Chapter 321

1969 REPLACEMENT PART

Timber Taxes

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FOREST PRODUCTS HARVEST TAX

321.005 Definitions for ORS 321.005 to 321.225. As used in ORS 321.005 to 321.225 and 477.425 to 477.460, unless the context requires otherwise:

(1) "Board" means the State Board of Forestry.

(2) "Merchantable forest lands" means all forest lands in this state containing merchantable stands of timber.

(3) "Protected west side forest lands" means those forest lands:

(a) That are merchantable forest lands; and

(b) Located in that part of the State of Oregon lying westerly of a line beginning at the intersection of the north boundary of the State of Oregon and the western boundary of Wasco County thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the south boundary of the State of Oregon; and

(c) Which are protected from the starting or spread of fire thereon or therefrom by:

(A) The State Forester, with the approval of the board; or

(B) The United States of America through contract with the State Forester; or

(C) Any forest protective agency under contract with the State Forester or the board pursuant to ORS 477.406; or

(D) Any forest protective agency, described in subparagraph (C) of this paragraph, under an agreement with the United States of America wherein such agency agrees to protect specific federal forest lands and, in return, the United States of America agrees to protect specific lands of such agency.

(4) "Department" means the Department of Revenue.

(5) "Committee" means the Emergency Fire Cost Committee.

(6) "Forest land" means any land producing forest products.

(7) "Forest products" includes all products derived through the cutting, severing or otherwise removing of forest trees and windfalls.

(8) "Forest protection district" means a district established under ORS 477.225.

(9) "Harvesting" means the cutting, severing or otherwise removing of merchantable forest products from forest lands.

(10) "Merchantable stand of timber" means any stand on forest lands containing living or dead timber which is being or can be harvested.

(11) "Taxpayer" means any individual, partnership, corporation or association of whatever nature, owning the harvested forest products at the time of harvesting, or acquiring title thereto by virtue of such harvesting and payment therefor. However, the grantor of forest products who reacquires the forest products after harvesting shall be deemed the taxpayer with respect to such forest products.

(12) "Taxes" means the taxes provided for in ORS 321.015.

[1953 c.375 §1; 1957 c.309 §3; 1961 c.726 §412; 1965 c.253 §139; 1967 c.429 §38]

321.010 [Repealed by 1953 c.375 §38]

321.011 Policy. The prevention and suppression of forest fires on forest lands for the preservation of forest resources and the continuous growth of timber on lands suitable therefor are declared to be the public policy of the State of Oregon. The Legislative Assembly recognizes that the forested areas situated within eastern Oregon predominate in Ponderosa pine trees and associated species, and that the forested areas situated within western Oregon predominate in Douglas fir and associated species; that because of this difference in species, different forest fire protection problems exist in eastern and western Oregon, and different logging conditions and circumstances in each necessitate varied forest practices in the disposal of forest slashings and debris; and that, therefore, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in this section, certain classifications of forest lands within the State of Oregon are established by ORS 321.005 to 321.255.

[1957 c.309 §2]

321.012 Public to share cost of suppressing fires caused by public. The Legislative Assembly finds that it is in the interest of the State of Oregon that the public as a whole share responsibility for protecting the forests of this state, by making funds available from time to time for suppression of fires caused by the public.

[1967 c.429 §60]

321.015 Levy of privilege tax on the harvesting of forest products. (1) There hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable

forest products harvested on merchantable forest lands for the fiscal year beginning July 1, 1953, and for each fiscal year thereafter, in the amount provided in ORS 321.025 and 321.035.

(2) In addition to the tax levied by subsection (1) of this section, there hereby is levied a forest products harvest tax upon taxpayers on all merchantable forest products harvested on protected west side forest lands for the payment of benefits as provided in ORS 321.005 to 321.225 and 477.425 to 477.460 for the fiscal year beginning July 1, 1953, and for each fiscal year thereafter, in the amounts provided in ORS 321.025 and 321.035.

(3) Subject to subsection (4) of this section, the taxes shall be measured by and be applicable to each per thousand feet, board measure, on the total quantity of forest products harvested in this state measured by use of any log scale which is or may be in general use in the logging industry and which is designed to measure total volume of merchantable forest products in board feet. However, if the department finds that the scale used by any taxpayer in computing the taxes due under ORS 321.005 to 321.225 does not accurately reflect the total quantity of merchantable forest products harvested by him, it may require the taxpayer to adopt another log scale in general use in the industry which in the department's opinion will accurately reflect his merchantable harvest in board feet. In the case of salvage operations, where the log scale used does not reflect the total volume of merchantable forest products in board feet, the taxpayer may make a percentage deduction to determine such volume which is reasonable for the area from which the forest products were harvested; the deduction shall be subject to the approval of the department.

(4) The first 25,000 feet, board measure, of forest products harvested annually by any taxpayer during each fiscal year shall be excluded from the total quantity of harvested forest products which constitutes the measure of the taxes under ORS 321.005 to 321.225.

[1953 c.375 §2; 1957 c.309 §14]

Note: 1969 c.301 §1 provides:

Sec. 1. Notwithstanding any other provision of law, for the fiscal years beginning July 1, 1969, and July 1, 1970, the rate of the tax levied by subsection (1) of ORS 321.015 shall be one cent higher than the rate that otherwise would be in effect under subsection (1) of ORS 321.025. The revenue raised by this additional levy shall be considered in computations under ORS 321.037.

321.020 [Repealed by 1953 c.375 §38]

321.025 Rate of tax. (1) Except as otherwise provided in ORS 321.037, the rate of the tax levied by subsection (1) of ORS 321.015 is five cents per thousand feet, board measure, on all merchantable forest products harvested on merchantable forest lands.

(2) The rate of the tax levied by subsection (2) of ORS 321.015 is four cents per thousand feet, board measure, on all merchantable forest products harvested on protected west side forest lands.

[1953 c.375 §3; 1959 c.537 §1; 1961 c.242 §1; 1967 c.429 §11]

321.030 [Repealed by 1953 c.375 §38]

321.035 Determination of moneys available for research and experiment and for fire control. (1) For purposes of determining the moneys available in any account referred to in this section as of February 16, such shall be the balance shown on such date less the total of:

(a) The unexpended balance as of February 16 of the amount budgeted to be expended from the account for the fiscal year in which the determination is made; and

(b) The amount budgeted to be expended from the account for the following fiscal year.

(2) The insurance principle is recognized in providing funds for emergency forest fire control and research and experiment.

[1953 c.375 §4; 1961 c.297 §4; 1963 c.88 §1; 1967 c.429 §7]

321.037 Reduction of tax rate for forest research and experiment purposes. On or about the last day in February of each year the State Board of Higher Education shall meet and determine if the moneys in the Forest Research and Experiment Account as of the preceding February 16 exceed a reserve base of $400,000. If the State Board of Higher Education determines that the moneys in the account exceed the reserve base, the taxes described in subsection (1) of ORS 321.015 shall be levied for the following fiscal year at 50 percent of the rate specified in subsection (1) of ORS 321.025.

[1967 c.429 §9]

321.040 [Repealed by 1953 c.375 §38]

321.042 [1967 c.429 §10; repealed by 1969 c.524 §15]

321.045 Payment of tax; returns. (1) The taxes levied under ORS 321.015 shall be due and payable in quarterly instalments, on or before the last day of October, January, April and July, for the preceding calendar quarter.

(2) On or before the last day of October, January, April and July, each taxpayer shall make out a return on the form prescribed by the department showing the amount of the tax for which he is liable for the preceding calendar quarter and the other information the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department. The return shall be signed and verified by the taxpayer or a duly authorized agent of the taxpayer. Whenever in its judgment good cause exists, the department may allow further time for filing a return and payment of tax.

(3) All payments received under ORS 321.005 to 321.225 shall be credited, first, to penalty and interest accrued, and then to tax due.

[1953 c. 375 §§5, 6; 1965 c.331 §1]

321.050 [Repealed by 1953 c.375 §38]

321.055 Audit of returns by department; interest and penalties on deficiency or delinquency. (1) If upon audit of the return or otherwise the department believes that the return filed does not correctly reflect the amount of tax due or is incorrect in any particular, it shall recompute the tax. The amount determined to be due by the department upon audit shall be the tax, and any delinquency or deficiency, plus $1 shall be paid within 30 days after notice thereof is mailed by the department to the taxpayer.

(2) A delinquent tax or a deficiency shall bear interest at the rate of one-half of one percent per month, or any fraction thereof, from the time the return was due. If a delinquency or deficiency is due to negligence, but without intent to defraud, a penalty of six percent of the delinquent or deficient tax, plus $1 shall be added, plus interest at the rate of one-half of one percent per month, or any fraction thereof, from the time the return was due. If all or any part of the delinquency or deficiency for which a determination is made is due to fraud or an intent to evade ORS 321.005 to 321.225 or authorized rules and regulations, a penalty of 100 percent of such amount, plus $1 shall be added, plus interest at the rate of one percent per month, or any fraction thereof, from the time the return was due.

[1953 c.375 §7]

321.060 [Repealed by 1953 c.375 §38]

321.065 Determination of tax where taxpayer fails to make return. If any taxpayer neglects or refuses to make a return required to be made by ORS 321.005 to 321.225, the department is authorized to determine the tax due, based upon any information in its possession or that may come into its possession. The department shall give the taxpayer written notice by mail postpaid of the tax and delinquency charges specified in ORS 321.055 and the tax and delinquency charges shall be a lien from the time of harvest as provided in ORS 321.095. If the tax and delinquency charges are not paid within 30 days from the mailing of the notice the department shall proceed to collect the tax in the manner provided in ORS 321.075.

[1953 c.375 §8]

321.070 [Repealed by 1953 c.375 §38]

321.075 Warrant for collection of delinquent taxes; lien on real property. (1) If any tax imposed by ORS 321.005 to 321.225, or any portion of such tax, is not paid within the time provided by law, the department shall issue a warrant, under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the taxpayer owning the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and cost of executing the warrant, and to return the warrant to the department and to pay to it the money collected by virtue thereof, within 60 days after receipt of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when the copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in real property of the taxpayer against which it is issued, in the same manner as a judgment duly docketed in the office of the clerk. The sheriff thereupon shall proceed upon the warrant in all respects, with like

effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of records, and he is entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(2) In the discretion of the department a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect this tax. In the execution of the warrant, such agent has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(3) If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes against the taxpayer as if the state had a recorded judgment against the taxpayer for the amount of the tax.
[1953 c.375 §9]

321.080 [Repealed by 1953 c.375 §38]

321.085 [1953 c.375 §10; repealed by 1961 c.573 §2 (ORS 305.140 enacted in lieu of ORS 314.435, 315.635 and 321.085)]

321.090 [Repealed by 1953 c.375 §38]

321.095 Tax as a lien on forest products. The taxes imposed by ORS 321.005 to 321.225 shall operate as a first lien on the forest products from the time of harvest. The lien shall follow the forest products in the same manner as provided for liens on logs under ORS 87.125 to 87.140 and 87.615 to 87.675, and may be attached and be foreclosed in the manner provided in those statutes.
[1953 c.375 §11]

321.100 [Repealed by 1953 c.375 §38]

321.105 Tax as debt; action to recover tax. All taxes, interest and penalties due and unpaid under ORS 321.005 to 321.225 shall constitute a debt due the State of Oregon and may be collected, together with interest, penalty and costs, by appropriate judicial proceeding, which remedy is in addition to all other existing remedies. However, no proceeding for the collection of taxes under ORS 321.005 to 321.225 shall be instituted after the expiration of six years from the date such taxes were due.
[1953 c.375 §12]

321.110 [Repealed by 1953 c.375 §38]

321.115 Appeal to department for revision of tax; appeal to courts. (1) Any person may appeal to the department for the revision or refund of any tax within 20 days from the date of mailing the notice of deficiency or delinquency by filing a petition with the department in the manner prescribed for appeals to the department under the ad valorem property tax laws from county boards of equalization, to the extent that such laws may be applicable. All petitions shall be heard in the manner prescribed by such laws.

(2) Appeals to the Oregon Tax Court and Supreme Court may be taken as provided by such laws.
[1953 c.375 §13; 1961 c.533 §55]

321.120 [Repealed by 1953 c.375 §38]

321.125 Appeal as a stay of collection of tax; effect of paying taxes pending appeal. (1) No proceeding for the collection of the taxes provided for in ORS 321.005 to 321.225 shall be stayed by reason of the taking or pending of any appeal, except under order of the court and only in those cases wherein a good and sufficient undertaking has been executed in favor of the department and approved by the court covering the entire amount of the tax imposed and any and all costs that may be involved. The undertaking shall be filed with the clerk of the court.

(2) The payment of taxes while appeal is pending shall not operate as a waiver of the appeal or the right to a refunding of taxes found to be excessively determined.
[1953 c.375 §14]

321.130 [Repealed by 1953 c.375 §38]

321.135 Enforcement of ORS 321.005 to 321.225 by department; rules and regulations. (1) ORS 321.005 to 321.225 shall be enforced and the taxes imposed by ORS 321.005 to 321.225 shall be collected by the department which shall have the power to prescribe forms and to promulgate rules and regulations for the ascertainment, assessment and collection of the taxes imposed by ORS 321.005 to 321.225.

(2) For the purpose of determining the taxes imposed by ORS 321.005 to 321.225, the department may:

(a) Require any person to furnish any information deemed necessary.

(b) Examine the books, records and files of such person.

(c) Subpena and examine witnesses and administer oaths.
[1953 c.375 §15]

321.140 [Repealed by 1953 c.375 §38]

321.145 Tax revenue credited to suspense account; refunds; Merchantable Forest Lands Subaccount; Protected West Side Forest Lands Subaccount. (1) The revenue from the taxes levied by ORS 321.005 to 321.225 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445. After payment of refunds pursuant to subsection (2) of this section, the balance remaining shall be deposited in the General Fund to the credit of appropriate subaccounts of the Forest Products Harvest Tax Account which account hereby is established.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied under subsections (1) and (2) of ORS 321.015 hereby is appropriated continuously to the department from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of taxes levied under subsections (1) and (2) of ORS 321.015 which have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded. The department shall on its records charge each refund against the revenue from the tax with respect to which the refund is made and the balance of the revenue from each such tax shall be credited to the appropriate subaccount of the Forest Products Harvest Tax Account as provided in subsections (3) and (4) of this section.

(3) Subject to subsection (2) of this section, the revenues from the tax levied under the provisions of subsection (1) of ORS 321.015 shall be credited to the Merchantable Forest Lands Subaccount of the Forest Products Harvest Tax Account, which subaccount hereby is established.

(4) Subject to subsection (2) of this section, the revenues from the tax levied under subsection (2) of ORS 321.015 shall be credited to the Protected West Side Forest Lands Subaccount of the Forest Products Harvest Tax Account, which subaccount hereby is established.

[1953 c.375 §16; 1957 c.309 §4; 1957 c.528 §6; 1961 c.270 §1]

321.150 [Repealed by 1953 c.375 §38]

321.155 [1953 c.375 §17; repealed by 1957 c.309 §15]

321.160 [Repealed by 1953 c.375 §38]

321.165 Forest Emergency Fire Cost Account established; source; use; appropriation. (1) There is established in the State Treasury in the General Fund an account to be known as the Forest Emergency Fire Cost Account, which shall consist of:

(a) All moneys made available to the State of Oregon by the United States or any agency thereof for emergency fire cost suppression purposes under ORS 321.005 to 321.225 and 477.425 to 477.460.

(b) Contributions or gifts by private persons or public or private agencies.

(c) Allocations from timber harvest taxes as provided in subsection (2) of ORS 321.215.

(2) Notwithstanding ORS 291.238, the moneys in the Forest Emergency Fire Cost Account are appropriated continuously to the Emergency Fire Cost Committee and shall be used for equalizing emergency fire suppression costs and for safeguarding the interests of owners of Class 1 or Class 2 forest lands, as defined in ORS 526.324, in any forest protection district or districts containing any protected west side forest lands, and for administrative expenses, which administrative expenses shall not exceed $17,500 for each fiscal year beginning July 1.

[1953 c.375 §19; 1957 c.309 §5; 1961 c.297 §5; 1965 c.253 §140; 1967 c.429 §12]

321.170 [Repealed by 1953 c.375 §38]

321.175 [1953 c.375 §20; 1965 c.253 §141; repealed by 1967 c.429 §61]

321.180 [Repealed by 1953 c.375 §38]

321.185 Forest Research and Experiment Account established; source; use; appropriation. (1) There hereby is established in the State Treasury in the General Fund an account to be known as the Forest Research and Experiment Account, which account hereby is appropriated continuously to the State Board of Higher Education for the purposes of ORS 526.215 and 526.225.

(2) The Forest Research and Experiment Account shall consist of:

(a) Allocations from harvest taxes as provided in subsection (1) of ORS 321.215.

(b) All moneys received in payment of uncollected taxes, penalties or interest under chapter 544, Oregon Laws 1947.

[1953 c.375 §21; 1957 c.309 §6; 1961 c.297 §6]

321.190 [Repealed by 1953 c.375 §38]

321.195 [1953 c.375 §22; repealed by 1957 c.309 §15]

321.200 [Repealed by 1953 c.375 §38]

321.205 [1953 c.375 §23; repealed by 1961 c.297 §12]

321.215 Transfer of moneys from Merchantable and Protected West Side Forest Lands Subaccounts to Forest Research and Experiment Account and Forest Emergency Fire Cost Account. (1) All moneys remaining in the Merchantable Forest Lands Subaccount on February 1, May 1, August 1 and November 1 of each year shall be transferred to the Forest Research and Experiment Account.

(2) All moneys remaining in the Protected West Side Forest Lands Subaccount on February 1, May 1, August 1 and November 1 of each year shall be transferred to the Forest Emergency Fire Cost Account.
[1953 c.375 §18; 1957 c.309 §7; 1961 c.297 §7]

321.225 Prohibited acts. No taxpayer shall:

(1) Refuse to make any return required by ORS 321.005 to 321.225.

(2) Make any false or fraudulent return or false statement on any return.

(3) Evade the payment of any tax, or any part thereof, imposed by ORS 321.005 to 321.225.

(4) Aid or abet another in any attempt to evade the payment of any tax, or any part thereof, imposed by ORS 321.005 to 321.225.

(5) Disobey any subpena or subpena duces tecum of the department.

(6) Refuse to testify when required so to do.
[1953 c.375 §33]

TAXATION OF REFORESTATION LANDS

321.255 Definitions for ORS 321.255 to 321.355. As used in ORS 321.255 to 321.355, unless the context otherwise requires.

(1) "Board" means the State Board of Forestry.

(2) "Department" means the Department of Revenue.

(3) "Forest crop" means timber, chittam bark, Christmas trees and any other marketable growth from the forest soil.

(4) "Forest fee" means that uniform annual charge made by the state as license for using land for forest crop production.

(5) "Harvesting" means cutting, severing or removing for use or sale.

(6) "Legal description" means United States Government legal description, or description by metes and bounds.

(7) "Owner" means:

(a) The owner of the land as shown on the current tax roll;

(b) The owner of the timber as shown on the current tax roll, if all or part of the timber on the land is owned separately and that fact is shown on the current tax roll; and

(c) Each owner of an undivided interest who is shown on the current tax roll, if the land or timber, or both, are owned by more than one person holding undivided interests and that fact is shown on the current tax roll.

(8) "Protection" means safeguarding from fire, insects and disease.

(9) "Reforestation lands" means lands classified as reforestation lands under this chapter.

(10) "State Forester" means the State Forester or his authorized representative.

(11) "Yield tax" means that percentage of the gross value, immediately prior to harvesting, of any forest crop in addition to all ad valorem taxes and forest fees previously paid on land and crop.
[Formerly 528.010]

321.260 Purposes of ORS 321.255 to 321.355. The purposes of ORS 321.255 to 321.355 are:

(1) To promote the establishment of new forest crops on cutover or denuded, privately owned forest lands.

(2) To encourage thinnings and improvement cuttings to promote maximum growth and protection of immature stands.

(3) To provide the forest owner with tax relief during the growth period and to protect and maintain the county tax base and stabilize tax revenues.

(4) To discourage premature harvesting of forest crops.
[Formerly 528.020]

321.265 Application of 1959 amendments and additions. The 1959 amendments and additions to ORS 321.255 to 321.355 apply to all forest lands classified as reforestation lands within this state, irrespective of the date when classified.
[Formerly 528.025]

321.270 State Forester to propose classification of certain lands as reforestation lands; listing of such lands; petition by owner for classification of lands. (1) The State Forester shall determine what lands within the state may be classified as reforestation lands, and, upon such determination, shall prepare a list of such lands, by counties, giving the legal description thereof and forward to the county assessor of each county wherein the lands are situated a list of the lands in that county which the State Forester proposes to recommend for classification as reforestation lands.

(2) An owner who wishes to have his land classified as reforestation lands may file a petition with the State Forester giving the legal description of such land and presenting evidence satisfactory to the State Forester that such lands are eligible for classification under ORS 321.255 to 321.355 and, thereupon, such land shall be included on the list forwarded to the county assessor under subsection (1) of this section.

[Formerly 528.030]

321.275 Hearing on proposed classification; notice of hearing required. A hearing on the classification proposed under ORS 321.270 shall thereafter be held before the State Forester at the courthouse in the county seat in each county wherein any lands proposed for such classification are situated. The State Forester shall give notice of such hearing by publication in at least two issues of one or more newspapers having general circulation in the county wherein the hearing is to be held, the last publication of the notice to be at least 30 days prior to the date of the hearing. The State Forester shall also send by mail to each owner of land proposed for such classification in the county, at the address of the owner as shown on the records of the tax collector of the county, and to the department and the assessor of the county a similar notice of the hearing. The notice shall be mailed at least 60 days prior to the date specified in the notice for the hearing and shall set forth the date when and the place where the hearing will be held. At the hearing the State Forester shall hear all objections to, and suggestions, arguments and remonstrances for or against the proposed classification.

[Formerly 528.040]

321.280 Recommendation and report as to classification; department to make final determination; objections to classification. (1) After the hearing, as provided in ORS 321.275, the board shall review the proposed classifications, and shall direct the State Forester to prepare a list of the lands which the board recommends for classification as reforestation lands for each of the counties, giving the legal descriptions of the lands, and shall forward the lists to the department, together with a report of the hearings held by the State Forester, embodying the objections to and the arguments for the proposed classification with respect to each parcel or group of parcels of land.

(2) The department shall consider the reports of the hearings and any matter bearing thereon, review the list of lands recommended by the board for classification as reforestation lands, and prepare an order finally determining the classification thereof.

(3) The department shall forward certified copies of the order to the assessor and county clerk of the county wherein the lands are situated, one certified copy to the State Forester, and one certified copy to the owner, referring to his lands only. The county clerk shall record the order free of charge.

(4) No land shall be classified as reforestation lands over the objection of the owner. No land shall be classified as reforestation lands over the objection of the county court or board of county commissioners of the county wherein the lands are situated unless such classification is found by the State Board of Forestry to be in the public interest.

[Formerly 528.050]

321.285 Eligibility for classification. (1) No lands shall be classified as reforestation lands unless the lands fall in one of the following classes:

(a) Lands denuded or substantially denuded of timber in merchantable quantities by fire, insects, disease or other causes.

(b) Cutover lands meeting a standard equivalent to the requirements acceptable for release under ORS 527.010 to 527.240.

(c) Lands supporting and having thereon only a minimum forest tree growth.

(2) In addition to the requirement of subsection (1) of this section, in order to be eligible for classification as reforestation lands, lands must meet all of the following requirements:

(a) Lands must have, in the judgment of the State Forester, adequate tree seed source available or be supporting minimum

stocking of forest trees as required by ORS 527.010 to 527.240.

(b) Lands must be, in the judgment of the State Forester, suitable for and likely to produce new forest crops.

(c) Lands must be provided with protection from fire, insects and disease, as approved by the board and required by law.
[Formerly 528.060]

321.290 Lands to be classified annually; declassification of lands improperly used or not protected or erroneously classified. (1) The State Forester shall annually determine what lands, not already classified as reforestation lands, should be so classified, and thereafter the procedure required of the agencies named in ORS 321.255 to 321.355 and described in ORS 321.270 to 321.285 shall be followed.

(2) The State Forester shall ascertain periodically if lands classified as reforestation lands are being protected as provided by law and are being used primarily for forest crop production; and, if the lands are not being so protected or used or, in his judgment, such lands are erroneously classified under the provisions of ORS 321.255 and 321.270 to 321.285, the State Forester shall recommend to the board that the lands be declassified. The State Forester shall send by registered or certified mail to the owner of the land, at the address of the owner as shown on the records of the tax collector of the county, notice of his recommendation and the basis thereof. Within 60 days of the mailing of such notice any owner to whom such notice was mailed who believes that such recommended declassification is improper may file a written petition with the board setting forth his reasons for objecting to such declassification. If such petition is filed, the board shall afford such owner the opportunity of appearing at an informal conference with the board or such member or members of its staff as the board may appoint to hear such petition. The board shall thereafter issue an order finally determining such petition. After issuing such order or, in the event no petition was filed, reviewing the basis for the recommendation, the board may approve in whole or in part the list of lands for declassification. The State Forester shall forward a list of the lands approved for declassification to the department, together with a written statement as to the basis therefor. The department, upon the basis of such statement and approved list, shall order the lands so listed to be removed from classification as reforestation lands if the department determines such declassification to be in the public interest.
[Formerly 528.070]

321.295 Amount payable upon declassification; declassification upon transfer to exempt owner, inclusion in plat, or upon application of owner. (1) Whenever any parcel of land is removed from the classification of reforestation land under subsection (2) of ORS 321.290 and subsection (4) of this section, it shall thereafter be subject to the ad valorem property tax of this state and the severance tax imposed by ORS 321.405 to 321.530 and there shall be due and owing to the county in which the parcel of land is situated a sum of money equal to the excess, if any, of the ad valorem property tax either for comparable land and forest crop in that county or computed on the basis of appraised valuations for comparable land and forest crop in that county under ORS 306.127, effective January 1, 1961, prior to its repeal, and rate percents of levy for applicable years, over the amount of forest fee and yield tax paid under this chapter upon the land and forest crops for each year while so classified. The excess, if any, shall be due and payable 60 days after the date of the order of removal, and unless so paid shall be subject to the same interest, penalty and cost charges as apply to delinquent ad valorem property taxes, and the procedure for its collection shall be the same as provided for by law.

(2) The owner of any parcel of land classified as reforestation land or the owner of any forest crop thereon shall, not less than 10 days prior to the transfer of either the land or the forest crop or any part thereof to an owner in whose hands the property is exempt from ad valorem taxation and the severance tax imposed by ORS 321.405 to 321.530, give notice of such transfer by registered or certified mail to the tax collector of each county wherein the land or crop is situated, to the State Forester, and to the department. The department, immediately upon receipt of such notice, shall order the land removed from classification effective upon the date of the proposed transfer. As of the date of such transfer there shall be due and owing to each county in which such lands are situated a sum of money equal to the excess, if any, as determined under subsection (1) of this section. Such sum shall be a debt due and owing to such county from the owner of the lands as of the date of transfer and shall

be payable on or before 60 days after the date of transfer. Unless so paid, the sum shall be delinquent and, together with any accrued penalty, may be charged by the tax collector against the real property of the owner as delinquent taxes in the same manner and with the same force and effect as delinquent personal property taxes are charged against real property under ORS 311.645. Unless the notice provided for in this subsection is given, there shall be added to the sum due a penalty of 100 percent thereof, except that if it is shown that the failure to give the notice is due to reasonable cause and not to wilful neglect or fraud, there shall be added to the sum an amount equal to one-half of one percent thereof for each day or fraction of a day during which such failure continues, not exceeding 25 percent in the aggregate.

(3) Upon written application of the owner of the land, the State Forester shall recommend to the department that reforestation lands be removed from classification and if such lands are declassified they shall thereafter be subject to the ad valorem property taxes and severance tax imposed by ORS 321.405 to 321.530 and in addition there shall be due and owing from the owner of the land to the county wherein the lands are located a sum of money equal to the excess as determined under subsection (1) of this section, or a sum equal to twelve and one-half percent of the current market value of all the forest crops situated on the land, whichever is the greater. Said sum shall be a debt due and payable 60 days after the date of the order of removal and, unless so paid, shall be subject to the same interest, penalty and cost charges as in the case of yield taxes, described in ORS 321.325, and the procedure for its collection shall be the same as provided by subsections (2) and (3) of ORS 321.325. When lands are declassified under this subsection, such lands are not eligible for classification under the provisions of ORS 321.255 to 321.355 until ad valorem property taxes and severance taxes imposed by ORS 321.405 to 321.530 have been paid on the lands and forest crop for a period of not less than 10 years following declassification unless the forest crops thereon have been removed excepting those required under the provisions of ORS 527.010 to 527.240. With each application for declassification under this section, the owner shall pay to the State Forester a fee for inspection by the department of the lands proposed to be declassified. The fee is $25 for the first 160 acres or less and 10 cents per each additional acre in excess of 160 acres. The inspection fee shall be credited to the General Fund as miscellaneous receipts.

(4) The county assessor shall notify the department of any plat that has been recorded pursuant to ORS 92.120 which includes lands classified as reforestation lands. The department, immediately on receipt of such notice, shall order such lands included within such plat removed from classification.

(5) The department shall immediately forward certified copies of any order of removal from classification to the tax collector, assessor and county clerk of the county wherein the lands are situated, one certified copy to the State Forester and one certified copy to the owner referring to his land only. The county clerk or recorder shall record the order free of charge. Any order of removal from classification heretofore or hereafter issued applies to both the land and the forest crop thereon and, except as provided in subsection (2) of this section, becomes effective on June 30 following the date of the order unless the order specifically provides for an earlier effective date.

(6) Within 30 days after the issuance of a declassification order the county assessor shall furnish assessed values of comparable land and forest crop to the tax collector as may be necessary for the determination of the sum of money due, if any, upon the removal from classification of any reforestation land and the department whenever applicable shall determine and furnish the current market value of forest crops existing on such land to the tax collector who shall forthwith make a final determination of any sum of money due upon the removal of the land from classification and which determination shall be appealable to the department in the manner provided for in ORS 321.355.

[Formerly 528.080; amended by 1963 c.109 §1; 1967 c.59 §1]

321.300 Reforestation lands to be removed from assessment roll; forest fee in lieu of certain timber taxes; collection of fee; yield tax roll. (1) No order of classification as reforestation lands shall become effective until July 1 following the date thereof. After classification of any lands as reforestation lands and after notice thereof, given as in ORS 321.255 to 321.355 provided, the county assessor shall remove such lands from the current assessment roll and enter them on a separate roll or continue showing the lands on the

assessment and tax roll but with an entry clearly designating such lands as reforestation lands. Whether such lands are maintained on the current or separate roll, the roll shall be prepared in the manner provided by ORS 308.217 to 308.221.

(2) In lieu of the ad valorem property tax and severance tax imposed by ORS 321.405 to 321.530, there shall annually be due and payable by the owner of such reforestation lands a forest fee. The premises, during the period of classification as reforestation lands, shall be subject only to an annual forest fee of 10 cents per acre on lands west of the summit of the Cascade Mountains or five cents per acre on lands east of the summit of the Cascade Mountains and, in addition to a yield tax on all forest crops harvested from such land, as in ORS 321.255 to 321.355 provided. For the purposes of this subsection, the summit of the Cascade Mountains shall be considered to be a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. The Legislative Assembly finds and declares that the forested areas situated within eastern Oregon predominate in ponderosa pine trees and associated species, and that the forested areas situated within western Oregon predominate in Douglas fir and associated species; that the rate of growth and the amount of forest crops produced differ in eastern and western Oregon; and that, therefore, in order to give recognition to such differences and their effect on the amount of taxes that equitably should be paid, different annual forest fee rates are established by this subsection for eastern and western Oregon.

(3) The forest fee shall become effective as of the effective date of classification, July 1, and on such date become a lien against the premises and shall become due and payable at the same time and in the same manner, with the same interest, penalty and cost charges as apply to the ad valorem property taxes in this state, and, in case of delinquency, shall be subject to the same procedure for foreclosure as are property tax liens.

(4) The tax collector shall, as a matter of public record, keep a yield tax roll showing all harvesting permits issued, in regular and orderly form with appropriate headings, as the tax collector (with the approval of the department) may prescribe, which may be prepared as a continuing roll containing the name of the owner, the permit holder and the permit number; a description of each tract or parcel of reforestation land for which a permit has been issued conforming to the requirements for description set forth in ORS 308.240; harvest reports; taxes; penalties; and payment of taxes, penalties and interest including dates of payments and receipt numbers. In addition, when a copy of a permit is received by the tax collector, he shall note on the regular tax roll opposite the forest fee entry for the property covered by the permit, the permit number together with a statement that any resulting yield tax constitutes a lien upon the land.
[Formerly 528.090; amended by 1967 c.105 §7]

321.305 Defects in notice and other defects, when cured. The removal of any lands from the assessment roll by the county assessor, and the listing by him upon a separate roll of such lands as reforestation lands as provided by ORS 321.300, when done each year for a period of five consecutive years, shall constitute sufficient notice of the classification of such lands as reforestation lands so as to cure any defect in the notice provided for in ORS 321.275 or such other defect as would otherwise void the classification.
[Formerly 528.095]

321.310 Permit required before harvesting forest crop from reforestation lands; unit value of crop to be set forth in permit. (1) No person shall harvest or cause to be harvested any forest crop, or remove or cause to be removed any forest growth, from privately owned lands which have theretofore been classified as reforestation lands, without first having obtained a written permit so to do from the department.

(2) The permit shall set forth the unit value, by units of proper measurement, of the respective kinds of forest crops on the premises. The unit value of a particular grade and species is the retail market value thereof for 1,000 board feet or an equivalent value for such other applicable unit of such grade and species for current harvesting and conversion into wood products. The retail market value per unit of measurement of a particular grade and species of timber upon a tract shall be determined by a method which makes reasonable allowance for species, quality, growing conditions, age, volume after allowance for defect and breakage, costs of removal, accessibility to point

of conversion, topography, costs of conversion into logs, and any other relevant factors.

(3) The unit value, determined as provided in subsection (2) of this section, shall be filed and open to public inspection.
[Formerly 528.100]

321.315 Forest crops harvested from reforestation lands subject to yield tax; report of crop harvested. (1) Except as provided in ORS 321.320, all forest crops harvested from lands classified as reforestation lands shall be subject to a yield tax of 12.5 percent of the value, as determined by the department, of every unit thereof. In the harvesting of forest crops on such lands the owner shall keep an exact record of the number and kinds of units of all forest products harvested from the lands described in the written permit required by ORS 321.310. Within 30 days after June 30, and within 30 days after December 31, of each year, the owner shall submit a report to the department and to the tax collector of the county wherein the lands are situated listing the number and kinds of units of all forest products harvested from the lands during the preceding six months. The reports shall be made on forms prepared and approved by the department. The report to the tax collector shall be accompanied by the owner's remittance, in legal tender, of the yield tax due hereunder.

(2) The department upon ascertaining that forest crops have been harvested from reforestation lands which have not been reported or which have been erroneously reported shall determine the values, number and kinds of units of forest products harvested and shall enter its determination on its records as a harvest report or an amended harvest report and shall mail certified copies of the report to the owner of the land and to the tax collector of the county wherein the land is located which determination if not appealed within the time and manner provided in ORS 321.355 shall become final and binding upon the owner.

(3) The department shall keep records of harvest reports, taxes and penalties and shall forward semi-annually to the county clerk of each county a statement of all taxes and penalties not previously forwarded resulting from the harvest of forest products in that county and the clerk shall charge such amounts against the tax collector in the same manner and to be accounted for as provided for ad valorem taxes, and for the purpose of collecting unpaid taxes, penalties and interest the tax collector shall have the remedies provided by statute for the collection of taxes against real and personal property.
[Formerly 528.110; amended by 1967 c.105 §8]

321.320 Exemption from yield tax. No yield tax is payable on forest products harvested from lands classified under ORS 321.255 to 321.355 if they are harvested by the owner for use on the premises and if such harvest annually does not exceed 10,000 feet, board measure, or an equivalent measurement of such products.
[Formerly 528.115]

321.325 Penalty for failure to obtain harvesting permit or to pay tax; collection of penalty, procedure. (1) Any person or owner harvesting forest crops from lands which have been classified as reforestation lands who fails first to obtain a permit from the department, or to make his remittance of yield taxes due under ORS 321.315 within the 30-day period, shall be subject to a penalty of an additional yield tax of 10 percent of the tax due in addition to interest on any unpaid yield tax, at the rate of one-half percent per month for each month or fraction of a month (computed from the time the tax became due) during which such tax remains unpaid. The amount of the yield tax, penalty and interest shall be a first lien against the forest crops and land and a debt due and owing to the county from the owner of the lands at the time the forest crops are harvested.

(2) The tax collector of the county wherein the lands are situated shall, in addition to the remedies provided by statute for the collection of taxes against real and personal property, maintain an action against the owner of the land for its collection with the penalty and with interest thereon. The action shall be maintained in the name of the county in which the taxes are due.

(3) At the time of commencement of the action for the collection of said taxes, penalty and interest, the county shall have the benefit of all laws of this state pertaining to provisional remedies against real and personal property of the party against whom the taxes have been levied, without the necessity of filing an affidavit, as otherwise provided by statute. The county clerk of the county wherein the action is commenced shall immediately issue a writ of attachment upon application therefor by the plaintiff. The writ shall be directed to the sheriff of

as many counties as the district attorney may direct.
[Formerly 528.120]

321.330 [Formerly 528.140; repealed by 1969 c.595 §17]

321.335 Double taxation forbidden. Any land and forest crop while classified under the provisions of ORS 321.255 to 321.355 shall not be otherwise assessed and taxed under the laws of this state; but nothing contained in ORS 321.255 to 321.355 shall prevent:

(1) The assessment and taxation under the ad valorem property tax laws of all buildings, improvements, water and power rights, mineral or other values, other than forest crops, upon any lands taxed under the provisions of ORS 321.255 to 321.355.

(2) The collection of ad valorem property taxes which prior to the classification of the land as reforestation lands became a lien against the land or any portion thereof.

(3) The collection of taxes, charges or assessments made pursuant to law for protection.

(4) The collection of taxes under ORS 321.005 to 321.225.
[Formerly 528.150]

321.340 Administration of ORS 321.255 to 321.355. (1) The department shall issue permits for harvesting forest crops from reforestation lands, fix unit values of forest crops immediately prior to harvesting and make orders, rules and regulations necessary to carry out and accomplish the purposes of ORS 321.255 to 321.355.

(2) The State Forester, with the approval of the board, may make orders, rules and regulations necessary to carry out and accomplish the purposes of ORS 321.255 to 321.355.
[Formerly 528.160]

321.345 Right of entry of department and board; examination of books and records; taking testimony. Members of the board or the Director of the Department of Revenue, or authorized representatives of either the department or board may go upon any lands classified under this chapter. The department or board, for the purpose of ascertaining the correctness of any return or report made pursuant to ORS 321.255 to 321.355 by any owner or agent, may examine or cause to be examined, by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matter, and may require the attendance of the owner or of any person having knowledge of the premises, and may take testimony and require proof material for its information, with power to adminster oaths to such persons.
[Formerly 528.170]

321.350 Oaths and acknowledgments; false return or representation prohibited. (1) All officers empowered by law to administer oaths, members of the board or the director and such officers as they may designate may administer an oath to any person or take the acknowledgment of any person in respect to any return or report required by this chapter or by the rules and regulations of the board or department under ORS 321.255 to 321.355.

(2) No person shall knowingly make any false return or false representation under the provisions of ORS 321.255 to 321.355.
[Formerly 528.180]

321.355 Review of administrative decisions; undertaking required before harvesting crop which is subject of proceedings; undertaking to secure payment of yield tax. (1) Any person aggrieved by any act of the State Forester, board or department affecting his property or interest as a taxpayer under the reforestation law may appeal to the department by filing a petition with the department in the form and manner prescribed for appeals thereto under the ad valorem property tax laws from county boards of equalization, to the extent that they may be properly deemed to apply; provided, that such petition must be filed within 30 days after the order complained of is mailed to the petitioner or the act complained of is made known to him. All petitions shall be heard in the manner prescribed by such laws, and appeals to the Oregon Tax Court and Supreme Court may be taken as therein provided.

(2) Before harvesting any forest crop which is the subject of proceedings before the department, or the Oregon Tax Court, the owner thereof shall furnish a good and sufficient undertaking in such an amount as the department shall deem adequate and proper to insure that the county shall not incur any loss of taxes pending adjudication of the issues. The undertaking shall be with one or more sureties qualified to become bail upon an arrest who shall file an affidavit from which it shall appear that such sureties are

qualified and that taken together, they are worth double the amount specified in the undertaking over and above all debts and liabilities and property exempt from execution.

(3) Whenever the department has reasonable doubt as to the financial responsibility of a permittee, it shall require such permittee to furnish a good and sufficient undertaking in such an amount as the department shall deem adequate and proper to insure that the county shall not incur any loss of yield tax revenue. The undertaking shall be determined as provided in subsection (2) of this section.
[Formerly 528.190]

321.360 Distribution procedure for reforestation fees and taxes. (1) All forest fees collected under the provisions of ORS 321.255 to 321.355 shall be deposited by the tax collecting officer with the county treasurer in the same manner and at the same time that other taxes are remitted to the treasurer. The county treasurer shall apportion the same to the various taxing districts in accordance with the distribution formula provided by ORS 311.390 for the year in which the levy is made.

(2) All yield taxes and amounts paid when reforestation lands are declassified shall be deposited promptly by the tax collecting officer with the county treasurer. The county treasurer shall apportion the same to the various taxing districts in which the lands are situated in the proportion that the tax rate for each such district as shown by the tax levy filed with the assessor for the year last in process of collection, bears to the total rate of the levies of all such taxing bodies for such year and shall hold such moneys in special accounts in the name of the taxing body to which they are apportioned.

(3) Not later than July 10 of each year, the county treasurer shall certify to the county assessor the balance in each account as of June 30 immediately preceding. The assessor shall subtract from the levy of each taxing body the amount of the balance in the account for such taxing body as certified by the county treasurer and shall extend on the assessment roll in each case no more than the remainder of the property tax levy of the taxing body for the current fiscal year. Immediately upon extension of the remainder of the tax levies, the county assessor shall certify to the county treasurer that the amounts of the balances as certified by the county treasurer should be distributed to the respective taxing bodies.

(4) The moneys held in special accounts by the county treasurer under this section shall not be considered as probable receipts in preparing estimates of receipts under ORS 294.305 to 294.520.
[1963 c.606 §10; 1969 c.595 §15]

EASTERN OREGON SEVERANCE TAX

321.405 Definitions for ORS 321.405 to 321.530. As used in ORS 321.405 to 321.530, unless the context requires otherwise:

(1) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(2) "Department" means the Department of Revenue.

(3) "Harvest" means cut, sever or remove for use or sale.

(4) "Owner" means any person holding title to harvested timber by virtue of:

(a) An instrument of conveyance;

(b) The harvesting of the timber; or

(c) The harvesting of the timber and payment therefor.

(5) "Timber" means wood growth, mature or immature, growing or dead, standing or down, in eastern Oregon.

(6) "Timberland" means land in eastern Oregon which either bears timber or is being held or used for timber production but does not include timber thereon.
[1961 c.627 §1]

321.410 Legislative findings; purpose of ORS 321.405 to 321.530. (1) It is hereby found that:

(a) Multiple taxation through yearly ad valorem levy on trees utilized in sustained yield timber operations discourages conservation, private ownership and investment of capital.

(b) The interests of the state, its citizens and future citizens are best served by sustained yield practices which preserve our forest resources for commerce, recreation and watersheds, stabilize employment levels and prevent large population shifts.

(c) Timber under sustained yield management should be treated as a crop.

(d) A tax at time of harvest recognizes the hazards and uncertainties involved in growing timber on a sustained yield basis and distributes these proportionately to the citizens' tax share.

(e) That portion of our state lying east of the summit of the Cascade Mountains differs greatly in forest tree types, soils, climate, growing conditions and topography from western Oregon.

(f) Eastern Oregon forests predominate in ponderosa pine and associated species, while western Oregon forests predominate in Douglas fir and associated species.

(g) Timber cutting in eastern Oregon is conducted on a tree selection basis with few virgin timber stands remaining, whereas block cutting and virgin timber stands figure prominently in western Oregon timber operations.

(2) It is the purpose of ORS 321.405 to 321.530 to establish for eastern Oregon timber a severance tax in lieu of the ad valorem real property tax on a basis which does not discriminate in favor of either eastern or western Oregon but which recognizes the foregoing findings.
[1961 c.627 §2]

321.415 Scope of ORS 321.405 to 321.530; effect on other taxes. (1) Lands classified as reforestation land under the provisions of ORS 321.255 to 321.355 and lands assessed by the Department of Revenue pursuant to ORS 308.505 to 308.820 and 308.990 and the timber thereon shall not be subject to the provisions of ORS 321.405 to 321.530.

(2) The tax imposed under the provisions of ORS 321.405 to 321.530 shall be additional to that levied under the provisions of ORS 321.005 to 321.225.

(3) Timber on timberland which is exempt from the ad valorem real property tax shall be exempt from the severance tax imposed by ORS 321.405 to 321.530.

(4) Nothing contained in ORS 321.405 to 321.530 shall prevent:

(a) The collection of ad valorem property taxes which became a lien against timber prior to July 1, 1962.

(b) The collection of taxes, charges or assessments made pursuant to law for protection.

(c) The collection of taxes levied under the provisions of ORS 321.005 to 321.225.

(d) The collection of amounts payable upon declassification of lands as reforestation land under the provisions of ORS 321.255 to 321.355.
[1961 c.627 §5; 1963 c.60 §1]

321.420 Exemption of eastern Oregon timber from general ad valorem tax; assessment of timberland by county assessors. (1) All timber in eastern Oregon shall be exempt from levy and collection of the general ad valorem real property tax and in lieu thereof, there is imposed on such timber a severance tax as set forth in ORS 321.405 to 321.530.

(2) Beginning January 1, 1964, and each year thereafter, timberland shall be appraised by the various county assessors and such timberland shall continue to be assessed and taxed in accordance with general ad valorem property tax laws.
[1961 c.627 §3; 1963 c.225 §1]

321.425 Severance tax imposed on eastern Oregon timber; rate; measurement of amount harvested. All owners of timber in eastern Oregon shall pay a severance tax of five percent of the immediate harvest value of merchantable quantities of timber harvested. The immediate harvest value shall be determined as provided in ORS 321.430. The amount harvested shall be determined by the Scribner Decimal Scale C or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements.
[1961 c.627 §4]

321.430 Determination of immediate harvest values; application by areas. (1) The department shall determine on or before July 1 of each year the immediate harvest values to be used during the fiscal year beginning July 1 in computing the severance tax imposed by ORS 321.425. The values shall be determined for each species or subclassification, as provided in subsections (2) and (3) of this section, and shall be expressed in terms of a dollar amount per thousand board foot or other unit measure. The total listing of values shall be combined into a convenient set of tables signed by the chairman and secretary in duplicate and authenticated by the official seal of the department. One copy shall be delivered to the Secretary of State, and the other copy shall be retained on file in the office of the department.

(2) The department shall select various areas in eastern Oregon which shall be treated as units for the application of the immediate harvest values determined under this section. The department shall determine unit values

for immediate harvest for each species in each area, except that for ponderosa pine the department may make further value classifications based on age, size and other relevant factors. The areas shall be selected, within the discretion of the department based on administrative feasibility, to include timber having similar growing and marketing conditions. The determination of the size and location of appropriate areas shall not be subject to review by the courts.

(3) As used in this section, "immediate harvest value" means the amount that each species or subclassification of timber would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such value shall be determined by methods which make reasonable and adequate allowances for age, size, quality, growing conditions, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors.
[1961 c.627 §4a]

321.435 Payment of tax; filing of returns; order of crediting payments; payment of tax under $5 excused. (1) The tax levied under the provisions of ORS 321.405 to 321.530 shall be due and payable quarterly on or before the last day of October, January, April and July of each year for all timber harvested during the preceding calendar quarter commencing with the calendar quarter beginning July 1, 1962. Timber shall be considered harvested for purposes of this subsection at the time when in the ordinary course of business the quantity of timber harvested is first definitely determined. The tax shall be delinquent if not paid by the due date or within the additional time allowed for filing under subsection (2) of this section.

(2) On or before the last day of October, January, April and July, each owner shall make out a return on the form prescribed by the department showing the amount of tax for which he is liable for the preceding calendar quarter and such other relevant information as the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department at Salem, Oregon. The return shall be signed and verified by the owner or a duly authorized agent of the owner, as provided in ORS 305.810. Whenever in its judgment good cause exists, the department may allow further time not exceeding 30 days for filing a return and payment of the tax due.

(3) All payments received under ORS 321.405 to 321.530 shall be credited first to penalty and then to interest accrued on the tax being paid and then to the tax. Penalty, interest and taxes for prior delinquent quarters shall be paid in full chronologically before any payments shall be credited to any subsequent quarter.

(4) Owners incurring less than $5 total tax liability under ORS 321.405 to 321.530 in any calendar quarter are excused from the payment of such tax but shall be required to file a quarterly return.
[1961 c.627 §6; 1963 c.86 §1]

321.440 Audit of returns; interest and penalties on deficiency or delinquency. (1) If upon audit of the return or otherwise the department believes that the return filed does not correctly reflect the amount of tax due or is incorrect in any particular, it shall recompute the tax. The amount determined to be due by the department upon audit shall be the tax and any delinquency or deficiency shall be paid within 30 days after notice thereof is mailed to the owner by the department.

(2) A delinquent tax or a deficiency shall bear interest at the rate of two-thirds of one percent per month, or any fraction thereof, from the time the return was due. If a delinquency or deficiency is due to negligence, but without intent to defraud, a penalty of 10 percent of the delinquent or deficient tax shall be added to the principal sum due plus interest at the rate of two-thirds of one percent per month, or any fraction thereof, computed on the full amount of principal plus penalty from the time the return was due. If all or any part of the delinquency or deficiency for which a determination is made is due to fraud or an intent to evade the provisions of ORS 321.405 to 321.530 or the rules and regulations promulgated hereunder, a penalty of 100 percent of such delinquency or deficiency shall be added, plus interest at the rate of one percent per month, or any fraction thereof, computed on the full amount of the delinquency or deficiency plus penalty, from the time the return was due.
[1961 c.627 §7]

321.445 Determination of tax where taxpayer fails to make return. If any owner neglects or refuses to make a return required to be made by ORS 321.405 to 321.530, the department is authorized to determine the tax due, based upon any information in its possession or that may come into its possession.

The department shall give the owner written notice by registered mail of the tax and delinquency charges and the tax and delinquency charges shall be a lien from the time of severance. If the tax and delinquency charges are not paid within 30 days from the mailing of the notice, the department shall proceed to collect the tax in the manner provided in ORS 321.450.
[1961 c.627 §8]

321.450 Warrant for collection of delinquent taxes; lien on real property. (1) If any tax imposed by ORS 321.405 to 321.530, or any portion of such tax, is not paid within the time provided by law, the department shall issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the owner owing the same, found within his county, for the payment in the amount thereof, with the added penalties, interest and cost of executing the warrant, and to return the warrant to the department and to pay to it the money collected by virtue thereof, within 60 days after receipt of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket in the column for judgment debtors, the name of the owner mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when the copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in real property of the owner against which it is issued, in the same manner as a judgment duly docketed in the office of the clerk. The sheriff thereupon shall proceed upon the warrant in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of records, and he is entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(2) In the discretion of the department a warrant of like terms, force and effect may be issued and directed to any agent of the department authorized by it to collect this tax. In the execution of the warrant, such agent has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(3) If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim for taxes against the owner as if the state had a recorded judgment against the owner for the amount of the tax.
[1961 c.627 §9]

321.455 Release of tax lien. (1) Any person having a lien upon or any interest in real estate against which the amount of the warrant provided for in ORS 321.450 has become a lien, notice of which has been recorded in accordance with the laws of the state prior to the filing of the warrant, may request the department in writing to release the real estate from the lien of the warrant. If, upon such request the department finds that a sale of the property would not result in satisfaction of the taxes due in whole or in part, the department shall execute a release of the lien as to such property and such release shall be conclusive evidence of the extinguishment of the lien as to that property. If the department fails to act upon a request for release of a lien under this subsection within 60 days from the date of the request, any person having a lien upon or interest in the property against which the warrant has become a lien may make the department a party to any proceeding brought to enforce any interest in or lien upon such real property, and the determination of the court in such proceeding shall be conclusive and binding upon the department and the State of Oregon.

(2) In addition to the release of the lien provided for in subsection (1) of this section, the department may execute releases in the following cases, which releases shall be conclusive evidence of the extinguishment of the lien:

(a) If the department finds that the liability for the amount of the warrant, together with all interest, penalties and costs in respect thereto has been satisfied.

(b) If the department finds that the fair market value of that part of the property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon the property.

(c) If there is furnished to the department a bond, in such form and with the security the department considers sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of the release.

(d) If there is paid to the department in partial satisfaction of the amount of the warrant an amount not less than the value, as determined by the department, of the interest of the State of Oregon in the part of the property to be so discharged. In determining such value the department shall give consideration to the fair market value of the part of the property to be so discharged and to such liens thereon as have priority to the lien of the State of Oregon.
[1961 c.627 §10]

321.460 Tax as lien on forest products. The taxes imposed by ORS 321.405 to 321.530 shall operate as a first lien on the timber and timber products from the time of harvest. The lien shall follow the timber and timber products in the same manner as provided for liens on logs under ORS 87.125 to 87.140 and 87.615 to 87.675, and may be attached and be foreclosed in the manner provided in those statutes.
[1961 c.627 §11]

321.465 Tax as debt; action to recover; suspension of harvesting permit. (1) All taxes, interest and penalties due and unpaid under ORS 321.405 to 321.530 shall constitute a debt due the State of Oregon from the owner and may be collected, together with interest, penalty and costs, by appropriate judicial proceeding, which remedy is in addition to all other existing remedies. However, no proceeding for the collection of taxes under this section shall be instituted after the expiration of six years from the date such taxes were due.

(2) The provisions of ORS 527.050 shall apply to taxes which are delinquent under ORS 321.405 to 321.530.
[1961 c.627 §12]

321.470 Appeals. (1) Any owner may appeal to the department for the revision or refund of any tax within 20 days from the date of mailing the notice of deficiency or delinquency by filing a petition with the department in the manner prescribed for appeal to the department under the ad valorem property tax laws from county boards of equalization, to the extent that such laws may be applicable except that where the revision or refund does not exceed $250, exclusive of interest and penalties, the owner may utilize the procedure respecting appeals to the small claims division of the Oregon Tax Court as provided in ORS 305.515 to 305.555. All petitions shall be heard in the manner prescribed by such laws.

(2) Suits to set aside the department's order issued as a result of appeal under subsection (1) of this section, may be filed in the Oregon Tax Court as provided by ORS 306.545.

(3) On or before July 31 of the year of determination, any owner may appeal to the regular division of the Oregon Tax Court for the revision of a harvest value for an area determined pursuant to ORS 321.430. The appealing party shall file an original and one certified copy of a complaint with the clerk of the Oregon Tax Court at its office in Salem, Oregon. Such filing in the tax court shall constitute the perfection of the appeal. Service upon the Department of Revenue will be accomplished by the clerk of the tax court filing the certified copy of the complaint with the secretary of the department. The complaint shall state the facts and ground or grounds upon which the plaintiff contends the value should be revised. The case shall proceed thereafter in the manner provided in ORS 305.405 to 305.500.
[1961 c.627 §13; 1965 c.6 §13; 1967 c.115 §1]

321.475 Collection of tax and effect of paying tax pending appeal. (1) No proceeding for the collection of the taxes provided for in ORS 321.405 to 321.530 shall be stayed by reason of the taking or pending of any appeal, except under order of the court and only in those cases wherein a good and sufficient undertaking has been executed in favor of the department and approved by the court covering the entire amount of the tax, interest and penalties imposed and any and all costs that may be involved. The undertaking shall be filed with the clerk of the court.

(2) The payment of taxes while appeal is pending shall not operate as a waiver of the appeal or the right to a refunding of taxes found to be excessively determined.
[1961 c.627 §14]

321.480 Enforcement of ORS 321.405 to 321.530; rules and regulations. (1) ORS 321.405 to 321.530 shall be enforced and the taxes imposed by ORS 321.405 to 321.530 shall be collected by the department which shall have the power to prescribe forms and to promulgate rules and regulations for the ascertainment, assessment and collection of the taxes imposed by ORS 321.405 to 321.530.

(2) For the purpose of determining the taxes imposed by ORS 321.405 to 321.530, the department may:

(a) Require any person to furnish any relevant information.

(b) Examine the relevant books, records and files of such person.

(c) Subpena and examine witnesses and administer oaths.

(d) Enter upon and inspect the land of any owner or the land from which any timber has been harvested.

[1961 c.627 §15]

321.485 Eastern Oregon Timber Tax Account; deposit of tax revenues; refunds; credits and remittances to counties. (1) The revenue from the taxes levied by ORS 321.405 to 321.530 shall be remitted by the commission to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445. After payment of refunds pursuant to subsection (2) of this section, and after remittance to the counties pursuant to subsection (4) of this section, the balance remaining shall be deposited in the General Fund to the credit of the Eastern Oregon Timber Tax Account, which account is hereby established.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied under ORS 321.405 to 321.530 hereby is appropriated continuously to the department from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of taxes levied under ORS 321.405 to 321.530 which have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded.

(3) Subject to ORS 321.490 and subsection (2) of this section, the records of the department shall reflect each county's credit which shall be proportionate to the total credit in the same proportion that each county's total appraised timber valuation bears to the total appraised timber valuation for eastern Oregon. Appraised valuations of timber for purposes of ORS 321.405 to 321.530 shall be those determined in accordance with the provisions of ORS 306.127 (1961 Replacement Part), as adjusted by the department, or with the department's approval, as of July 1 of each year. After July 1, 1964, however, the appraised values as of that date shall serve as the basis for the allocation of severance tax revenues under ORS 321.405 to 321.530, except that readjustments in such appraised values shall be made annually for the purpose of subtracting or adding the appraised valuations of timber on reforestation lands which have been on or before July 1 of each year classified or declassified and for the purpose of subtracting or adding the appraised valuations of timber which before July 1 of each year has been transferred into or out of ownerships exempt from taxation.

(4) All moneys credited to the counties pursuant to subsection (3) of this section, and ORS 321.500 and 321.510, are continuously appropriated to the counties in whose names they are credited, and the full amounts remaining to the credit of each county as of the tenth day of the second month following the close of each of the calendar quarters designated in ORS 321.435 shall be remitted to the county treasurers of the respective counties on or before the fifteenth day of that month. Remittances shall be made by the Department of Revenue from the suspense account referred to in subsection (1) of this section.

[1961 c.627 §16(1), (2), (3) and (5); 1963 c.86 §2]

321.490 Administrative Subaccount. There hereby is established a subaccount of the Eastern Oregon Timber Tax Account to be known as the Administrative Subaccount. The moneys in the Administrative Subaccount hereby are appropriated continuously for use in reimbursing the General Fund for expenses incurred in the collection of the taxes imposed by ORS 321.405 to 321.530 which have been paid from the General Fund. Whenever the unobligated balance in the Administrative Subaccount is less than $10,000 the department shall order the transfer to the subaccount of the sum of $10,000 from the suspense account created by subsection (1) of ORS 321.485.

[1961 c.627 §16(4); 1963 c.86 §3]

321.495 Establishment of "base distribution" to counties in 1962-1963; excess revenue transferred to Reserve Fund Subaccount. (1) Notwithstanding the provisions of ORS 321.485 and 321.490, only 80 percent of the revenues otherwise available for crediting to the various counties pursuant to subsection (3) of ORS 321.485 shall be credited to such counties for the fiscal year 1962-1963. The remaining 20 percent shall be credited to a Reserve Fund Subaccount hereby established within the Eastern Oregon Timber Tax Account.

(2) The dollar amount of the 80 percent of revenues credited to the counties for the

fiscal year 1962-1963 pursuant to this section and ORS 321.485 and 321.490 shall be known as the "base distribution" for the purposes of ORS 321.495 to 321.510.
[1961 c.627 §17]

321.500 Deficiency below "base distribution" in succeeding years made up from Reserve Fund Subaccount. If the amount of revenues available for crediting to the various counties pursuant to subsection (3) of ORS 321.485 for the fiscal year 1963-1964 or any subsequent year is less than the base distribution computed under ORS 321.495, the deficiency shall be made up as far as possible out of any available funds in the Reserve Fund Subaccount, which funds are continuously appropriated for such purpose.
[1961 c.627 §18]

321.505 Excess over "base distribution" in succeeding years transferred to Reserve Fund Subaccount. If the amount of revenues available for crediting to the various county subaccounts pursuant to subsection (3) of ORS 321.485 for the fiscal year 1963-1964 or any subsequent year exceeds the base distribution computed under ORS 321.495, the excess shall be paid over to the Reserve Fund Subaccount and only the amount equal to the base distribution shall be credited to the counties in such fiscal year.
[1961 c.627 §19; 1963 c.86 §4]

321.510 Distribution of surplus funds accumulated in Reserve Fund Subaccount. (1) At the end of each fiscal year, the Secretary of State shall certify to the department the unused balance remaining in the Reserve Fund Subaccount.

(2) Not later than July 20 of each year, the department shall order that one-third of the balance in the Reserve Fund Subaccount, as certified to the department under subsection (1) of this section, be transferred to the suspense account established under subsection (1) of ORS 321.485, such moneys being appropriated for such purpose.

(3) The one-third balance of the Reserve Fund Subaccount transferred under subsection (2) of this section shall be credited to the various counties in the same manner as current revenues are credited pursuant to subsection (3) of ORS 321.485.

(4) Notwithstanding subsection (4) of ORS 321.485, the moneys transferred under subsection (2) of this section and credited to the counties under subsection (3) of this section are continuously appropriated to the counties to which they are credited, and shall be remitted by the department to the counties not later than July 20 of each year.
[1961 c.627 §20; 1965 c.326 §1]

321.515 Department to furnish estimates of distributions from Eastern Oregon Timber Tax Account; county assessors to reduce tax levies by amount certified; apportionment to taxing units. (1) Not later than July 15 of each fiscal year, the department shall furnish each county assessor in eastern Oregon an estimate of the amount of severance tax receipts which it expects, on the basis of past experience and upon consideration of all relevant available information, that each county will receive in remittances from the Eastern Oregon Timber Tax Account pursuant to ORS 321.405 to 321.530 for the current fiscal year. Such estimates shall include, whenever applicable, anticipated distributions from the reserve subaccounts established under ORS 321.495 and 321.510. Each county assessor shall apply the amount of such anticipated receipts to reduce the property tax levy of taxing units within the county as provided in subsections (2) to (4) of this section.

(2) The county assessor shall first allocate such anticipated receipts to the various taxing units having appraised timber valuations established under subsection (3) of ORS 321.485 in the same proportion which the computed property tax on timber in such unit bears to the total computed property tax on timber in all units within the county. As used in this subsection, "computed property tax on timber" means the amount of property tax in dollars which would have been imposed on the appraised valuation of timber in the unit in the current fiscal year if timber were not exempted from ad valorem taxation by ORS 321.420, but were included in the computation of a rate percent of levy extended against timber as well as other property within the unit.

(3) The county assessor shall subtract from the levy submitted by each taxing unit the amount of anticipated receipts allocated to it pursuant to subsection (2) of this section and shall extend on the assessment role in each case no more than the remainder as the taxing unit's levy for the current fiscal year.

(4) Immediately upon extension of the tax levy as provided in ORS 311.105, the county assessor shall certify to the county treasurer the amounts of the anticipated receipts which have been apportioned to the

various taxing units within the county. The county treasurer shall thereafter distribute the moneys remitted to him from the Eastern Oregon Timber Tax Account for tax quarters of that fiscal year, to the taxing units in proportion to the total amounts certified to him by the county assessor until the total amounts remitted or the total amounts so certified, whichever is the lesser, have been distributed.
[1961 c.627 §21]

321.520 Apportionments not to be included as anticipated receipts. Amounts of offset moneys apportioned to the various taxing units under ORS 321.515 shall not be included as anticipated receipts in the budgets of the taxing units.
[1961 c.627 §22]

321.525 Excess revenue over estimate transferred to Reserve Fund Subaccount. In the event that the department's estimate of revenues pursuant to ORS 321.515 is found at the end of the fiscal year to have underestimated such revenues, any excess revenues over the estimate shall not be remitted to the counties but shall be paid over to the Reserve Fund Subaccount of the Eastern Oregon Timber Tax Account, to be distributed as provided in ORS 321.495 to 321.510.
[1961 c.627 §23; 1963 c.86 §5]

321.530 Investment of funds; application of earnings. All moneys in the subaccount of the Eastern Oregon Timber Tax Account established under ORS 321.495 may be invested, upon certification from the Department of Revenue of the amounts available for investment in the subaccount, as provided in ORS 293.701 to 293.776, and the earnings from such investment shall be credited to the subaccount.
[1961 c.627 §24; 1967 c.335 §37]

WESTERN OREGON AD VALOREM TAX

321.605 Definitions for ORS 321.605 to 321.680. As used in ORS 321.605 to 321.680, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Harvesting" means cutting, severing or removing for use or sale.

(3) "Forest land" means land west of the summit of the Cascade Mountains which is not classified as reforestation land under ORS 321.255 to 321.355, which is not assessed pursuant to ORS 308.505 to 308.820 and 308.990 or pursuant to ORS 321.705 to 321.765, and which either is being held or used for the predominant purpose of growing and harvesting trees of a marketable species and has been designated as forest land under the provisions of ORS 321.617 to 321.621 or is land the highest and best use of which is the growing and harvesting of such trees. Forest land is the land alone.

(4) (a) A "tract" includes all forest land and timber which is managed as a unit, even though its various parts are not contiguous, are not in the same county or do not have the same owner.

(b) All forest land and timber which is in the same county and in the same ownership but which is not part of a management unit shall also be considered a "tract" within the meaning of ORS 321.605 to 321.680.

(c) A tract under paragraph (a) or (b) of this subsection includes all forest land in the same ownership, even though timber thereon or the right to harvest such timber may be owned by another and as a consequence also be included in the tract of another owner.

(5) "Owner" means any individual or combination of individuals, partnership, firm, corporation or association of whatever nature owning or controlling timber or forest land.

(6) "Immediate harvest value" of timber or reproduction means the amount it would sell for at a voluntary sale made in the ordinary course of business for purpose of immediate harvest. It shall be determined by a method which shall make reasonable and adequate allowances for species, quality, volume, age, disease, defect and breakage, stand density, costs of removal, accessibility to point of conversion, topography of the site and surrounding country and all other relevant factors.

(7) The "summit of the Cascade Mountains" shall be considered to be a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(8) "Timber, reproduction and trees" mean only timber, reproduction and trees which are west of the summit of the Cascade Mountains, excepting timber, reproduction and trees assessed by the Department of Revenue pursuant to ORS 308.505 to 308.820 and 308.990.

(9) "Old growth timber" means timber more than 90 years of age as of August 9, 1961.

(10) "Young growth timber" means timber on land which is not classified as reforestation land under ORS 321.255 to 321.355, which is 12 inches or more in diameter, breast high, outside the bark, and which is not old growth timber as defined above.

(11) "Reproduction" means trees under 12 inches in diameter, breast high, outside the bark, which are not on land which is classified as reforestation land under ORS 321.255 to 321.355.

[1961 c.659 §2; 1963 c.60 §2; 1967 c.543 §1]

321.610 Purposes of ORS 321.605 to 321.680. The purposes of ORS 321.605 to 321.680 are:

(1) To establish an equitable method of taxing timber, which is subjected to annual taxation, as well as to innumerable other expenses and risks, although it can produce revenue but once in its long life.

(2) To encourage orderly harvesting of old growth timber over a prolonged period by avoiding excessive annual taxation which can lead to a rapid and disastrous depletion of this essential resource before sufficient second growth forests are ready to replace it.

(3) To encourage the establishment and maintenance of second growth forests by a method of taxing forest land and young trees which makes possible the second growth forests which are needed eventually to replace old growth forests.

(4) To establish a method of taxing timber and forest land which will permit sustained yield forestry and thus maintain timber and forest land as an important and perpetual part of the tax base available to meet the future needs of the various taxing districts in western Oregon.

[1961 c.659 §1]

321.615 Reproduction timber exempt from yearly ad valorem tax. Reproduction shall be exempt from ad valorem property taxation except to the extent that it shall be subject to the "additional" tax provided in ORS 321.645 to 321.680.

[1961 c.659 §3]

321.617 Special rules for determining "true cash value" of timber and forest land for assessment purposes; modification of ORS 308.205. (1) Notwithstanding the provisions of ORS 308.205, the true cash value of young growth timber shall be 30 percent of its immediate harvest value.

(2) Notwithstanding the provisions of ORS 308.205, the true cash value of old growth timber shall be 30 percent of its immediate harvest value; provided, however, that the true cash value used as the basis for assessments as of January 1, 1962, to and including January 1, 1976, shall be 25 percent of the immediate harvest value of old growth timber on tracts as to which the result obtained by dividing the tract's old growth timber volume remaining as of the January 1, one year prior to the assessment date, as indicated by county records, by the average volume of old growth timber harvested annually therefrom in the three-year period prior to the said January 1, as indicated by harvest reports filed under ORS 321.955, exceeds 30. In computing the average volume harvested, all timber harvested by the owner during said three-year period shall be included if it was on forest land which was part of the tract at the time of harvest, but no timber shall be included if it was not harvested by the owner and was on land acquired by the owner subsequent to the date of harvest.

(3) The true cash value of forest land shall be determined under ORS 308.205, except that land which has been designated as forest land under the provisions of ORS 321.617 to 321.621 shall be valued as forest land and not at a value for some higher or better use and shall be noted on the assessment and tax roll as being forest land potentially subject to increased taxes under subsection (1) of ORS 321.621.

[Formerly part of 321.620]

321.618 Application for designation as forest land; contents; approval. (1) An owner of land desiring that it be designated as forest land shall make application to the county assessor on or before April 1 following the assessment date on which the assessment based thereon is first desired, and he may also do so within 20 days of receipt of notice of its assessment as omitted property or notice of an increase in its assessed valuation, or by December 15 of the year of increased assessment if he does not receive such notice.

(2) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor, and shall include the following:

(a) A description of all land the applicant desires to be designated as forest land.

(b) Date of acquisition.

(c) Whether the land is being held or used for the predominant purpose of growing and harvesting trees of marketable species.

(d) Whether there is a forest management plan for it.

(e) If so, whether the plan is being implemented, and the nature and extent of implementation.

(f) Whether the land is used for grazing.

(g) Whether the land has been subdivided or a plat has been filed under ORS 92.100.

(h) Whether a permit has been granted for harvesting for excepted purposes under the Oregon Forest Conservation Act.

(i) Whether the land is timberland subject to ORS chapter 477, and if it is not, the reasons therefor.

(j) Whether the land, or any of it, is subject to a lease or option which permits it to be used for any purpose other than the growing and harvesting of trees.

(k) A summary of past experience and activity of the applicant in growing and harvesting trees.

(L) A summary of current and continuing activity of the applicant in growing and harvesting trees.

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be designated as forest land.

(n) An affirmation that the statements contained therein are true.

(3) It shall be conclusively presumed that land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species if the application so states or if it is subject to a plat filed under ORS 92.100. Otherwise, the determination shall be made with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative.

(4) The application shall be approved by the assessor, and he shall designate the land as forest land, except as to land which he finds is not properly classifiable as forest land. The application shall be deemed to have been approved unless, within three months of the date such application was delivered to the assessor, he shall notify the applicant in writing of the extent to which the application is denied.

[Formerly part of 321.620]

321.619 Removal of designation; exceptions; appeal from reassessment or denial of application. (1) (a) When land has once been designated as forest land as a result of an application being filed therefor it shall be valued as such until: (A) notification by the taxpayer to the assessor to remove such designation; (B) sale or transfer to a new owner who does not make a new application as to such land within 60 days of the sale or transfer; (C) sale or transfer to an ownership making it exempt from ad valorem property taxation; or (D) removal of the designation by the assessor upon discovery that the land is no longer forest land.

(b) Within 30 days after removal of a designation of forest land, the assessor shall so notify in writing both the taxpayer and the Department of Revenue and shall specify the reasons for the removal.

(c) Paragraph (a) of this subsection does not apply to any forest land that ceases to be devoted to forest land use because it is: (A) transferred to a government entity in exchange for other forest land located within the State of Oregon; or (B) taken through exercise of the power of eminent domain, or sold or transferred to a government entity or private corporation having the power of eminent domain in anticipation of the exercise of such power; provided, however, that subparagraph (B) of this paragraph shall apply only if the proceeds received for such forest land so taken, sold or transferred are converted into property similar or related in service or use to the forest land taken, sold or transferred and then only if such replacement property is acquired during the period commencing with the date of disposition of the forest land taken, sold or transferred and ending one calendar year after the close of the calendar year in which such taking, sale or transfer occurred.

(2) A taxpayer whose application filed under ORS 321.618 has been denied in whole or in part, or a taxpayer whose forest land has had the designation thereof removed in whole or in part, may appeal to the Department of Revenue within the time and in the manner provided in ORS 306.520. Orders of the department shall be subject to appeal as provided in ORS 306.545 to 306.560.

[Formerly part of 321.620]

321.620 [1961 c.659 §4; 1965 c.191 §1; 1967 c.93 §4; 1967 c.543 §2; renumbered 321.617, 321.618, 321.619 and 321.621]

321.621 Additional tax when designation removed; advance payment. (1) If land is designated as forest land as a result of an application being filed therefor under the provisions of ORS 321.617 to 321.621 and the designation is later removed, there shall be added to the tax extended against the land on the next property assessment and tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an amount equal to the sum of the following:

(a) The total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to subsection (3) of ORS 321.617 and subsection (1) of ORS 321.619 during the five years preceding such extension on the roll but without any increase for years prior to the tax year 1968-1969.

(b) Interest upon the amounts of increased tax from each year included in paragraph (a) of this subsection at the rate of six percent per annum from the dates at which such increased taxes would have been payable if the land had been valued without regard to subsection (3) of ORS 321.617 and subsection (1) of ORS 321.619.

(c) In cases where the designation of forest land is removed as a result of a sale or transfer described in subparagraph (B) or (C) of paragraph (a) of subsection (1) of ORS 321.619, the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.

(2) The amount determined to be due under subsection (1) of this section may be paid to the assessor prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

[Formerly part of 321.620]

321.622 Appraisal of timber and forest land in western Oregon; nonapplicability of ORS 306.127 and 306.128; reports to county assessors. (1) Beginning in the year 1962 and in each year thereafter, the Department of Revenue shall appraise taxable timber and forest land and determine immediate harvest values in each of the counties west of the summit of the Cascade Mountains. Beginning in such year, the provisions of ORS 306.127 and 306.128 shall not apply to the assessment and taxation of timber and forest land in such counties.

(2) The department shall make available for the use of the various county assessors and boards of equalization the results of appraisals within their respective counties made pursuant to this section, which results shall include the immediate harvest value of the appraised timber and the true cash value of the forest land determined in accordance with the provisions of ORS 321.605 to 321.680, and shall include the supporting data necessary to complete the assessment thereof for tax purposes. The department also shall provide the various county assessors with the immediate harvest values of timber harvested during the preceding calendar year necessary for the assessors' determination of the additional taxes imposed under ORS 321.625 and 321.630.

[1961 c.659 §7(1), (3)]

321.625 Owner to furnish county assessor with copy of application for harvesting permit; waiver. No owner shall begin, or knowingly permit, the harvesting of any timber or reproduction without furnishing the assessor with a signed copy of his application for a permit to harvest timber for commercial purposes under ORS 527.040 to 527.060. When an assessor is confident of an owner's financial responsibility, he is authorized to give a written waiver of such notice with such limitations as to time and volume or location of harvesting as he reasonably may wish to impose.

[1961 c.659 §6(1)]

321.630 Special report and undertaking required before harvesting in certain cases. Whenever the assessor has reasonable doubt as to the financial responsibility of an owner and finds that the property of the owner in the county is insufficient to provide for payment of the tax resulting from the assessment, as of the preceding January 1, upon the timber to be harvested and to provide for payment of the additional tax provided by ORS 321.645 to 321.680, he may require the owner to file with him not less than 10 days prior to any harvesting, a description of the land on which the harvesting is to take place, and the percentage of the total volume of timber or reproduction that is to be harvested from it, and may further require of the owner a good and sufficient undertaking in such an amount as the assessor considers adequate to insure payment of such taxes. In no event shall the amount exceed the estimated amount of additional taxes that would arise from a clear cutting of the land described, plus the ad valorem taxes on the timber on such land as of the preceding January 1, together with any interest and penalties. The undertaking

shall be with one or more sureties qualified to become bail upon an arrest, who shall file an affidavit with the assessor from which it shall appear that such sureties are qualified and that taken together they are worth double the amount specified in the undertaking over and above all debts, liabilities and property exempt from execution. Upon notice from the assessor that such a description and percentage must be filed, and such an undertaking is required, no owner shall begin, or knowingly permit, the harvesting of any timber or reproduction as to which such a description and percentage and undertaking has been requested until he has furnished such description and percentage and undertaking or has made other security arrangements which the assessor considers adequate. The notice by the assessor under this section shall constitute a continuing requirement of the owner to file descriptions and percentages and furnish bonds or other security until such time as the assessor is satisfied as to the financial responsibility of the owner and gives the owner written notice to that effect.
[1961 c.659 §6(2)]

321.635 Owner to file annual description of tract; effect of failure to file. On or before January 1, 1962, each owner shall prepare a description of the tract or tracts in which his timber and forest lands are located on December 1, 1961, and file the description of each tract with the county assessor of each county in which a part or all of the tract is located. On or before January 1, 1963, and each year thereafter, the owner in like manner shall file a description of any additions or deletions from a tract as of the next preceding December 1, or a statement that the tract is unchanged. A copy of each description and statement also shall be filed by the owner with the department. The department and assessor, jointly, may designate a tract on their records by number or other symbol. If a description or statement is not filed with the assessor by January 1, the owner's old growth timber shall be assessed at a true cash value of 30 percent of its immediate harvest value.
[1961 c.659 §7(2)]

321.640 Applicability of ORS 305.190, 308.316, 527.050 and 527.215. (1) The provisions of ORS 305.190 and 308.316 shall apply to the determination of the taxes imposed by ORS 321.605 to 321.680. The department and the assessor also may, for such determination, enter upon and inspect the land or other property of any owner or the land from which any timber has been harvested.

(2) The provisions of ORS 527.050 and 527.215 shall apply to taxes which are delinquent under ORS 321.605 to 321.680.
[1961 c.659 §8]

321.645 Additional tax imposed in year following harvest. (1) In the calendar year 1963, and in each calendar year thereafter, the owner on the date of harvest of all timber and reproduction which is harvested during the previous calendar year shall be liable for an additional tax, as more specifically provided in ORS 321.645 to 321.680.

(2) If the true cash value of timber thus harvested was established, as of January 1 of the preceding calendar year, at 30 percent of its immediate harvest value, the additional tax shall be the amount that the tax levied against it in the preceding calendar year would have been if its true cash value had been established at 70 percent of its immediate harvest value and the same rate percent of levy applied as was applied to similarly located property in such year.

(3) If the true cash value of timber thus harvested was established, as of January 1 of the preceding calendar year, at 25 percent of its immediate harvest value, the additional tax shall be the amount that the tax levied against it in the preceding calendar year would have been if its true cash value had been established at 75 percent of its immediate harvest value and the same rate percent of levy applied as was applied to similarly located property in such year.

(4) The additional tax on reproduction thus harvested shall be the amount that the tax levied against it in the preceding calendar year would have been if its true cash value had been established at 100 percent of its immediate harvest value, if it had not then been exempt from taxation and the same rate percent of levy applied as was applied to similarly located property in such year.

(5) The taxes provided in ORS 321.645 to 321.680 are in addition to those levied against such timber in the preceding calendar year and are in addition to such taxes as may otherwise be lawfully levied during the same calendar year against the logs or other products of such harvested timber or reproduction.
[1961 c.659 §5(1), (2), (3), (4) and (5)]

321.650 Reports of harvest; effect of failure to file report. Reports filed under ORS 321.955 shall serve as reports of timber and reproduction harvested for purposes of ORS 321.605 to 321.680. In addition to the information required by ORS 321.955, the owner also may report the timber harvested by board foot volume or other unit measurement. In the event an owner has failed to file a harvest report under ORS 321.955 and the assessment roll has been returned to the assessor pursuant to ORS 309.130, or, in the event the owner files an incomplete return under ORS 321.955, and after demand from the assessor, fails to furnish the additional information required by that statute, the assessor may determine the additional tax according to the best of his information and belief, and proceed as otherwise provided in ORS 321.645 to 321.680.
[1961 c.659 §5(6)]

321.655 Notification of amount of additional tax imposed; written objections; certification to tax collector. (1) As soon after March 3 each year as it can reasonably be determined, the assessor shall notify the owner in writing of the amount of additional tax determined under ORS 321.645 to 321.680. The notice shall describe the harvested timber or reproduction which is the basis of the tax and identify the tract from which it was harvested and shall state the facts and method used in computing the additional tax.

(2) Within 30 days of the mailing or delivery of the notice required by subsection (1) of this section, the owner may file a written objection with the department, and deliver a copy thereof to the assessor, setting forth the facts and basis of his objection to the additional tax, except that where the true cash value of the timber harvested pursuant to ORS 321.645 does not exceed $25,000, the owner may elect to appeal directly from the assessor's notice of additional tax due to the small claims division of the Oregon Tax Court utilizing the procedures provided in ORS 305.515 to 305.555. If the owner does not file his objection with the department or his petition in the small claims division of the Oregon Tax Court within the 30 days, the computation of such additional tax as made by the assessor shall be final; and the amount of additional tax shall be certified by the assessor to the tax collector of the county for collection as provided in ORS 321.665 and 321.670.
[1961 c.659 §5(7), (8); 1967 c.78 §6]

321.660 Hearing on objections by owner; review by Oregon Tax Court. (1) If the owner files his objection within the 30 days, the department shall hold a hearing in the manner provided for ad valorem tax hearings by the department, except that the hearing shall be held in the county from which the timber or reproduction was harvested unless otherwise stipulated to by the parties. At the conclusion of the hearing, the department shall certify to the tax collector of the county from which the timber or reproduction was harvested the amount of additional tax determined by the department as a result of such hearing for collection as provided in ORS 321.665 and 321.670.

(2) The order of the department made following such hearing shall be subject to judicial review in the manner provided by ORS 306.545 for review by the Oregon Tax Court of ad valorem tax orders of the department.
[1961 c.659 §5(9); 1965 c.6 §14; 1967 c.78 §7]

321.665 Additional tax as debt; entry on tax roll; dates payable; prepayment of estimated taxes. (1) The amount found due and owing under subsection (2) of ORS 321.655 and 321.660 shall constitute a debt due and owing from the owner of the timber or reproduction at the time of harvest to the county from which it was harvested. Upon receipt of the notice from the assessor under subsection (2) of ORS 321.655 or from the department under ORS 321.660, the tax collector shall enter the amount of the tax due upon the most recent tax roll and shall notify the owner of the entry and of the date thereof.

(2) If the required harvest reports reflecting the harvesting of the timber or reproduction were completed and filed within the time prescribed by ORS 321.955, or within the time of any extension lawfully granted in accordance therewith, so as to advise the assessor that an additional tax will be due, then the additional tax shall be due and payable on the next 15th of the month occurring after a period of 30 days has elapsed from the date of entry on the tax roll.

(3) If the required harvest reports are not thus completed and filed, the additional tax shall be due and payable on the 15th of that month which precedes the month in which the entry is made on the tax roll by the number of calendar months elapsing between the date the report was due and either the date the report was filed with information adequate to advise the assessor that

an additional tax should be imposed, or the date the assessor sends notice of the tax determined according to his best information and belief.

(4) At any time on or after the date of harvesting, the owner may pay an amount he estimates will be the amount of the additional tax, or any lesser amount. The tax collector shall accept and retain the same until the actual amount of additional tax is finally ascertained. At that time, he shall apply the same to payment of the additional tax and deposit it with the county treasurer as provided in ORS 321.675. He shall notify the owner, and, if there be any excess, he shall, on request of the owner, either apply the same to other taxes owed the county by the owner or refund the same to the owner without interest.
[1961 c.659 §5(10); 1963 c.60 §3]

321.670 Collection of delinquent additional tax; tax as lien. (1) If the additional tax is not paid when due as provided in ORS 321.665, it shall be delinquent and subject to the same interest, penalty and cost charges as apply to other delinquent ad valorem property taxes. The delinquent tax, together with any interest and accrued penalty, shall be collected by the tax collector in the same manner and with the same force and effect as delinquent personal property taxes are collected, except that a purchaser for value of logs or other product of the timber or reproduction thus harvested shall take the same free and clear of all tax liens which have not previously been entered in the judgment docket pursuant to ORS 311.625 or perfected by levy pursuant to ORS 311.640.

(2) As of the date of harvesting, such additional taxes, plus such interest and penalties as shall accrue thereon, shall otherwise be a lien on the timber harvested, on the product thereof and on all the personal property of the owner thereof, and may be charged and enforced against the real property of the owner as provided in ORS 311.645. Except as stated herein, such liens shall have the same force and effect and may be foreclosed, when the tax is delinquent, in the same manner as other tax liens.
[1961 c.659 §5(11)]

321.675 Allocation of revenue from additional tax to taxing districts; special accounts for districts. (1) All taxes, penalties and interest collected under ORS 321.670 shall be deposited by the tax collector with the county treasurer in the same manner and at the same time that other taxes are remitted to the treasurer. The county treasurer shall allocate the same to the taxing districts in which the harvested timber or reproduction was located in the proportion that the rate percent of levy for each district bears to the total rate percent of levy for all such districts, as shown on the tax roll for the fiscal year which began during the calendar year the timber or reproduction was harvested.

(2) The treasurer shall hold the moneys in special accounts for the taxing district to which they have thus been allocated.
[1961 c.659 §5(12)]

321.680 Offset of property tax levies; distribution to districts; moneys not to be considered as probable receipts. (1) Not later than July 10 of each year, the county treasurer shall certify to the county assessor the balance in each account as of June 30 immediately preceding. The assessor shall subtract from the tax levy of each taxing district the amount of the balance in the account for such taxing district as certified by the county treasurer and shall extend on the assessment roll in each case no more than the remainder of the property tax levy of the taxing district for the current fiscal year.

(2) Immediately upon extension of the remainder of the tax levies, the county assessor shall certify to the county treasurer that the amounts of the balances as certified by the county treasurer should be distributed to the respective taxing bodies, and upon receipt of such certification the county treasurer shall distribute such amounts to the respective taxing bodies.

(3) The moneys held in special accounts by the county treasurer under this section shall not be considered as budget resources in preparing estimates of budget resources under ORS 294.305 to 294.520.
[1961 c.659 §5(13); 1963 c.576 §39]

WESTERN OREGON SMALL TRACT OPTIONAL TAX

321.705 Definitions for ORS 321.705 to 321.765. As used in ORS 321.705 to 321.765, unless the context requires otherwise:

(1) "State Forester" means the State Forester or his authorized representative.

(2) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western

boundary of Wasco County, thence south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(3) "Forest land" means land which is not classified as reforestation land under ORS 321.255 to 321.355 and which, in the judgment of the State Forester, is suitable for the production of timber and is being utilized primarily for that purpose.

(4) "Timber" means wood growth, mature or immature, growing or dead, standing or down.

(5) "Owner" means any individual, partnership, corporation or association of whatever nature, owning both the forest land and any timber thereon.

(6) "Farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or any other agricultural or horticultural use or any combination thereof.
[1961 c.714 §1]

321.710 Legislative findings; purpose of ORS 321.705 to 321.765. It is the purpose of ORS 321.705 to 321.765 to provide an optional method of ad valorem taxation for certain owners of forest land in western Oregon which will tax the land alone at its productivity value. It is hereby found that the normal system of taxing both the land and the increasing value of the growing timber tends to force those smaller owners with predominantly young growth holdings to harvest their timber before it has properly matured because of the constantly increasing taxes imposed on the timber and the lack of sufficient annual income from mature timber to meet the overall tax burden. The optional tax provided by ORS 321.705 to 321.765 is intended to make it possible for such owners to hold their timber to the proper rotation age.
[1961 c.714 §2]

321.715 Administration by State Forester; rules and regulations; publicizing; report to legislature. (1) The State Forester may provide rules and regulations for the classification of forest land under ORS 321.705 to 321.765 and prescribe the form of any required statements and reports.

(2) The State Forester shall take appropriate action to bring to the attention of forest landowners the possibilities and effects of classification under ORS 321.705 to 321.765.

(3) The State Forester shall submit a report to each regular session of the Legislative Assembly recommending either the increase, decrease or retention unchanged of any or all of the values per acre specified in subsection (1) of ORS 321.720.
[1961 c.714 §9]

321.720 Determination of "true cash value" of forest land classified under ORS 321.705 to 321.765; modification of ORS 308.205; exemption of timber from separate assessment. Notwithstanding the provisions of ORS 308.205, 321.605 to 321.680, or any other provision of law:

(1) Forest land in western Oregon classified under the provisions of ORS 321.705 to 321.765 shall be appraised by the county assessor of the county within which the land is located at a true cash value per acre for purposes of ORS 308.232 equal to the following amounts in accordance with the site class assigned to the land:

(a) Site I	$110 per acre
(b) Site II	$ 85 per acre
(c) Site III	$ 55 per acre
(d) Site IV	$ 20 per acre
(e) Site V	$ 7 per acre

(2) The true cash values determined under subsection (1) of this section shall first apply to the January 1 assessment date following the date on which the State Forester certifies the classification of the land to the county assessor as provided in ORS 321.730. The site class used in subsection (1) of this section shall be the average site class certified for the land by the State Forester.

(3) Timber on forest land classified under ORS 321.705 to 321.765 shall be exempt from separate ad valorem taxation.
[1961 c.714 §3; 1969 c.326 §5]

321.725 Eligibility of forest land for classification; eligible owners. (1) Subject to subsections (2) to (4) of this section, owners of forest land in western Oregon may elect to have such land classified under ORS 321.705 to 321.765 if:

(a) The forest land is not used for uses which are incompatible with the cultivation of timber thereon, as determined in accordance with generally accepted principles of good forestry; and

(b) The average age of timber on the forest land is not in excess of 60 years. However, forest land bearing timber of an average age of 60 years or less when classified may continue under such classification until the average age of the timber reaches 90 years.

If the State Forester determines that the forest land proposed to be classified consists of areas of substantially different age classes, he may consider each area separately and determine an average age of timber for each such area for purposes of this subsection.

(2) Only owners having a total ownership of forest land in western Oregon not in excess of 1,000 acres shall be entitled to classify forest land under this section. In computing an owner's acreage for purposes of this subsection, his total ownership shall be included even though portions of his forest land may not be eligible for classification under subsection (1) of this section. As used in this subsection, "total ownership" includes forest land owned by the applicant owner individually and also any forest land owned by any corporate or other group owner in which the applicant owner holds a share of ownership of 10 percent or more.

(3) An owner electing to classify any of his eligible forest lands under ORS 321.705 to 321.765 must classify all of his eligible lands.

(4) No owner may have forest land classified under ORS 321.705 to 321.765 if such owner, or any individual having a share in an owner, has a spouse, brother, sister, ancestor or lineal descendant who is an owner, or holds a share in an owner, having forest land classified under ORS 321.705 to 321.765. However, the State Forester may grant exceptions to this requirement where the applicant satisfactorily demonstrates that the combination of ownerships with the indicated relatives arose from bona fide business reasons other than a desire to circumvent the 1,000-acre limitation imposed by this section.

[1961 c.714 §4; 1969 c.326 §1]

321.730 Application for classification; certification by State Forester; affidavits of continuing eligibility; false statements. (1) An owner of forest land eligible for classification under ORS 321.705 to 321.765 may apply to the State Forester for a determination and certification to that effect. Application shall be made on appropriate forms supplied by the State Forester.

(2) If the State Forester determines that an applicant's land is eligible for classification under ORS 321.705 to 321.765, he shall so certify to the county assessor or assessors of the county or counties in which the land is located. A copy of such certification shall be sent to the applicant.

(3) Certifications made under this section shall include the average site class of the forest land certified. Whenever appropriate in making such determination, the State Forester may split the area being certified into smaller areas for the application of different average site classes.

(4) Any adverse ruling by the State Forester under this section shall be made within 90 days of the receipt of the application.

(5) If an owner has forest land classified under this section, he shall notify the State Forester by registered or certified mail not later than the 30th day after any change of land use or ownership.

(6) No person shall make any false statement in any application, statement or report made under this section.

[1961 c.714 §§6, 14; 1967 c.619 §1; 1969 c.326 §2]

321.735 Time limits for applications for classification; adjustment tax required in certain cases. Notwithstanding ORS 321.725, classifications made after August 9, 1966, shall be conditioned upon payment of the adjustment tax provided in ORS 321.750.

[1961 c.714 §5; 1963 c.582 §1; 1965 c.371 §1; 1967 c.619 §2; 1969 c.326 §3]

321.740 Application fees. (1) With each application for classification of forest land under ORS 321.730, the owner shall pay to the State Forester a fee for inspection by the State Forester of the lands proposed to be classified. The fee is $2 for acreages under 100; $5 for acreages of 100 to 500; and $7.50 for acreages over 500.

(2) All fees collected by the State Forester under subsection (1) of this section shall be paid by him into the State Treasury within 30 days after collection, and shall be placed by the State Treasurer to the credit of the General Fund to be available for general governmental expenses.

[1961 c.714 §7; 1967 c.34 §3]

321.745 Assignment of "site class"; redeterminations. (1) Forest land shall be assigned to one of the following average site classes, for purposes of the certification under ORS 321.730, according to the estimated total height of the dominant and codominant trees on the land at 100 years of age:

(a) Site I	200 feet.
(b) Site II	170 feet.
(c) Site III	140 feet.
(d) Site IV	110 feet.
(e) Site V	80 feet.

(2) The growth standards for site class determination specified in subsection (1) of this section shall apply to Douglas fir sites.

In the case of other species, the State Forester may apply the standards specified in subsection (1) of this section or, if in his opinion such standards are not appropriate for a particular species, he may adopt different standards which are demonstrated to his satisfaction to be more appropriate for establishing five corresponding site classes for the species involved.

(3) Site classes assigned under subsections (1) and (2) of this section may be changed thereafter by the State Forester upon his own initiative, or upon request of an owner, if further investigation reveals that the estimates forming the basis of the site class determination were inaccurate. Any such redetermination of site class shall be certified immediately to the county assessor. [1961 c.714 §8]

321.750 Adjustment tax; computation by State Forester; collection by county tax collector. (1) In cases of classification of forest land after the date five years following August 9, 1961, an adjustment tax as provided in this section shall be paid by the owner to the appropriate county tax collector within 30 days following issuance of the classification order by the State Forester. If payment is not made within the time limited, the State Forester shall withdraw the classification order.

(2) The adjustment tax shall be an amount which, in each of the years specified in subsection (3) of this section, equals the amount by which the tax which would have been imposed under ORS 321.720 exceeds the amount of ad valorem tax actually paid on such forest land.

(3) The computation provided in subsection (2) of this section shall apply to all years in which the timber on the forest land now being proposed to be classified was exempt from ad valorem taxation pursuant to ORS 321.605 to 321.680. However, any years previously considered in computing an adjustment tax under this section shall be excluded in computing any later adjustment tax.

(4) The adjustment tax due under this section shall be computed by the State Forester at the time of issuance of a classification order subject to this section, and he shall certify the amount of the adjustment tax to the appropriate county tax collector. After the expiration of the period allowed for payment of the tax, the county tax collector shall report to the State Forester the payment or nonpayment of the tax.
[1961 c.714 §11; 1963 c.582 §2; 1965 c.371 §2]

321.755 Distribution of adjustment tax revenue; offset of property taxes. (1) Proceeds from the adjustment tax collected under ORS 321.750 shall be deposited by the tax collector with the county treasurer in the same manner and at the same time that other taxes are remitted to the treasurer. The county treasurer shall allocate the same to the taxing units in which the classified forest land paying the tax is located in the proportion that the rate percent of levy for each unit bears to the total rate percent of levy for all such units, as shown on the tax roll for the fiscal year which began during the calendar year when the forest land was classified. The treasurer shall hold the moneys in special accounts for the taxing unit to which they have thus been allocated.

(2) Not later than July 10 of each year, the county treasurer shall certify to the county assessor the balance in each account established under subsection (1) of this section as of June 30 immediately preceding. The assessor shall subtract from the tax levy of each taxing unit the amount certified for such unit and shall extend on the assessment roll in each case no more than the remainder as the property tax levy of the taxing unit for the current fiscal year. Immediately upon extension of such tax levy, the county assessor shall certify to the county treasurer the amount by which the levy of each taxing unit has been reduced under this section. Upon receipt of such certification, the county treasurer shall distribute such amounts from the appropriate accounts to the respective taxing units.

(3) The moneys held in special accounts by the county treasurer under subsection (1) of this section shall not be considered as budget resources in preparing estimates of budget resources under ORS 294.305 to 294.520.
[1961 c.714 §12; 1963 c.576 §40]

321.760 Declassifications. (1) The State Forester shall certify to the owner involved, and to the appropriate county assessor or assessors, the removal from classification of any forest land previously classified under ORS 321.705 to 321.765 when:

(a) The owner requests such declassification in writing; or

(b) The State Forester determines, after investigation, that the forest land is no longer entitled to classification under ORS 321.705 to 321.765.

(2) Forest land shall not be declassified because of transfer of ownership if the new owner requests continued certification under ORS 321.605 to 321.680 or 321.705 to 321.765 by registered or certified mail not later than the 60th day after such transfer of ownership.

(3) Upon declassification there shall be added to the tax extended against the land, on the next property assessment and tax roll, to be collected and distributed in the same manner as other ad valorem taxes on real property, an amount equal to the sum of:

(a) The amount by which the taxes assessed against the forest land and timber would have been increased if it had been valued without regard to ORS 321.720 during the five years immediately preceding such extension on the tax roll, but without any increase for years ending prior to August 22, 1969; and

(b) Interest on the amounts of increased tax from each year included under paragraph (a) of this subsection at the rate of six percent a year from the date at which such increased taxes would have been payable if the forest land had been valued without regard to ORS 321.720.

(4) Declassifications certified under this section shall take effect as of the January 1 assessment date following the date of the certification.

(5) The amount determined to be due under subsection (3) of this section may be paid to the assessor prior to completion of the next general property tax roll, pursuant to ORS 311.370.

[1961 c.714 §10; 1969 c.326 §4]

321.765 Appeals. Any owner affected by a ruling of the State Forester made under ORS 321.715, 321.730 to 321.750 and 321.760 may appeal to the State Board of Forestry under such rules as it may prescribe. A suit to set aside any decision of the board may be taken within 30 days of the decision to the Oregon Tax Court in the manner provided for ad valorem property tax cases under ORS 306.545.

[1961 c.714 §13; 1965 c.6 §15]

MISCELLANEOUS PROVISIONS

321.955 Report upon severance of merchantable timber; penalty for failure to file. (1) (a) As used in this section, "merchantable timber" includes any forest growth with market value, whether standing or down, alive or dead, of a size, quality and condition comparable to timber currently being converted into a wood product or products.

(b) The definitions of ORS 321.605 are applicable to this section.

(2) If merchantable timber subject to assessment by any county in this state is harvested during any calendar year from real property, the owner or his agent shall, before March 3 of the year following the harvest, make and file a report with the county assessor of each county in which the real property is situated. The report shall contain a legal description of the property from which the merchantable timber has been harvested, a statement of the area from which the timber has been harvested, the best estimate of the acres logged and of the percentage of total volume of timber, by species, harvested from such acreage, and the best estimate of the acres of merchantable timber remaining uncut. The report shall include a map or sketch showing the area logged and be signed by the owner or his agent.

(3) If reproduction is harvested during any calendar year from real property, the owner or his agent shall, before March 3 of the year following the harvesting, make and file a report with the county assessor of each county in which the real property is situated. The report shall contain a legal description of the property from which the reproduction has been harvested, a statement of the area from which the reproduction has been harvested, and the volume harvested by species from such acreage. The volume for this report shall be stated in board feet or other unit of measurement commonly used in the timber industry for the measurement of such reproduction. The report shall include a map or sketch showing the area logged and shall be signed by the owner or his agent.

(4) The Department of Revenue shall prescribe a uniform form for the report required by this section for use by county assessors. Each county assessor shall make such forms available to persons required to make a report under this section.

(5) No person shall make a report under this section knowing the report to be false or incorrect in any material respect.

(6) No person shall fail to file a report required under this section within the prescribed period of time.

(7) All reports shall be filed before

March 3 of each year, but the assessor, upon a request made prior to that date, and for good cause shown therein, shall allow a reasonable extension of time for filing a report, but in no event shall an extension be granted to later than March 30.

(8) If the report is not submitted until after the assessment roll has been returned to the assessor pursuant to ORS 309.130, the assessed value on the roll for the owner's merchantable timber, as equalized by the county board of equalization, shall constitute the assessed value of the timber remaining uncut on January 1 of that same year; except that if all timber has been harvested, the officer in possession of the roll shall correct the roll to conform with the facts.

(9) Each owner required by this section to file a report, who fails to file the report before March 3, or within the extension of time allowed by the assessor, is delinquent, and is subject to a penalty as follows:

(a) If the report has been submitted before the county assessor has laid the assessment roll before the county board of equalization, pursuant to ORS 309.060, the penalty is $5 a calendar week for each week or portion of a week that the report is delinquent.

(b) If the report has been submitted after the county assessor has laid the assessment roll before the county board of equalization, pursuant to ORS 309.060, the penalty is $5 a calendar week for each week or portion of a week the report is delinquent, up to and including the week the roll is turned over to the board of equalization by the county assessor, and $10 per calendar week for each week or portion of a week thereafter that the report continues delinquent. In no event shall the total penalty under this paragraph exceed $100.

(c) Payment of the penalty shall be made to the assessor at the time of filing the delinquent report. If such payment is not made, the assessor, or if the tax collector has possession of the roll, the tax collector, after receipt from the assessor of certification of the amount of penalty and failure to pay, shall note the amount of the penalty on the assessment or tax roll, as the case may be, and shall include the same in any taxes due or to become due, and which are to be collected by the tax collector from the owner. Penalties shall constitute a lien on the real and personal property of the owner as of July 1 and January 1, respectively, of the year in which the report was due. The penalties shall also constitute a debt due and owing from the owner, and, in the alternative, may be collected by a proper action brought in the name of the county in any court of competent jurisdiction. The remedies provided by this section are in addition to other remedies, civil or criminal, existing under the laws of this state.

(10) Penalties collected by the assessor shall be receipted, entered and accounted for in the manner provided for by ORS 311.370. All penalties collected pursuant to this section shall be credited to the general fund of the county.

[Formerly 308.309; amended by 1965 c.412 §1]

PENALTIES

321.990 [Repealed by 1953 c.375 §38]

321.991 Penalties. (1) Violation of any provision of ORS 321.005 to 321.225 is punishable, upon conviction, by a fine not exceeding $1,000 or by imprisonment in the county jail for not exceeding one year, or by both.

(2) In addition to the penalties provided in ORS 321.325, violation of subsection (1) of ORS 321.310 is punishable, upon conviction, by a fine of not more than $1,000 or by imprisonment in the county jail for not more than six months, or both. Each day's harvesting of such forest products without a permit shall constitute a separate and distinct violation.

(3) Violation of subsection (2) of ORS 321.350 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year, or both. Such fine and imprisonment shall not relieve any person from full payment, with penalty and interest, of any amount due under ORS 321.255 to 321.355.

(4) Violation of ORS 321.625 or 321.630 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than three months, or both. Justices of the peace and district courts shall have concurrent jurisdiction with the circuit court of all prosecutions for violations of ORS 321.625 or 321.630.

(5) Violation of subsection (6) of ORS 321.730 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than three months, or both. Justices of the peace and district courts shall have concurrent

jurisdiction with the circuit court of all prosecutions for violations of subsection (6) of ORS 321.730.

(6) A person who violates subsection (5) of ORS 321.955 is guilty of perjury.

(7) Violation of subsection (6) of ORS 321.955 is a misdemeanor.

[1953 c.375 §35; subsections (2) and (3) formerly 528.990; subsection (4) enacted as 1961 c.659 §9; subsection (5) enacted as 1961 c.714 §15; subsections (6) and (7) formerly part of 308.990]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1969.

Legislative Counsel
Robert W. Lundy

CHAPTER 322

[Reserved for expansion]