(1) Whenever, after the return of the assessment rolls to the county assessor by the board of equalization, the assessor discovers or receives credible information, or if he 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 roll so returned, he shall give notice as provided in ORS 311.209."

The mushroom operation was appraised by Marion County in 1973 and the true cash value of the plant placed on the assessment roll. The property was appraised next as of
January 1, 1980. In the meantime, between 1973 and 1980, the only additions made to the plant were the construction of beds 11-22 in 1975 and beds 79-104 in 1978. Plaintiff contends and defendant denies that the construction of beds 11-22 in 1975 were reported as additions to the real property. Plaintiff concedes that the construction of beds 79-104 in 1978 were not reported and agrees that an assessment against beds 79-104 as omitted property is correct.

Apparently from 1973, the time of the first appraisal, until 1975, when beds 11-22 were added, the plaintiff was paying taxes on the true cash value of the mushroom plant as determined by the 1973 appraisal of the plant. The defendant contends that the growing beds involved (except 11-22 and 79-104 built after the 1973 appraisal) were left out of the 1973 appraisal and therefore are omitted property under the statute and subject to taxes for the five years 1975 to 1979, inclusive. The defendant's appraiser who made the 1980 appraisal testified that the field notes made for the 1973 appraisal included the growing rooms but did not include the growing beds in the rooms. According to him, the former appraiser simply "missed" the growing beds. The appraiser testified that the growing beds in 1973 would be an integral part of the growing rooms and would be considered as real property.

4. ORS 311.207, supra, states, in effect, that if any buildings, structures or improvements on lands have been omitted in whole or in part from assessment and taxation they may be assessed as omitted property.

5. Here the growing rooms were included in the 1973 appraisal. The growing beds were an integral part of the growing rooms and were part of the real property. The growing rooms were valued and placed upon the assessment and tax rolls. The failure of the appraiser to include the beds in the growing rooms resulted in an undervaluation of the growing rooms and not an omission of any "buildings, structures or improvements" under the statute. See Tradewell Stores, Inc. v. Snohomish County, 69 Wash2d 352, 418 P2d 466 (1966); and Star Iron & Steel Company v. Pierce County, 5 Wash App 515, 488 P2d 776 (1971). Thus, beds 1-10, 30-39, 40-49, 55-65, and 67-68 are not subject to the additional taxes for the years 1975-1979. I find also that beds 11-22 built in 1975 were not reported as additions to the real property and subject to the additional taxes for 1975 to 1979, inclusive. Beds 79-104 built in 1978 have been conceded by plaintiff to be subject to the additional tax.

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3 Some mention appears in the record that the original appraiser did not open the doors to the growing rooms.
WESTERN STATES FIRE APPARATUS, INC. v. DEPARTMENT OF REVENUE

Suit to set aside order of department holding plaintiff liable for personal property taxes in Washington County. Court held that plaintiff was liable for tax on his inventory and trucks, but that property belonging to Oregon municipalities and out-of-state owners was not subject to assessment and taxation in Oregon.

Taxable situs—Personal property—Owner’s domicile

1. Generally the taxable situs of personal property is the owner’s domicile.

Taxable situs—Personal property—Temporary absence from owner’s domicile

2. Personal property temporarily outside of owner’s county of domicile retained its taxable situs in that county.

Exemption—Property of Oregon public body—Fire district

3. Personal property of Oregon fire districts which is intended for the corporate purposes of those districts is exempt from taxation. ORS 307.090(1).

Exemption—Property of Oregon public body—Temporarily in possession of plaintiff

4. Personal property of Oregon fire districts which is exempt under ORS 307.090(1) does not lose its exemption because temporarily in possession of plaintiff on assessment day.

Exemption—Property of county in the state of Washington

5. Exemption granted by ORS 307.090(1) does not apply to property owned by county in State of Washington.

Taxable situs—Personal property—Temporarily in Oregon

6. Property belonging to out-of-state owner did not have taxable situs in Oregon when it was temporarily in Oregon on assessment day for installation of parts.

Property taxation—No taxable situs in Oregon

7. Property whose location in Oregon was temporary or transient and which therefore had no taxable situs in Oregon was not subject to ad valorem property taxation by Washington County.

Property taxation—Ownership—Beneficial ownership

8. Ownership for purposes of property taxation contemplates beneficial ownership and while location of bare legal title is a factor to be considered, it is not determinative.
Taxable situs—Personal property—Temporarily in Oregon

9. Property temporarily in plaintiff's shop on assessment day did not have taxable situs in Oregon.

Property taxation—No taxable situs in Oregon

10. Property not situated in Oregon on assessment date within meaning of ORS 307.030 was not subject to ad valorem property taxation in Oregon.

Exemption—Personal property—Unaffixed parts

11. Evidence does not establish that parts not affixed to chassis on assessment day were exempt from taxation.

Trial had July 22, 1969, in Washington County Courthouse, Hillsboro, Oregon.

Eugene E. Feltz, Casey, Palmer and Feltz, Portland, represented plaintiff.

Richard A. Uffelman, Assistant Attorney General, Department of Revenue, Salem, represented defendant.

Decision in part for plaintiff and in part for defendant rendered December 12, 1969.

Edward H. Howell, Judge.

Plaintiff appeals from an order of the Department of Revenue sustaining the action of the Washington County Department of Revenue in adding certain personal property to the assessment roll as omitted property. The tax year involved is 1967-68.

The plaintiff is a custom manufacturer of fire trucks for fire districts and other municipal corporations. The plaintiff does not manufacture the truck chassis, but affixes the hoses, pumps, ladders and other necessary fire equipment to the chassis to form a completed fire truck. The chassis are acquired in two ways. In some instances the municipality orders the chassis directly from the dealer or manufacturer
and has it delivered to plaintiff for installation of the equipment mentioned. In other cases the plaintiff obtains bids for the chassis from the dealer or manufacturer, the bid is directed to and accepted by the municipality and the order for the chassis is placed by plaintiff for the purchaser. The purchaser either pays the manufacturer directly or pays the plaintiff for both the chassis and plaintiff's services and the plaintiff then pays the manufacturer for the chassis. Generally in such cases the plaintiff is paid upon delivery and acceptance by the purchasers. Plaintiff receives no profit from the sale of the chassis by the dealer to the municipality and the transaction is handled in this manner solely as a convenience to the purchaser. Plaintiff's profit is received from the sale and installation of the parts placed on the chassis to produce the type of fire truck required by the municipality.

On January 1, 1967, plaintiff had six chassis on hand plus certain parts and equipment which plaintiff claims had been or were going to be placed on the chassis. Also on January 1, 1967, plaintiff was the owner of four fire trucks which it had taken in on trade and had loaned to four municipalities, all located outside of Washington County. The plaintiff did not report on its personal property tax return the value of the chassis, the parts or the four fire trucks which were on loan and contends that they were exempt from personal property taxation. The assessor added the value of the property to the rolls as omitted property and his action was affirmed by the Department of Revenue.

The first issue is whether the four trucks owned by plaintiff and loaned to municipalities outside of
Washington County are subject to personal property taxation. Three of the fire trucks were loaned to municipalities in Oregon and one in Washington. The trucks were loaned as a convenience to the municipality and plaintiff received no remuneration. The trucks were not licensed and plaintiff paid no personal property taxes in any jurisdiction on the trucks.

The plaintiff contends that as the trucks were outside Washington County on the assessment date the county lacked jurisdiction to make the personal property tax assessment.

ORS 307.030 states that all real and personal property situated within this state, except as otherwise provided by law, is subject to assessment and taxation. The assessor is required by ORS 308.210 to assess the value of all taxable property within the county. ORS 308.105 states that personal property may be assessed in the name of the owner or any person having possession or control of the property and if two or more persons jointly are in possession or control of the personal property it may be assessed to any one or all of such persons.

1. Generally the taxable situs of personal property is considered to be the domicile of the owner, unless it is shown that the property has attained an actual situs of a permanent nature in another jurisdiction. Ainsworth v. County of Filmore, 166 Neb 779, 90 NW2d 360 (1953). In Ace Construction Co. v. Board of Equalization, 169 Neb 77, 93 NW2d 367 (1967) (citing Ainsworth), the court stated that the taxability of personal property at the domicile of the owner is not affected by occasional excursions to a foreign jurisdiction. In Brock & Co. v. Board of Supervisors of Los Angeles County, 132 Cal App2d
550, 90 P2d 353 (1939), the court was interpreting a statute similar to ORS 307.030 which required that all taxable property shall be assessed in the county, city or district in which it is situated. The court held that the term "situated" "connotes a more or less permanent location or situs, and the requirement of permanency must attach before tangible personal property which has been removed from the domicile of the owner will attain a situs elsewhere." Citing Brock v. Supervisors, 8 Cal2d 286, 65 P2d 791, 110 ALR 700 (1937).

2. Here the plaintiff was the owner of the trucks and because of the loan to other municipalities, their situs outside of Washington County was only temporary. Upon termination of the loan they would be returned to their permanent base at plaintiff's location. They were subject to taxation in Washington County and should have been reported on plaintiff's personal property tax return.

The question of the taxability of the six truck chassis and the parts affixed thereto which plaintiff had on hand on January 1, 1967, requires a consideration of several separate factors.

Three of the six chassis were purchased directly from the dealer or manufacturer by the municipalities. Two of these chassis were purchased by Oregon municipal corporations and the third was purchased by Skagit County, Washington.

The two chassis that were purchased by the Oregon municipalities will be considered first. These chassis, purchased by Cedar Mills and Clatskanie Rural Fire Protection Districts directly from the dealer or manufacturer, were delivered to plaintiff for installation of the various parts mentioned. The
cost of the chassis was paid directly to the dealer and the cost of the installed parts paid separately to plaintiff.

ORS 307.090(1) states: "Except as provided by law, all property of the state and all public or corporate property used or intended for corporate purposes of the several counties, cities, towns and all other public or municipal corporations in this state, is exempt from taxation." (Emphasis supplied.)

3. Cedar Mills and Clatskanie fire districts were the owners of these two chassis which were in the temporary possession of the plaintiff only for the purpose of installation of the fire equipment required by the purchaser. As the two chassis were the property of the districts and were intended for corporate purposes of the fire districts they were exempt from taxation under ORS 307.090 above.

4. The defendant argues that although the plaintiff may not have been the owner of the two trucks, the assessor was entitled to assess the property to the plaintiff because ORS 308.105(2) provides that "Personal property may be assessed in the name of the owner or of any person having possession or control thereof." (Emphasis supplied.)

The trucks, exempt from taxation under ORS 307.090(1) because they were owned by municipal corporations in Oregon and intended for corporate purposes, did not lose their exemption because they were temporarily in the possession of plaintiff on assessment day, January 1, 1967. Weinstein, Executrix v. Watson, Assessor, 184 Or 508, 200 P2d 383 (1948). In Weinstein the assessment involved property temporarily in the possession of a pawnbroker. The statutes in effect at the time provided that mortgaged or
pledged personal property was considered the property of the person in possession for purposes of taxation; that "except as otherwise specifically provided" all personal property shall be assessed for taxation; that wearing apparel and other personal property were exempt and that personal property may be assessed in the name of the owner or person having possession or control.

The assessor attempted to assess the plaintiff pawnbroker for the wearing apparel and the personal effects that had been pledged with him. The court held that the exemption given the wearing apparel and personal effects was granted to the property as compared to the owner and stated:

"To declare that a temporary interruption of the custody by the actual owner of exempt personal property destroys the exemption of such personal property for the purposes of assessment and taxation would be to cause such personal property of all literary, benevolent, charitable and scientific institutions and of public libraries, as might be in the possession of a third person on the tax assessment day, to become taxable. Obviously, the legislature did not intend any such a result, nor should the statute be so construed." 184 Or at 515.

The two trucks owned by Cedar Mills and Clatskanie fire districts were exempt and did not lose their exemption because they were in the temporary possession of the plaintiff.

5. The next issue is whether the truck purchased directly from the dealer or manufacturer by Skagit County, Washington; and in plaintiff's hands on January 1, 1967, was exempt from taxation. Contrary to the two trucks purchased directly from the dealer by the two Oregon municipalities, the truck is not
exempt under ORS 307.090(1) because the exemption therein is granted to property owned and used or intended for use by municipal corporations "in this state." Therefore the truck is taxable to the plaintiff if it was "situated" within this state as stated in ORS 307.030, and if it was within the possession and control of plaintiff as required by ORS 308.105(2). If the truck did not have "a more or less permanent location or situs" in this state, (Brock & Co. v. Board of Supervisors of Los Angeles County, supra) then it cannot be said to have been situated here within the meaning of ORS 307.030 classifying taxable property as property "situated" within this state. If the chassis did not have a taxable situs in Oregon then it is not necessary to decide whether plaintiff had possession or control of the chassis because plaintiff cannot be assessed and taxed for property which did not have a taxable situs in Oregon.

6, 7. The truck was acquired by Skagit County, Washington, directly from the dealer. The bid was made by the dealer to Skagit County, accepted by the county and the purchase price paid to the dealer. The only association plaintiff had with the truck was to have it temporarily in its possession in order to add certain necessary items to the chassis. The situation is the same as if Skagit County had sent the truck to the plaintiff's shop for repair and the truck was temporarily in plaintiff's shop on assessment day. Its location in Oregon was purely temporary or transient as compared to local or permanent, and the truck was not subject to Washington County ad valorem personal property taxation because it was not property "situated" in this state within the meaning of ORS 307.030.
The other three trucks in plaintiff's shop on January 1, 1967, were all purchased by municipal corporations located in the State of Washington. As mentioned previously, the bids for the chassis were submitted by the dealers or manufacturers to the municipalities and accepted by them, although the order for the chassis was placed with the dealer or manufacturer by the plaintiff as a service to the municipalities. The chassis were delivered by the manufacturers or dealers to plaintiff for installation of the additional items. The purchasers paid plaintiff a total amount for both the chassis and the plaintiff's installation and plaintiff paid the dealers for the cost of the chassis.

If the truck chassis were owned by plaintiff they would have had a taxable situs in Oregon and would be properly assessed to plaintiff. If the truck chassis were owned by the Washington municipalities they would not have been exempt property under ORS 307.090 because they were not owned by a municipality "in this state." However, if they were owned by the Washington municipalities in order to be taxable to the plaintiff the chassis must have been "situated" in this state and under the possession and control of plaintiff on January 1, 1967.

8. It is not necessary to determine who has technical legal title to the chassis because the beneficial ownership of the chassis was in the municipalities. The dealer's bid was made to and accepted by the municipalities who paid for the trucks although the payment was made to the dealer through the plaintiff. The plaintiff had no interest in the truck chassis other than the contractual obligation to add the additional fire parts and be paid for the parts and the installa-
tion. While bare legal title to the trucks is a factor to be considered it is sufficient here that the beneficial ownership of the truck chassis was in the Washington municipalities and not in the plaintiff. Mitchell Aero, Inc. v. City of Milwaukee, 42 Wis2d 656, 168 NW2d 183 (1969); C. C. Moore & Co. v. Quinn, 149 Cal App 2d 666, 308 P2d 781 (1957).

9. The chassis were not situated within the State of Oregon because their location in plaintiff’s shop on assessment day was temporary, not permanent or local. Brock Co. v. Board of Supervisors of Los Angeles County, supra.

10. As these three chassis belonging to the Washington municipalities were not situated in Oregon on January 1, 1967, within the meaning of ORS 307.030, they did not have a taxable situs in Oregon and were not taxable to plaintiff.\(^\circ\)

The defendant Department of Revenue concedes that if any of the trucks are exempt from taxation all parts which plaintiff had attached to the trucks on January 1, 1967, would also be exempt.

The remaining issue concerns whether other parts in plaintiff’s inventory which had not yet been attached to the truck chassis were also exempt from taxation.

The inventory consists of items such as pumps, lights, and sirens which have been purchased by plaintiff to be eventually installed on chassis which had been ordered but not yet delivered to plaintiff. The

\(^\circ\) Neither did the plaintiff have the type of possession or control of the chassis as required by ORS 308.105. The plaintiff was not using the fire trucks for fire purposes and was not using them for his own benefit. His possession resembled that of a bailee who possessed the trucks to make necessary repairs and when the repairs were completed was obligated to return the trucks to the owners.
parts are purchased by plaintiff, billed and delivered to plaintiff who later collects from the purchasers.

Plaintiff also carries a general inventory of parts which have not been purchased for a specific order and which are available for sale to any purchaser.

Plaintiff's president testified that the parts ordered for a specific chassis are kept separate from the general inventory. However, he also testified that a municipality which has placed an order for parts to be placed on a specific chassis often came in and withdrew the parts, apparently for some other use.

11. The evidence does not establish that the parts were exempt from taxation. The plaintiff ordered the parts, paid for them and later sold them to the municipalities who were free to acquire them for purposes other than installation on the specific chassis ordered. To allow an exemption for these parts would amount to exempting inventories of any manufacturer who happened to have municipalities as customers.

It is impossible to determine from the evidence the true cash value of the plaintiff's nonexempt property on hand on January 1, 1967, and the case must be remanded to the Department of Revenue for a determination of true cash value. The plaintiff was on a fiscal year basis from March 31 to April 1. On March 31, 1967, plaintiff's balance sheet showed inventories of $130,991.88. The defendant contends that this amount should be used as plaintiff's inventory as of January 1, 1967. The plaintiff contends that its January 1, 1967, nonexempt inventory amounted to $5,813.91. Neither amount is acceptable because the defendant's valuation includes items which are exempt and the plaintiff's valuation omits nonexempt items. Plaintiff has further contended that the "work in
progress" figures on the March 31, 1967, balance sheet are not indicative of what was on hand on January 1. No decision is made as to the appropriateness of the March 31 balance sheet figures and the case is remanded to the Department of Revenue for the parties to determine the true cash value of the nonexempt inventory as of January 1, 1967.
IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BRUCE A. DURKEE
and DEBORAH L. DURKEE,

Plaintiffs,

v.

LINCOLN COUNTY ASSESSOR,

Defendant.

TC-MD 020321D

Plaintiffs appeal the real market value of their personal property for tax year 2001-02.

A trial was held in the courtroom of the Oregon Tax Court, Salem, Oregon, on Tuesday, March 22, 2005. Bruce A. Durkee (Durkee) appeared on behalf of Plaintiffs. Kathy Leib (Leib) Personal Property Specialist, appeared on behalf of Defendant.

I. STATEMENT OF FACTS

Plaintiffs own and operate the Driftwood Village Motel, a 12-room facility offering “oceanfront studios and suites with gorgeous views.” (Def’s Ex G-1.) The motel is located in Newport, Oregon. Plaintiffs are appealing the real market value of the personal property used in the operation of their motel.

Previously, Plaintiffs appeared in this court, appealing the real market value of their personal property for tax years 2000-2001, including an omitted personal property assessment for tax years 1996-97 through 2000-2001. The total adjudicated value of Plaintiffs’ personal property for tax year 2000-2001 was $19,360. The magistrate concluded that the real market value of the personal property reported by Plaintiffs on their annual personal property tax return was $10,500 for tax year 2000-2001. Further, the magistrate determined that the omitted
personal property was fully depreciated and concluded that the real market value of the omitted personal property was $8,860 for all tax years appealed. Durkee testified that the value of “omitted property” was an “arbitrary” amount. He testified that Defendant’s personal property valuation factors requires a 30 percent salvage value. (Pfts’ Ex 3, Personal Property Valuation Factors, Table 2.) Using the court’s prior determination of a fully depreciated value of $8,860, Durkee testified that the original cost of the omitted property could be computed and would be substantially in excess of his original cost ($8,642) for those items. (Id.)

Plaintiffs allege that the real market value of all the personal property used in their business for tax year 2001-02 is no more than $7,561. Defendant placed the adjudicated value of $19,360 on the tax roll for tax year 2001-02. Durkee testified that between 2000-2001 and 2002-03, the personal property used in the operation of their motel remained the same, with no significant additions or deletions. Leib testified that, based on her review of the personal property found during the audit and the assets listed on Plaintiffs’ 2002-03 personal property tax return, the 2001-02 real market value should be $20,555. (Def’s Ex A.) Leib noted for the court that many of the items reported by Plaintiffs on their 2002-03 personal property tax return were not included by Plaintiffs in their filed 2001-02 return, even though Leib saw them in use when she audited the motel. Leib concluded that the 2000-2001 adjudicated value supports her determination of value for tax year 2001-02.

To aid the court in determining the real market value of their personal property, Plaintiffs submitted advertisements for various items of personal property used in operating the motel. Defendant submitted “pictures and values of equipment found at used furniture/equipment stores in Lincoln City, OR.” (Def’s Ex PL.) Defendant provided the court with information and pictures taken from the Driftwood Village website and photographs of the personal property.
taken by Leib during her site visit to audit the Plaintiffs’ filed personal property tax returns.

(Def’s Exs G and H.) In addition, Defendant submitted a Questionnaire for Confirmation of Commercial Property Sales, for the March 20, 1999, sale of Trollers Lodge, a 12-room motel located in Depoe Bay, along with information taken from the Trollers Lodge website.

(Def’s Exs E and F.) In response to a question asking if the personal property was sold along with the Trollers Lodge facility, the seller answered yes, and estimated the value to be $29,400. (Def’s Ex E.) Defendant did not submit a listing of the personal property sold.

At trial, Durkee objected to Defendant’s audit of his personal property that he labeled an unauthorized search of his motel. He asked the court whether the search was legal under Oregon law and if omitted property discovered during an audit conducted for one tax year, could be projected forward to future tax years. In his opening statement, Durkee stated that he believed “the validity and legality of that search for this and future tax years is very much an open question since the law treats each tax year as a separate entity.” Durkee testified that he had not objected to the audit because at the time he did not know that he could deny Defendant access to his property. Durkee accompanied Leib and two representatives from the Oregon Department of Revenue as they took pictures and recorded the personal property in use at the motel.

Durkee raised another issue that he labeled question of notice. In his opening statement, he advised the court “that the assessor followed the notification rules for the 2000/2001 tax year,” but “there was absolutely no notice provided for the 2001/2002 tax year and the defendant will be unable to produce any documentation of such notice because it does not exist.” Durkee alleged that the omitted property “cannot be applied to the account for the 2001/2002 tax year since they did not comply with the notification requirements contained in the law.”
II. PRELIMINARY MATTER

On March 16, 2005, Durkee wrote to the court advising it that he might “object to any and/or all of the information contained in those two packets being admitted as evidence in this trial due to the defendants failure to comply with the instructions of the court regarding the submission of same.” The two packets referenced by Durkee contained identical information submitted to the court and Plaintiffs by Defendant. The first packet of information was submitted in response to a request by Plaintiffs to provide a listing of the personal property assessed for both the 2001-02 and 2002-03 tax years. Defendant agreed to provide that information by November 15, 2004. That information was received by Plaintiffs and the court on or about December 1, 2004. The second packet of information labeled Defendant’s exhibits was submitted for trial. Defendant’s exhibits were the same information submitted to the court and Plaintiffs in December 2004. Those exhibits were submitted one day later than the agreed exchange date.

At trial, Durkee objected to all of Defendant’s information being admitted. In response, Leib testified that she mailed the exhibits on Saturday, March 12, 2005. She thought the exhibits would reach the court and Plaintiffs by the exchange date, Monday, March 14, 2005. Unfortunately, both the court and Plaintiffs received the exhibits on Tuesday, March 15, 2005. The court reviewed the court’s exchange rule with the parties and expressed disappointment that Defendant had failed to comply with the agreed exchange date.

This court has faced a similar situation where the defendant’s exhibits, containing information previously provided to the plaintiff during the pending appeal, were submitted one day beyond the agreed exchange date. In that case, the court admitted the defendant’s exhibits because the plaintiff had ample opportunity to review the exhibits prior to trial. In this case, the
information contained in the exhibits was previously submitted to both the court and Plaintiffs in December 2004, which was over three-and-one-half months prior to trial. The court will follow its prior decision where the facts were substantially the same as presented in this case. The court will admit Defendant’s exhibits because the admission of Defendant’s exhibits does not create undue prejudice or surprise.

III. ANALYSIS

The issue before the court is the real market value of Plaintiffs’ personal property used in the operation of their motel. This court determined a real market value of Plaintiffs’ property for tax year 2000-2001. See Durkee et al v. Lincoln County Assessor, TC-MD No 010491F (Control) (Dec 27, 2001). The law provides that an adjudicated value is “entered on the assessment and tax rolls for the five assessment years next following the year for which the order is entered.” ORS 309.115(1). However, if an adjudicated value is appealed, the court must review the evidence and determine the real market value for the tax year under appeal. Plaintiffs appeal the real market value of their personal property for tax year 2001-02.

In Durkee, the court stated that all personal property is taxed at 100 percent of its real market value. See ORS 308.250(1). The court recited the definition of real market value found in ORS 308.205, which states in pertinent part:

“(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.”

The court, in defining how the real market value of personal property is valued, concluded that the acceptable method under the statute was an in-place, in-use method. The court held that

1 All references to the Oregon Revised Statutes (ORS) are to year 2001 unless otherwise noted.
Defendant’s “approach” followed “the process outlined in the rule [OAR 150-308.205(A)(4)] by valuing the property based on its contribution to the continued operation of the motel and the value of the property if the business were sold as a going concern.” *Durkee* at 9. There have been no statutory or rule changes and the valuation approach is applicable to the tax year before this court.

Plaintiffs have the burden of proof. *See* ORS 305.427, stating that “[t]he burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation.” Plaintiffs must “establish their claim by a preponderance of the evidence, or the more convincing or greater weight of evidence.”

*Schaefer v. Dept. of Rev.*, TC No 4530, WL 914208 (July 12, 2001) (citing *Feves v. Dept. of Rev.*, 4 OTR 302 (1971). In this case, Plaintiffs presented limited evidence of real market value other than the value reported on the personal property tax return they filed. Plaintiffs submitted advertisements for items they allege were comparable to the personal property in their motel. (Ptfs’ Exs 3-1 – 3-12.) No receipts, with the exception of a receipt for a washer purchased April 10, 2001, after the assessment date, were submitted. Plaintiffs followed the same approach they argued in the prior trial, alleging that the value of the personal property is the price a buyer would pay for each individual item of property. The court rejected that approach in the prior appeal and concluded that the correct approach is an in-place, in-use method. This court agrees with that prior holding.

In *Durkee*, the court determined the real market value for all of Plaintiffs’ personal property was $19,360 for the 2000-2001 tax year. Because the court did not assign a value to each of the items of personal property, Defendant allocated the value among the various items. Even though there was no significant change in Plaintiffs’ personal property in use at the motel,
Leib concluded that the real market value for the 2001-02 tax year should be $20,555 based on her audit and determination of the value.

In support of her determination of value, Leib introduced a 1999 sale of a 12-unit motel and all personal property with $29,400 of the total sale price allocated to the personal property. The court is unable to determine whether the value of the personal property sold is comparable to Plaintiffs’ personal property because a complete asset listing including a description of each item with year or model information was not submitted.

In *Durkee*, the court held that in “numerous instances” Defendant’s “opinion of value is higher than the original cost or replacement cost of the property,” resulting in “too high” of an “overall assessed value.” *Durkee* at 10. Relying on Plaintiffs’ filed return and the advertisements for similar items, Durkee challenged Defendant’s values, specifically the value of the washer, dryer and espresso machine, and the quantity of a number of items, including pillows and table saws. The court observes that Defendant overstated the quantity of some of the items assessed, *e.g.*, pillows. In addition, Defendant continued to report an “opinion of value” in excess of “replacement cost,” specifically for some of the more expensive items, such as queen size mattresses, window coverings, nightstands and bench grinders.

Even though Defendant’s estimate of value contains some errors which are noted below, the court finds that Defendant, in contrast to Plaintiffs, valued all of Plaintiffs’ personal property in use as of the assessment date. In reaching its conclusion of value for the tax year currently at issue, the court reminds the parties that they agreed for the 2001-02 tax year there were no substantial changes, *e.g.*, additions or deletions, to Plaintiffs’ personal property assessed in the prior year, 2000-2001, or subsequent year, 2002-03. Plaintiffs were unable to convince the court that the assets reported by Defendant based on its audit were not in use during the tax year at
issue. The court accepts Defendant’s asset listing and adjusts its determination of value as noted below. After evaluating the facts and considering the evidence and testimony, the court determines that the real market value of Plaintiffs’ personal property for tax year 2001-02 is $17,855.2

Plaintiffs raised two other issues for the court to address. Plaintiffs’ filed return for tax year 2001-02 did not include the omitted personal property added to the tax roll in 2000-2001.3 Durkee asked the court to exclude the value of the omitted property because Defendant failed to follow the statutory notice requirements and the value of omitted property should not be “projected forward.” Any statutory notice requirements placed on Defendant were fulfilled when Defendant sent its “Notice of Correction to Assessment Roll Pursuant to O.R.S. 311.216” (Notice), dated May 7, 2001. (Pfs’ Ex 1.) After that date, the property was no longer “omitted property” because it was added to the tax roll in 2000-2001. Contrary to Plaintiffs’ belief that the omitted property cannot be projected forward, the law clearly states that “all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment prescribed by law.” ORS 308.105(1). The property labeled omitted property lost its status as

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2 The court’s determination of real market value is computed as follows:

| Defendant’s Value (Def’s Ex A, Column K) | $20,555 |
| Add: Bedspreads/Comforters/Linens omitted from total | 250 |
| Adjustments: |
| Pillows ($1000; court’s value $500) | < 500> |
| Queen size mattresses ($1,650; court’s value $1,000) | < 650> |
| Draperies ($2,460; court’s value $1,000) | < 1,460> |
| Bench grinders ($300; court’s value $100) | < 200> |
| Nightstands ($315; court’s value $175) | < 140> |
| Total Real Market Value, Tax year 2001-02 | $17,855 |

3 Durkee testified that the personal property tax return he filed for tax year 2002-03 included the omitted property added to the tax roll in 2000-2001.
“omitted” when it was added to the tax roll in the prior year. All of Plaintiffs’ personal property in use must be valued as of the assessment date, January 1, 2001.

Durkee objected to what he termed an illegal search by Defendant.\(^4\) The time for Plaintiffs to raise an objection to the audit has long since passed. Durkee testified that he allowed Defendant access to his property to audit the personal property reported on his filed personal property tax return. Durkee’s characterization of Defendant’s audit as “illegal” misrepresents his own role in allowing Defendant access and accompanying Leib as she took pictures and recorded the assets she observed.

IV. CONCLUSION

The court concludes that Defendant’s determination of the value of Plaintiffs’ personal property using an in-place, in-use approach is an acceptable method of valuation. After careful consideration of the evidence and testimony, the court adjusted Defendant’s estimate of value and concluded that the real market value of Plaintiffs’ personal property for the 2001-02 tax year is $17,855. Now, therefore,

\[^4\] To the extent that Plaintiffs’ allegation is in the nature of a tort claim against the county, this court does not have jurisdiction to adjudicate that claim. See Sanok v. Grimes, 294 Or 684, 662 P2d 693 (1983).
IT IS THE DECISION OF THIS COURT that the real market value of Plaintiffs’ personal property for tax year 2001-02 is $17,855.

Dated this _____ day of June 2005.

______________________________
JILL A. TANNER
PRESIDING MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This document was signed by Presiding Magistrate Jill A. Tanner on June 6, 2005. The Court filed and entered this document on June 6, 2005.
STATE OF OREGON
DEPARTMENT OF REVENUE

In the Matter of the Appeal of
Steve Jonas
Concerning Certain Property
Tax Assessment Matters for the
1996-97 Tax Year.
OPINION AND ORDER No. 97-1278

The petitioner has appealed the assessed value of certain personal property identified in the Morrow County assessment and taxation records as Assessor’s Account No. 71041 for the 1996-97 tax year. The petitioner timely appealed from an omitted property assessment and jurisdiction therefore lies in ORS 311.211(4).

A hearing of this matter was held on July 10, 1997. Dan Robinson, Hearings Officer for the Oregon Department of Revenue, presided. Mr. Jonas appeared by telephone and testified on his own behalf. The county was represented by Sandi Patton.

The appeal involves the value of the petitioner’s video tapes, some 3511 in all. The current roll value is $19,435. Mr. Jonas requests a reduction to $10,533.

SUMMARY OF THE EVIDENCE

The petitioner acquired title to several thousand video tapes in the fall of 1995 pursuant to a lawsuit brought in the state of Florida. He transported the tapes to Oregon and opened up a video rental store in Hermiston. There are 200 “new” tapes and 3311 used videos. Mr. Jonas testified that the value of videos drops quickly after the initial release, as interest wanes once viewers have seen the film or rented the video.

Mr. Jonas reported the value of the videos to be $14,644 on his personal property return. The used tapes were valued at $4.00 each, for a total of $13,244, and the newer ones at $7.00 each, for a total of $1400. Mr. Jonas testified that the purchase price was $16,555 (5 each) for the used tapes and $12,000 (60 each) for the new ones. Mr. Jonas argues that the information shared with him by the county indicates that the guidelines published by the Department of Revenue specify that video tapes should be valued at 24 percent of cost, which places the value of the used tapes at $12,581, or $3.30 per tape. The parties agree that the value of the “new” tapes should be set at $2200, or $11.00 apiece.
Ms. Patton contends that the department's guidelines refer only to new tapes, and that absent a reported value, all tapes are to be valued for assessment and tax purposes at $11.00 each. Mr. Jonas disagrees, pointing out that the one-page guideline reads:

"VIDEO: Rental tapes to be reported at cost and assessed at 24% of cost. If no cost information then use $11.00 per each tape with no further depreciation."

Ms. Patton feels that the used tapes are already sufficiently depreciated, with an assessed value of $5 each, and would in fact be valued at $11.00 each if the petitioner had not reported the cost. Again, Ms. Patton testified as to her understanding that the department's guidelines regarding the 24 percent of cost valuation method apply only to new video rental tapes. After considerable discussion on this issue, the parties could not come to agreement. The hearings officer suggested that it was a matter to be decided on the basis of research and resolved in the final decision of the department, subject, of course, to reconsideration, should further appeal be made.

The guidelines referred to by the petitioner are part of a set of guidelines prepared by the department titled "Personal Property Valuation Guidelines." The guidelines were revised in June of 1997. The revisions do not alter the approach recommended for video rental tapes. The guidelines discuss the valuation of video tapes in two separate places, pages 45 and 58 (67 before the revision in 6/97). Page 45, titled "Video Rental Stores", contains an example, wherein tapes are purchased at various prices from a high of $50 to a low of $10. The formula used is to calculate the total cost and apply the factor of 24 percent to the total purchase price for all tapes. The petitioner, therefore, is correct in his assertion as to the interpretation of the department's guidelines. However, that does not mean that the recommended approach is the best or only approach to be used in valuing video tapes.

The issue is the market value of the used video tapes. The petitioner testified convincingly that his rental business in Hermiston is struggling financially to show a profit and that in his eyes the tapes have very little value. However, market value in this appeal is aimed at determining what a prospective buyer would pay for the tapes, not that revenue they generate in a given location. ORS 308.205 defines market value as:

"the minimum amount in cash that could reasonably be expected from an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm's-length transaction during the fiscal year." ORS 308.205.

This definition applies to personal property as well as real property. See ORS 18.250(1). Many factors impact the income derived from renting video tapes, including a rental charge and the demand in the area of the rental business. Unlike real property, which is unique and immobile, personal property can be sold and transported.

Page 2 Appeal of Steve Jonas (1996-97) Case No. 97-1278
to a new location, where it may then generate considerable revenues. For that reason, the tapes may sell for more than the current owner feels they are worth from the perspective of the income he receives in rental fees.

The Oregon Tax Court has considered valuation appeals involving video rental tapes on a number of occasions. In a recent case, H-P Ventures v. Dept. of Revenue, 13 OTR 330 (1995), Judge Byers noted that:

"[t]he correct measure of real market value to be applied in this case is the typical cost to the Taxpayer, not the retail price to Taxpayer's customers. What is being taxed are video tapes held primarily for rent. The real market value of video tapes held primarily for rent is the owner's cost of obtaining those tapes."

Id., at 332.

The tapes are currently valued for assessment purposes at their purchase price of $5.00 each. They were acquired in the fall of 1995 in connection with a lawsuit. The county opined that the "purchase" may not be arm's-length, given the facts of their acquisition. In any event, the burden is on the petitioner to demonstrate by a preponderance of the evidence that the used tapes should be valued at 24 percent of their cost, as he claims, and Mr. Jonas has failed to do so. Guidelines are just that; they are not the final say in this matter. Mr. Jonas has presented no independent evidence as to the value in the market of the tapes at issue other than their purchase price. In fact, he conceded that they may sell for $4 or $5 apiece.

DECISION OF THE DEPARTMENT

The department finds that the petitioner has failed to demonstrate that the used video tapes are assessed in excess of their real market value. Consequently, their value shall remain undisturbed. The value of the newer tapes shall be reduced to $2200, or $11.00 each.

The responsible county tax officials are hereby directed to correct the value appearing on the assessment and tax rolls in accordance with this decision and to refund any excess taxes paid, with interest, pursuant to ORS 311.806 through 311.812.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon, this 30th day of July, 1997.

Appeal of Steve Jonas (1996-97)  
Case No. 97-1278
Notice: If you want to appeal this decision, file a complaint in the Oregon Tax Court, 520 Justice Building, Salem, Oregon, 97310. YOUR COMPLAINT MUST BE FILED WITHIN 60 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.

Appeal of Steve Jonas (1996-97)
Case No. 97-1278
STATE OF OREGON
DEPARTMENT OF REVENUE

In the Matter of the Appeal

of

O.T.M. Company, formerly Oregon Trail
Mushroom Company, from an Order of the
Malheur County Board of Equalization
Concerning Certain Property Assessments
for the 1985-86 through 1987-88 Tax
Years.

A telephone hearing was held before Craig Myers, Hearings Officer for the
Oregon Department of Revenue, at 1 p.m. on September 18, 1980, originating
from the Revenue Building, Salem, Oregon. Participating were:

1) Gregory Howe, counsel for the petitioner;
2) Paul Rutten, general partner of O.T.M. Company;
3) Dick Heisinger, Malheur County Assessor; and
4) Wayne Hug, chief appraiser for the Malheur County Assessor.

The petitioner appealed to the department from an order of the Malheur County
Board of Equalization regarding the true cash value ascribed to the property
identified as Assessor's Account No. P-50303 on the 1985-86 through 1987-88
tax rolls.

The subject property is certain machinery and equipment used in petitioner's
mushroom growing operation. Included are the following:

1/1/87

Keyser Harvester
Self-propelled tunnel fill-line
Three-meter tunnel winch
Six-roll bed winch
55-inch x 20-foot cleanout conveyer
Headfilling machine
11-foot undercar conveyer
36-foot incline conveyer
Grow racks
Keyser root-collecting machine
Picking lorries
Mushroom slicer
Harvester

1/1/85 and 1/1/86

Keyser Harvester
Tunnel fill-line
Tunnel Winch
Bed winch
Cleanout conveyer
Headfilling machine
Undercar conveyer
Incline conveyer
Grow racks
Scratching machine
Leveling machine
Petitioner has appealed from an exemption denial on the subject property pursuant to ORS 305.275. Petitioner argued that the property was exempt under ORS 307.400.

**DISCUSSION**

On March 11, 1988, Alyce Coleman, formerly of the Malheur County Assessor's Office, advised petitioner that a cancelation of assessment on the subject property would be made for years 1985, 1986, and 1987. On April 20, 1988, Ms. Coleman issued a follow-up letter indicating that a refund would be issued on the now exempt "personal" property.

When no refund was made, petitioner contacted the Malheur County Assessor. On May 25, 1989, the assessor responded that no refund was appropriate since he considered the subject property "real" and taxable. Petitioner's subsequent appeal to the Malheur County Board of Equalization was denied. While the 1989 board had no authority to consider these matters, it appears the board order constitutes the taxpayer's actual knowledge of the county's final decision on this issue.

Arguments made before the department by the petitioner focus on the fact that the subject property is free-standing and movable, and that mushroom growing constitutes an "agricultural or horticultural use" within the meaning of ORS 307.400. Petitioner concludes that the subject machinery and equipment is tangible personal property which qualifies for exemption as inventory under ORS 307.400.

According to ORS 307.400(3)(a), exempt inventory is:

> Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops;...

The item of tangible personal property at issue which clearly fails to meet the exemption criteria in ORS 307.400 is the mushroom slicer. This is processing equipment and is taxable personal property. (See Sokol Blosser Winery v. Dept. of Rev., 8 OTR 196 (1979).

The Oregon Tax Court in West Foods v. Dept. of Rev., 10 OTR 7 (1985), clearly established that mushroom growing qualifies as an "agricultural or horticultural use." However, the court also held that the West Foods growing beds are a part of the realty and not tangible personal property entitled to the inventory exemption. The court found that the beds and buildings housing them are a single economic unit.

Gregory Mowc, who was also counsel for the taxpayer in West Foods, argued in its case that the subject growing beds are different from those at West Foods. These are completely free standing and allegedly easily moved.

ge 2 Opinion and Order No. 89-0989

O.T.M. Company, formerly Oregon Trail Mushroom Company
'c also pointed out that the taxpayer has a state-of-the-art operation relying on a much higher degree of mechanization.

As at West Foods, the subject growing beds have removable slats which form the bottom of the beds. Most of the time, these slats are covered with several inches of compost. Like the beds at West Foods, the subject beds are assembled in parallel racks several tiers high and reach the growing room ceilings. Unlike West Foods, the subject racks are not "toenailed" into the sidewalls of the building and are not otherwise attached, though they are similarly self-supporting.

Mr. Howe pointed out that the taxpayer's growing operation is state-of-the-art and relies on a high degree of mechanization. The grow racks were assembled in a precise way to accommodate mechanical cultivating, planting, and harvesting. Steel tracks are set in the concrete floor and in the grow racks themselves to permit accurate alignment of the movable equipment with the beds during operation.

To determine whether any of the subject property is real property, and therefore not exempt inventory, a review of the statutes is necessary. According to ORS 307.010(1), "Real Property" includes "... machinery, equipment or fixtures erected upon, above or affixed to the (land) ..."

OAR 150-307.010(1)(2) states:

(b) Erected upon. "Erected upon" means being permanently situated in one location on real property and adapted to use in the place. For example, a heavy piece of machinery or equipment is set upon a foundation without being fastened thereto, but is an integral part of the function or design of the facility.

(c) Affixed. "Affixed" means securely annexed to the real property. For example, items attached by bolts, screws, nails or built into the structure are securely annexed; items not securely annexed may be found to be constructively affixed to the land or building and considered real property by virtue of their weight or size.

OAR 150-307.020(3) states that "movable equipment" (personal property) "... includes items readily movable as opposed to apparently stationary or affixed items."

Based on the language of the statutes and administrative rule, it is clear that the subject grow racks are real property. Their weight and size mandate on-site assembly, and they are definitely not intended to be moved. Such movement would be inconsistent with their operation and function. In addition, the growing rooms themselves were specifically designed to accommodate these support structures.
All of the remaining equipment at issue operates on wheels and is clearly "movable equipment," allegedly meeting the definition of exempt inventory. However, it was custom engineered and built for use exclusively with the subject grow racks. It is similar to a one-of-a-kind bridge crane or dock crane operation, involving steel wheels or rubber tires guided on or along a network of tracks.

These items are also accurately described within OAR 150-307B.010(1) as "Erected upon ... being permanently situated in one location on real property and adapted to use in the place." This equipment is uniquely designed (adapted) to the dimensions of the grow racks and most of it is "permanent" by virtue of its dependence on special building modifications (a network of tracks and support structures) for its operation.

A review of Seven-Up Bottling Co. of Salem, Inc. v. Dept. of Rev., 10 OTR 400 (1987), reveals the need for caution when categorizing equipment according to the intentions of lessor or lessee. For example, 'a machine 'affixed to' a building is real property regardless of the intent of the parties or its 'adaptability.'" Seven-Up supra. Therefore, the evidence in this case was weighed on the basis of outward appearances in an effort to preserve uniformity of taxation and avoid subjective interpretation or reliance on the secret intentions of the taxpayers.

While the subject property is used for cultivating, planting, and harvesting a crop which constitutes an "agricultural or horticultural" commodity within the meaning of ORS 307.400, it does not qualify as exempt inventory. Since it is erected upon the real property, it becomes real property and cannot be exempted as tangible personal property. It does not resemble the farming vehicles or equipment intended for exemption by the legislature and described in the statutes. Therefore, the department finds that the property at issue is taxable, and that petitioner's appeal must be denied.

I IS SO ORDERED.

Received and mailed at Salem, Oregon, this 17th day of December, 1992

DEPARTMENT OF REVENUE

If you want to appeal this decision, file a complaint in the Oregon Tax Court, 520 Justice Building, Salem, Oregon 97310. YOUR COMPLAINT MUST BE FILED WITHIN 60 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.

Opinion and Order No. 83-0989
O.T.M. Company, formerly Oregon Trail Mushroom Company
STATE OF OREGON
DEPARTMENT OF REVENUE

In The Matter of the Appeal of
HILLCREST VINEYARD
Concerning Certain Property Tax
Matters for the 1995-96 Tax Year
OPINION AND ORDER NO. 96-0132

A telephone hearing was held at 11 a.m. March 16, 1996. Scot A. Sideras, hearings officer for the Department of Revenue, presided.

This hearing was to consider the appeal of Hillcrest Vineyard. Richard Sommer appeared and made his arguments.

The Douglas county assessor responded. Ali Vincent-Jough, the Deputy Assessor, was present.

At issue is the assessment, for the 1995-96 tax year, of Douglas county property identified by account number 267-0107. The appeal was made in a timely manner. Jurisdiction lies in ORS 305.275 and 305.280.

* * * * * *

The personal property at issue is the machinery and equipment used by Hillcrest Vineyard. There are two aspects of the appeal. The first is the exemption of the items. The second is their valuation.

As to the exemption, Hillcrest contends that the assets are exempt from tax as farm machinery and equipment. The conclusion of the agency is that these items, consisting of implements such as barrels, drums, conveyors, pumps, corksers, filters, tanks, and labeler, are taxable. The exemption ends with the processing of the crop, and as the items at issue here are primarily, if not exclusively, used to change the grapes into wine there can be no exemption under ORS 307.400 and its accompanying administrative rule. That land beneath a winery and tasting room may qualify for special assessment as farm use for purposes of ORS 215.203 does not change this conclusion.

With the now assets found to be taxable their valuation becomes important. Since the personal property return was filed August 1, 1995 the return was not processed prior to the September 20, 1995 closure of the roll. The disputed amount was added through an omitted property assessment. Following a careful
review of the property and a dialogue with Mr. Sommer, Douglas County recommended reducing the assessment from $171,260 to $102,576.

The appeal is granted to the extent of reducing the assessed value of the property. The appropriate officers of Douglas County shall make the necessary corrections. If, after these changes, any taxes previously paid are now found to have been paid in excess, that excess shall be refunded, with interest as set out in ORS 311.806 and 311.812.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon, this 6th day of *May* 1996.

[Signature]

RICHARD A. MURH, DIRECTOR

Notice: If you want to appeal this decision, file a complaint in the Oregon Tax Court, 520 Justice Building, Salem, Oregon 97310. YOUR COMPLAINT MUST BE FILED WITHIN 60 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.
STATE OF OREGON
DEPARTMENT OF REVENUE

In the Matter of the Appeal of
DENNIS E. PINHEIRO
Regarding Certain Personal Property Tax Matters
for Tax Year 1993-94
OPINION AND ORDER NO. 94-0825

The petitioner has appealed the assessment of a late filing penalty by Douglas County for certain personal property identified by the following account numbers:

9.2381 9.2391 9.2401
9.2382 9.2392 9.2402

A timely appeal was filed establishing jurisdiction in ORS 305.275.

A hearing was held on October 10, 1994, before Glen Pfefferkorn, Hearings Officer. Participating in the hearing were: Dennis Pinheiro, petitioner, and Ali Vincent-Lough, representing Douglas County.

Dennis Pinheiro testified he filed his 1993 personal property return late. The county had requested additional information and on the due date, he was very busy. Since he thought the penalty would be $10, he elected to postpone filing the return. He was surprised to receive a billing for $360. Ten dollars for each of the 38 accounts. In the past, he had reported the value of all property in one lump sum. He alleges he is being penalized for cooperating with the county.

Ali Vincent-Lough testified that the petitioner never filed a 1991 Personal Property Tax Return. In 1992, he filed a return and combined the value of property at all locations. He was requested to provide more detail. When he failed to respond, the county issued one property tax bill. The 1993 return was filed correctly, listing separately property located at various locations throughout the county. However, the return was received after the due date, a late penalty was assessed on one account.
OPINION OF THE DEPARTMENT

As required by statute and set forth on the personal property tax return, a separate return is to be prepared for each tax code area in which property is located. The county has, as a convenience to the taxpayer, allowed one return to be filed with a schedule, listing property in each code area.

ORS 308.295(2) requires a delinquent penalty of $1 per $1,000 of assessed value, but not less than $10 or more than $250. Even though the petitioner filed one form with a schedule attached, listing property at various locations, the statute requires a penalty for what would have been each separate return. Therefore, the penalty was properly assessed.

Petitioner's reason for filing late does not qualify as good and sufficient cause.

For the above reasons, the penalty must be sustained.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon, this 4th day of November, 1994.

DEPARTMENT OF REVENUE

RICHARD A. HOPE, DIRECTOR

NOTICE: If you want to appeal this decision, file a complaint in the Oregon Tax Court, 520 Justice Building, Salem, Oregon 97310. YOUR COMPLAINT MUST BE FILED WITHIN 60 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.
STATE OF OREGON
DEPARTMENT OF REVENUE

In the Matter of the Appeal of
California-Oregon-Broadcasting, Inc., Concerning Machinery and Equipment Assessments for the 1990-91 Tax Year.

Petitioner appealed to the Oregon Department of Revenue concerning the assessment of certain machinery and equipment for the 1990-91 tax year. The property is identified in the Jackson County tax records as Account No. 1-37029-9.

The issue is the proper classification of the subject property. The county has assessed it as real property improvements pursuant to ORS 307.010(1). The taxpayer contends the items are movable personal property pursuant to ORS 307.020(3). The value of the property is not at issue; the parties agree the market value was $359,760 on the assessment date. The parties further agree the property is entirely assessable by Jackson County for the 1990-91 tax year. The only issue is whether it should be classified as real property improvements or movable personal property.

Hearing was convened by Jeffrey S. Mattson, Hearings Officer for the Oregon Department of Revenue, on July 23, 1991, in the Jackson County Courthouse at Medford, Oregon. Douglass H. Schmer, attorney-at-law, represented petitioner. Testifying as witnesses were Becky Barry, William Smullin, Steve Aase, and Bill Kirk. Participating for the Jackson County Assessor were David B. Arrasmith and Ron Coffman.

THE PROPERTY

The subject property consists of (primarily) electronic equipment used for video transmission and editing. Additionally, some "rack systems," similar to furniture, are also a part of this assessment. Because the case presents a question of fact, the Hearings Officer was aided by a view of the subject property.

The taxpayer spoke of 17 foam panels that are attached to the wall. They admit that these (only) are real property fixtures and should be classified as such. The assessed value is $427 total for these panels. I agree they shall be classified as real property improvements.

The machinery and equipment is housed in a building that was earlier a warehouse. There was no substantial remodeling of the building after its purchase. The site is still adaptable to commercial or warehouse use if the owner decides to vacate the premises.

Subject property is predominantly editing equipment that is used for commercials and the taxpayer's own production services. They help produce video productions. The items are not essential for broadcast purposes.
The subject property is easily removable. No change in the structure was required to erect them. Different components are plugged together by cables.

Petitioner's witnesses spoke of technological changes in the industry and need to consistently upgrade the equipment. This notion is enhanced by the component-parts nature of the overall system. If one item fails or becomes obsolete, it does not affect the entire process; it may be replaced on that basis only.

The subject property is located in one of three rooms. The majority is in the master control room. The rest of the equipment is either in a production control room or the edit "A" room.

Most of the subject property is connected to each other. The majority of them are through twist-lock video cables. Other fasteners are sound cables with male-female connections or other joints similar to computer cables.

Each of the subject property could be removed without damage to the building. They can be easily transported and moved by one person, in the majority of the cases. They all operate on standard AC wall socket power sources.

The property is removed for several reasons. These include operator needs, maintenance, replacement, and repair upon failure. The chief engineer testified that every day at least something is relocated.

THE LAW

The statutes involved are ORS 307.020 and ORS 307.010. ORS 307.010 defines "real property" to include machinery and equipment erected upon or affixed to land:

"real property" includes the land itself, above or under water; all buildings, structures, improvements, machinery, equipment or fixtures erected upon, above or affixed to the same; **

ORS 307.020 defines "tangible personal property" to include movable machinery and equipment:

(3) "Tangible personal property" means and includes all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools, and movable equipment. (Emphasis added.)

The accompanying Administrative Rules add examples to the statutes. AR 150-307.010(1) includes the following statement: "Erected upon" means being permanently situated in one location on real property and adapted to use in the place. "Affixed" means securely annexed to the real property.
WAR 150-307.020(3) includes the notion that personal property includes those items "readily movable as opposed to apparently stationary or fixed items."

Here, the items clearly are readily movable and not fixed nor constantly stationary.

The test is not whether a piece of machinery or equipment is designed to permit removal; the test is whether it is designed to be moved in the ordinary course of business.

In the case of Saunders v. Dept. of Rev., 300 Or 384, 711 P2d 961 (1985), the court stated:

Whatever the result might be if only ORS 307.020(3) were involved, the legislative history of ORS 307.400(3) shows that the legislature, in creating the exemption (for inventory), intended to exempt described personal property that generally is moved or movable in the ordinary course of business.

Here, the portability factor is important to petitioner. That is part of the attraction of component parts in the overall, integrated system. The county cites the case of Seven-Up Bottling Co. of Salem v. Dept. of Rev., 10 OTR 400 (1987). That case involved the heavy equipment and machinery that was clearly designed or intended to be moved about in the ordinary course of business. Here, the movement of the equipment interfered with and was inconsistent with the operation and function it performed. The evidence established it would take 20 days to remove the subject property from the site. This is markedly different from the one-day estimate advanced for the subject property. In the tax court case certain personal property items, including the tanks, were readily movable from one part of the room or plant to another. This is more akin to the subject property at issue in our case.


CONCLUSION

The county assessor focuses on "the system" and not the individual components. The collection yields a classification as real property improvements, according to Jackson County. Because they are attached to one another, they are annexed, argues the assessor. This argument and approach by the county ignores the statutory language of "readily movable." I find the property is readily movable under the presented facts.
I have thoroughly evaluated the evidence in this matter. The electronic equipment in this case and the other items at issue are more properly termed movable personal property pursuant to ORS 307.020.

THEREFORE, the Jackson County Assessor shall take such steps as necessary to comply with the above findings and reclass the subject property in the county records as personal property for the 1990-91 tax year, with the exception of the 11 foam panels mentioned above.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon, this 8th day of October, 1992.

DEPARTMENT OF REVENUE

[Signature]

GEORGE H. WEBER
DEPUTY DIRECTOR

Notice: If you want to appeal this decision, file a complaint in the Oregon Tax Court, 520 Justice Building, Salem, Oregon 97310. YOUR COMPLAINT MUST BE FILED WITHIN 60 DAYS AFTER THE MAILING DATE SHOWN ABOVE, OR THIS DECISION WILL BECOME FINAL AND CANNOT BE CHANGED.
DEPARTMENT OF REVENUE

In the Matter of the Appeal

of

Meadow Outdoor Advertising

from an Act of the Wasco County Assessor Concerning Certain Property Tax Matters for the 1984-85 and 1985-86 Tax Years.

OPINION AND ORDER

Nos. 84-6534 and 85-0641 (Consolidated)

Petitioner, Meadow Outdoor Advertising, appeals to the Department of Revenue from an act of the Wasco County Assessor concerning certain property tax matters for the 1984-85 and 1985-86 tax years. The subject properties are specifically identified in Appendix "A" attached hereto and incorporated herein by this reference.

A hearing was held before Karen Nightower, Hearing Officer for the Department of Revenue, on July 17, 1985, at the PUD Office Building, The Dalles, Oregon. Participating were:

1) Ronald W. Somers, attorney-at-law, representing the petitioner;
2) Chris Zukiw, general manager, part-owner, and corporate president of Meadow Outdoor Advertising, testifying as a witness for the petitioner;
3) Bernard Smith, district attorney, representing the Wasco County Assessor; and
4) Herb Crook, Jr., Wasco County Assessor.

Also present were Fred Cook and Dennis Shutte. The record was reopened March 26, 1987 and closed April 30, 1987.

Jurisdiction to consider this matter is provided by ORS 305.275 and 305.280.

The sole issue to be determined is whether the subject properties, 29 off-premises advertising signs, should be assessed as real property or as personal property for ad valorem tax purposes.

FACTS

The record shows that for the 1984-85 and 1985-86 tax years the subject properties were assessed by the Wasco County Assessor as real property. Petitioner contends that the subject off-premises advertising signs should be assessed as personal property.

The essential facts are undisputed.
For both tax years at issue, petitioner was engaged in the business of constructing, maintaining, and renting off-premises outdoor billboards. These billboards display advertising of the products and services of petitioner's customers, who rent sign space from the petitioner. All of petitioner's signs are erected on property of unrelated persons who own land along the major roadways in Wasco County. The location of the signs is determined primarily by traffic exposure.

Petitioner's leases with the property owners vary in terms. Generally, these leases provide for the erection and maintenance of billboards on the property in exchange for an annual consideration to the landowner. The leases provide that the billboards remain petitioner's property and the petitioner has a right to remove them. All of the leases have finite terms and removal clauses which are totally independent from the major use of the realty. Some removal clauses are as short as 24 hours.

Petitioner's signs have three major components: 1) a "sign face," 2) "stringers," and 3) a base structure.

Petitioner's sign faces vary in size, ranging from 10 x 24 feet to 10 1/2 x 48 feet. The sign face panels are attached to boards or metal bars, called "stringers," which have been attached horizontally to the base structures. Each billboard assembly can house from one to two advertisements. Approximately 50 percent of petitioner's billboards are equipped with lighting fixtures.

The base structures used to support petitioner's signs are generally of two types: 1) steel "I" beams, and 2) wooden poles. The wooden poles, usually creosote protected, are placed vertically into the ground at a depth of 6 to 8 feet. The steel "I" beams are generally set in concrete foundations 8 to 10 feet deep. The holes for these base structures are dug by an auger and are approximately 24 inches in diameter. The number and size of the poles used will vary depending on the size of the sign face and how high the sign must be to be visible to motorists.

The signs are constructed, erected, and maintained by the petitioner under contracts between petitioner and its customers.

The petitioner can, and does in fact, move and remove its signs. Specifically, in the last five-year period, four of the subject signs were removed and three or four new signs were erected.

There are numerous situations which may require the petitioner to remove its signs. The petitioner may need to move its signs to new locations in the event the view of the sign from the road becomes obstructed. Signs may need to be moved when a change takes place in the ownership of the leased property, or when a landowner decides to develop the realty. A change in the location or use of a road, or the expiration of a contract with an advertiser or a landowner may also require the removal of a sign.
Advertisements for the billboard structures, themselves, emphasize that billboards are specifically designed to allow for quick installation and removal. For example:

"Tough but versatile, the complete system may be very easily removed and relocated with no loss of structure." Advertisement from American Lighting Standards Corporation. (Petitioner's Exhibit No. 4.)

"Butler outdoor panels go up and come down easily . . . are easily moved at less cost . . . and are 100 percent salvageable." Advertisement from Butler. (Petitioner's Exhibit No. 6.)

In summary, movement is planned for and expected in the ordinary course of petitioner's business.

Removal of petitioner's displays is a relatively quick and easy process. First, the sign face and stringers are disassembled. Most of petitioner's supporting structures are then removable by a backhoe. Mr. Zukin, petitioner's president and general manager, testified that it took approximately 8 to 12 working hours to remove one of their largest signs: a 10 foot by 48 foot billboard with six cemented telephone poles as supports. First, the sign face, built in sections, was dismantled. Then the stringers and lights were removed. Finally, the small concrete caps of the telephone poles were pulled completely out with a backhoe. Removal of the footings takes approximately 20 minutes. Petitioner's steel "I" beam signs set in concrete are usually cut off six inches to one foot below grade and then filled over with the surrounding surface.

When a sign is removed, most of it is reused; only that part of the pole surrounded by concrete is lost as wastage.

DISCUSSION

The petitioner argues that the subject off-premises advertising signs should be taxed as personal property while the county asserts that the subject billboards should be taxed as real property.

The taxpayer asserts that since off-premises advertising signs are movable in the ordinary course of petitioner's business, the "movable" requirement of ORS 307.020(3) has been met.

Petitioner points to a line of federal cases which have found billboards to be essentially movable, as opposed to "inherently permanent structures." These cases involve interpretation of federal tax laws for investment tax credit purposes, however.
It is also the case that the California, New York, and Ohio courts have found billboards to be "personal property." In City of Cleveland v. Zimmerman, 253 NE 2d 327, 331, 22 Ohio Misc. 424 (1951), an Ohio court, looking primarily at the intention of the parties, found billboard advertising signs to be "personal property" as opposed to fixtures. In New York, the court found off-premises advertising signs to be fixtures for the purposes of eminent domain proceedings, and personal property as between lessee and lessor. George F. Stein Brewery, Inc. v. State, 103 N.Y.S. 2d 946, 200 Misc. 424 (1951). And in California, the court used the traditional "three-prong test" to find advertising signs to be "personal property." Breyfogle v. Tighe, 58 Cal. App. 301, 208 P. 1008 (1922).

Finally, the taxpayer asserts that Oregon statutes already treat billboards as if they were personal property. Under ORS 377.700 through 377.780 (1983), the Motorist Information Act treats outdoor advertising signs as portable and temporary. The statute requires annual permits to be issued, restricts the placement, location, and sizes, and provides for State removal upon "abandonment" or "noncompliance." The taxpayer argues that it would be unreasonable to treat petitioner's signs as "portable" units for highway beautification and safety purposes, and on the other hand treat them as permanently fixed improvements for taxation purposes.

While it is clear from the evidence that the billboards at all times remain the property of the petitioner and as between the lessee and lessor could be considered "personal property," it is equally clear that an agreement between the parties as to the nature of the installation is not binding on a taxing authority. Shields v. Dept. of Rev., 266 Or 461, 513 P.2d 784 (1973); Warm Springs Lbr. v. Tax Comm., 211 Or 219, 225, 342 P.2d 143, 146 (1959).


"Real property" is defined in ORS 307.010(1):

1. 'Land,' 'real estate' and 'real property' include the land itself, above or under water; all buildings, structures, improvements, machinery, equipment or fixtures erected upon, under, above or affixed to the same;...

"Tangible personal property" is defined in ORS 307.020(3):

3. 'Tangible personal property' means and includes all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.
The Oregon Supreme Court has closely scrutinized the definition of "real property" under ORS 307.010(1) in two significant tax cases.

In *Warm Springs Lumber Co. v. State Tax Comm.,* 217 Or 219 (1959), the court decided that the buildings in question, principally a sawmill, dry kilns, planing mill, factory warehouse, and sorting sheds were "real property" for purposes of taxation because they were "erected upon" the land under the definition of ORS 307.010.

In the most recent case, *Saunders v. Dept. of Rev.,* 300 Or 384, at 390 (1985), the court concluded that Harvestores are "real property" for purposes of ad valorem taxation because they are structures "erected upon" or "affixed to" the land pursuant to the definition in ORS 307.010(1).

Conversely, the ORS 307.020(3) definition of tangible personal property makes repeated reference to "movable." It includes "all chattels and movables, ... movable machinery, movable tools, and movable equipment."

As the Oregon Tax Court recently held in *Seven-Up Bottling Co. of Salem, Inc. v. Dept. of Rev.,* OTC No. 2398 (not yet published, issued March 13, 1987), the structure of this statute invites application of the statutory rule of construction ejusdem generis:

Where general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words. Where the opposite sequence is found, i.e., specific words following general ones, the doctrine is equally applicable, and restricts application of the general term to things that are similar to those enumerated.

... If the general words are given their full and natural meaning, they would include the objects designated by the specific words, making the latter superfluous. On the other hand, if the series of specific words is given its full and natural meaning, the general words are partially redundant. The rule 'accomplishes the purpose of giving effect to both the particular and the general words by treating the particular words as indicating the class, and the general words as extending the provisions of the statute to everything embraced in that class, though not specifically named by the particular words.'

The resolution of this conflict by allowing the specific words to identify the class and by restricting the meaning of general words to things within the class is justified on the ground that
had the legislature intended the general words to be used in their unrestricted sense, it would have made no mention of the particular words. 2A Sutherland Statutory Construction §47.17 (4th ed.).

As a general rule, the specific types of items listed in ORS 307.020(3), i.e., boats, vessels, vehicles, movable machinery, and movable equipment, are not "affixed" to anything. Viewed in this light, the subject off-premises advertising signs, which are supported by base structures consisting of either steel "I" beams or wooden poles, appear not to be "movable" within the meaning of ORS 307.270(3). The steel "I" beams are generally set in concrete foundations 8 to 10 feet deep and the wooden poles are placed vertically in the ground at a depth of 6 to 8 feet. As such, these structures are more properly considered to be "erected upon" or "affixed to" the land within the meaning of ORS 307.010(1).

In summarizing the distinction between real and personal property, the Oregon Tax Court states:

As a general rule, the assessor is not required to consider the intention of the parties or the adaptability of the property. He merely has to determine whether the property is "affixed to" or "erected upon" land or buildings. Seven-Up Bottling, supra, OTC No. 2398 at 10.

In Saunders, at 390, the Oregon Supreme Court states:

ORS 307.010(1) does not require permanence; it only requires that the structure be erected upon or affixed to the land.

This is a close case. The evidence supports the conclusion that off-premises advertising signs are movable in the ordinary course of petitioner's business. The signs are placed and changed to meet short-lived market demands; i.e., traffic and changing consumer needs. The petitioner does not intend, nor could it realistically expect, the signs to remain permanently in place. Moreover, the subject billboards are not an integral part of the land to which they are affixed, nor do they add to the land's primary use or purpose. Finally, the evidence supports the conclusion that the billboards are specifically designed to allow for quick installation and removal without damage to the land.

Nevertheless, the Oregon courts have determined that ORS 307.010(1) merely requires that property be "erected upon" or "affixed to" the land. The terms of a statute must be followed by the Department of Revenue in exercising its taxing authority.
Accordingly, the department finds that the subject billboards are "real property" as defined in ORS 307.010(1) and were properly taxed as such. Petitioner's request for relief is denied.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon this 23rd day of June 1987.

CERTIFIED TO BE A TRUE COPY

DEPARTMENT OF REVENUE

[Signature]

RICHARD A. MUNN, DIRECTOR

DEPARTMENT OF REVENUE

1 It should be noted that this is apparently a case of first impression in Oregon.

Notice: If you are dissatisfied with this decision, you may appeal it to the Oregon Tax Court, 520 Justice Building, Salem, Oregon 97310, within 60 days of the date of mailing shown above. ORS 305.560.
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STATE OF OREGON
DEPARTMENT OF REVENUE

In the Matter of the Appeal of

Refer Fruit Company Concerning Certain Personal Property Assessments for the Tax Years 1978-79 through 1983-84, Inclusive.

A hearing was held before Jeffrey S. Mattson, Hearing Officer for the Department of Revenue, on June 7, 1984, in the Justice Building at Medford, Oregon. The record was closed on August 10, 1984.

David L. Moore, Attorney at Law, represented Petitioner. Floyd Baker, Managing Partner, was present as a witness.

Roy Bashaw, County Legal Counsel, represented the Jackson County Department of Assessment and Taxation. Bill Droll, County Appraiser, testified as a witness.

Neal Stiffler, Oregon Department of Revenue Appraiser, testified as an independent appraisal witness at the Hearing Officer's request.

Decision for the Respondent.

OPINION

Petitioner appeals to the Oregon Department of Revenue concerning certain personal property assessments for the tax years 1978-79 through the 1983-84, inclusive. The subject property is identified in the Jackson County tax records as Account Nos. 2-253-7 and 1-2018-84Hi. Petitioner contends the subject property qualifies
for exemption as farm machinery and equipment pursuant to ORS 310.608
and 307.400.

The Department of Revenue has no jurisdiction to consider any
tax years except 1982-83 and 1983-84. See ORS 306.115. The years
earlier than that are hereby dismissed.

The subject property consists of various items and components
used to process locally-grown pears for retail sales. Also included are
three steel buildings. The individual items were described in detail by
petitioners' chief witness. Exhibits and further descriptions pertaining
thereto were offered by the parties at the hearing.

Due to the specialized nature of the subject property and
the critical legal question presented, the Hearing Officer asked for
pertinent independent appraisal expertise. This was provided by Neil
Stiffler, a highly qualified appraiser with the Oregon Department
of Revenue Assessment and Appraisal Division.

Mr. Stiffler had the full cooperation of petitioners' employees. He was able to tour the subject plant, make inquiries
and take photographs. The latter exhibits were especially helpful
in understanding the properties under appeal. His "general observa-
tions" included the following:

The properties in question were production lines
which were affixed to buildings designed for a
form of product work. The buildings were equipped
with additional lighting, wiring and plumbing to
accommodate both equipment and human needs. Items
like separate bathrooms, grading lights and large
water and wiring supplies were standard. Second-
floor balconies or lofts were used to facilitate
boxed productions. I found the production line

Opinion and Order No. 3-2482-15
Reter Fruit Company
to be part of or adjacent to their cold storage buildings. The cold storage was an integral part of the operation.

***

I observed the plant at a time of their off season and found minimal removal of any equipment, lines, or machinery. The equipment and machinery consistently complemented the purpose for which the underlying realty was used for and tied the process to the realty.

***

The process usually includes the following:

1. Pears are sprayed with chemicals (Butalane) to stop bacteria and fungus when they first arrive from the field.

2. Pears are coated by a water soda-ash mixture to neutralize sugar density and allow floating.

3. Special boxes and pads are used to store and ship the fruit to prevent bruising.

4. Boxed pears are then kept in cold storage (around 30 degrees) to stop or retard the natural ripening process.

GSR 306.105 provides for taxation of personal property as follows:

(1) Except as otherwise specifically provided, all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment described by law (January 1, in this case).

(2) Personal property may be assessed in the name of the owner or of any person having possession or control thereof. Where two or more persons jointly are in possession or have control of any personal property like separate bathrooms, grading lights and large water and wiring supplies were standard. Second-floor balconies or lofts were used to facilitate boxed productions. I found the production line in trust or otherwise, it may be assessed to any one or all of such persons.

Opinion and Order No. 3-2482-15
Reter Fruit Company
ORS 307.400 (and its predecessor, ORS 310.606) command that the following tangible personal property is exempt from ad valorem taxation:

Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of any agricultural or horticultural product.

In order to qualify for the exemption claimed by Petitioner, the property must be both: (a) tangible, personal property; and (b) used in the "production of" an agricultural or horticultural product.

The authorities and the parties herein agree that:

A three-prong test, that a degree of annexation, nature of adaptation and intention, must be utilized in determining whether a particular property retains its character as personal property or loses that separate character and becomes a fixture upon its attachment to real property. (Leaff v. Hewitt, 1 Ohio St 511 (59 Am Dec 634), (a leading case on the law of fixtures, it has long been followed in Oregon, California, Washington and in many other jurisdictions). Marsh v. Boring Furs, Inc., 275 Or 579, 581, 551 P2d 1053, 1054 (1976); Dunn v. Assets Realization Co., 141 Or 298, 361, 16 P2d 370, 371, rehearing denied, 17 P2d 1118 (1933); Roseburg Nat. Bank v. Camp., 89 Or 67 74 173 P 313, 315 (1918). In the Roseburg case, the conclusion was reached that there could be no one test by which to determine in all cases whether the chattel had become a part of the freehold, but that it required the united application of the following test:

(1) Real or constructive annexation of the article in question to the realty.

(2) Appropriation or adaptation to the use or purpose of that part of the realty with which it is connected.

(3) The intention of the party making the annexation, to make the article a permanent accession to the freehold, this intention being inferred from the nature of the article affixed, the relation and

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situation of the party making the annexation, the policy of the law in relation thereto, the structure and mode of the annexation and the purpose or use for which the annexation has been made. Roseburg Nat. Bank v. Camp, supra, at 74; Bylund v. Dept. of Rev., 9 OTR 76, 79-80 (1981).

Under the test, as set forth above, the subject property is not tangible, personal property. Instead, it is completely adapted to the real property. This is fully supported by the testimony and conclusions of Mr. Stiffler presented at the hearing.

Finally, under the facts as presented, the subject property is not used as part of the harvesting process. That earlier process ceased once the pears were removed from the field. After the fruit is dumped from the tote bins, the subject property is then, and only then, used in the sorting, wrapping, cleaning, packaging and boxing of the fruit. This is more than the mere harvesting of fruit.

Such a finding is consistent with other Opinion and Orders of the Oregon Department of Revenue, such as:

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<tr>
<td>81-1457</td>
<td>5-10-82</td>
<td>Strome</td>
<td>Mint still</td>
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<tr>
<td>82-847</td>
<td>7-01-82</td>
<td>Southern Oregon Sales</td>
<td>Pears</td>
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<td>83-274A</td>
<td>3-21-83</td>
<td>Venell Farms</td>
<td>Seed Cleaning</td>
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<td>83-4011</td>
<td>12-26-83</td>
<td>Kerh</td>
<td>Potatoes</td>
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<td>83-4004</td>
<td>12-06-83</td>
<td>Mid-Valley Helicopter</td>
<td>Mint still</td>
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<tr>
<td>84-1027</td>
<td>4-30-84</td>
<td>Saunders</td>
<td>Livestock feed</td>
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For all of the above reasons, I find that the subject property is not exempt from taxation as farm machinery and equipment for the 1982-83 and 1983-84 tax years.

//

5 Opinion and Order No. 3-2482-15
Reter Fruit Company
Petitioner's witness stated that he believed certain property contained in Account No. 1-2018-EM as overvalued. He requested a reduction. Other than this naked assertion, his opinion was not supported by any market data whatsoever.

To prevail in an administrative appeal before the Department of Revenue, the party seeking affirmative relief must prove his or her claim by a preponderance of the evidence. OAR 150-305.115(6)(6). This has not been done. Therefore, Petitioner's appeal must be denied.

IT IS SO ORDERED.

Dated and mailed at Salem, Oregon, this 19th day of March, 1985.

DEPARTMENT OF REVENUE

/\ / Richard A. Munn, Director

CERTIFIED TO BE A TRUE COPY

Maggie J. Stotles
Office Services Center
DEPARTMENT OF REVENUE

Notice: If you are dissatisfied with this decision, you may appeal it to the Oregon Tax Court, 529 Justice Building, Salem, Oregon 97310, within 60 days of the date of mailing shown above. ORS 305.560.

Opinion and Order No. 3-2482-15
Reter Fruit Company
September 9, 1991

Bruce Zimmerman
Department of Revenue
256 Revenue Building
Salem, OR 97310

Re: Hay Processing Equipment
DOJ File No. 150-301-4TX120-91

Dear Mr. Zimmerman:

You have asked several questions concerning the tax status of hay smashers, which compress a standard size hay bale into a more compact unit; and hay cubers, which compress loose hay into a cube roughly the size of a cube of butter.

**Inventory Exemption**

The first question is whether hay smashers and cubers are "inventory," exempt from taxation by ORS 307.400:

1. All inventory shall be exempt from ad valorem taxation.

2. As used in subsection (2) of this section, "inventory" means the following **tangible personal property**:

   a. Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops; * * *.

(Emphasis added.)

Because only tangible personal property qualifies for the exemption under ORS 307.400, we must determine whether smashers and cubers are real or personal property. For property tax purposes, the definitions in ORS Chapter 307 control.
ORS 307.020 defines "tangible personal property" to include movable machinery and equipment:

(3) "Tangible personal property" means and includes all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools and movable equipment.

(Emphasis added.)

On the other hand, ORS 307.010 defines "real property" to include machinery and equipment erected upon or affixed to land:

(3) "Land," "real estate" and "real property" include the land itself, above or under water; all buildings, structures, improvements, machinery, equipment or fixtures erected upon, under, above or affixed to the same; * * *.

The hay smasher you have described is a multi-sectional piece of machinery, consisting of an entry conveyor for the bale, an electronically controlled hydraulic ram which compresses the bale, the strapping machines which retie the bale and the exit conveyors. The smasher is located within a pre-engineered steel building. The machinery is bolted to the concrete floor and is further connected to the real property by electrical wiring.

The hay cuber is also multi-sectional and consists of entry bins for the loose hay, conveyors, compressors, the cubers and a cooling unit for the cubes. The cuber is not located within a building, but is bolted to an asphalt pad and is connected by electrical wiring to a concrete block building containing the electrical control equipment.

Since the smasher and cuber presumably can be unbolted and moved, it could be argued that they are "moveable equipment" and qualify as tangible personal property. However, the test is not whether a piece of machinery or equipment is designed to permit removal, the test is whether it is designed to be moved in the ordinary course of business:

Whatever the result might be if only ORS 307.020(3) were involved, the legislative history of ORS 307.400(3) shows that the legislature, in creating the exemption, intended to exempt described personal property that generally is moved or movable
in the ordinary course of business. In testimony before the House Committee on Agriculture and Natural Resources, Theodore W. de Looze referred to the types of machinery and equipment that would be exempt. These included tractors, combines, balers, farm implements, and portable grain tanks and bins * * *


Although capable of being moved, the hay smashers and hay cubers in question are clearly not designed or intended to be moved about in the ordinary course of business. We conclude, therefore, that they are not tangible personal property, exempt from taxation by ORS 307.400.

We understand that smaller smashers and cubers are available which are designed for installation on a vehicle for movement from field to field. These would be classified as tangible personal property (farm implements) under ORS 307.020; and, in our opinion, would qualify for exemption under ORS 307.400(3)(a) or (c), as farm machinery and equipment used primarily in the "harvesting or placing in storage of farm crops" or in "any other agricultural or horticultural use."

**Farm Use Assessment**

The next question is whether the land under hay smasher and cuber facilities is entitled to special assessment under ORS 308.370, because it is devoted to a "farm use" as defined by ORS 215.203:

(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops * * * or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise * * *.

Hay smashers and cubers are relatively new to Oregon; and, to our knowledge, neither the tax court nor this office has been asked upon to determine whether land occupied by similar machinery is devoted to a farm use.
The tax court has held that land contiguous to an orchard and used for storage, packaging and processing of the taxpayer's pears and apples was devoted to farm use. *Reter v. Commission*, 3 OTR 477, aff'd 256 Or 294, 473 P2d 129 (1970). The court said that land being used to store hay, grain, fruit and other products on the farm is as much devoted to farm use as the land used for raising such crops.

In *Sokol Blosser Winery v. Dept. of Rev.*, 8 OTR 196 (1979), the taxpayer contended that the crushing, stemming, fermenting, aging and packaging (bottling) of grapes was analogous to the "storage, packaging and processing" operation found to qualify for farm use assessment in the *Reter* case. The tax court disagreed, reasoning that the legislative intent was to protect natural products (grapes) and not new products resulting from processing (wine).

We believe that the use of land for hay smashers and cubers is more akin to the storage, packaging and processing operation in the *Reter* case than the operation of a winery. The purpose of hay smashing and cubing is to facilitate storage, handling and shipping. It is essentially a packaging operation. Although smashing compresses standard hay bales into smaller units and cubing compresses loose hay into even smaller units, the natural product is not substantially changed. It is still hay.

We conclude that land occupied by hay smashers and hay cubers is used for preparation and storage of hay prior to use or marketing and is entitled to special farm use assessment.

Our conclusion also applies to land under buildings used for storage of the hay, both before and after it is smashed and cubed. "Current employment" of land for farm use includes land under buildings supporting accepted farming practices. ORS 215.203(2)(b)(F). We are of the opinion that the storage of hay produced on the farm is an "accepted farming practice," i.e., "a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use." ORS 215.203(2)(c).

Our conclusion does not apply to land that is used for hay meshing and cubing that is not a part of the farm unit that produces the hay. Farm use by the preparation and storage of products is specifically limited to products raised on the land. ORS 215.203(2) provides:
"Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise * * *

(Emphasis added.)

This does not necessarily mean that the facility must be physically situated on the land where the hay is grown, so long as the land is part of the farm unit. OAR 150-308.380(5) defines "farm unit" to mean "a farming enterprise including all parcels being farmed by a single operator, whether the operator owns or leases the farm land." For example, if a rancher chose to install a hay smasher/cuber on grazing land separate from the rancher's hay fields, we believe the land occupied by the facility would still qualify for special assessment.

On the other hand, if one should install a smasher/cuber facility on land that is not a part of a farm unit and processes hay grown elsewhere, the land would not qualify for special farm assessment. The land would not be used for the primary purpose of obtaining a profit "by raising, harvesting and selling crops"; nor would it be used for the "preparation and storage of the products raised on such land." The land would be used in the business of providing a service for profit.

We also believe that tangible personal property, used on land that is not a part of a farm unit, would not qualify as "farm machinery and equipment" entitled to exemption under ORS 307.400.

Industrial Classification

You have asked whether smasher/cuber facilities should be classified as "industrial property" under ORS 306.126, which deals with the department's responsibility for the appraisal of "principal" and "secondary" industrial property. The statute defines "principal industrial property" to mean a unit of industrial property having a true cash value in excess of $5 million. "Secondary industrial property" has a true cash value between $1 million and $5 million.

ORS 306.126 does not define "industrial property"; however ORS 308.408 defines "industrial plant" to include:

(1) The land, buildings, structures and improvements, and the tangible personal property, including but not limited to machinery, equipment and office machines and equipment that make up the property or
complex of properties used for industrial or manufacturing purposes; and

(2) Any industrial real or personal property eligible for appraisal under ORS 306.126 and the rules of the Department of Revenue.

Industrial plants are valued at real market value, ORS 308.411(1).

Since we have concluded that land occupied by smasher/cuber facilities that is part of a farm unit is devoted to farm use, it follows that it cannot also be industrial property. However, a different conclusion is possible with respect to smasher/cuber facilities located on land that is not a part of a farm unit.

Under the department's rules, OAR 150-306.126(1)-(A), industrial property is property engaged in manufacturing or processing a product, or property that is not engaged in manufacturing or processing, but is designated as industrial by the department, because it uses "substantial" machinery and equipment:

(1) A unit of industrial property means a single facility or an integrated complex engaged in manufacturing or processing a product or products. Examples include but are not limited to: sawmills, plywood plants, paper mills, food processing facilities, bakeries, machine shops, chemical plants, refineries, and metal smelters.

(a) For ORS 306.126, certain property may be designated industrial when it utilizes substantial machinery and equipment. Examples include but are not limited to: Grain elevators, frozen storage facilities, automated warehouses, and petroleum storage facilities. For purposes of establishing the department's responsibility for appraisal of principal and secondary industrial property, the department shall make the final determination of a property's designation.

We find no satisfactory definition of "manufacturing or processing." The meaning depends upon the context and the eye of the beholder. For example, "manufacturing" was broadly construed in Bain v. Dept. of Rev., 293 Or 163, 646 P2d 12 (1982), where a salmon hatchery was held to be sufficiently "akin to a manufacturing facility" to qualify for exemption under
ORS 307.330(1). Inasmuch as smashing and especially cubing results in a change in the form of the hay, one could argue some manufacturing or processing has occurred. Nevertheless, do not believe that this minimal degree of manufacturing or processing requires that hay smashers and cubers be classified industrial property under ORS 306.126 or the department's rule.

This does not mean that the department may not designate such property as industrial if it utilizes "substantial" machinery and equipment. You have asked what "substantial" means. We have no idea what the word means in the context of a rule. It could refer to the size, amount, complexity, value, contribution of the machinery and equipment to the function of the facility. The department should decide what "substantial" means and define it by rule. The photographs and description you have provided could reasonably lead one to believe that the machinery is substantial, as opposed to insubstantial.

Sincerely,

Ted E. Barbera
Assistant Attorney General
Tax Section

TEB:1mb/JGC010B8
February 14, 1974

Mr. Gale Lebow
Chief Appraiser
Linn County Assessor
P.O. Box 100
Albany, Oregon 97321

Re: Taxation of Stored Personal Property
(150-16-059-74; 19266)

Dear Mr. Lebow,

A taxpayer has been in the auto repair business for several years, and you have carried his equipment on the tax rolls as personal property. The taxpayer has now rented his building to a tenant who has his own repair equipment. Consequently, the taxpayer has placed his equipment in storage. You have asked whether the stored equipment is subject to personal property taxes now that it is not being used.

Movable machinery, tools and equipment are tangible personal property. ORS 307.020(3). All tangible personal property situated in this state is subject to assessment and taxation, except as provided by law. ORS 307.030. The only exception which may apply in this case is provided by ORS 307.190:

"(1) All items of tangible personal property held by the owner, or for delivery by a vendor to him, for his personal use, benefit or enjoyment, are exempt from taxation.

"(2) The exemption provided in subsection (1) of this section does not apply to any such property held by the owner, wholly or partially for use or sale in the ordinary course of a trade or business or for the production of income, or solely for investment or to personal property required to be licensed or registered under the laws of this state."
The statute does not require that the property be in use, but only that it be held for use. In my opinion, whether the property is being held for the taxpayer's personal use, benefit or enjoyment; or whether it is being held for use or sale in the ordinary course of a trade or business or for the production of income, depends upon the intention of the taxpayer. For example, if he intends to use the equipment in a hobby, or to repair his own personal automobile, the equipment would be exempt. It is more likely, however, that he intends to sell the equipment, or to use it in the establishment of a new business, in which case it would not be exempt.

Since the burden is on the taxpayer to show that he is entitled to exemption, I would recommend that you continue to carry the property upon the tax rolls until such time as the taxpayer can establish to your satisfaction that the property is being held for his personal use, benefit or enjoyment.

By request of the Department of Revenue, the Tax Division of the Department of Justice issues informal opinions under ORS 305.110, as in the present instance. Necessarily, therefore, the foregoing is not to be considered a formal opinion of the Attorney General but is an informal and unofficial expression of view given with the desire to be helpful.

Sincerely,

Ted E. Barbera
Assistant Attorney General
Section 7:
Glossary
Accrued depreciation. The amount of depreciation, from any and all sources, that affects the value of the property.

Ad valorem tax. A tax levied in proportion to the value of that which is being taxed. (This is exclusive of exemption, use-value assessment laws, etc.) The property tax is an ad valorem tax.

Age/life method. A method of estimating accrued depreciation based on the premise that, in the aggregate, a mathematical function can be used to compute accrued depreciation from the age of a property and its economic life.

Anticipation. The principle that value depends on the expectation of benefits to be derived in the future.

Appraisal. An estimate of value.

Appraisal date. The date when the assessments for a tax year are made. For example, if January 1 is the assessment date and property is vacant on that date, the property is appraised and assessed as vacant land even if a building is added in April and the assessment roll isn’t final or public until September 25.

Appraisal principles. The economic concepts underlying appraisal: supply, demand, change, balance, conformity, competition, contribution, anticipation, substitution, highest and best use, surplus productivity, and variable proportions.

Assessed value. Portion of value on real or personal property which is taxable. It's the lesser of the property’s RMV or the constitutional value limit [maximum assessed value (MAV)].

Assessment roll. Document prepared by assessor of current year data. The assessment roll for personal property contains the names, including assumed business names, of all persons, whether individuals, partnerships, or corporations owning or having possession of taxable personal property on the assessment date; the AV, MAV, and RMV of the personal property assessed by category; code area number assigned to the property situs; and total AV, MAV, and RMV for the property.

Assessment year. Calendar year.

Balance. The principle that markets tend to move toward equilibrium after a change in supply or demand.

Capitalization. The conversion of expected income and ratio of return into an estimated value in the income approach to value.

Change. The tendency of the social and economic forces affecting supply and demand to alter over time, thus influencing market value.

Chattels. Items of tangible personal property that are moveable, such as machinery & equipment (moveable), office furniture, and computers. Chattels don’t include real estate or items permanently attached to real estate.

Competition. This principle states that competition will move in to dissipate profit when substantial profits are being made. If the profits become excessive, then the competition will become excessive. Excess profits invite ruinous competition.

Conformity. Value is created, strengthened, or sustained when reasonable homogeneity or similarity exists. This relates to the social and economic pressures of accepted, traditional fit. Pressure for property to conform may be exerted through zoning or through deed restrictions on architectural design or size. Conformity works with the principle of progression and regression, and is also tied to under-improvement and over-improvement concepts.

Contribution. The principle that the value of a particular feature is measured by its contribution to the value of the whole property, rather than by its cost.

Cost. The money expended in obtaining an object, generally used in appraisal to mean the expense, direct and indirect, of constructing an improvement or obtaining an item.

Cost approach. One of the three approaches to value, the cost approach is based on the principle of substitution—that a rational, informed purchaser would pay no more for a property than the cost of building an acceptable substitute with like utility. The cost approach seeks to determine the replacement cost of an improvement less depreciation plus land value.

Cost schedules. Charts, tables, factors, curves, equations, etc., intended to help estimate the cost of replacing a structure based on knowledge of quality, class, and number of square feet.

Cost trend factor. A factor derived from a cost index used to estimate the contemporary cost of an item based on its historical cost.

Curable depreciation. That part of depreciation that can be reversed by correcting deferred maintenance and remodeling to relieve functional obsolescence.

Data. Information expressed in any of a number of ways. Data is the general term for masses of numbers, codes, and symbols; and information is the term for
meaningful data. Data is the plural of datum, one element of data.

**Date of sale.** The date on which the sale was agreed upon. The date of recording may be used as the “date of sale” if it isn’t unduly delayed. (Also known as “date of transfer.”)

**Deferred maintenance.** Repairs and similar improvements that normally would have been made to a property, but were not, and thus increased the amount of its depreciation.

**Depreciation.** Loss in value of an object, relative to its replacement cost, reproduction cost, or original cost. Depreciation is sometimes subdivided into three types: physical deterioration (wear and tear), functional obsolescence (substandard design in light of current technology or taste), and economic obsolescence (poor location or radically diminished demand for the product).

**Discovery.** The process by which the assessor identifies all taxable property in the jurisdiction and ensures that it’s included on the assessment roll.

**Economic obsolescence.** Loss in value of a property (relative to the cost of replacing it with a property of equal utility) that stems from factors external to the property. For example, a buggy-whip factory, to the extent that it couldn’t be used economically for anything else, suffered substantial economic obsolescence when automobiles replaced horse-drawn buggies.

**Fixed assets.** Fixed assets are permanent assets that are required for the normal operation of business and they usually aren’t converted into cash after they are declared fixed assets. Fixed assets include some types of machinery and equipment, furniture and fixtures, boats, aircraft, motor vehicles, leased equipment, tools, dies, and jigs.

**Functional obsolescence.** Loss in value of a property resulting from changes in tastes, preferences, technical innovations, or market standards.

**Income approach.** One of three approaches to value, the income approach uses capitalization to convert anticipated benefits of property ownership into an estimate of present value.

**Incurable depreciation.** That part of depreciation that can’t be reversed by correcting deferred maintenance and remodeling to relieve functional obsolescence.

**Intangible assets.** These are items of personal property that represent evidence of value, or the right to value, as defined by law or custom. Examples include bonds, notes, trusts, patents, annuities, mortgages, copyrights, money on hand, and shares of stock. Intangibles are exempt from taxation under ORS 307.030.

**Intangible property.** Evidence of ownership of value or the right to value. For example: notes, bonds, stocks, patents, mortgages, copyrights, insurance policies, and accounts receivable. A form of personal property that includes rights over tangible real and personal property, but not rights of use and possession.

**Inventory.** The quantity of goods and materials on hand as of a given date. Inventory includes goods held for sale or resale, consigned goods, bill and hold goods, floor-planned goods, and in-transit goods.

**Leasehold.** The interests in a property that are associated with the lessee (the tenant) as opposed to the lessor (the property owner).

**Leasehold improvements.** Improvements or additions to leased property that have been made by the lessee. In assessing leasehold improvements, the appraiser must first determine whether an item is real or personal.

**Lien date.** The date on which an obligation, such as property tax (usually in an amount yet to be determined), attaches to a property and the property thus becomes security against its payment.

**Market value.** A hypothetical or estimated sale price which would result from careful consideration of all information by a prudent, responsible buyer and seller under conditions of a fair sale. Market value, value-in-exchange and market price are the same under the following assumptions:

1. No coercion or undue influence occurs over either the buyer or seller in an attempt to force the sale or purchase.
2. Well-informed buyers and sellers are acting in their own best interest.
3. A reasonable time is allowed for the transaction to occur.
4. Payment is made in terms of cash or financing that is typical for the property type for the area, i.e., neighborhood.

**Obsolescence.** A form of depreciation. See also economic obsolescence and functional obsolescence.

**Open market.** A freely competitive market in which any buyer or seller may trade and in which prices are determined by competition.

**Percent good.** An estimate of the value of a property, expressed as a percentage of its replacement cost, after depreciation of all kinds has been deducted.

**Physical deterioration.** Loss in value caused by wear and tear.

**Property tax levy.** Amount of ad valorem tax imposed on taxable property by a local government for the support of its activities.
Real market value. The amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller (both acting without compulsion), in an arm’s-length transaction occurring as of the assessment date for the tax year.

Remaining economic life. The number of years remaining in the economic life of a building or other improvement as of the date of the appraisal. This period is influenced by the attitudes of market participants and by market reactions to competitive properties on the market.

Situs. The actual or assumed location of a property for purposes of taxation.

Substitution. A principle stating that a property’s value tends to be set by the cost of acquiring an equally desirable substitute.

Supply and demand. The utility of real property creates demand, which is desire for possession. Demand is effective when supported by purchasing power. Value is increased if supply of real property is reduced by effective demand resulting in scarcity. Therefore, the value of property depends upon the demand for that type of property and varies directly, but not necessarily proportionally, to the supply available within the limits of the available purchasing power.

Tangible assets. Property that can be perceived by the senses. It includes land, fixed improvements, furnishings, merchandise, cash, and other items of working capital used in an enterprise. Tangible personal property is defined by ORS 307.020(3). It includes all chattels and movables such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, movable tools, and movable equipment.

Tangible property. Actual physical property (real or personal) in contrast to intangible property.

Trade level. The concept that property increases in value as it progresses through production and distribution channels until it’s marked up to its maximum value at the consumer level. Trade level values also consider incremental costs such as freight, overhead handling, and installation. The retail level is the appropriate level on which to report for assessment purposes. However, the consumer or user of the item of personal property may be reporting the cost at either the wholesale or retail level of trade.

Use value. The value of property for specific use. Embodies the premise that an object’s value is related to its use. For example, an outmoded machine can still be used to produce a useful product.

Value-in-exchange. The amount an informed purchaser would offer in exchange for a property under given market conditions. The value an item will bring as determined by the market. The value of an item is based on comparison to other substitute goods or services as determined by an open-end competitive marketplace.

Value-in-use. See use value.
Section 8: Forms
County Disclosure Form
Confidentiality

This form is for employees of the office of the county assessor and home rule county taxation departments.

As a condition of your employment or performance of duties, please read this information. It is the county’s responsibility to safeguard the confidentiality of taxpayer information and the taxpayer’s right to privacy. County employees must understand the laws protecting confidentiality. It is important to understand what information is confidential and how to work with it.

You may not disclose confidential information. Confidential information in the assessor’s office includes:

- All personal property returns.
- All real property returns.
- All industrial property returns filed under ORS 308.290.
- Department of Revenue Value Transmittal Sheets (VTS).
- Information furnished to DOR or the county under ORS 308.411.
- Other confidential information such as cost data, rental and expense data, etc.

Penalties for unauthorized disclosure.

Unauthorized disclosure of confidential tax information is a Class A misdemeanor. The prison term for a Class A misdemeanor is up to one year in the county jail; the fine is up to $6,250. An employee may also be liable for civil damages and dismissal from county or state service.

Read these laws.

Please read the following laws which explain the types of information that are confidential and the penalties for disclosure. These nondisclosure provisions must be strictly observed by all persons who have access to confidential information. If you have questions during your employment or performance of duties, ask your supervisor before giving information to anyone.

Oregon Revised Statute (ORS) 308.290 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 lessee 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.

ORS 308.413 Confidential information furnished under ORS 308.411; exception; rules (I) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained
upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom discloser or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990(5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990(5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section. [1981 c. 139 §3]

ORS 308.990 Penalties.

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is a Class A misdemeanor. [Subsections (3) and (4) of 1959 Replacement Part enacted as 1955 c.488 §2; subsections (3) and (4) of 1959 Replacement Part renumbered as part of 321.991; subsection (7) enacted as 1969 c.605 §58; 1971 c.529 §33; 1977 c.884 §11; subsection (5) enacted as 1981 c.139 §4; 1997 c.154 §44; 1997 c.541 §88; 1999 c.21 §22; 1999 c.1051 §174; 2011 c.597 §83]
County Disclosure Form
Certificate of Confidentiality
Certificate Required by ORS 308.413(3)

I certify that I have read the following provisions of law prohibiting disclosure of confidential information, that they have been explained to me and that I understand them and the penalties for violation of these laws:
ORS 308.290(7)
ORS 308.413
ORS 308.990(5)

______________________________
Print full name

X
Signature

______________________________
Date

______________________________
Print name of county

Witness (supervisor of employee)
2018 Confidential Personal Property Return—Form OR-CPPR (ORS 308.290)

Assessment of Business; Furniture, Fixtures, Equipment, Floating Property, and Leased or Rented Property

ATTENTION: If you did not receive a tax bill last year because your total assessed value was below $16,500, you may not have to complete this entire form. See General information #2.

Penalty—Maximum penalty for late filing of personal property return is 50 percent of the tax attributable to the taxable personal property (ORS 308.296).

Account number Code area

For assessor's use only
1. Leased or rented property
2. Noninventory supplies
3. Floating property
4. Libraries
5. All other property
6.
7. Total real market value
8. Late filing penalty

ATTENTION:
If you did not receive a tax bill last year because your total assessed value was below $16,500, you may not have to complete this entire form. See General information #2.

If your total assessed value was below $16,500 last year, see General information no. 2. Doesn't apply to first time filers.
First-time filer, see General information no. 1

2018 Penalty—Maximum penalty for late filing of personal property return is 50 percent of the tax attributable to the taxable personal property (ORS 308.296).

Account number Code area

Make any name or mailing address corrections above.

This return is subject to audit.

Location of personal property on January 1, 2018.
File a separate return for each tax code area or location. Attach a separate listing if needed.

Personal property location (street address, city)

Date business originated in county Type of business

Was a return filed last year? □ Yes County ___________ □ No

□ First-time filer, see General information no. 1

□ If your total assessed value was below $16,500 last year, see General information no. 2. Doesn't apply to first time filers.

Remember to sign the Taxpayer's declaration at right

Invalid if not signed. Under the penalties described in ORS 305.990(4), I affirm that I have examined this return and all attachments. All statements made are true. To the best of my knowledge, all taxable personal property I own, possess, or control, which was in this county as of 1:00 A.M., January 1 has been reported.

Name of firm/owner

E-mail address

Assumed business name of firm assessed telephone no. ( )

Mailing address Fax no. ( )

City State ZIP code

Signature of person responsible for return Date

Invalid if not signed

Printed name of person signing return Title

Person completing return Phone

This return is being filed for:

□ An individual □ A partnership (No. of persons ___)
□ A corporation □ A limited partnership
□ A limited liability company □ A limited liability partnership

Attach a separate list of names and addresses of each individual partner for corporations, LLCs, LLPs, and partnerships.

Check if we MAY NOT FORWARD current property list to new owner. □

Signature

Multiple locations within this county (See General information no. 5.)

Business name: __________________________ Business location: __________________________

Logging exemption in previous year □ □ Logging exemption in ___________ County (See General information no. 4)

Submit your original return and attachments to your county assessor. Keep a photocopy and the attached instructions for your records.

Schedule 1—Leased or rented personal property (Don’t report real property. Enter “None” if no personal property to report.)

Name and address of Second party involved in lease/rent agreement

Description (include model year)

Lease Lessor Lessor

Amount of lease

Length of agreement

Owner’s opinion of real market value

_tab

1 2 3 4 5 6 7 8 9 10 11

If Schedule 1 items are reported on separate attachments, check here: □

Schedule 1 total: (Include attachments)

Filing deadline for this return is March 15, 2018
### Schedule 2—Noninventory supplies

(See instructions for examples.)

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>General office supplies</td>
</tr>
<tr>
<td>Maintenance supplies</td>
</tr>
<tr>
<td>Operating supplies</td>
</tr>
<tr>
<td>Spare parts</td>
</tr>
<tr>
<td>Other noninventory supplies</td>
</tr>
</tbody>
</table>

Report total cost on hand as of January 1

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessor’s RMV (leave blank)</td>
</tr>
</tbody>
</table>

If Schedule 2 items are reported on separate attachments, check here: [ ]

Schedule 2 total: (Include attachments)

### Schedule 3—Floating property

(Include docks and pilings. Enter “None” if no property to report.)

<table>
<thead>
<tr>
<th>Own:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee simple</td>
</tr>
</tbody>
</table>

Checking holder: Exact moorage location on January 1

If you have remodeled your floating property during the past year, please describe in the space to the right. (This may include a room or story addition, stringer replacement, or acquisition of a tender house or swim float.) Also report partially completed structures. Approximate date of remodeling:

All other vessels

Does this vessel ply the high seas? Yes [ ] No [ ]

Registration no.

Date purchased

Purchase price $ |

Owner’s opinion of real market value |

Assessor’s RMV (leave blank)

Schedule 3 total: (Include attachments)

### Schedule 4—Professional libraries

(Use this format and report on a separate sheet. Enter “None” if no property to report.)

<table>
<thead>
<tr>
<th>Type of library*</th>
</tr>
</thead>
<tbody>
<tr>
<td>N=New</td>
</tr>
<tr>
<td>U=Used</td>
</tr>
</tbody>
</table>

For example, books, tapes, videos, compact discs

Schedule 4 total: (Include attachments)

### Schedule 5A—All other taxable personal property

(Not reported on Schedules 1, 2, 3, or 4.)

<table>
<thead>
<tr>
<th>Item of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification (manufacturer and serial no.)</td>
</tr>
<tr>
<td>N=New</td>
</tr>
<tr>
<td>L=Used</td>
</tr>
<tr>
<td>Purchased Mo., Yr.</td>
</tr>
<tr>
<td>No. of units</td>
</tr>
<tr>
<td>Cost when purchased</td>
</tr>
<tr>
<td>Owner’s opinion of real market value Total</td>
</tr>
<tr>
<td>Assessor’s RMV (leave blank)</td>
</tr>
</tbody>
</table>

Sample Item

<table>
<thead>
<tr>
<th>Item of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification (manufacturer and serial no.)</td>
</tr>
<tr>
<td>N=New</td>
</tr>
<tr>
<td>L=Used</td>
</tr>
<tr>
<td>Purchased Mo., Yr.</td>
</tr>
<tr>
<td>No. of units</td>
</tr>
<tr>
<td>Cost when purchased</td>
</tr>
<tr>
<td>Owner’s opinion of real market value Total</td>
</tr>
<tr>
<td>Assessor’s RMV (leave blank)</td>
</tr>
</tbody>
</table>

(Attach separate sheet if necessary)

Subtotal 5A

### Schedule 5B—Small hand tools

(Not reported elsewhere on this return; indicate type.)

| Dealership |
| Service Garage |
| Landscape |
| Construction/Logging |
| Barber and Beauty Shop |
| Medical |
| Dental |
| Other |

Who is responsible for taxes? Company/Owner [ ] Employee [ ]

Please provide contact information

Submission 5B

Improvements on federal lands, mining claims, etc., on which final proof has not yet been made: Location: Township Range Section

If Schedule 5 items are reported on separate attachments, check here: [ ]

Schedule 5 total (A+B): (Include attachments)

Submit your original return and attachments to your county assessor. Keep a copy of the return for your records.
General information

What should I know about filing this return?

1. **First-time filer**—Send your original return with a complete list of assets and non inventory supplies, and any attachments to the county assessor. Complete a separate return for each location in each county in which you have personal property.

2. **Check and sign**—If your county assessor did not send a property tax bill last year because your total assessed value was below $16,500, and you have not purchased or added any taxable personal property, check the box, sign and date the Taxpayer’s declaration, and submit the return to your county assessor. If you have purchased, added, or disposed of any taxable personal property, report it on this form and return it to your county assessor (ORS 308.250).

3. **No property to report**—If you don’t have taxable personal property in the county, attach a full explanation. Explain the disposition of property you reported last year. Sign and date the Taxpayer’s declaration, and send it to the county assessor before the filing deadline.

4. **Logging exemption**—If you had a logging equipment exemption in the previous year, check the box. If you’re new to the county and you had an exemption in another county, check the box and identify which county granted your exemption. Note: To determine if your equipment qualifies for exemption, you must provide specific information. File form 150-310-026, Environmentally Sensitive Logging Equipment Qualifications, annually with the county in which you file your Confidential Personal Property Return. Receiving an exemption on specific logging equipment, doesn’t relieve the obligation to file a complete return. All assets must be reported and returned to your county assessor (ORS 308.290). General information and the form are available on our website.

A reminder . . .

What reporting date should I use for the information requested on this return?

This return must show all taxable personal property which you own, possess, or control as of 1:00 A.M., January 1 (ORS 308.250).

When should I file?

File personal property returns with your county assessor on or before March 15.

What if I file late?

The penalty is 5 percent of the tax owed if the return is filed after March 15, but on or before June 1. The penalty increases to 25 percent of the tax owed if the return is filed after June 1, but on or before August 1. After August 1, the penalty is 50 percent of the tax owed (ORS 308.296).

Instructions for completing your personal property return
At your request, the assessor’s office will assist you in completing your return.

Schedule 1—Leased or rented personal property

Report all leased or rented items as of January 1.

If you don’t lease equipment to or from others, write “None.”

**Equipment leased to others.** Attach a list showing name and address of lessee, situs of equipment, description, date of acquisition, length of lease, and original cost. If a manufacturer, report real market value rather than original cost.

**Equipment leased from others.** Attach a list showing name and address of lessor, situs of equipment, description, date of acquisition, and original cost. If original cost isn’t known, give length of lease and amount of the monthly payment. Advise if included with other assets to avoid duplicate assessment.

**Item 3.** Who is responsible for paying the tax? Check either lessor or lessee.

Schedule 2—Noninventory supplies

As of January 1, report total cost on hand of any taxable item that won’t become part of finished goods or won’t be directly sold to customers. For example:

**General office supplies:** Copy paper, envelopes, pens, stationery, etc.

**Maintenance supplies:** Cleaning supplies, axle grease, etc.

**Operating supplies:** Straws, paper cups, sacks, gasoline, diesel, etc.

**Spare parts:** Repair parts, computer parts, automotive parts, etc.

**Other noninventory supplies:** Items not covered by the other categories.

Schedule 3—Floating property [ORS 307.190(2)(c)]

Report floating homes, docks, and boathouses. Don’t include personal licensed boats used only for personal use.

All other vessels

Report houseboats (self-propelled) used in rental businesses and other required floating vessels.
Schedule 4—Libraries

Report all professional libraries in this schedule format. All items should be listed on a separate page. Libraries include, but are not limited to, those held by accountants, architects, attorneys, consultants, doctors, health science professionals, other science professionals, surveyors, and title companies. Electronic, mechanical, and other technical professionals should also use this schedule.

1. Enter type of library media (books, electronic media, compact discs, tapes, videos, etc. If “None,” explain).
2. Enter the title of the reported book or set.
3/4. If the item reported is a multiple volume set, check the yes or no column to indicate if the set is complete or not.
5. Enter the number of volumes. If a set, enter the number you have, not the number in the original set.
6. Enter cost when purchased.
7. Enter the best estimate of the real market value for each item as of January 1. Reporters of law books report the value shown on the schedule published by the Oregon Department of Revenue in cooperation with the Oregon State Bar Association.
8. Leave blank.

Attachments. Check the box indicated in each applicable schedule if attachments are included. Values reported on this return are not binding on the assessor.

Schedule 5A—All other taxable personal property

Report all items not reported elsewhere on this return. Report any added or deleted items not reported elsewhere.

1. Enter property item by description acquisition date.
2. Identify by manufacturer, serial number, model, size/capacity.
3. Declare if purchased new or used.
4. Enter year of manufacture (for heavy logging and construction equipment, enter serial number in column 2 if year of manufacture is unavailable. For other equipment, enter best estimate of manufacture date.).
5. Enter month and year you purchased item.
6. Enter number of items of same description (model, size, age).
7. Enter your cost (each, total).
8. Enter your best estimate of the real market value total as of January 1.
9. Leave blank.

Schedule 5B—Small hand tools

Report value of all small hand tools and non-power tools not reported elsewhere on this return. Include estimate of real market value.

Attachments. Check the box indicated in each applicable schedule if attachments are included. Values reported on this return are not binding on the assessor.

Examples of taxable personal property to be reported on this return (this isn’t a complete list)

- A/V equipment
- Air conditioners
- Aircraft equipment
- Alarm systems
- Amusement devices
- Appliances—free standing
- Art work
- ATM machines—portable
- Auto diagnostic electric
- Auto repair equipment
- Backbars
- Bakery equipment
- Bank vaults (doors)
- Barber shop equipment
- Battery chargers
- Beauty shop equipment
- Bowling equipment
- Bulk plant equipment
- Butcher shop equipment
- Cabinet shop equipment
- Cable TV systems
- CAD/CAM equipment
- Calculators
- Cameras
- Cameras—digital-DVD—Video
- Cash register
- Cellular phones
- Chain saws
- Chairs
- Child care furniture
- Coin-operated laundry equipment
- Computers
- Concession equipment
- Construction tools
- Copiers
- Costume/tuxedo rentals
- Decor
- Dental equipment
- Desks
- Dictation equipment
- Dies
- Display racks
- Dry cleaning equipment
- Dryers
- DVD players
- DVDs (movies)
- Electronic mfg. equipment
- Fiberglass/boat molds
- Filing cabinets
- Fish processing equipment
- Fitness equipment
- Foster home furniture and supplies
- Freezers
- Frozen food cases
- Golf carts and course equipment
- Grocery equipment
- Grocery store fixtures
- Handpieces (dental)
- Heavy equipment
- Hospital equipment
- Hotel furniture/fixtures
- Ice cream machines
- Ice making machines
- Juke boxes
- Landscaping equipment
- Laser equipment
- Lathe
- Leasehold improvements
- Libraries
- Lift trucks
- Linens
- Logging equipment
- Lottery video terminals
- Machine shop equipment
- Manufacturing—general
- Meat processing equipment
- Medical—high tech equipment
- Medical—lab equipment
- Medical-office equipment
- Medical—surgical equipment
- Medical equipment-major
- Mining equipment
- Mobile radio/phones
- Mobile yard equipment
- Modular offices
- Molds
- Motel furniture/fixtures
- Movie production equipment
- Musical instrument rentals
- Newspaper equipment
- Nursing home equipment
- Office fixtures
- Office furniture
- Office machines
- Optical equipment
- Pagans
- Pallet jacks
- Pallets/bins/crates
- Pay phones
- Photographic equipment
- Pinball machines
- Pool tables
- Popcorn machines
- Printing equipment
- Professional equipment
- Radio and TV broadcast
- Radio and TV repair equipment
- Recording studio equipment
- Refrigerated cases
- Rental equipment
- Restaurant equipment
- Retail store fixtures
- Road construction equipment
- Safe deposit boxes
- Safes
- Satellite dish relays
- Saw mills—portable
- Scanners
- Scientific equipment
- Service station equipment
- Sewing/appliance equipment
- Shake mills—portable
- Sheet metal fabrication
- Shelving
- Shingle mills—portable
- Signs
- Small hand tools—
- Barber and beauty
- Carpentry
- Construction
- Landscape
- Logging
- Mechanics
- Medical
- Radio and TV shop
- Soft drink equipment
- Sound equipment
- Steam cleaners
- Survey equipment
- Tanning equipment
- Tavern equipment
- Telephone systems
- Testing equipment
- Theaters/projection
- Tire recappping equipment
- Tool boxes
- Tractors
- TV sets
- Typewriters
- Unlicensed vehicles
- Utility trailers—unlicensed
- VCRs
- Vending carts
- Vending machines
- Ventilat tag fans
- Video/DVD game rental equipment
- Video games
- Video recording equipment
- Video tape/DVD rental equipment
- Video tapes (movies) and cases
- Walk-in coolers
- Warehouse equipment
- Washers
- Winery equipment
- Woodworking equipment
- Workbenches
- X-ray equipment
- Fixed load and mobile equipment
- Air compressors and drills
- Asphalt/rock crushing plants
- Asphalt spreaders
- Backhoes
- Bituminous mixer
- Bituminous plants
- Bituminous spreaders
- Bucket loaders
- Catering/vendor trucks/wagons
- Concrete mixers
- Concrete batch plants
- Cranes
- Crawlers
- Ditches
- Earthmoving equipment
- Electric generators
- Excavators
- Fork lifts
- Front end loaders
- High lifts
- Leveling graders
- Lighting plants
- Motor graders
- Paving equipment
- Portable storage bins
- Portable storage tanks
- Power plants
- Rotary screens
- Sand classifiers
- Scrap metal balers
- Scrapers
- Skidders
- Tractors
- Welding equipment
- Yarders

Filing deadline for this return is March 15, 2018
Authorization to Represent

File this form with the petition. A petition filed without a properly signed authorization will be returned for correction.

The owner, an owner, or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property, may authorize another person to sign a petition and appear at the hearing to act on their behalf. The persons who may represent a petitioner are listed on the back of this form.

If you are not the owner of the property, but are obligated to pay the taxes imposed on the property, you must also provide written proof (a lease, contract, etc.) of your obligation to pay the taxes. Such proof entitles you to appeal the value of the property and authorize the person designated below to sign your petition and represent you at the hearing.

I hereby authorize and provide power of attorney to the following person to represent me in any matter relating to property value or late filing penalties before the county board of property tax appeals.

Name of representative (please print or type)

Mailing address (street or PO Box)

Qualifying relationship to petitioner—check the box that applies:

- Relative
- Lessee
- Oregon licensed real estate broker
- Oregon licensed appraiser
- Oregon registered appraiser
- Oregon licensed certified public accountant (CPA)

License or permit number (if applicable):

I authorize the above named person to represent me before the board of property tax appeals:

- For all appeals filed in ___________________________ County, Oregon.

- Only in the appeal of the property listed here (if necessary, attach a page with additional account numbers):

  Assessor's account number
  Map and tax lot number

- For all property I own or which I am legally entitled to appeal in the state of Oregon.

Signature of Petitioner

I certify under penalty of false swearing that I am the owner, an owner, or a person who holds an interest in the property that obligates me to pay the taxes for the property which is the subject of this appeal, and as such, am authorized to grant to the above named person this authorization to represent.

Signature and name of petitioner

X

Print or type name

Date

You can also access this form at www.oregon.gov/dor/ptd.
Authorization to Represent

General information

You may appeal most real and personal property values to the board of property tax appeals in the county where your property is located. See the appeal petition forms for a more detailed discussion of the values that can be appealed. This authorization to represent should be filed at the same time your petition is filed. Contact your county clerk for the filing deadline.

Generally, if you wish to appeal the value of industrial property appraised by the Department of Revenue (DOR), you must file your appeal with the Magistrate Division of the Tax Court. The deadline to file an appeal is December 31. If December 31 falls on a Saturday, Sunday, or legal holiday, the filing deadline moves to the next business day. Taxpayers may wish to consult their own legal counsel for any exceptions to this appeal procedure.

The value and late filing penalties of utilities and other centrally assessed property must be appealed to DOR on or before June 15 of the assessment year.

Who may appeal?

Petitions may be filed by:

- The owner of the property.
- An owner of the property (if property is owned by more than one person).
- Any person who holds an interest in the property that obligates the person to pay the property taxes. An interest that obligates the person to pay taxes includes a contract, lease or other intervening written agreement. Lessees obligated to pay the taxes are not required to provide authorization from the owner, but must provide proof of the obligation to pay the taxes with the petition.

If property is owned by a business, the petition (or authorization to represent, if applicable) must be signed by a person who can legally bind the company. For most corporations, this is usually a corporate officer. Employees regularly employed in tax matters for a corporation or other business may also sign the petition or authorization to represent for the business.

Authorization to represent

Oregon law allows certain people to sign the appeal petition for those persons legally entitled to appeal. The petitioner must, in most cases, provide signed authorization before others can sign the petition and represent the petitioner before the board.

Those who need a signed authorization from the petitioner in order to sign the petition include:

- A relative of the owner(s). Relative is defined as: spouse, (step)son, (step)daughter, (step)brother, (step)sister, (step) father, (step)mother, grandchild, grandparent, nephew, niece, son- or daughter-in-law, brother- or sister-in-law, father- or mother-in-law.
- A real estate broker licensed under ORS 696.022.
- A real estate appraiser certified or licensed under ORS 674.310 or registered under ORS 308.010. Only appraisers licensed, certified, or registered by the state of Oregon may sign the petition.
- A person duly qualified to practice public accountancy in the state of Oregon. This includes Oregon licensed CPAs or PAs, or CPAs from another state who have proof of substantial equivalency authorization from Oregon.
- The lessee of the property, if the lessee is not obligated to pay the taxes imposed on the property.

Those who do not need a signed authorization from the petitioner in order to sign the petition include:

- An attorney-at-law for the petitioner. The attorney must include their Oregon state bar number on the petition.
- Legal guardian or conservator of the owner(s) with proper court appointment.
- Trustee in bankruptcy proceedings, with proper court appointment.

Note: Oregon law does not require that your authorization be submitted on this form. You may submit your authorization in a letter or on any other form that contains the required information and signatures.

General power of attorney

An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property may sign a petition to BOPTA without separate authorization from the owner. The attorney-in-fact must provide a copy of the general power of attorney with the petition.
Board of Property Tax Appeals
Personal Property Petition and Instructions for Filing

General information

Use this form to request a reduction of the value of your taxable personal property. Personal property is taxable in Oregon if it is currently being used or being held for use in a business, or is floating property.

For the current tax year, your petition must be postmarked or delivered by December 31. If December 31 falls on a weekend or holiday, the filing date moves to the next business day. See the back of this form for filing instructions.

The following information is provided to help you understand how your property is assessed.

- **Real market value (RMV)** is the value the assessor has estimated your property would sell for on the open market as of the assessment date. The assessment date for most property is January 1 preceding the mailing of the tax statements in October.

- **Maximum assessed value (MAV)** is the greater of 103 percent of the prior year’s assessed value or 100 percent of the prior year’s MAV. MAV may be increased above 3 percent of the prior year’s assessed value if certain changes, defined as exceptions, are made to your property. Maximum assessed value does not appear on your tax statement.

- **Exception** means a change to property that adds value. Personal property exceptions include the addition of leased property, increased non-inventory supplies, and the acquisition of any other taxable personal property. The exception amount is derived by subtracting the prior year real market value from the current year real market value.

- **Assessed value (AV)** is the value used to calculate your tax. It is the lesser of real market value or maximum assessed value.

Contact your county assessor for more information about how your property value was determined.

Appeal rights

**Generally**—Except for centrally assessed property and industrial property appraised by the Department of Revenue, you may appeal the current real market, maximum assessed, or assessed value of your taxable personal property to the board of property tax appeals. However, the authority of BOPTA to reduce the MAV and AV of your property is limited to the calculation allowed by law, and an appeal may not result in a reduction of tax.

**Industrial property**—If you are appealing personal property that is part of a principal or secondary industrial property appraised by the Department of Revenue, you must file a

complaint with the Magistrate Division of the Tax Court. The deadline for filing your complaint with the Tax Court is the same as the deadline for filing with the board of property tax appeals. You may contact the Tax Court at (503) 986-5650.

**Centrally assessed property**—The value of utilities and other centrally assessed property must be appealed to the Department of Revenue on or before June 15 of the assessment year on forms provided by the department.

**MAV**—MAV is based on the prior year’s MAV and AV. For personal property, RMV decreases as the property depreciates. MAV does not decrease due to depreciation. Therefore the MAV of personal property is normally equal to or greater than RMV.

**AV**—AV is established by a simple comparison between RMV and MAV and is equal to whichever one is less. Therefore the AV of personal property is normally equal to the RMV.

Penalties—Penalties assessed for the late filing of a personal property return may also be appealed to the board of property tax appeals. Penalties should be appealed on a **Petition for Waiver of Late Filing Penalty form**.

Instructions for filing a petition

Read all instructions carefully before completing this form. If your petition is not complete, it will be returned. **If your petition is not corrected by the date indicated on the “Defective Petition Notice” mailed to you, it will be dismissed.**

**Petitioner (lines 1–10)**

The owner, an owner, or any person or business that holds an interest in the property that obligates the person or business to pay the property taxes is legally authorized to appeal to the board of property tax appeals. If the person or business is not the owner or does not receive the tax statement, proof of an obligation to pay the taxes must be submitted with the petition. Contracts and lease agreements are examples of documents that may allow a party other than the owner to appeal.

If property is owned by a business, the petition (or authorization to represent, if applicable) must be signed by a person who can legally bind the company. For most corporations, this is usually a corporate officer. Employees regularly employed in tax matters for a corporation or other business may also sign the petition.

If you need help in determining who can sign the petition for your business or other organization, contact the county clerk’s office in your county.
**Authorized representative (lines 11–22)**

The law allows only certain people to sign the petition and appear at the hearing to represent the petitioner.

**Those people who need a signed authorization from the petitioner in order to sign the petition include:**

- A relative of the owner(s). Relative is defined as: spouse, (step)son, (step)daughter, (step)brother, (step)sister, (step) father, (step)mother, grandchild, grandparent, nephew, niece, son- or daughter-in-law, brother- or sister-in-law, father- or mother-in-law.
- A real estate broker licensed under ORS 696.022.
- A real estate appraiser certified or licensed under ORS 674.310, or registered under ORS 308.010.
- A person duly qualified to practice accountancy in the state of Oregon. This includes Oregon licensed certified public accountants (CPAs) or public accountants (PAs), or CPAs from another state who have proof of substantial equivalency authorization from Oregon.
- A lessee, if the lessee is **not** obligated to pay the taxes. Lessees obligated to pay the taxes are not required to provide authorization from the owner, but must provide proof of the obligation.

An attorney-in-fact under a general power of attorney executed by the owner of the property can also sign the petition and appear at the hearing to represent the petitioner. The attorney-in-fact must provide a copy of the general power of attorney with the petition.

**Those people who do not need a signed authorization from the petitioner in order to sign the petition include:**

- An attorney-at-law. The attorney’s Oregon state bar number must be included on the petition.
- Legal guardian or conservator of the owner(s) with court appointment.
- Trustee in bankruptcy proceedings with court appointment.

**Attendance at hearing (line 23)**

Checking “yes” means that you or your representative or both of you will attend the hearing. Checking “no” means that neither you nor your representative will attend the hearing. If you do not attend the hearing, the board will make a decision about the value of your property based on the written evidence you submit.

If you check yes or don’t check any box in this section, the board will schedule a hearing and notify you of the time and place to appear. **Hearings will be scheduled between the first Monday in February and April 15.** Some counties have established time limits for you and the assessor to present evidence. The board clerk can advise you of your county’s procedure.

**Property information (lines 24–27)**

You must include the assessor’s account number or a copy of your tax statement with your petition.

**Real market value (lines 28–32)**

You may appeal the total real market value of your property or the value of a specific item, category, or schedule. The assessor can provide you with an itemized listing of the real market value of the items, categories, or schedules assessed to your account. You should review these values carefully before filing your petition.

Enter a description of the property, the value you are appealing, and the value you are requesting in this section. The requested value should represent what you think your property was worth on the open market as of **January 1 of the current year.**

**Assessed value (line 33)**

Enter the AV from your tax statement or the assessor’s records. A new AV may result from your appeal based upon the RMV or MAV determined by the board.

**Evidence of property value (lines 34–35)**

Explain the basis of your appeal and provide evidence that the value the assessor has placed on your property is incorrect. The Department of Revenue information circular, **How to Appeal Your Property Value,** contains information about the type of evidence needed for a successful appeal.

All evidence submitted to the board, including pictures and appraisals, will be kept by the board and become a part of the public record. It will not be returned to you.

**Declaration and signature (lines 36–37)**

Sign and date the petition form. The petition will be considered defective if not signed.

You can also download this form at www.oregon.gov/dor/forms.
Board of Property Tax Appeals
Personal Property Petition
for __________________________ County

• Read all instructions carefully before completing this form.
• Please print or type the requested information on both sides of this petition.
• Complete one petition form for each account you are appealing.
• Return your completed petition(s) to the address shown on the back.
• Please attach a copy of your tax statement.
• If you wish to appeal the value of a manufactured structure, use the Real Property Petition (150-310-063) instead of this petition.

Petitioner (Person in whose name petition is filed)

1 Check the box that applies: ☐ Owner.
☐ Person or business, other than owner, obligated to pay taxes (attach proof of obligation).

2 Name—individual, corporation, or other business
3 Telephone number

4 Mailing address (street or PO Box)
5 City
6 State
7 ZIP code
8 Email address (optional)

9 Name of person acting for corporation, LLC, or other business
10 Title (for example, president, vice president, tax manager, etc.)

If a representative is named on line 11, all correspondence regarding this petition will be mailed or delivered to the representative.

Representative

To be completed when petition is signed by an authorized representative of petitioner. Only certain people qualify to act as an authorized representative. See the instructions for a list of who qualifies.

11 Name of representative
12 Telephone number

13 Mailing address (street or PO Box)
14 City
15 State
16 ZIP code
17 Email address (optional)
18 Relationship to petitioner named on line 2

19 Oregon state bar number
20 Oregon appraiser license number
21 Oregon broker license number
22 Oregon CPA or PA permit or S.E.A. number

Any refund resulting from this appeal will be made payable to the petitioner named on line 2 unless separate written authorization is made to the county tax collector. However, if a representative is designated, any refund will be sent to this individual or business, not the petitioner.

Attendance at hearing

23 Will you or your designated representative attend the hearing? ☐ Yes ☐ No

If you choose to not be present at the hearing, the board will make a decision based on the written evidence you submit.

Property information

24 Assessor’s account number (from your tax statement)
25 Code area number (from your tax statement)

26 Street address and city where property is located
27 Business/property type ☐ Retail ☐ Industrial ☐ Floating Property ☐ Office
☐ Motel/Apartment ☐ Small Manufacturing ☐ Food Service ☐ Other

Please turn over—form continues on back
Real market value (RMV)
from assessor’s records

RMV requested (for property as existed on assessment date)

<table>
<thead>
<tr>
<th>Description of item, category, or schedule</th>
<th>Real market value (RMV) from assessor’s records</th>
<th>RMV requested (for property as existed on assessment date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>$</td>
<td>$</td>
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<tr>
<td>29</td>
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<tr>
<td>31</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>32   Total RMV</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

Assessed value (AV)
from tax statement or assessor’s records

AV requested (AV is limited to the calculation allowed by law)

| Total assessed value (AV) | $ | $ |

Evidence of property value
Include documentation (recently recorded deeds, listings, appraisals, construction bids, etc.)

34. Check any of the following that applied to the property at or near the assessment date. Include documentation.

- Property sale/purchase
  - Date
  - Purchase price
  - Short sale or foreclosure? [ ] Yes [ ] No

- Property listing
  - Date
  - Asking price

- Property appraisal
  - Date
  - Appraiser
  - Finding

- Condition issues/damages—What condition issues or damages exist? How long have they existed? Enclose additional pages if necessary:

- Changes to property—What changes have been made? When? Enclose additional pages if necessary:

- Other (for example, market data)
  - Specify and provide a short explanation or documentation:

35 Why do you think the value of your property is incorrect? (Answer the question in the space provided; enclose additional pages, if necessary. Provide enough information to support the value(s) you are requesting. Be specific.)

Declarer: I declare under the penalties for false swearing [ORS 305.990(4)] that I have examined this document, and to the best of my knowledge, it is true, correct, and complete.

[Signature of petitioner or petitioner’s representative]

[Print or type name]

[Date]

Please return this petition to:


When and where to file your petition
File your petition in the office of the county clerk. No other county office can accept petitions. Your petition must be postmarked or delivered by December 31 to the county clerk’s office in the county where the property is located. If December 31 falls on a weekend or holiday, the filing deadline moves to the next business day. Mail or deliver your petition to the address shown in the box.
Board of Property Tax Appeals

Petition for Waiver of Late Filing Penalty

for __________________________ County

• Read all instructions carefully before completing this form.
• Please print or type the requested information on this petition.
• Complete one petition form for each account you are appealing.
• Return your completed petition(s) to the address shown on the back.
• Please attach a copy of your tax statement.

Petitioner (person in whose name petition is filed)

1. Check the box that applies: □ Owner □ Person or business, other than owner, obligated to pay taxes (attach proof of obligation)

2. Name—Individual, corporation, LLC, or other business

3. Phone

4. Mailing address (street or PO Box)

5. City

6. State

7. ZIP code

8. E-mail address (optional)

For business use only

9. Name of person acting for corporation, LLC, or other business

10. Title (such as, president, vice president, tax manager, etc.)

If a representative is named on line 11, all correspondence regarding this petition will be mailed or delivered to the representative.

Representative

11. Name of representative

12. Phone

13. Mailing address (street or PO Box)

14. City

15. State

16. ZIP code

17. E-mail address (optional)

For business use only

18. Relationship to petitioner named on line 2

19. Oregon state bar number

20. Oregon appraiser license number

21. Oregon broker license number

22. Oregon CPA or PA permit or S.E.A. number

Any refund resulting from this appeal will be made payable to the petitioner named on line 2 unless separate written authorization is made to the county tax collector. However, if a representative is designated, any refund will be sent to the individual or business, not the petitioner.

23. Will you or your designated representative attend the hearing? □ Yes □ No

If you choose to not be present at the hearing, the board will make a decision based on the written evidence you submit.

24. Assessor's account number

25. Code area number

26. Penalty assessed: $

27. Why were you unable to file your real or personal property return by the filing deadline? (Answer the question in the space provided or by attaching additional pages. See the back of this form for additional information.)

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You can also access this form electronically at www.oregon.gov/dor/forms

150-310-065 (Rev. 05-17)
Instructions for filing a petition

Read all instructions carefully before completing this form. If your petition is not complete, it will be returned. If your petition is not corrected by the date indicated on the “Defective Petition Notice” mailed to you, it will be dismissed.

General information

If you fail to file a real or personal property return by the due date, a late filing penalty is assessed. You may appeal the late filing penalty to the board of property tax appeals. The board has the authority to waive all or a portion of the penalty under certain circumstances. Interest charges on unpaid property taxes and/or loss of a discount for early filing of property taxes are not the same as a late filing penalty. These costs cannot be appealed.

Petitioner (lines 1–10)

The owner, an owner, or any person or business that holds an interest in the property that obligates the person or business to pay the property taxes is legally authorized to appeal to the board of property tax appeals. If the person or business is not the owner or does not receive the tax statement, proof of an obligation to pay the taxes must be submitted with the petition. Contracts and lease agreements are examples of documents that may allow a party other than the owner to appeal.

If property is owned by a business, the petition (or authorization to represent, if applicable) must be signed by a person who can legally bind the company. For most corporations, this is usually a corporate officer. Employees regularly employed in tax matters for the corporation or other business may also sign the petition.

Authorized representative (lines 11–22)

The law allows only certain people to sign the petition and appear at the hearing to represent the petitioner.

Those people who need a signed authorization from the petitioner in order to sign the petition include:

- A relative as defined in Oregon Administrative Rule (OAR) 150-309-0110.
- A real estate broker licensed under Oregon Revised Statute (ORS) 696.022.
- A real estate appraiser certified or licensed under ORS 674.310, or registered under ORS 308.010.
- A person duly authorized to practice public accountancy in the state of Oregon. This includes Oregon licensed CPAs or PAs, or CPAs from another state who have proof of substantial equivalency authorization from Oregon.
- A lessee, if the lessee is not obligated to pay the taxes. Lessees obligated to pay the taxes are not required to provide authorization from the owner, but must provide proof of the obligation.

An attorney-in-fact under a general power of attorney executed by the owner of the property can also sign the petition and appear at the hearing to represent the petitioner. The attorney-in-fact must provide a copy of the general power of attorney with the petition.

Those people who do not need a signed authorization from the petitioner in order to sign the petition include:

- An attorney-at-law. The attorney’s Oregon state bar number must be included on the petition.
- Legal guardian or conservator of the owner(s) with court appointment.
- Trustee in bankruptcy proceedings with court appointment.

Attendance at hearing (line 23)

Checking “yes” means that you, your representative, or both will attend the hearing. Checking “no” means that neither you nor your representative will attend the hearing. If you do not attend the hearing, the board will make a decision about waiving or reducing your penalty based on your written evidence.

If you check yes or don’t check any box in this section, the board will schedule a hearing and notify you of the time and place to appear. Hearings will be scheduled between the first Monday in February and April 15.

Property and penalty information (lines 24–26)

You must include the assessor’s account number and the amount of the penalty you are appealing or attach a copy of your tax statement.

Basis of appeal (line 27)

The board may waive all or a portion of a penalty imposed for the late filing of a return if:

- You can prove there was good and sufficient cause for the late filing, or
- The year for which the return was filed was both the first year that a return was required to be filed and the first year you filed a return.

Good and sufficient cause is defined as an extraordinary circumstance that includes, but is not limited to:

- Illness, absence, or disability which substantially impairs a taxpayer’s ability to make a timely application.
- Reasonable reliance on misinformation provided by county assessment and taxation staff or Department of Revenue personnel.

Declaration and signature (lines 28–29)

Sign and date the petition form. The petition will be considered defective if not signed.

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

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 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
3rd 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.
IN THE OREGON TAX COURT
MAGISTRATE DIVISION

Property Tax

Name(s)

versus

COUNTY ASSESSOR,

AND/OR

NOTE: See instructions regarding “HEADING.”

After reviewing instructions, if you want to name the Department of Revenue as a defendant, check below:

DEPARTMENT OF REVENUE,

State of Oregon,

Defendant(s).

COMPLAINT

SECTION 1. Tax year(s) appealed: ______________. Plaintiff(s) (circle one) owned/leased property identified by the assessor as account number(s) ______________________ (If multiple accounts listed, the identified property must be contiguous or adjoining); the property is (circle one): Residential Omitted Commercial Industrial Forest Farm Exempt Personal Other: ____________________________

SECTION 2. Plaintiff(s) appeal(s) from an order, letter, notice, or other governmental action.

*Attach a Copy of the Order, Letter, Notice, or Other Document Being Appealed.*

SECTION 3. Such order, letter, or notice is in error because ____________________________________________________________

SECTION 4. Plaintiff(s) request(s) the following relief or real market value:

Plaintiff’s Name (PRINT) (must be completed)

Representative’s Name (PRINT)*

Additional Plaintiff’s Name (PRINT)

Representative’s Oregon Bar or License Number

Mailing Address (must be completed)

Mailing Address

City, State, Zip (must be completed)

City, State, Zip

Telephone Number (must be completed)

Telephone Number

☐ Notify me of proceedings electronically. I understand that if I am ever a party to a case in another Oregon court, I may receive electronic notices from that court as well. My email address is:

Plaintiff’s Signature Date Signed

Representative’s Signature (if above completed)

Date Signed

Additional Plaintiff’s Signature Date Signed

* If your representative is not an Oregon lawyer, an Authorization to Represent must be completed and submitted with this Complaint. An authorization form is available by request or at our web site at http://courts.oregon.gov/Tax/.

Rev. 10/17
How to File a Property Tax Appeal with the Magistrate Division

Instructions for Completing the Complaint Form

HEADING. Fill in the name(s) of the plaintiff(s) (the taxpayer(s)). In most cases, the defendant is the county assessor where the property is located. Print the name of the county. If this is an industrial property appeal, the Department of Revenue, the county assessor, or both, may be named as defendant(s), depending on who conducted the appraisal. ORS 305.403(3). In some cases, the Department of Revenue may be the only defendant. ORS 305.275.

SECTION 1. Insert the year or years you are appealing and the property account number or numbers (from your tax statement). Circle the appropriate type of property.

SECTION 2. Describe what action you are appealing.
*Attach a copy of the order, letter, notice, or other document being appealed.*

SECTION 3. Explain why you think the assessor or Department of Revenue is wrong. (If more space is needed, attach additional pages.)

SECTION 4. State what you want the court to do. If you want the court to reduce the real market value of your property, you must state a real market value as of the assessment date(s).

MEDIATION: In all cases, either party may request mediation. Mediation is court-facilitated negotiation. The purpose is to help the parties obtain a clearer understanding of the merits of each position and help them reach a mutually acceptable agreement. A party may request mediation at any time.

The court’s mailing address is: Oregon Tax Court
Magistrate Division
1163 State Street
Salem, Oregon 97301-2563
(503) 986-5650 or toll free: 1-800-773-1162

The court is located at: 1241 State Street, Third Floor (3R), Salem, Oregon

* The Oregon Legislature may modify fees between publications of this form. The Oregon Tax Court website lists the current fee. A form to show proof of inability to pay the fee and request waiver of the fee is available upon request or on the court website at http://courts.oregon.gov/tax
† Oregon lawyers are required to use the OJD eFiling system, available through the link on the court website.

Rev. 10/17
Application for Real and Personal Property Tax Exemption

For lease, sublease, or lease-purchased property owned by a taxable owner and leased to an exempt public body, institution, or organization, other than the state of Oregon or the U.S. Government, ORS 307.112.

• The lessee, sublessee, or lease-purchaser of the property must file this form with the county assessor on or before April 1 for the ensuing tax year. See page 3 of this form for late filing information.
• The applicant is obligated to prove the property meets the requirements for exemption. Include all documents or information that show the exemption is appropriate.
• See ORS 307.112 on page 3 of this form.
• This form is available online on the Department of Revenue’s website at: www.oregon.gov/dor/forms.

Name of organization

For assessor's use only

<table>
<thead>
<tr>
<th>Account number</th>
<th>Date received</th>
<th>Approved</th>
<th>Denied</th>
<th>Late filing fee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

City

Phone

(          )

Exemption applies to tax year 20 _______ – _______

Email

Late fee

If this form is filed after April 1, a late filing fee must accompany the form. See page 3 of this form for late filing information.

A late fee is attached:  Yes  No

Exemption requested for tax years:

Lease or sublease

Your lease or sublease must be for a period of at least one year. A month-to-month tenancy or general rental agreement won’t qualify for this exemption. The lease document must state that any tax savings resulting from the exemption shall inure solely to the benefit of the lessee, or the lessee and lessor must complete the Tax Savings Agreement on page 2. A new application must be filed by the due date if a new lease, sublease, or lease-purchase agreement or extension or modification to the existing lease, sublease, or lease-purchase agreement is made.

Is property under:  Lease  Sublease  Lease-purchase

Type of lease:  Modified gross  Net  Triple-net

Beginning date: ___________________    Expiration date: ___________________

Square footage of area leased, subleased, or lease-purchased:____________

You must attach a current signed copy of your lease, sublease, or lease-purchase agreement.

Declaration

I declare under the penalties for false swearing [ORS 305.990(4)] that I have examined this document (and attachments) and to the best of my knowledge they are true, correct, and complete.

150-310-087 (Rev. 04-18)
**Tax Savings Agreement**

This form may be used as documentary proof under ORS 307.112(3) that the tax savings resulting from an exemption under ORS 307.112 will inure solely to the benefit of the institution, organization or public body that has been granted the exemption.

<table>
<thead>
<tr>
<th>Name of lessee</th>
<th>Name of lessor</th>
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</table>

**Property address**

The lessor acknowledges that the lessee is applying for exemption on the property described above under provisions of ORS 307.112. If the property tax exemption is granted, the lessee and lessor of property described above agree that any savings resulting from the tax exemption shall solely benefit the lessee.

The tax savings will be passed on to the lessee by (describe the manner in which the lessee will receive the benefit of the tax savings):

<table>
<thead>
<tr>
<th>Signature of lessee</th>
<th>Signature of lessor</th>
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</table>

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<tr>
<th>Date</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/</td>
<td>/</td>
</tr>
</tbody>
</table>
Form OR-EZ-AUTH

Oregon Enterprise Zone Authorization Application*

*Complete form and submit to the local enterprise zone manager before breaking ground or beginning work at the site.

**Applicant**

<table>
<thead>
<tr>
<th>Enterprise zone or rural renewable energy development zone (where business firm and property will be located)</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of business firm</td>
<td>Phone</td>
</tr>
<tr>
<td>Mailing address</td>
<td>City</td>
</tr>
<tr>
<td>Location of property (street address if different from above)</td>
<td>City</td>
</tr>
<tr>
<td>County, TRS map ID number, and Tax lot number of site</td>
<td>Contact person</td>
</tr>
</tbody>
</table>

My firm expects to first claim standard property tax exemption in the following (up to three) year(s): _______________________________________

☐ Check here if your firm has or had another exemption in this enterprise zone.

☐ Check here that your firm commits to renew this authorization application. Renew this application on or before April 1 every two calendar years, until the tax exemption on qualified property is claimed.

☐ Check here if requesting an extended abatement of one or two additional years of exemption. Extended abatement is subject to written agreement with local zone sponsor, and to possibly additional state or local requirements before this application is approved.

**Zone manager use only (after written agreement but before authorizing firm):**

| County average annual wage: $ | Year | Total exemption period: | 4 ☐ or 5 ☐ Consecutive years (check one) |

**Business eligibility**

**Eligible activity**—Check all activities that apply to proposed investment within the enterprise zone:

- Manufacturing
- Fabrication
- Bulk printing
- Shipping
- Agricultural production
- Energy generation
- Assembly
- Processing
- Software publishing
- Storage
- Back-office systems
- Other—describe the activities that provide goods, products, or services to other businesses (or to other operations of your firm):

☐ Check here if your business firm does or will engage in ineligible activities within the enterprise zone (such as retail sales, health care, professional services, or construction). Describe below (or in an attachment) these activities and their physical separation from “eligible activities”:

**Special cases**—Check all that apply:

- Check here if a hotel, motel, or destination resort in an applicable enterprise zone.
- Check here if a retail/financial call center. Indicate expected percent of customers in local calling area: ___________.%
- Check here if a “headquarters” facility. (Zone sponsor must find that operations are statewide–regional in scope and locally significant)
- Check here if an electronic commerce investment in an e-commerce enterprise zone. (May also provide for an income tax credit)

**Employment in the enterprise zone** (see worksheets on last page)

**Existing Employment**—My business firm’s average number of full-time employees in the zone over the past 12 months is ________________

**New Employees**—

- Hiring is expected to begin on (date or month and year):
- Hiring is expected to be completed by (month and year):
- Estimated total number of new employees to be hired:

**Commitments**—By checking all boxes below, you agree to the following commitments as required by law for authorization:

- By April 1 of the first year of exemption on the proposed investment in qualified property, I will have increased existing employment within the zone by one new employee or by 10%, whichever is greater.
- My firm will comply with written agreements, including but not limited to first-source hiring agreements, any written agreement for an extended abatement, any zone sponsor resolution waiving required employment increase, or an urban enterprise zone’s adoption of any employment increase policy, if applicable.
- My firm will verify compliance with these commitments, as requested by the local zone sponsor, the county assessor or their representative, or as directed by state forms or administrative rules.
- My firm will enter into a first-source hiring agreement before hiring new eligible employees. (This mandatory agreement entails an obligation to consider referrals from local job training providers for eligible job openings within the zone during at least the exemption period.)

150-303-029 (Rev. 10-17)

*Also for Rural Renewable Energy Development Zones.
Oregon employment outside the enterprise zone

Check only those that apply:

☐ Check here if yours or any commonly controlled firm will curtail operations in the state beyond 30 miles of the zone boundary and move them into the zone. Indicate timing, location, number of any job losses, and relationship to the proposed enterprise zone investment:

☐ Check here if you are transferring operations into the zone from site(s) in the state within 30 miles of _______________________________ zone boundary:

My firm's average employment at the site(s) over the past 12 months is __________________ jobs.

☐ Check here, if applicable, that your firm commits to increase the combined employment at the site(s) (within 30 miles) and in the zone to 110% of the existing combined level by April 1 and on average during the first year of exemption.

Proposed investment in qualified property

Anticipated timing—Enter dates or months/years (non-binding)

<table>
<thead>
<tr>
<th>Action</th>
<th>Site and building and structures</th>
<th>Machinery and equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Preparation</td>
<td>Construction*</td>
</tr>
<tr>
<td>To commence or begin on</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To be completed on</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Including new reconstruction, additions to, or modifications of existing building(s) or structure(s).

** This is in the calendar year directly before the very first year of exemption.

*** May precede application by up to three months (includes personal property).

Special issues:

☐ Check here for building/structure acquired/leased for which construction, reconstruction, additions, or modifications began prior to this application (attach executed lease or closing documents, and don’t take up occupancy until this application is approved).

☐ Check here if anticipating using Construction in process tax exemption for qualified property that is still being constructed/installed and isn’t yet placed in service and is located on site as of January 1. If so, file Application for Construction-in-Process Enterprise Zone Exemption, 150-310-021, by April 1 with the county assessor’s office.

Qualifying property: Estimates of cost and details about property are not binding, but in order for property to be exempted, its basic type and any major building/structure needs to be at least represented below.

<table>
<thead>
<tr>
<th>Type of property</th>
<th>Number of each/item</th>
<th>Estimated value</th>
<th>Check if any item will be leased</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real property</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Building or structure to be newly constructed</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>New addition to or modification of an existing building/structure</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Heavy or affixed machinery and equipment</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Personal property item(s) costing</td>
<td>$50,000 or more</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>$1,000 or more (E-commerce zone or used exclusively for tangible production)</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td><strong>Total estimated value of investment</strong></td>
<td></td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

In addition, describe below (or in an attachment) the overall nature and potential extent of your investment, including preliminary building plans and lists of property items, as appropriate and recommended by zone manager or county assessor (may be kept confidential).

_______________________________________________________________________________________________________________________________

_______________________________________________________________________________________________________________________________

_______________________________________________________________________________________________________________________________

Declaration

I declare under penalties of false swearing [ORS 305.990(4)] that I have examined this document and attachments, and to the best of my knowledge, they are true, correct, and complete. If any information changes, I will notify the zone manager and the county assessor and submit appropriate written amendments. I understand that my business firm will receive the tax exemption for property in the enterprise zone, only if my firm satisfies statutory requirements (ORS Chapter 285C) and complies with all local, Oregon, and federal laws that are applicable to my business.

Must be signed by an owner, company executive, or authorized representative of the business firm

Signature

X

Date

Title (if not an owner or executive, attach letter attesting to appropriate contractual authority)

Local enterprise zone manager and county assessor must approve this application (with Enterprise Zone Authorization Approval, Form 150-303-082)

150-303-029 (Rev. 10-17)
Oregon Enterprise Zone Authorization Application Instructions

For more information

Applicant
This application form serves to authorize your business firm to receive a standard three-year exemption on qualified property that you will own or lease at the specified location in the enterprise zone or rural renewable energy development zone. The local zone manager and the county assessor’s office authorize your firm (not the proposed property).

Mandatory timing in being authorized:
• Complete and submit this form to the local zone manager before beginning physical project work (construction, installations, etc., including site preparation) or hiring new employees.
• Work may proceed after submission and before approval.
• No exemption is allowed on property for which work began prior to the effective date of the zone’s designation or amendment to include site, or for any property already assessed in the county by that date.
• After submitting this application but before being authorized, you and the zone manager will hold a pre-authorization conference, at which the assessor’s office might participate, to formally address special issues or contingencies for qualification.
• If seeking an extended abatement of four or five years in total, the written agreement with the zone sponsor may set additional reasonable requirements. In most zones, state law also requires that for all of the business firm’s employees, who are working in newly created jobs, that: (a) in the fourth and fifth year, their average wage is at least 100 percent of the then most recently available county average wage, and (b) in all four/five years, their average compensation equals or exceeds 130 percent or 150 percent of the county average wage at the time of authorization.

First year claiming exemption from property taxes:
• The first year of exemption is the year following the year in which the qualified property is “placed in service.” This means when the property is first used or occupied, or is physically ready for use or occupancy, for specifically intended commercial purposes.
• To claim the exemption, you must file with the county assessor after January 1, but on or before April 1, of that first year, using Form OR-EZ-EXCLM, Oregon Enterprise Zone Exemption Claim, 150-310-075, and attaching Form OR-EZ-PS, Oregon Enterprise Zone Property Schedule, 150-310-076 for the property to be exempted.
• Submit the exemption claim (without property schedule) after each year of exemption, in order to confirm ongoing compliance.

Keeping authorization active:
• This application needs to be renewed after two full years between January 1 and April 1, if your firm isn’t ready to claim an exemption. Submit a letter with the zone manager and assessor stating your continuing interest and intent.
• Failure to submit such a statement every two years (while the zone exists) classifies your authorization as “inactive.” A fee is then required in order to claim the exemption.
• County wage for the extended abatement’s average employee compensation standard, see (b) above, resets with renewal or inactive claim.

Business eligibility
A key function of authorization is to ascertain and assure a business firm’s eligibility for exemption.
• The program is primarily directed at for-profit organizations that provide goods or services to other business operations.
• Ineligible operations include: tourism, retail food service, entertainment, childcare, financial services, property management, housing or construction, retail sales or goods or services, health care, or professional services.
• An eligible call center may receive customer requests and orders by various means, but at least 90 percent must originate from areas that would entail a long-distance charge if performed by telephone.
• E-commerce investments receive special treatment in certain enterprise zones and in the city of North Plains.
• Central facilities for management, marketing, design, etc. (headquarters), are eligible if serving statewide or wider operations of a company. (Investment needs to conform to authorized description.)
• More than 60 percent of the enterprise zones have elected to make hotels, motels, and destination resorts eligible. The choice may differ among a zone’s sponsoring city/county jurisdictions.

Employment in the enterprise zone
To be authorized, the eligible business firm must commit to satisfy job-creation requirements:
• The number of full-time jobs in the zone must rise and be maintained during the exemption at a minimum of 110 percent of the average level from the time of the authorization application.
• Failure to reach this level precludes the exemption.
• Failure to maintain this level represents “substantial curtailment,” as would a big drop in total employment.
• Your firm must enter into a first-source hiring agreement before hiring new employees. The local zone manager will direct you to the contact with the local Oregon Employment Department office.
• Your firm and the zone sponsor are solely responsible for compliance/verification of local additional requirements.
• Also see “Special Issues Worksheet” on the last page.

Employment outside the enterprise zone
The business firm is disqualified if:
• The transfer of operations into the enterprise zone results in Oregon job losses more than 30 miles from the zone boundary.
• The movement of employees into the zone from within 30 miles of its boundary results in less than a 10 percent increase of the combined employment level in the zone and from where they are transferred.

Proposed investment in qualified property
To assist eligible business firms in understanding the property tax benefit they may receive for investing in an enterprise zone, the authorization application asks for the best available information on the cost, extent, and timing of planned investments. It is critical for communication among the firm, the local zone manager, and the county assessor.

Pre-application activity at site:
In general, site activity must begin after this application is submitted. Exceptions include, but are not limited to:
• A project started and abandoned at least six months earlier.
• Demolition, hazard removal, or environmental cleanup.
• Property acquired from another authorized business firm.
• Purchase or lease from a third party of a newly constructed or newly improved building or structure. In this case, work may already be underway or completed, but approval of this application must include a copy of the sale/lease agreement and must happen before use or occupancy of the building or structure.

Construction in Process: Property on-site as of January 1 may be exempt for up to two years before being placed in service. Once authorized, file the Form OR-AP-CIPEZ, Application for Construction-in-Process Enterprise Zone Exemption, 150-310-021, with the county assessor on or before each April 1, for any qualified property for which work is still underway on January 1. (Not available for centrally assessed/utility or hotel/resort property)
Property criteria:
- For a significant building or structure to be exempt, the authorization must include some indication of it. In addition, for example, if no machinery and equipment is indicated, then no such property qualifies, so that the applicant is advised to account for every basic type of property that could possibly be part of the final, overall project.
- All property needs to be new, meaning it wasn’t used or occupied in the zone more than one year before exemption begins.
- Machinery and equipment also must be newly acquired or newly transferred from outside of the county (except for major retrofit or refurbishment of real property idle for 18 months).
- Any or all property may be leased from any party, provided that your firm (the lessee) is obligated to pay the property taxes.
- All real property—buildings, structures, and heavy/affixed machinery and equipment—listed on the exemption claim property schedule must cost $50,000 or more in total.
- Personal property machinery and equipment is readily movable and qualifies subject to a per-item cost minimum. An integrated system consisting of various components may be treated as a single item for these purposes.
- Land, vehicles, motorized/self-propelled devices, rolling stock, non-inventory supplies, and idle or ineligible used property don’t qualify.
- The investment in property needs to be for the furtherance of income. For example, it may not be for personal use.

Additional property and future projects:
- With an ongoing investment, subsequent property that isn’t placed in service until the first or second year of exemption on the initial property may be exempted as well.
- In other words, property schedules may be filed with up to three consecutive claims, pursuant to a single authorization.
- Any major change of plans should be amended into the application, in writing to both the zone manager and the county assessor, before January 1 of the first year of an initial exemption, especially to account for any unrepresented type of basic property.
- Another authorization application is necessary for qualified property at a different location in the same or another zone.

Applicable property tax returns must still be filed annually

Employment worksheet
Use this worksheet to determine your business firm’s annual average employment over the 12 months preceding the date on which you submit the authorization application, and as required during the period of the enterprise zone exemption:

1. Identify those employees or positions within the zone that are: (a) working a majority of their time in “eligible” activities or in support of those activities; (b) paid on average for more than 32 hours per week; (c) not employed solely to construct property; (d) not seasonal; and (e) not temporary—not hired, leased, or contracted for less than one year or on an as-needed/ad hoc basis. Don’t use “full-time equivalents” (FTE).
2. Determine the number of the above employees at the end of each pay period, calendar month, or quarter over the prior 12 months.
3. Total the number of employees from each period and divide this sum by the number of periods. If not using months, include a suitable attachment in place of the following with your application:

```plaintext
_________(1) + _________(2) + _________(3) + _________(4) + 
(5) + _________(6) + _________(7) + _________(8) + 
_________(9) + _________(10)+ _________(11) + _________(12)= 
\[ \frac{\text{Total}}{12} = \text{Average annual existing jobs} \]
```

4. If your average annual existing jobs* (from number 3, above) is:
   a) Five or more, multiply by 1.1, as follows:
   \[ \frac{\text{average annual existing jobs}}{1.1} = \text{total number of employees} \]
   b) Less than five, add one, as follows:
   \[ \frac{\text{average annual existing jobs} + 1}{1} = \text{total number of employees} \]
5. Round the total from 4a or 4b to the nearest whole number (for example, 25.49 becomes 25 and 25.50 becomes 26). Your rounded figure is the level of employment required by April 1 of the first year of exemption.

For purposes of compliance, repeat steps 1–3 and 5 above for each calendar year that qualified property is exempt.

Special issues worksheet
This worksheet is simply a checklist to guide you through certain issues that may need to be addressed as soon as possible. Check if the answer is “yes” or “maybe.”

- Will the requisite increase of enterprise zone employment be difficult to achieve, even with the new investment? Or could it be somewhat unapparent? In any case, work out verification options with local zone manager. Copies of unemployment insurance reports or other records should be kept on file to assure manager and assessor.
- If the number of jobs will likely not grow by 10 percent, do you want a local waiver by resolution(s) adopted by zone sponsor with authorization, which may impose additional conditions? Waiver allowed if the overall investment costs $25 million or more, or with a 10 percent rise in productivity combined with dedicated expenses for workforce training. In a rural renewable energy development zone, a waiver is allowed for $5-million investments with no added conditions.
- Are you interested in publicly owned and otherwise available real estate that might exist in the zone, and that an authorized business firm generally has a right to buy or lease if promptly developed for authorized use?
- Would you like to know about local incentives that some local sponsoring governments offer to authorized businesses as part of the enterprise zone package, such as fee waiver, regulatory expedient, and so forth?
- Will a qualified building be partially occupied by another business/tenant or used for ineligible operations? In such cases, work with the local zone manager to determine the units or proportion of space for the assessor to exempt.
- Would you like your enterprise zone employment to be combined with the jobs at any 100 percent commonly owned firm/corporation(s)? If so, attach a statement with the name of the other company(s). Without such election, even subsidiaries of the same parent corporation in the zone are treated as distinct business firms.
- Is investment pending the site’s inclusion in the zone? This application may be approved under such conditions, but make arrangements with the local zone manager to ensure that any construction or installation work doesn’t begin until on or after the effective date of the boundary change. (Same applies to designation of a new enterprise zone.)
- Is the enterprise zone terminated? This normally precludes authorization or qualification, but an already authorized/qualified firm can “grandfather” and may be authorized up to 10 years after the termination of the zone.
Oregon Enterprise Zone Exemption Claim

Instructions

- File with county assessor and copy local zone manager.
- File after January 1 and on or before April 1 directly following the calendar year in which qualified property is first placed in service. Attach Form OR-EZ-PS, Oregon Enterprise Zone Property Schedule, 150-310-076, for all such property.
- File within same time frame after each year of exemption. For first or second filing after initial filing, attach a property schedule only for additional new qualified property subject to same authorization, Form OR-EZ-AUTH, 150-303-029.
- Separate claims are required for exemptions subject to different authorizations, including, but not limited to, different investment sites within the same enterprise zone.
- See page 2 of this form for further filing instructions.

Filer/taxpayer
Enterprise or Rural Renewable Energy Development zone where business and property are located County where business and property are located

<table>
<thead>
<tr>
<th>Business name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>( )</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mailing address</th>
<th>City</th>
<th>State</th>
<th>ZIP code</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Location of property (street address if different from above)</th>
<th>City</th>
<th>State</th>
<th>ZIP code</th>
</tr>
</thead>
</table>

Map and tax lot number of site

<table>
<thead>
<tr>
<th>Account number</th>
<th>Contact person</th>
<th>Title</th>
</tr>
</thead>
</table>

Authorization

1. Authorization application
   a. Date submitted: ____________________________
   b. Date approved: ____________________________

2. I hereby state that my business is an eligible business and has satisfied all commitments, pursuant to the application for authorization, and that all qualified property claimed here is used only for such eligible activities. An attachment is included here to explain any difference in terms of the basis for eligibility from what was indicated in the application for authorization.

3. Annual average employment existing in the enterprise zone at the time of authorization application: ___________ jobs

Exemption on qualified property

4. Authorized period of exemption: □ 3 □ 4 □ 5 years

5. Property schedule, Form 150-310-076
   a. Attached? □ Yes □ No
   b. If line 5a is “No,” skip to line 6.
   c. If line 5a is “Yes,” total cost of investment property entered on line 7 of Form OR-EZ-PS: $________________
   d. If line 5a is “Yes,” is this the first property schedule filed with an exemption claim subject to this authorization? □ Yes □ No

6. Ongoing exemption. If both line 5a and line 5b are “Yes,” skip to line 7.
   a. List first year(s) and total investment cost as entered originally in the prior Property Schedule, for each ongoing/previous exemption subject to same authorization:
      Exemption 1, (first year) - 20_____ total cost: $________________
      Exemption 2, (second year) - 20_____ total cost: $________________
      Exemption 3, (third year) - 20_____ total cost: $________________
   b. Status
      I hereby attest that the ownership, leasing, location, disposition, operation, use, or occupancy of qualified property included in any such ongoing exemption is unchanged with respect to what was listed on relevant, prior property schedule. Any change or exception to this statement is explained in an attachment to this form.

   (initial)*

Employment in the enterprise zone

7. Current number of employees (as of April 1 or the date with signature* on page 2, whichever is earlier): ___________ full-time, permanent employees

8. Recent employment figures (not relevant if both line 5a and line 5b are “Yes”)
   a. Annual average for previous calendar year:
   b. Number of employees reported on line 7 on previous exemption claim: ___________________
   c. Highest number of employees reported on line 7 in any prior exemption claim: ___________________

9. If exemption is authorized for more than three years:
   a. Previous calendar year’s average annual wage of all new jobs: $________________
   b. Previous calendar year’s average annual compensation (with benefits) of all new jobs: $________________

Certification

I hereby confirm that the information entered above (lines 7–9) and in the “Special-case Requirements” section on page 2 of this form (as applicable) is accurate. I understand that my business is responsible for maintaining records to verify such information, to be made available upon request by the zone sponsor or county assessor. Failure to produce verification may itself result in forfeiture of exemption. To avoid penalties, my business needs to report substantial curtailment of employment during the period of exemption not later than July 1 following the year of noncompliance.

(initial)*

150-310-075 (Rev. 05-18) Draft 1
*Declaration*

I declare under penalties of false swearing [ORS 305.990(4)] that I have examined this document and attachments, and to the best of my knowledge, they are true, correct, and complete. I have concluded that my business satisfies the requirements of a qualified business and complies with all local, Oregon, and federal laws that are applicable to my business.

*Signature*

**X**

*Date*

Title (if not an owner or executive, attach letter attesting to appropriate contractual authority)
Oregon Enterprise Zone Exemption Claim
Special-case requirements

Check all items that apply, including but not limited to having been addressed in the authorization application or pre-authorization conference with the local zone manager. Refer to applicable statutes (ORS) for further information and include attachments if necessary.

☐ With first claim filing, first-source hiring agreement is executed for the period of the exemption. [Note: if contact agency or zone manager report otherwise, then property in an attached property schedule doesn’t initially qualify, except with waiver from the director of the Oregon Business Development Department (dba Business Oregon) under ORS 285C.215.]

☐ Employment of authorized business firm was moved into enterprise zone from Oregon site(s) outside but within 30 miles of zone boundary after authorization. If so, fill in the following figures with the first and second exemption claim, based on employees at the site(s):
  a. Annual average employment at authorization (see line 3 of this form): __________
  b. Current number of employees (see line 7 of this form): __________
  c. Previous year’s annual average employment (see line 8a of this form): __________ (with second claim).

☐ Eligible operations of business (or commonly controlled business) have closed or been permanently curtailed and have been transferred after authorization into enterprise zone from an Oregon location more than 30 miles from zone boundary, diminishing employment at that location. If so, explain timing and extent.

☐ Enterprise zone employment is combined with that of 100 percent commonly owned business/corporation(s). Attach signed statement, as well as explanation of affected companies, their location in the enterprise zone, and any resulting adjustment to line 3 relative to authorization application.

☐ Local additional requirements are being satisfied. Addendum for enterprise zone sponsor is attached (as applicable), according to the policy and standards of an urban enterprise zone sponsor or a written agreement with any sponsor for extended abatement of four or five years in total.

☐ There is a local waiver of hiring requirements by resolution, for which alternative minimum employment level and local additional conditions are satisfied, as allowed and applicable, and:
  a. ☐ The total cost of investment in qualified property does or will equal $25 million or more; or
     ☐ Productivity has or will rise by at least 10 percent and an amount equal to 25 percent of property tax savings has or will be dedicated to workforce training fund, subject to monitoring and determinations by the zone sponsor; or
  b. ☐ The total cost of investment in qualified property in a rural renewable energy development zone does or will equal $5 million or more; or
  c. ☐ This exemption claim is for a year during or following a period of suspension granted by the zone sponsor under ORS 285C.203.

☐ This exemption claim and accompanying property schedule are being filed a year late, between January 1 and April 1, for qualified property placed in service in the year before the previous calendar year. I understand that the first year of the exemption is forfeit, and that all stipulations for qualification in this claim form and the schedule must be satisfied as if these documents had been timely filed, and that a second claim form is also needed for the previous calendar year.
Oregon Enterprise Zone Property Schedule

For qualified property of a qualified business firm first placed in service at a location in the enterprise zone.

Instructions

• For the first year of exemption on qualified property, this schedule must be attached to Form OR-EZ-EXCLM, Oregon Enterprise Zone Exemption Claim, 150-310-075, and both filed with the county assessor between January 1 and April 1, with copies sent to the local zone manager.

• Qualified property is property that is placed in service in the enterprise zone for the first time in the immediately previous calendar year (January 1 through December 31).

• Qualified property doesn’t include land, on-site developments assessed as land, vehicles, rolling stock, non-inventory supplies, any property used in an ineligible activity, or property that doesn’t serve to produce income.

• If an exemption is claimed for leased qualified property, every owner of leased property must complete a copy of page 4 for inclusion with this Property Schedule.

• Placed in service means that the property was in use or occupied or ready to be used or occupied for specifically intended commercial purposes.

• Property must also be reported on the relevant state and/or county returns.

• Real property machinery and equipment or personal property may be new, used, or reconditioned, but it must be installed in the enterprise zone on property that is owned or leased by the filer/taxpayer (qualified business firm) claiming the exemption, and in no event is any real property machinery and equipment or personal property exempt, if it was already inside the county and owned or leased by the same firm more than three months before the Form OR-EZ-AUTH, Authorization Application, 150-303-029.

• For any such previously used property, attach description of method employed to determine cost equivalent, as well as timing and events in its being newly procured from elsewhere in the county, or newly transferred from beyond the county if already owned or leased by the same firm.

---

Filer/taxpayer filed for 20____

Enterprise zone or rural renewable energy development zone (where business and property are located) County (where business and property are located)

Name of business firm: ________________________________ Phone: ( )

Mailing address: ____________________________ City: __________ State: __________ ZIP code: __________

Street address of all property (if different from above): ____________________________ City: __________ State: __________ ZIP code: __________

Map and tax lot number(s) of site (may comprise adjacent multiple sites with proximity to each other comparable to a single site)

Contact person: ____________________________ Title: __________ Phone: ( )

☐ Check here if this schedule accompanies an Exemption Claim filed between January 1 and April 1 of the next year. If so, you understand that the first year of the exemption is forfeit, and that all stipulations for qualification in the claim form and this schedule must be satisfied as if these documents had been timely filed.

Declaration for qualified business firm

I declare under penalties of false swearing [ORS 305.990(4)] that I have examined this document and all attachments, and to the best of my knowledge they are true, correct, and complete. I have concluded that my firm satisfies the requirements of a qualified business firm and complies with all local, Oregon, and federal laws that are applicable to my business. I understand that property will be disqualified and back taxes imposed if any requirement for its exemption is violated, including but not limited to, its being used in an ineligible activity, or if it is continuously not in use or occupancy for longer than 180 days at any time during the period of exemption. I understand actual use or occupancy in the enterprise zone must begin before July 1, six months after the year in which property is placed in service.

Signature: ____________________________ Date: __________

Must be signed by an owner, company executive, or authorized representative of the business firm

Title (if not an owner or executive, attach letter attesting to appropriate contractual authority)
### Qualifying property criteria / special cases

1. Mandatory criteria for qualified property listed on this schedule. Check all that apply respective to the Authorization Application (including if amended prior to the first year of initial exemption):
   - Property is at the same location as indicated.
   - Any building or structure with $50,000 or more in construction, reconstruction or modification costs was identified.
   - Each basic type of property in lines 4a, 4b, 4c, 4e, and 5 below was at least represented.

   In special cases, actual investments must be consistent with the descriptions shown in the Authorization Application. Check if one of these applies:
   - Property is a headquarters/centralized facility for statewide or wider regional operations.
   - Rural renewable energy development zone project.

2. Is qualified property used in the ancillary operations of an authorized business operating a hotel, motel, or destination resort and located at the site? If yes, attach description of the qualified property, owned or leased, used primarily to service overnight guests.

3. Has enterprise zone been terminated? If yes, dated of termination:

### Summary of investment costs of qualified property

4. Qualified real property for which an exemption is claimed:
   - a. Newly constructed buildings or structures (from #8 total) $  
   - b. New additions to or modifications of existing buildings or structures (from #9 total) $  
   - c. Newly installed real property machinery and equipment (from #10 total) $  
   - d. Subtotal: Add lines 4a, 4b, and 4c* $  
   - e. New modification to real property machinery or equipment greater or equal to $50,000 (from #11 total) $  

5. Items of qualified personal property, for which the cost of each one equals or exceeds:
   - a. $50,000 (from #12 total) $  
   - b. $1,000 if used exclusively for tangible production or in E-commerce in an approved designation (from #13 total) $  

6a. Total of owned qualified property (add lines 4d, 4e, 5a, and 5b) $  

6b. Total of leased qualified property [add all Totals of leased qualified property from page 4(s)]* $  

7. Total cost of investment (add lines 6a, and 6b) $  

* Total cost of real property (owned and leased) must be at least $50,000.

### Buildings and structures

#### Newly constructed buildings or structures that you own.

<table>
<thead>
<tr>
<th>Description</th>
<th>Date site preparation began</th>
<th>Date foundation poured</th>
<th>Date placed in service</th>
<th>Construction cost, sales price, or equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   Total—add lines 8a to 8c $  

#### New additions to or modifications of existing buildings or structures (including leasehold improvements) that you own.

<table>
<thead>
<tr>
<th>Description</th>
<th>Date addition or modification began</th>
<th>Date placed in service</th>
<th>Cost of addition or modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   Total—add lines 9a to 9c $  

Identify any building or structure listed in sections 8 and 9 that is partially leased or occupied by another business or partially used for a separate, ineligible activity. Describe the circumstances and relative square footage. Attach additional sheet(s) if necessary.
### Real property machinery and equipment

**Item of property used in the business process or activity that isn't readily movable due to weight or attachment to other real property.**

Doesn't include furniture, commercial fixtures, or structural components, such as building's standard wiring, plumbing, or HVAC.

#### 10 List newly installed real property machinery or equipment that you own. List all newly installed machinery or equipment that you lease on page 4. Attach additional sheets if necessary.

<table>
<thead>
<tr>
<th>Description of machinery or equipment (make, model, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Date purchased</th>
<th>Date installation began</th>
<th>Date placed in service</th>
<th>Purchase price, cost, or equivalent</th>
</tr>
</thead>
</table>
| a. | | | | | $
| b. | | | | | $
| c. | | | | | $
| d. | | | | | $
| e. | | | | | $
| f. Total from attached sheet(s) | | | | | $

Total—add lines 10a to 10f $ $

#### 11 List real property machinery or equipment that you own that has been idle at authorization and for 18 months, and is modified (reconditioned, refurbished, upgraded, or retrofitted) at a cost of $50,000 or more. List all such modified machinery or equipment that you lease on page 4. Attach additional sheets if necessary.

<table>
<thead>
<tr>
<th>Description of machinery or equipment (make, model, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Date last used commercially</th>
<th>Date modification began</th>
<th>Date placed in service</th>
<th>Cost to upgrade, retrofit, recondition, or refurbish</th>
</tr>
</thead>
</table>
| a. | | | | | $
| b. Total from attached sheet(s) | | | | | $

Total—add lines 11a and 11b $ $

### Personal property

**Item of property that is readily movable and isn’t attached or connected to a building, structure, or other real property.** Item of personal property includes an integrated system consisting of various components that would normally be appraised and assessed as a unit. Doesn't include vehicles, motorized/operator-driven devices, rolling stock, or non-inventory supplies, which don’t qualify in enterprise zone.

- List newly installed personal property items that you own in either section 12 or section 13.
- List all newly installed personal property items that you lease on page 4.

#### 12 Newly installed personal property items that each cost $50,000 or more. Attach additional sheets if necessary.

<table>
<thead>
<tr>
<th>Description (make, model, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Date purchased</th>
<th>Date placed in service</th>
<th>Purchase price, cost, or equivalent</th>
</tr>
</thead>
</table>
| a. | | | | $
| b. | | | | $
| c. | | | | $
| d. | | | | $
| e. | | | | $
| f. Total from attached sheet(s) | | | | $

Total—add lines 12a to 12f $ $

#### 13 Newly installed personal property items that each cost $1,000 or more that are used in electronic commerce in an approved designation or exclusively in the production of tangible goods. Attach additional sheets if necessary.

<table>
<thead>
<tr>
<th>Description (make, model, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Date purchased</th>
<th>Date placed in service</th>
<th>Purchase price, cost, or equivalent</th>
</tr>
</thead>
</table>
| a. | | | | $
| b. | | | | $
| c. | | | | $
| d. | | | | $
| e. | | | | $
| f. | | | | $
| g. Total from attached sheet(s) | | | | $

Total—add lines 13a to 13g $ $

(Rev. 10-17)
**Enterprise Zone Leased Qualified Property**

Review and return signed cover sheet with all attachments to business firm.

<table>
<thead>
<tr>
<th>Owner/lessor's name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mailing address</th>
<th>City</th>
<th>State</th>
<th>ZIP code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Business firm claiming enterprise zone exemption (lessee)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**Declaration for leased qualified property by lessor**

I declare under penalties of false swearing [ORS 305.990(4)] that I have examined this document and all attachments, and to the best of my knowledge, they are true, correct, and complete. I understand the exemption being claimed on property that is leased by me to the authorized business firm. The term of the lease agreement covers all tax years during which the property is expected to be exempt. Under that agreement the lessee is directly responsible for the entire amount of taxes due on any such property, either by compensating me or by being the taxpayer of record. I understand that as the owner (lessor) of the listed qualified property that I lease to the authorized business firm (lessee), I must acknowledge the exemption being claimed so that I may give timely notice on or before July 1 following a year in which noncompliance occurs in order to avoid penalties on back taxes.

**Must be signed by an owner, company executive, or authorized representative of the leasing company**

Signature | Date
---|---
X

Title (if not an owner or executive, attach letter attesting to appropriate contractual authority)

---

**Buildings and structures**

<table>
<thead>
<tr>
<th>Description</th>
<th>Date placed in service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

**Total**—add lines a to b $ __________

**Real property machinery and equipment**

<table>
<thead>
<tr>
<th>Description (include make, model year, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Amount of lease/rent (indicate if monthly or yearly)</th>
<th>Lease term (from–to)</th>
<th>Date placed in service</th>
<th>Original cost or option to purchase (when and amount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**—add lines a to b $ __________

**Personal property**

<table>
<thead>
<tr>
<th>Description (include make, model year, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Amount of lease/rent (indicate if monthly or yearly)</th>
<th>Lease term (from–to)</th>
<th>Date placed in service</th>
<th>Original cost or option to purchase (when and amount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal property items that each cost $50,000 or more:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**—add lines a to c $ __________

**Personal property items that each cost $1,000 or more** that are used in E-commerce in an approved designation or exclusively for tangible production:

<table>
<thead>
<tr>
<th>Description (include make, model year, type, and/or “UCC” code)</th>
<th>Serial number</th>
<th>Amount of lease/rent (indicate if monthly or yearly)</th>
<th>Lease term (from–to)</th>
<th>Date placed in service</th>
<th>Original cost or option to purchase (when and amount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**—add lines a to c $ __________

**Total of all leased qualified property**—add all four totals above; copy to page 2, line 7 $ __________
Section 9: Licensing and Registration
<table>
<thead>
<tr>
<th>State agencies licensing and registration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Abandoned vehicle appraisers</strong></td>
</tr>
<tr>
<td><strong>Acupuncturists</strong></td>
</tr>
<tr>
<td><strong>Agents (liquor store)</strong></td>
</tr>
<tr>
<td><strong>Airplane dealer</strong></td>
</tr>
<tr>
<td><strong>Airplanes</strong></td>
</tr>
<tr>
<td><strong>Airports</strong></td>
</tr>
<tr>
<td><strong>Animal euthanasia</strong></td>
</tr>
<tr>
<td><strong>Animal shelters</strong></td>
</tr>
<tr>
<td><strong>Antler dealers</strong></td>
</tr>
<tr>
<td><strong>Appraisers (land)</strong></td>
</tr>
<tr>
<td><strong>Architects</strong></td>
</tr>
<tr>
<td><strong>Attorneys</strong></td>
</tr>
<tr>
<td><strong>Auctioneers</strong></td>
</tr>
<tr>
<td><strong>Audiologists</strong></td>
</tr>
<tr>
<td><strong>Bait dealers</strong></td>
</tr>
<tr>
<td><strong>Bakeries</strong></td>
</tr>
<tr>
<td><strong>Banks</strong></td>
</tr>
<tr>
<td><strong>Barbers</strong></td>
</tr>
<tr>
<td><strong>Bars</strong></td>
</tr>
<tr>
<td><strong>Bartenders</strong></td>
</tr>
<tr>
<td><strong>Beekeepers</strong></td>
</tr>
<tr>
<td><strong>Beauticians</strong></td>
</tr>
<tr>
<td><strong>Bingo</strong></td>
</tr>
<tr>
<td><strong>Boats (pleasure)</strong></td>
</tr>
<tr>
<td><strong>Boiler inspectors</strong></td>
</tr>
<tr>
<td><strong>Boiler makers</strong></td>
</tr>
<tr>
<td><strong>Bond brokers</strong></td>
</tr>
<tr>
<td><strong>Bond dealers</strong></td>
</tr>
<tr>
<td><strong>Bond salespersons</strong></td>
</tr>
<tr>
<td><strong>Building inspectors</strong></td>
</tr>
<tr>
<td><strong>Building officials</strong></td>
</tr>
<tr>
<td><strong>Cabinetmakers</strong></td>
</tr>
<tr>
<td><strong>Canneries (fish)</strong></td>
</tr>
<tr>
<td><strong>Captains (com’l fishing boats)</strong></td>
</tr>
<tr>
<td><strong>Carpenters</strong></td>
</tr>
<tr>
<td><strong>Carpet installers</strong></td>
</tr>
<tr>
<td><strong>Cemeteries</strong></td>
</tr>
<tr>
<td><strong>Certified public accountants</strong></td>
</tr>
<tr>
<td><strong>Charter boats</strong></td>
</tr>
<tr>
<td><strong>Check sellers</strong></td>
</tr>
<tr>
<td>Group</td>
</tr>
<tr>
<td>-------------------------------</td>
</tr>
<tr>
<td>Chiropractors</td>
</tr>
<tr>
<td>Christmas tree growers</td>
</tr>
<tr>
<td>Clinical social workers</td>
</tr>
<tr>
<td>Collection agencies</td>
</tr>
<tr>
<td>Commercial fishers</td>
</tr>
<tr>
<td>Commercial fishing boats</td>
</tr>
<tr>
<td>Cosmetologists</td>
</tr>
<tr>
<td>Dentists</td>
</tr>
<tr>
<td>Denturists</td>
</tr>
<tr>
<td>Dietitians</td>
</tr>
<tr>
<td>Doctors</td>
</tr>
<tr>
<td>Drillers</td>
</tr>
<tr>
<td>Drug exporters</td>
</tr>
<tr>
<td>Drug manufacturers</td>
</tr>
<tr>
<td>Drywallers</td>
</tr>
<tr>
<td>Egg dealers</td>
</tr>
<tr>
<td>Electrical contractors</td>
</tr>
<tr>
<td>Electricians</td>
</tr>
<tr>
<td>Electrologist</td>
</tr>
<tr>
<td>Elevator inspectors</td>
</tr>
<tr>
<td>Embalmers</td>
</tr>
<tr>
<td>Employment agencies (private)</td>
</tr>
<tr>
<td>Engineers</td>
</tr>
<tr>
<td>Escrow agents</td>
</tr>
<tr>
<td>Euthanasia</td>
</tr>
<tr>
<td>Excavators</td>
</tr>
<tr>
<td>Exotic animal dealers</td>
</tr>
<tr>
<td>Falconers</td>
</tr>
<tr>
<td>Farm labor contractors</td>
</tr>
<tr>
<td>Feed producers</td>
</tr>
<tr>
<td>Fertilizer producers</td>
</tr>
<tr>
<td>Finance companies</td>
</tr>
<tr>
<td>Financial institutions</td>
</tr>
<tr>
<td>Fish canneries</td>
</tr>
<tr>
<td>Fish dealers (wholesale)</td>
</tr>
<tr>
<td>Fishing boats</td>
</tr>
<tr>
<td>Fishing licenses</td>
</tr>
<tr>
<td>Food services</td>
</tr>
<tr>
<td>Food stands (wholesale and retail)</td>
</tr>
<tr>
<td>Framers</td>
</tr>
<tr>
<td>Funeral homes</td>
</tr>
<tr>
<td>Gas manufacturers and sellers (ether, acetylene, etc.)</td>
</tr>
<tr>
<td>Occupation</td>
</tr>
<tr>
<td>----------------------------------</td>
</tr>
<tr>
<td>Gas well drilling</td>
</tr>
<tr>
<td>General contractors</td>
</tr>
<tr>
<td>Geologists</td>
</tr>
<tr>
<td>Geothermal drilling</td>
</tr>
<tr>
<td>Grain warehouses</td>
</tr>
<tr>
<td>Greyhound owners</td>
</tr>
<tr>
<td>Greyhound trainers</td>
</tr>
<tr>
<td>Grocery stores (which sell over-</td>
</tr>
<tr>
<td>the-counter drugs)</td>
</tr>
<tr>
<td>Grocery stores (which sell liquor)</td>
</tr>
<tr>
<td>Grooms</td>
</tr>
<tr>
<td>Guides</td>
</tr>
<tr>
<td>Hairdressers</td>
</tr>
<tr>
<td>Hay dealers</td>
</tr>
<tr>
<td>Hearing aid dealers</td>
</tr>
<tr>
<td>Hide dealers</td>
</tr>
<tr>
<td>Hotels</td>
</tr>
<tr>
<td>Hunting licenses</td>
</tr>
<tr>
<td>Hygienists (dental)</td>
</tr>
<tr>
<td>Insulators</td>
</tr>
<tr>
<td>Insurance adjusters</td>
</tr>
<tr>
<td>Insurance agencies</td>
</tr>
<tr>
<td>Insurance agents</td>
</tr>
<tr>
<td>Investment advisors</td>
</tr>
<tr>
<td>Jockeys</td>
</tr>
<tr>
<td>Land surveyors</td>
</tr>
<tr>
<td>Landscape architects</td>
</tr>
<tr>
<td>Landscapers</td>
</tr>
<tr>
<td>Licensing agents (hunting and</td>
</tr>
<tr>
<td>fishing)</td>
</tr>
<tr>
<td>Legal assistants</td>
</tr>
<tr>
<td>Livestock</td>
</tr>
<tr>
<td>Log brands</td>
</tr>
<tr>
<td>Manufacturers of drugs</td>
</tr>
<tr>
<td>Maritime pilots</td>
</tr>
<tr>
<td>Masons</td>
</tr>
<tr>
<td>Mechanics</td>
</tr>
<tr>
<td>Mining operations</td>
</tr>
<tr>
<td>Mortgage brokers</td>
</tr>
<tr>
<td>Mortgage salespersons</td>
</tr>
<tr>
<td>Morticians</td>
</tr>
<tr>
<td>Motels</td>
</tr>
<tr>
<td>Naturopaths</td>
</tr>
<tr>
<td>Field</td>
</tr>
<tr>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Nonprofit organizations</td>
</tr>
<tr>
<td>Nurses</td>
</tr>
<tr>
<td>Nursing homes</td>
</tr>
<tr>
<td>Oil well drilling</td>
</tr>
<tr>
<td>Ophthalmologists</td>
</tr>
<tr>
<td>Optometrists</td>
</tr>
<tr>
<td>Osteopaths</td>
</tr>
<tr>
<td>Outfitters</td>
</tr>
<tr>
<td>Painters</td>
</tr>
<tr>
<td>Pathologists</td>
</tr>
<tr>
<td>Pawnbrokers</td>
</tr>
<tr>
<td>Pesticide applicators</td>
</tr>
<tr>
<td>Pesticide dealers</td>
</tr>
<tr>
<td>Pesticide operators</td>
</tr>
<tr>
<td>Pharmacists</td>
</tr>
<tr>
<td>Physicians</td>
</tr>
<tr>
<td>Pilots</td>
</tr>
<tr>
<td>Pipefitters</td>
</tr>
<tr>
<td>Plan examiners</td>
</tr>
<tr>
<td>Pleasure boats</td>
</tr>
<tr>
<td>Plumbers</td>
</tr>
<tr>
<td>Plumbing contractors</td>
</tr>
<tr>
<td>Plumbing inspectors</td>
</tr>
<tr>
<td>Private employment agencies</td>
</tr>
<tr>
<td>Psychiatrists</td>
</tr>
<tr>
<td>Psychologists</td>
</tr>
<tr>
<td>Pullers</td>
</tr>
<tr>
<td>Race horse owners</td>
</tr>
<tr>
<td>Race horse trainers</td>
</tr>
<tr>
<td>Race track concessions</td>
</tr>
<tr>
<td>Race track employees</td>
</tr>
<tr>
<td>Race track owners</td>
</tr>
<tr>
<td>Race track security</td>
</tr>
<tr>
<td>Radiologists</td>
</tr>
<tr>
<td>Rain gutter installers</td>
</tr>
<tr>
<td>Real estate agents</td>
</tr>
<tr>
<td>Real estate appraisers</td>
</tr>
<tr>
<td>Real estate brokers</td>
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<tr>
<td>Reforesters</td>
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<td>Rendering plants</td>
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<tr>
<th>Occupation</th>
<th>Licensing/registration</th>
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<tbody>
<tr>
<td>Repossessors</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
</tr>
<tr>
<td>Restaurants (which serve liquor)</td>
<td>Oregon Liquor Control Commission—(503) 872-5000</td>
</tr>
<tr>
<td>Restaurants</td>
<td>Department of Consumer and Business Services—(503) 378-4100</td>
</tr>
<tr>
<td>Retail sellers of drugs</td>
<td>Board of Pharmacy—(503) 673-0001</td>
</tr>
<tr>
<td>Roofers</td>
<td>Construction Contractors’ Board—(503) 378-4621</td>
</tr>
<tr>
<td>Sanitarians</td>
<td>Oregon Health Licensing Agency—(503) 378-8667</td>
</tr>
<tr>
<td>Savings and loans</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
</tr>
<tr>
<td>Seed dealers</td>
<td>Department of Agriculture—(503) 872-6600</td>
</tr>
<tr>
<td>Seismic work</td>
<td>Department of Geology and Mineral Industries—(971) 673-1555</td>
</tr>
<tr>
<td>Shellfish distributors</td>
<td>Department of Human Services—(503) 945-5733</td>
</tr>
<tr>
<td>Shellfish growers</td>
<td>Department of Human Services—(503) 945-5733</td>
</tr>
<tr>
<td>Shellfish shuckers/packers</td>
<td>Department of Human Services—(503) 945-5733</td>
</tr>
<tr>
<td>Shorthand reporters</td>
<td>Bureau of Labor and Industries—(971) 673-0761</td>
</tr>
<tr>
<td>Siding installers</td>
<td>Construction Contractors’ Board—(503) 378-4621</td>
</tr>
<tr>
<td>Slaughtering establishments</td>
<td>Department of Agriculture—Animal Health and Identification—(503) 986-4680</td>
</tr>
<tr>
<td>Social workers (clinical)</td>
<td>Board of Licensed Social Workers—(503) 378-5735</td>
</tr>
<tr>
<td>Speech pathologists</td>
<td>Speech/Language Pathology and Audiology—(971) 673-0220</td>
</tr>
<tr>
<td>Steamfitters</td>
<td>Construction Contractor’s Board—(503) 378-4621 and Building Code Agency—(503) 378-4133</td>
</tr>
<tr>
<td>Stockbrokers</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
</tr>
<tr>
<td>Stock dealers</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
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<td>Stock salespersons</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
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<tr>
<td>Surgeons</td>
<td>Board of Medical Examiners—(971) 673-2700</td>
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<tr>
<td>Surveyors (land)</td>
<td>Board of Engineering Examiners—(503) 362-2666</td>
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<td>Swimming pools</td>
<td>Department of Consumer and Business Services—(503) 378-4100</td>
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<td>Taverns</td>
<td>Oregon Liquor Control Commission—(503) 872-5000</td>
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<tr>
<td>Tax return preparers</td>
<td>Board of Accountancy—(503) 378-4181</td>
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<tr>
<td>Taxidermists</td>
<td>Fish and Wildlife Commission—(503) 947-6000</td>
</tr>
<tr>
<td>Telemarketer</td>
<td>Department of Justice—(503) 378-4320</td>
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<td>Telephone solicitors</td>
<td>Department of Justice—(503) 378-4320</td>
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<td>Therapists</td>
<td>Occupational Therapy Licensing Board—(971) 673-0198 or Physical Therapist Licensing Board—(971) 673-0200</td>
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<td>Title agents</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
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<td>Title insurance companies</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
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<tr>
<td>Tow truck owners</td>
<td>Department of Motor Vehicles—(503) 945-5000</td>
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<tr>
<td>Trainers</td>
<td>Racing Commission—(971) 673-0207</td>
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<td>Transporters</td>
<td>Department of Motor Vehicles—(503) 945-5000</td>
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<tr>
<td>Trappers</td>
<td>Fish and Wildlife Commission—(503) 947-6000</td>
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<td>Trucking companies</td>
<td>Public Utility Commissioner—(800) 522-2404</td>
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<td>Trusses</td>
<td>Construction Contractors’ Board—(503) 378-4621</td>
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<td>Trust companies</td>
<td>Department of Consumer and Business Services—(503) 378-4140</td>
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<td>Vending machine operators</td>
<td>Department of Human Services—(503) 945-5944</td>
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<td>Veterinarians</td>
<td>Veterinary Medical Examining Board—(971) 673-0244</td>
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<td>Veterinary technicians</td>
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<td>Waiters and waitresses</td>
<td>Oregon Liquor Control Commission—(503) 872-5000</td>
</tr>
<tr>
<td>(who serve liquor)</td>
<td>Department of Human Services—(503) 945-5944</td>
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<td>Warehouse commissaries</td>
<td>Department of Human Services—(503) 945-5944</td>
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<tr>
<td>Water rights examiners</td>
<td>Examiners for Engineering and Land Surveying Board—(503) 362-2666</td>
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<td>Welders</td>
<td>Construction Contractor’s Board—(503) 378-4621</td>
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<td>(working on real property)</td>
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<td>Welders (in general)</td>
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<td>Well drillers</td>
<td>Water Resources Department—(503) 986-0900</td>
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<td>Well drillers (gas and oil)</td>
<td>Department of Geology and Mineral Industries—(971) 673-1555</td>
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<td>Wholesale sellers of drugs</td>
<td>Board of Pharmacy—(971) 673-0001</td>
</tr>
<tr>
<td>Wineries</td>
<td>Oregon Liquor Control Commission—(503) 872-5000</td>
</tr>
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</table>
Video lottery terminals

The following companies furnish lottery equipment to the State of Oregon.

GTECH—Gtech Corporation
3925 Fairview Industrial Dr Suite #100
Salem OR 97302
[contact: Robert Klingman, (503) 365-9696]

IGT—International Game Technology
9295 Prototype Dr
Reno NV 89521
[contact: Paul Balderelli, (702) 448-0100]

VLC—Video Lottery Consultants
2311 S 7th Avenue
Bozeman MT 59715
[contact: Bill Lewis, (406) 585-6600 ext. 5118]

WMS—WMS Gaming, Inc.
3401 North California Avenue
Chicago IL 60618
[contact: Bob Beck, (773) 564-4524]
Section 10: Information Circulars
All personal property is valued at 100 percent of its real market value unless exempt by statutes. Personal property is taxable in the county where it is located as of the assessment date, January 1 at 1 a.m.

**Taxable personal property**

Taxable personal property includes 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. Examples of taxable personal property:

- Amusement devices/equipment.
- Noninventory supplies.
- Barber and beauty furniture/equipment.
- Garage and service station tools/equipment.
- Leased equipment.
- Medical equipment.
- Movable machinery, tools, and equipment such as logging and construction equipment, lift trucks, and equipment used in service industries.
- Office furniture/equipment.
- Store furniture/equipment.
- Libraries such as repair manuals, electronic media, compact discs, videos, tapes, sample books, law books.
- Fixed load/mobile equipment.
- Floating property.

**Tax–exempt personal property**

These items are exempt from property tax:

- **Intangible personal property.** Money at interest, bonds, notes, shares of stock, business records, computer software, surveys and designs, and the materials on which the data are recorded (paper, tape, film, etc.) (ORS 307.020).
- **All items held exclusively for personal use.** Household goods, furniture, clothing, tools, and equipment used exclusively for personal use in and around your home (ORS 307.190).
- **Farm animals.** Livestock, poultry, fur-bearing animals, and bees (ORS 307.394).
- **Inventory.** Items of tangible personal property which are or will be sold in the ordinary course of business (materials, containers, goods in process, and finished goods) (ORS 307.400).
- **Farm machinery and equipment** (ORS 307.394).
- **Licensed vehicles other than fixed load/mobile equipment** (ORS 801.285).

**Filing your personal property tax return**

Each individual, partnership, firm, or corporation that has taxable personal property must file a return by March 15.

Major industrial properties appraised by the Oregon Department of Revenue will report on an industrial property return furnished by us.

For all other accounts appraised by the county assessor, a return form may be mailed to you by the county assessor before January 1 if you were assessed the previous year. You must report property you own or had in your possession as of January 1 at 1 a.m. If you don't receive a form from the assessor, you're still obligated to obtain and file a personal property tax return. There is a penalty for late filing. If you need help completing the form, contact your county assessor's office.

If you sell your business, notify the county assessor to avoid future liability on the personal property.

**Penalty for late filing**

If you report taxable personal property on a Confidential Personal Property Return, the penalty charge increases periodically. If your return is filed after March 15 but on or before June 1, a penalty of 5 percent of the tax will be charged. If the return is filed after June 1 but on or before August 1, the penalty increases to 25 percent of the tax. After August 1, the penalty increases to 50 percent of the tax.

If you report taxable personal property along with real property on an industrial property return sent to us and your return is filed late, a penalty for late filing will be $10 for each $1,000 (or fraction) of total assessed value. This penalty won’t be less than $10 or more than $5,000 (ORS 308.295).

**Paying your tax**

Property tax statements are mailed to taxpayers in late October. You must pay at least one-third of your tax bill by November 15 to avoid interest charges. You receive a 3 percent discount if you pay the full amount due by November 15. If you pay two-thirds of the full amount by November 15, you receive a 2 percent discount. If you choose to pay in thirds, the second payment is due by February 15 and the third by May 15.
Personal property taxes become a lien on July 1 against any and all of the assessed property, as well as on personal property assessed in the same category. The taxes may become a lien against all personal property owned or in the possession of the person in whose name the property is assessed. The taxes are a debt due and owing from the owner of the personal property.

**Appeals**

If you feel the county assessor has estimated the value of your property incorrectly, you have the right to appeal, but your appeal must be based on the property’s value, not on the amount of taxes owed. To receive a change in your assessment, you must convince your county board of property tax appeals that your property is incorrectly valued. You must support your belief with evidence such as appraisal reports and comparable sales. You also have the right to appeal if you believe you were charged a late filing penalty in error.

If you report your personal property on a combined industrial property return to us, you must appeal to the Magistrate Division of the Oregon Tax Court instead of your county board of property tax appeals.

For more information on property value appeals, see *How to Appeal Your Property Value*, 150-303-668.

**Do you have questions or need help?**

www.oregon.gov/dor  
(503) 378-4988 or (800) 356-4222  
questions.dor@oregon.gov

Contact us for ADA accommodations or assistance in other languages.
How to Appeal
Your Property Value

General information
In Oregon, property taxes are assessed for real property, machinery and equipment, manufactured structures, business personal property, and floating property. Oregon has an ad valorem property tax system, which means the property taxes you pay are based on the value the county assessor establishes for your property.

The assessor determines the value of most taxable property on January 1, prior to the beginning of the tax year. The tax year runs from July 1 through June 30. January 1 is called the “assessment date.” The assessor’s determination of value will appear on the tax statement mailed to you in October.

The following terms and definitions are provided to help you understand how your property is valued and assessed.

- **Real market value (RMV)** is the value the assessor has determined your property would sell for on the open market as of the assessment date. RMV appears on most property tax statements.

- **Maximum assessed value (MAV)** is the greater of 103 percent of the prior year’s assessed value or 100 percent of the prior year’s MAV. MAV isn’t limited to an increase of 3 percent if certain changes are made to your property. These changes are called exceptions. MAV doesn’t appear on most tax statements.

- **Assessed value (AV)** is the value used to calculate your tax. It is the lesser of RMV or MAV. Assessed value appears on your tax statement.

- **Exception** means a change to property, not including general ongoing maintenance and repair or minor construction. Changes that could affect maximum assessed value include new construction or additions, major remodeling or reconstruction, rezoning with use consistent with the change in zoning, a partition or subdivision, or a disqualification from special assessment or exemption. Minor construction is defined as additions of real property improvements with a real market value that doesn’t exceed $10,000 in one assessment year or $25,000 over a period of five assessment years. Exception value doesn’t appear on your tax statement.

- **Specially assessed value (SAV)** is a value established by statute. The legislature has created several programs that set lower assessed value levels for certain types of property. Each program has specific applications and use requirements. Examples of property that may qualify for special assessment are farmland, forestland, historic property, government-restricted low income multi-unit housing, and property that qualifies as “open space.” SAV appears on most tax statements for property that is specially assessed.

Properties appraised by Department of Revenue
If you wish to appeal the value of industrial property appraised by the Department of Revenue (DOR), you must file your appeal with the Magistrate Division of the Tax Court. The deadline to file an appeal is December 31. If December 31 falls on a Saturday, Sunday, or legal holiday, the filing deadline moves to the next business day.

The value and late filing penalties of utilities and other centrally assessed property must be appealed to DOR on or before June 15 of the assessment year.

Appealing to your county board of property tax appeals
Appealing to the county board of property tax appeals (BOPTA) is generally the first step in the appeal process. Most appeals start at this level.

You may appeal the current year real market, maximum assessed, specially assessed, or assessed value of your property. However, the authority of BOPTA to reduce the MAV and AV of your property is limited to the calculation allowed by law and an appeal may not result in a reduction of tax.

The majority of appeals will be based on a difference of opinion between you and the assessor about RMV. In such cases, you will need to present evidence about the market value of your property as it existed on the assessment date. Evidence might include an appraisal report of your property done by an independent appraiser or a comparison of your property with similar properties that have sold in your area close to January 1 of the assessment year.

Comparing the value on the tax roll of your house to the value on the tax roll of your neighbor’s house, or comparing the taxes you pay to the taxes your neighbor pays is generally not considered satisfactory evidence.
The following are examples in which an appeal of RMV may result in a tax benefit:

- The board reduces the RMV below the assessed value currently on the roll.
- Your property was improved in the previous assessment year and the board reduces the value of the new construction.
- The board reduces the RMV of your property, and the reduction requires property taxes to be reduced to meet constitutional limits on the education and general government categories of your taxes. See Tax Limitation (Compression) at www.oregon.gov/dor/property for more information.

Penalties charged for late filing of a current year’s real or personal property return with the county assessor, or combined industrial property return with the Department of Revenue, may also be appealed to the board. The board may waive all or a portion of a penalty imposed for the late filing of a return if:

- You can prove there was good and sufficient cause for the late filing, or
- The year for which the return was filed was both the first year that a return was required to be filed and the first year you filed a return.

**How to file your petition**

You must file appeals between the date the tax statements are mailed and December 31. If December 31 falls on a Saturday, Sunday, or legal holiday, the filing deadline moves to the next business day. File your petition with the county clerk’s office in the county where the property is located. You can get the forms you need from your county clerk or county assessor’s office. You may also download forms from www.oregon.gov/dor/property.

If you aren’t the owner of the property, carefully read the petition instructions to learn if you are qualified to file the appeal.

The board will consider your appeal between the first Monday in February and April 15. If you choose to appear at the hearing, BOPTA will send you written notice of the time and location. If you choose not to appear, the board will make a decision based on the evidence you submit with the petition.

The board will notify you in writing of its decision. If you aren’t satisfied with the decision, you have the right to appeal as follows:

**Appealing county board decisions**

You may appeal a decision of BOPTA to the Magistrate Division of the Oregon Tax Court by filing a written complaint. The assessor may also appeal the board’s decision.

Complaints must be filed with the Magistrate Division within 30 days (not one month), after the board’s order is mailed or personally delivered to you. You can download appeal forms at www.courts.oregon.gov or write to: Clerk, Oregon Tax Court, Magistrate Division, 1163 State Street, Salem OR 97301. You can also order forms by calling (503) 986-5650 or by calling your county assessor.

**Appealing magistrate decisions**

You may appeal magistrate decisions to the Regular Division of the Oregon Tax Court. To appeal, file your complaint with the court clerk within 60 days (not two months) after the date of the magistrate’s decision. The tax court clerk will notify you of the trial date and time.

A trial in the Regular Division of the Oregon Tax Court is a formal proceeding. Although you may represent yourself, most people prefer to be represented by a lawyer. If you aren’t satisfied with the tax court decision, you can appeal to the Oregon Supreme Court.

**Failure to appeal to BOPTA**

Under very limited circumstances, the Magistrate Division may be able to hear your appeal if you miss the deadline for filing with BOPTA. In addition, we may consider a request to address an error on the roll, if certain conditions are met. For more information about filing a petition with the department, see the publication Request for Supervisory Review, 150-303-688. You may obtain a copy of this circular by calling the Property Tax Conference Unit at (503) 945-8286, or from the website listed below.

**Have questions? Need help?**

**General tax information**

- www.oregon.gov/dor
- Salem ................................................... (503) 378-4988
- Toll-free from an Oregon prefix......1 (800) 356-4222

**Asistencia en español:**

- Salem ................................................... (503) 378-4988
- Gratis de prefijo de Oregon...........1 (800) 356-4222

**TTY (hearing or speech impaired; machine only):**

- Salem ................................................... (503) 945-8617
- Toll-free from an Oregon prefix ....1 (800) 886-7204

**Americans with Disabilities Act (ADA):** Call one of the help numbers for information in alternative formats.
The Department of Revenue may consider a request for supervisory review if certain criteria are met. We may be able to correct assessment errors for the current and two prior tax years.

**When do I request supervisory review?**

We can correct assessment errors under our supervisory authority if you didn’t appeal timely to the county Board of Property Tax Appeals (BOPTA) or to the court. We may correct a value when the assessor requests a reduction, when you and the assessor agree in writing to a change, or when one of certain standards are met. It’s your responsibility to show that you meet at least one of these standards:

1. **You and the county assessor agree to facts indicating an error is likely.**

   Discuss your concern with the county assessor. There may be facts about your property that indicate an assessment error. For example, the assessor may have used the wrong square footage or there may be excessive deterioration that the assessor didn’t consider. To meet this standard, the assessor must agree with a fact that you are asserting and the fact must indicate a likely error on the roll to the department.

2. **An error caused by an extraordinary circumstance resulted in the incorrect valuation of your property.** Extraordinary circumstances include:
   a. The county assessor has taxed nonexistent property, exempt property, or property outside the taxing jurisdiction.
   b. You made a computational or clerical error in reporting the value of personal property.
   c. A buyer of the property didn’t know about the additional tax liability as the result of a correction of an error that occurred before they bought the property due to the fact that it wasn’t recorded on the tax roll at the time of the purchase or within the appeal period. This doesn't include a new owner who disagrees with the value on the roll.
   d. You, the assessor, the tax collector, or the county clerk finds a clerical or jurisdictional error in an order issued by BOPTA. The department won’t consider issues of valuation judgment under this standard.
   e. There has been an increase in the maximum assessed value (MAV) of your property above the 3 percent limitation but there has been no change to the property that qualifies as an exception under Oregon Revised Statutes (ORS) 308.146(3). The dispute can't involve the value of the property placed on the roll but only whether an actual change was made to the property. The dispute can also not involve the identification of activity as general ongoing maintenance and repair or an account modification under ORS 308.162. The increase in MAV must have occurred during the years for which the department has supervisory jurisdiction.
   f. Instances in which a question of fact exists that is of interest to the Department of Revenue and doesn’t involve valuation judgment.

You may ask for a correction for the current tax year or for either of the two prior tax years. You must meet at least one of the above standards for each tax year. The current tax year is the tax year in which you file the petition. Each tax year begins on July 1 and ends on June 30.

If you still have another statutory right of appeal remaining, we don’t have jurisdiction to review a petition for the current year. For example, if the issue in the petition concerns the value of the property, a taxpayer has a statutory right of appeal to the local BOPTA or in certain cases the Magistrate Division of the Oregon Tax Court until December 31. The department can’t accept the petition for the current tax year until after that date.

**How do I ask the Department of Revenue to correct an assessment error?**

File a petition for supervisory review with us. You can obtain a petition form from the county assessor’s office. The form is available at www.oregon.gov/dor/property. For questions or additional information, contact the Property Tax Conference Unit at (503) 945-8286.
What will the Department of Revenue do?

We may schedule a conference to determine if any of the standards have been met. The conference is typically held over the telephone and you will receive written notice of the date and time of the conference. If you wish, you may choose someone to represent you. Persons you may authorize to represent you include: Oregon attorneys; certified public accountants; real estate brokers; appraisers; employees regularly employed in tax matters; or a spouse, child, or parent. We will issue a written decision after the conference. If we find that at least one of the standards has been met, we may schedule a second conference to determine whether the requested correction should be made.

Is there any other possibility for a late appeal?

Even if you didn't appeal on time, the Magistrate Division of the Oregon Tax Court may consider your appeal if either of these situations apply:

1. You didn't appeal on time for reasons of good and sufficient cause. Good and sufficient cause is an extraordinary circumstance beyond your control that caused the late appeal.

2. Your property is residential, and the difference between the real market value you are asserting and the real market value shown on the assessment roll is 20 percent or greater.

Have questions? Need help?

General tax information .......... www.oregon.gov/dor
Salem .............................................. (503) 378-4988
Toll-free from an Oregon prefix..... 1 (800) 356-4222

Asistencia en español:
Salem .............................................. (503) 378-4988
Gratis de prefijo de Oregon........... 1 (800) 356-4222

TTY (hearing or speech impaired; machine only):
Salem .............................................. (503) 945-8617
Toll-free from an Oregon prefix.... 1 (800) 886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers for information in alternative formats.
Section 11:
Miscellaneous Information
## Cities and ZIP codes

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<th>Town</th>
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Records retention

Personal property records should be retained according to information from the most recent version of OAR 166-150-0015, Archives Division.

County assessor records

According to the OAR, the applicable retention schedules are as follows:

- Assessment roll/personal property—6 years. Destruction authorized only upon the condition that the tax collector is keeping a permanent copy of the Assessment and Tax Roll.
- Personal property returns—6 years. Individual filings of the personal property tax return are confidential.

These schedules apply only to the program records of county assessors. These specific retention periods don’t apply to records of Assessment and Appraisal Section, Department of Revenue, or any other state agency. Programs involving federal funds may be subject to additional requirements.

The section of OAR 166-150-0015 titled County Assessment and Tax Records follows.
Assessment and Taxation Records

166-150-0015

(1) Additional Tax Due and Valuation Notices Used to notify property owners of disqualification of specially assessed property or errors made in the valuation process. Types of disqualifications include farm, forest, historical, residential or commercial zone, and others. Types of valuation changes include omitted property, clerical error, and others. Records notifying property owners of adjudicated notices may include name, address, value, tax assessed, tax year, and reason for disqualification or change. (Minimum retention: 3 years after entered on tax roll)

(2) Annual Tax Certification Records Record of certified levies to be collected for each taxing district which was placed on the tax roll and is filed with the County Clerk. Summarizes taxes levied by property type and levy type. May include the following information by district: levies, value, offsets, tax rates, tax losses, add taxes, and percentage of distribution. (Minimum retention: 6 years)

(3) Appraisal Records Record of land and building appraisals including all elements used to determine the value of the property. May include property identification number and legal description, owner name and address, diagram cards, appraisal activity log, current value, remarks, sales and building permit history, roll value history, sketch notes, appeal history, construction detail, improvement valuation, land valuation, and special use valuation. Also may include records documenting valuation by year. (Minimum retention: 12 years)

(4) Assessment and Tax Roll Official record of assessments, tax levied, and changes to the tax roll on all properties. May include name, address, assessed value, real market value, taxes levied, legal description, sites address, code area, property class, and any changes made since previous tax roll. May also include additional tax rolls previously maintained for deferred homesteads, yield tax, reforestation, additional tax on timber, and others. (Minimum retention: (a) Years through 1905: Permanent (b) Fiscal Years ending in 0 and 5 after 1905: Permanent (c) Fiscal Years 1906 and later (except years ending in 0 and 5): 50 years)

(5) Assessment Appeal Records Notification to the Assessor that a property owner disagrees with the assessed value of the property. May include Board of Property Tax Appeals, Department of Revenue, or tax magistrate petitions and orders. May also include correspondence relating to the appeal. Original petition, evidence, and order are filed with the County Clerk or the Department of Revenue. (Minimum retention: 2 years)

(6) Assessment Rolls Compilation of real and personal property values as established by May 1 of each calendar year. Used to generate taxes in the following tax year. These records were created prior to the legislative change combining the assessment and tax rolls. May include name, address, location, account numbers, legal description, and valuation. (Minimum retention: If Tax Rolls do not exist for the below-specified time periods, or if the tax and appraisal function is documented in one record for a particular time period, use the following: (a) Years through 1905: Permanent (b) Fiscal Years ending in 0 and 5 after 1905: Permanent (c) Fiscal Years 1906 and later (except years ending in 0 and 5): 50 years (d) If separate Tax Rolls exist for the above specified time periods: 6 years)

(7) Assessor’s Maps Cartographic records produced and maintained by the Assessor outlining the boundaries of each land parcel subject to separate assessment within the county, with the parcel’s tax lot or account number shown on the parcel. May include code area boundaries and the assigned code area numbers. (Minimum retention: Retain until superseded or obsolete)

(8) Bankruptcy Records Monitors the actions of U.S. Bankruptcy Courts as it pertains to the assessing and collecting of property taxes. May include notification from the court, request for relief of automatic stay, reorganization and payment plans, discharges, and related correspondence. (Minimum retention: 2 years after case closed)

(9) Department of Motor Vehicles Form 113 Used to certify that taxes have been paid on manufactured structures so that they can be moved, sold, or dismantled. Information may include owner name and address, property location, appraised value, taxes due and taxes paid. This program moved to Department of Business and Consumer Services Building Codes Division in May 2005 which issues trip permits in lieu of DMV Form 113’s. (Minimum retention: (a) Tax Collector information: 1 year (b) Assessor information: Life of the structure)

(10) Disqualified Tax Payments Used to document the collection of taxes for properties that have been disqualified as having a special assessment. Information may include property owner name and address, tax year, market or non special assessment value, farm use value, tax rate, number of years for rate, total additional tax per year, total tax due, reason for disqualification, and disqualification value. (Minimum retention: 7 years)

(11) Exemption Claims Applications by war veterans or veteran’s widows and qualifying exempt organizations for total or partial property tax exemption. May include applications, marriage licenses, death certificates,
military service discharge records, by-laws, rental agreements, and other records. (Minimum retention: 2 years after superseded or exemption disqualified)

(12) Foreclosure Records Documents the actions of the Tax Collector during foreclosure and redemption of real property. May include declarations of delinquency, notifications to property owner and lien holders, official publication lists, applications for final judgment and decree, final judgment and decree, record of lien holders, redemption certificates, deeds of foreclosed property, and related correspondence. (Minimum retention: 6 years after property deeded to county or redeemed by recorded interest holder)

(13) Homeowner’s Property Tax Relief Records Applications for property tax reduction based on legislatively mandated amounts distributed through the Department of Revenue. May include applications, adjustment, fund transfer, denial, and disqualification records. (Minimum retention: 2 years)

(14) Journal Vouchers-Roll Changes Assessor’s copy of request to Tax Collector to change or correct the tax roll in counties where separate records are maintained. May indicate value, tax code, exemptions and other changes. May include vouchers, opinion and order from Department of Revenue, Board of Property Tax Appeals orders, and tax court and supreme court orders. (Minimum retention: 6 years, or until real property tax rolls of the year affected by the voucher have been foreclosed and the foreclosed property deeded to the agency)

(15) Partition Plats and Subdivision Plats Used to document that taxes have been paid on properties prior to the partition/subdivision development. Information may include parcel description, name of partition or subdivision, tax lot information, number of parcels and acres, and amount of taxes paid. (Minimum retention: 2 years)

(16) Personal Property Delinquent Tax Records Notification by individual correspondence or official publication to property owner of intent to issue a judgment lien on personal property for non-payment of taxes. Also used to record or release lien against owner of property on tax roll. Lien is recorded and retained by the County Clerk. Includes owner name, type of personal property, account number, years and amounts delinquent, and authorizing signature. (Minimum retention: 2 years after the associated liens are issued)

(17) Personal Property Returns Documents the value all business machinery and equipment within the county to determine the valuation of personal property for taxing purposes. May include name of taxpayer/business, address, location, signatures, and purchase price and date purchased of business machinery. (Minimum retention: 6 years)

(18) Ratio Studies Used to update appraisal values between reappraisals of property. May include sales data cards, sales verifications, sales ratio report, and supporting documents. Information on report may include property sales by neighborhood or reappraisal areas, ratio of sales to property values, previous study statistics, and individual sales listings. (Minimum retention: 6 years)

(19) Refund Records Used to record the overpayment of taxes and then to document that notification was to over payers requesting information on who the refund should be issued to. Information may include account name and number, property location, tax lot number, amount of overage, cause of overage, and deadline for response. (Minimum retention: 6 years)

(20) Revenue (Department of) Reports Reports sent to the Department of Revenue summarizing information placed on the tax roll and providing detail of expenditures supporting reimbursement for operational expenses. Reports may include Summary of Assessments and Levies (SAL) Report, Property Tax Program Grant Document Detail Report, and Tax Collection Year-End Report. (Minimum retention: 6 years)

(21) Senior and Disabled Citizens Tax Deferral Applications Applications by senior citizens to defer property taxes or special assessments. Disqualification occurs with death of applicant, property sale, or exceeding income limit. Taxes are paid by the state with lien attached to property. Applications may include name, address, location, account number, legal description, deed references, and authorizing signatures. This series may also include applications for delay of foreclosure. (Minimum retention: 2 years after disqualified or lien satisfied)

(22) Special Valuation Applications Requests for special assessment of properties on the basis of special use. Uses include forest land, farmland, historic properties, enterprise zones, and single family residence in commercial zones. Applications and worksheets may include name, address, account number, number of acres in use, farm income documentation, historic designation, year assessed, and real market value (RMV) of property. (Minimum retention: 6 years after disqualified)

(23) Tax Collection and Distribution Records Records summary of taxes collected and distributed. May include date of collection and distribution, amount distributed, percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: (a) Percentage Distribution Schedule: 25 years (b) All other records: 3 years)
(24) Tax Lot Cards Records contain official descriptions of real property and are used to track land ownership and lot size and also may serve as a deed reference. Records include tax lot number; the location of the land in reference to township, range, and section; and a description and record of changes to the property, acreage, and land owner. (Minimum retention: Permanent)

(25) Tax Payment Records Records individual payments made by taxpayers on an account. May include county name, fiscal year for which taxes entered, address, code area, date paid, amount, and property for which taxes paid. (Minimum retention: 7 years)

(26) Tax Statement Requests Authorization for lender to pay property taxes on individual properties. Provides lender information on assessed values and levied taxes on individual properties. May include account number, lender name and loan number. (Minimum retention: 2 years)

(27) Tax Turnover Records Documents amounts paid to each taxing district based on the Tax Collection and Distribution schedule calculated by the Tax Collector. Includes date of distribution, district name, and amount distributed. May also include percentage of collection and distribution, year of tax, and adjustments. (Minimum retention: 6 years)

(28) Taxing District Records Notification to the Assessor from city, fire, school, and other special districts to levy taxes. Includes records received from districts such as notifications to levy taxes, categorizations of levies, resolutions from governing body to levy taxes, detail budgets, and public notices. Also may include tax rate computation sheets and other records used or created by the Assessor in calculating the tax rates. (Minimum retention: (a) Notice of Property Tax Levy and Certification of Categorization: 6 years (b) All other records: 2 years)

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895
Hist.: OSA 4-2004, f. & cert. ef. 9-1-04; OSA 3-2006, f. & cert. ef. 8-30-06
Reference list for personal property

**Heavy equipment**

Title: *My Little Salesman*
2895 Chad Drive
Eugene OR 97408
Phone: (541) 341-4650
www.mylittlesalesman.com

Title: *Top Bid*
Top Bid
PO Box 2029
Tuscaloosa AL 35403
Phone: (205) 349-2990
www.topbid.com

Title: *1993 Hot Line*
Published by: Heartland Communications Group, Inc.
1003 Central Avenue
PO Box 1052
Fort Dodge IA 50501
Phone: 1 (800) 247-2000
www.hlipublishing.com

**Pricing guides for computer equipment**

**Mainframe**

Title: *Computer Price Watch*
Author/Publisher: Computer Information Resources
22144 Clarendon Street, Suite 214
Woodland Hills CA 91367
Phone: (818) 883-4614
www.computerpricewatch.com

Title: *End User Market Value Report*
Author/Publisher: DMC Valuations
P.O. Box 2130
Costa Mesa CA 92628
Phone: (714) 241-4220
www.dmcvaluations.com

A company that produces a computer bluebook is:
Orion Research Corporation
14555 N Scottsdale Rd., Suite 330
Scottsdale AZ 85254
Phone: (480) 951-1114
www.orionbluebook.com
Enterprise zone

Several types of benefits accrue to eligible business firms that invest, qualify, and operate in an Oregon enterprise zone, besides those with statewide applicability. The benefits for a tax exemption fall into one of three areas, which are:

- Construction-in-progress.
- Strategic investment.
- Tax credit.

Under the program of construction-in-progress, those items that are personal property are taxable. All other property can receive exemption from taxation. As a business qualifies for an exemption under the strategic investment in urban areas, everything is exempt from taxation for the first $100 million and in rural areas everything is exempt from taxation for the first $25 million. In order for personal property to receive an exemption under the tax credit program, a personal property item must have a value of $1,000 or more and be used in tangible production or be a personal property item of $50,000 or more.