

# Chapter 321

## 1981 REPLACEMENT PART

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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 477.440 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, 1981 c 321 §9]

**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 477.440 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 the taxpayer, 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 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; 1981 c.321 §10]

**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 ORS 321.015 (1) 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 ORS 321.015 (2) is 15 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, 1977 c.182 §1, 1981 c.321 §1]

**Note:** Section 1, chapter 347, Oregon Laws 1981, provides

**Sec. 1.** Notwithstanding any other provisions by law, for the fiscal years beginning July 1, 1981, and July 1, 1982, the rate of tax levied by ORS 321.015 (1) shall be 15 cents higher than the rate that otherwise would be in effect under ORS 321.025 (1). The revenue raised by this additional levy shall be considered in computations under ORS 321.037.

**321.027 Levy of additional privilege tax on harvesting of forest products.** (1) In addition to the taxes levied under ORS 321.015 (1) and (2) and ORS 477.830 (1), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on merchantable forest land on or after July 1, 1981, and prior to July 1, 1983, in the amount provided in subsection (2) of this section.

(2) The rate of the tax levied by subsection (1) of this section shall be 10 cents per thousand feet, board measure, on all merchantable forest products harvested on merchantable forest lands.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (3) and (4).

(4) The tax levied by subsection (1) of this section shall be due and payable to the department in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.225.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 293.445. After payment of refunds pursuant to subsection (6) of this section, the balance remaining shall be deposited in the Forest Practices Subaccount of the Forest Products Harvest Tax Account, referred to in ORS 321.145, which subaccount is hereby established.

(6) Notwithstanding ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied under subsection (1) of this section hereby is appropriated continuously to

the department from the suspense account referred to in subsection (5) of this section, and shall be used by the department for the payment of all refunds of taxes levied under subsection (1) of this section 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 levied under subsection (1) of this section and the balance of the revenue shall be credited to the Forest Practices Subaccount of the Forest Products Harvest Tax Account.

(7) All moneys remaining in the Forest Practices Subaccount on February 1, May 1, August 1 and November 1 of each year shall be transferred to the State Forestry Department Account referred to in ORS 526.060.

(8) Notwithstanding ORS 291.238, the moneys transferred from the Forest Practices Subaccount to the State Forestry Department Account are appropriated continuously for and shall be used by the State Forester, under the supervision and direction of the board, for the purposes of administering the Oregon Forest Practices Act (ORS 527.610 to 527.730). [1977 c 172 §2, 1979 c 375 §1, 1981 c 348 §1]

**321.028 Purpose of ORS 321.027.** The purpose of the tax levied by ORS 321.027 (1) is to derive revenues to defray the costs of administering the Oregon Forest Practices Act (ORS 527.610 to 527.730) in an amount not to exceed 40 percent of the total expenditures approved by the Legislative Assembly for this purpose, including salary adjustments approved by the Legislative Assembly for fiscal years 1982 and 1983. [1977 c 172 §3, 1979 c 375 §2; 1981 c 348 §2]

**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 ORS 321.015 (1) shall be levied for the following fiscal year at 50 percent of the rate specified in ORS 321.025 (1). [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; estimated tax; payment.** (1) The taxes levied under ORS 321.015 shall be due and payable in semiannual instalments, on or before the last day of January and July, for the preceding two calendar quarters.

(2) Subject to the provisions relating to semiannual estimated tax payments provided in subsections (4) and (5) of this section, on or before the last day of January and July, each taxpayer shall make out a return on the form prescribed by the department showing the amount of the tax for which the taxpayer is liable for the preceding two calendar quarters 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.

(4) Commencing January 1, 1982, each owner expecting to incur a liability pursuant to this section in excess of \$300 for any semi-annual tax period beginning on January 1 or July 1 of any year shall, on forms prescribed by the Department of Revenue, make and file

with the department on or before the last day of the fourth month of the period an estimate of the owner's tax liability for the period. At least one-half of the estimated tax shall be remitted to the department with the estimated tax report and the balance shall be remitted to the department on or before the due date of the semiannual tax return required by subsection (2) of this section, without regard for any extension of the due date thereof.

(5) If the amount remitted with an estimated tax report filed on or before the due date thereof is at least 50 percent of the tax of the owner as due for the period immediately preceding the period for which the report is made or at least 40 percent of the owner's tax liability as due for the period for which the report is made, or 100 percent of the tax liability on the actual merchantable forest products harvested for the first calendar quarter of the semiannual period, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate of one percent per month or fraction thereof shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment which would have been due had the owner estimated the liability for the period in an amount equal to the liability as due for such period. The provisions of ORS chapters 305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section. [1953 c 375 §§5, 6, 1965 c 331 §1, 1981 c 363 §1]

**321.050** [Repealed by 1953 c 375 §38]

**321.055 Audit of returns; interest and penalties on deficiency or delinquency governed by ORS chapters 305 and 314.** (1) The provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refund, conferences, appeals to the director of the department and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes, penalties and interest imposed under ORS 321.005 to 321.225 except where the context requires otherwise.

(2) If a taxpayer fails to file a return required by ORS 321.045 or fails to pay a tax at the time the tax becomes due, there shall be added to the amount of tax required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(3) If the failure to file a return continues for a period in excess of three months after

the due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of such tax. This penalty is in addition to the delinquency penalty imposed by subsection (2) of this section.

(4) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be lawfully claimed upon the return.

(5) A delinquent tax or a deficiency shall bear interest at the rate of one percent per month, or any fraction thereof, from the time the return was due. [1953 c 375 §7, 1975 c 593 §19, 1977 c 870 §45, 1981 c 706 §8]

**321.060** [Repealed by 1953 c 375 §38]

**321.065** [1953 c 375 §8, repealed by 1977 c 870 §24 (321 126 enacted in lieu of 321 065)]

**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 may issue a warrant, under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the taxpayer owning the same, found within that county, for the payment of the amount of the tax, 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 from the sale, within 60 days after receipt of the warrant. The sheriff shall, within five days after the receipt of the warrant, file a copy with the county clerk, and the clerk shall immediately 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 of the tax and penalties for which the warrant is issued and the date when the copy is filed. 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 immediately shall proceed upon the warrant in all respects, with like effect, and in the same manner prescribed by law in respect to execu-

tions issued against property upon judgments of a court of records, and shall be entitled to the same fees for 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, 1981 c 706 §9]

**321.080** [Repealed by 1953 c 375 §38]

**321.085** [1953 c 375 §10, repealed by 1961 c 573 §2 (305 140 enacted in lieu of 314 435, 315 635 and 321 085)]

**321.090** [Repealed by 1953 c 375 §38]

**321.092 Collection of tax when taxpayer does not file 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 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 321.075. [1981 c 706 §2]

**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** [1953 c 375 §13, 1961 c 533 §55, repealed by 1977 c 870 §24 (321 126 enacted in lieu of 321 115)]

**321.120** [Repealed by 1953 c 375 §38]

**321.125** [1953 c 375 §14, repealed by 1977 c 870 §24 (321 126 enacted in lieu of 321 125)]

**321.126** [1977 c 870 §25 (enacted in lieu of 321 065, 321 115 and 321 125), repealed by 1981 c 706 §16]

**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 ORS 321.015 (1) and (2) 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 321.015 (1) and (2) 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 ORS 321.015 (1) 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 ORS 321.015 (2) 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 477.440 to 477.460.

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

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

(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, 1981 c 321 §11]

**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 ORS 321.215 (1).

(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 subpoena or subpoena duces tecum of the department.

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

**321.255** [Formerly 528 010, 1973 c 348 §1, repealed by 1977 c 892 §51]

## WESTERN OREGON FOREST LAND AND SEVERANCE TAX

**321.257 Definitions for ORS 321.257 to 321.375.** As used in ORS 321.257 to 321.375, unless the context requires otherwise:

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

(2) "Forest land" means land in western Oregon (a) which 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 or (b) the highest and best use of which is the growing and harvesting of such trees. Trees of a marketable species may vary in different areas in western Oregon and may change as the utilization of forest trees changes. The size, age, location, quality and condition of trees do not necessarily determine marketable species. Forest land often contains isolated openings which because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If such openings in their natural state are necessary to hold the surrounding forest land in forest use through sound management practices, they are deemed forest land. Forest land does not include buildings, structures, machinery, equipment or fixtures erected upon, under or above the soil, but does include roads described in ORS 308.236.

(3) "Harvest" means the point at which timber that has been cut, severed or removed for purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.

(4) "Owner" means any individual or combination of individuals, partnership, firm, corporation or association of whatever nature 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) "Stumpage value" of timber means values determined from log grade value tables adopted or used by the department pursuant to ORS 321.282. Such table values shall be based upon voluntary purchases of standing timber made in the ordinary course of business for harvest within three years and shall make reasonable and adequate allowances for all relevant factors, including size, quality, volume, age, disease, defect, breakage, stand density, costs of removal, accessibility to point of conversion, topography of the site and surrounding country and market conditions.

(6) "Taxing district" or "district" means each county, city, school district and other corporation vested with the power to levy property taxes in western Oregon.

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

(8) "Unit of proper measurement" means any unit of measurement commonly used in the timber industry for measuring timber and timber products harvested.

(9) "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 southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

[1977 c 892 §1]

**321.260** [Formerly 528 020, repealed by 1977 c 892 §51]

**321.262 Purposes of ORS 321.257 to 321.375.** The purposes of ORS 321.257 to 321.375 are:

(1) To remove timber in western Oregon from ad valorem taxation.

(2) To impose with respect to forest lands in western Oregon a system of ad valorem taxation whereby the value of forest land is determined by a formula

(3) To establish a severance tax on timber harvested in western Oregon as a means of

(a) Recognizing the long-term nature of the forest crop and fostering the public policy of Oregon to encourage the growing and harvesting of timber.

(b) Protecting the public welfare by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forest lands of western Oregon

(c) Promoting the state's policy of encouraging forestry and the restocking of forest lands to provide present and future benefits by enhancing the water supply, preventing erosion, providing habitat for wild game, providing scenic and recreational sites and providing for needed products.

(4) To provide a gradual, nondisruptive method of effecting the transition from the ad valorem taxation of timber in western Oregon to the severance tax on the harvesting of such timber.

(5) To assure local taxing districts that severance tax receipts will be considered a local revenue source to replace the locally levied ad valorem tax on timber [1977 c 892 §2]

**321.265** [Formerly 528 025, repealed by 1977 c 892 §51]

**321.267 Exemptions from ORS 321.257 to 321.375; tax in addition to ORS 321.005 to 321.225; limitations.** (1) The following timber and forest land are not subject to ORS 321.257 to 321.375:

(a) Timber and forest land assessed by the department pursuant to ORS 308.505 to 308.730, 308.805 to 308.820 and 308.990.

(b) Except as provided in ORS 321.347, timber and land classified under ORS 321 705 to 321.765.

(c) Timber on land that is exempt from ad valorem taxation.

(d) Except as provided in ORS 321.347, land and Christmas trees which are grown or growing on that land which has been prepared by intensive cultivation and tilling and on which all unwanted plant growth is controlled continuously for the exclusive purpose of growing such Christmas trees.

(2) The tax imposed by ORS 321.277 shall be in addition to that levied by ORS 321.005 to 321.225.

(3) Nothing contained in ORS 321.257 to 321.375 shall prevent:

(a) The collection of ad valorem property taxes which became a lien prior to January 1, 1978.

(b) The collection of taxes levied by ORS 321.005 to 321.225.

(c) Except as provided in section 45, chapter 892, Oregon Laws 1977, the collection of amounts payable upon declassification described under ORS 321.705 to 321.765.

(d) The collection of the additional tax imposed by ORS 321.645 to 321.670 (1975 Replacement Part) as it pertains to harvesting during the calendar year 1977. However, timber that is cut or severed in the calendar year 1977, but that is considered harvested in a subsequent year under ORS 321.287, shall not be subject to the additional tax.

(e) The collection of taxes imposed under ORS 321.255 to 321.360 (1975 Replacement Part). [1977 c 892 §3]

**321.270** [Formerly 528 030, 1973 c 348 §2, repealed by 1977 c 892 §51]

**321.272 Severance tax imposed on timber on private lands; assessment and taxation of western Oregon forest land.** (1) Effective January 1, 1978, all timber in western Oregon shall be exempt from ad valorem taxation and in lieu thereof, there is imposed on timber harvested from privately owned land in western Oregon a severance tax as provided in ORS 321.257 to 321.342.

(2) Effective January 1, 1978, all forest land in western Oregon shall be assessed and taxed and the value determined under ORS 308.205, 308 232, 321.352 and 321.357. [1977 c 892 §4]

**321.275** [Formerly 528 040, repealed by 1973 c 348 §12]

**321.277 Rate of severance tax.** (1) All owners of timber in western Oregon shall pay a severance tax of six and one-half percent of the stumpage value of timber harvested from privately owned land after December 31, 1977.

(2) In addition to the tax imposed by subsection (1) of this section, all owners of timber in western Oregon shall pay a severance tax on the stumpage value of timber harvested from land designated as reforestation land

pursuant to ORS 321.255 to 321.360 (1975 Replacement Part) as of July 1, 1977. The rate of the tax shall be six percent of the stumpage value of timber harvested in 1978. For each calendar year thereafter, the rate shall be one-quarter percent less than the rate imposed for the preceding calendar year until for the calendar year 2002, the additional rate imposed by this subsection shall be zero. [1977 c 892 §5]

**321.279 Alternative tax rate on certain timber; notice of election to department.** (1) Notwithstanding ORS 321.277 and subject to subsection (4) of this section, if a contract for the purchase of timber is entered into prior to July 1, 1977, and the purpose of the contract is the harvest of the timber so purchased, the amount of the tax imposed by ORS 321.257 to 321.342 upon the timber harvested on or after January 1, 1978, pursuant to the contract shall be equal to 100 percent of the immediate harvest value, as defined in ORS 321.605 (1975 Replacement Part), of the timber as of January 1, 1977, multiplied by the same rate percent of levy as is applied to similarly located property in the calendar year prior to the calendar year of the harvest.

(2) This section shall apply only to contracts for the purchase of timber for harvest if the stumpage value of the timber purchased pursuant to the contract is \$150,000 or less.

(3) This section does not apply to timber harvested on or after October 1, 1978.

(4) Any purchaser or seller of timber electing the alternative rate allowed by subsection (1) of this section shall notify the Department of Revenue prior to January 1, 1978. The notice shall be accompanied by a certified copy of the contract for purchase of the timber and any other information required by the department. [1977 c 892 §50a]

**321.280** [Formerly 528.050, 1973 c 348 §3, repealed by 1977 c 892 §51]

**321.282 Designation of areas for determination of stumpage values by department; net stumpage recovery basis for certain taxpayers.** (1) On or before October 1 of each year, the department shall designate areas containing timber with similar values and such areas shall be used as units for determination of stumpage values. Prior to January 1 and July 1 of each year, for use during the ensuing six-month period, the department shall prepare tables of values by log grade or other appropriate system recog-

nized by the department as commonly used in the industry for each species or subclassification of timber within such units. The values determined for the semiannual period beginning January 1 shall be determined as of the October 1 immediately preceding. The values determined for the semiannual period beginning July 1 shall be determined as of the April 1 immediately preceding. The values shall be expressed in terms of a dollar amount per thousand board feet for each log grade of each species or subclassification, and shall be determined by averaging the available sales data for the 12 calendar months prior to October 1 and April 1 each year for each species or subclassification. The log grading system used by the department and by the taxpayer in making the severance tax return shall be that of the Columbia River Log Scaling and Grading Bureau or other system commonly used in the forest industry and adopted by the department by rule.

(2) (a) Supplemental tables for adjustment shall be prepared in recognition that certain primary factors affecting logging costs and stumpage values may vary significantly within a given valuation area. The adjustments may be either plus or minus, depending upon the basis of the typical logging cost used in subsection (1) of this section. The primary factors to be considered are (a) average volume per acre harvested, (b) logging conditions, and (c) average log size for young growth thinning operations. In addition, recognition shall be given to the added costs involved in logging small, somewhat isolated areas. However, the department, either on its own motion or in response to an application from a taxpayer, may specify an adjustment of stumpage value for timber that is damaged by fire, ice storm, insect damage, disease, flood, blow-down or other causes.

(b) When a taxpayer uses the adjustments specified in this subsection, he shall maintain appropriate accounting records to support the adjustments.

(3) Public hearings shall be held prior to the adoption of timber valuation schedules or changes in the boundaries of valuation areas developed in accordance with subsections (1) and (2) of this section. Notice of the hearings shall be published in a newspaper of general circulation throughout the state at least 14 days prior to the hearings date. In addition, the department may cause notice to be broadcast pursuant to ORS 193.310 to 193.360.

(4) (a) An owner who harvests less than 500,000 board feet of timber in the calendar year or who has less than 1,000 acres of forest land in western Oregon, and who, during the 12-month period immediately preceding the due date of the severance tax return, is not engaged in and does not have an ownership interest of more than 10 percent in a business engaged in the processing of timber into wood products, may elect to calculate and pay a tax on the basis of net stumpage recovery from such forest land rather than by use of the tables prepared in accordance with subsections (1) and (2) of this section.

(b) For purposes of this subsection, "net stumpage recovery" means the selling price of the logs at a conversion center in an arm's length transaction, less the costs described in one of the following subparagraphs:

(A) The logging costs reflected by a written agreement entered into in connection with the logging operation. The department may analyze the agreement and adjust the contract price to eliminate costs paid by the owner for work or material not connected with logging, log hauling costs and marketing the timber.

(B) Administration, logging and log hauling costs typical for the type of harvest as determined by the department.

(c) The department may require such proof from the owner as it deems necessary to determine the amount of his stumpage recovery and his eligibility for the alternate calculation of the tax provided in this subsection.

(5) No person shall cut, sever or remove or cause to be cut, severed or removed any timber from privately owned land in western Oregon without first having notified the State Forester in writing with a copy to the department on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS 321.257 to 321.342 and 527.670. The notification shall specify where and when the harvest will take place and the nature of the harvest and shall include maps and other data as required by the State Forester and the department. The department shall establish by rule procedures to assure the receipt of the tax returns sent out or a report of nonharvest from the owner. The department shall conduct field and office audits to ascertain the correctness of any severance tax return. [1977 c 892 §6, 1979 c 454 §1]

**321.285** [Formerly 528 060, 1973 c 348 §4, repealed by 1977 c 892 §51]

**321.287 Semiannual payments; determination of amount harvested; delinquency.** The tax levied by ORS 321.277 shall be due and payable quarterly on or before the last day of April, July, October and January of each year for all timber harvested during the preceding calendar quarter commencing with the calendar quarter beginning January 1, 1978, and ending with the calendar quarter ending December 31, 1979. Commencing with the calendar quarter beginning January 1, 1980, and subject to the provisions related to quarterly estimated tax payments provided in ORS 321.950, the tax shall be due and payable semiannually on or before the last day of July and January of each year with respect to all timber harvested during the preceding two calendar quarters. The amount harvested shall be determined by units of proper measurement of the kinds of timber, species, quality classes, grades and products harvested. The tax shall be delinquent if not paid by the due date or within the additional time allowed for filing under ORS 321.322 (1). [1977 c 892 §7, 1979 c 454 §2]

**321.290** [Formerly 528 070, repealed by 1973 c 348 §5 (321 291 enacted in lieu of 321 290)]

**321.291** [1973 c 348 §6 (enacted in lieu of 321 290), repealed by 1977 c 892 §51]

**321.292 Western Oregon Severance Tax Administrative Account.** There is hereby established under ORS 293.445 a suspense account to be known as the Western Oregon Severance Tax Administrative Account. The moneys in such account hereby are appropriated continuously for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed by ORS 321.277. Beginning with the tax collections due on April 30, 1978, and each three months thereafter, if the balance in the account is less than \$250,000 the State Treasurer shall deposit \$250,000 from severance tax receipts into the account before depositing any moneys into the reserve account, the timber transition account or the timber tax account created by ORS 321.297 to 321.307. [1977 c 892 §7a]

**321.295** [Formerly 528.080, 1963 c 109 §1, 1967 c 59 §1; 1973 c 348 §7; repealed by 1977 c.892 §51]

**321.297 Western Oregon Transition Account; schedule of deposit; credit of account to districts; computation.** (1) A portion of the revenue from the taxes levied by ORS 321.277 shall be remitted by the department to the State Treasurer who shall deposit it in a suspense account established

under the provisions of ORS 293.445 which shall be known as the Western Oregon Transition Account.

(2) Subject to ORS 321.302 (1), the portion of the revenue remitted and deposited in accordance with subsection (1) of this section shall be a percentage of the revenue from taxes levied by ORS 321.277 which are collected by the department during fiscal years beginning with the fiscal year ending on June 30, 1979, and thereafter, as follows:

Fiscal year	Percentage
June 30, 1979	100%
June 30, 1980	100%
June 30, 1981	100%
June 30, 1982	80%
June 30, 1983	60%
June 30, 1984	40%
June 30, 1985	20%
June 30, 1986 and thereafter	none

For this purpose, any such taxes collected before June 30, 1978, shall be deemed to have been collected during the fiscal year ending June 30, 1979.

(3)(a) The records of the department shall reflect the amount of revenue deposited in the Western Oregon Transition Account which it has credited to the account of each taxing district. Subject to appropriations for refunds as provided in ORS 321.307 (3), the department shall credit the entire balance of such revenue to such districts. The amount credited to each district from the revenue collected during each calendar quarter shall depend upon the value on January 1, 1977, of the timber then in the district which was subject to assessment and taxation on that date adjusted as provided in this subsection. As to each taxing district the department shall adjust the assessed value as of January 1, 1977, of the timber which was in the district and on the tax roll for the fiscal year 1977-1978 by subtracting from it the assessed value of all timber which was harvested in the district in the calendar year 1977 and by adding to it (a) the immediate harvest value as of January 1, 1977, of such harvested timber and also of all reproduction harvested in the district in the calendar year 1977 and (b) the quotient, stated in dollars, resulting from dividing the district's receipts during the calendar year 1977 from forest fees described in ORS 321.300 (1975 Replacement Part) and

yield taxes described in ORS 321.315 (1975 Replacement Part) by its rate of levy for the fiscal year 1977-1978. The department shall then determine the product resulting from multiplying such adjusted assessed value by the rate of levy for the district for the year 1977-1978. The amount of the total revenue credited during each calendar quarter which is credited to each such district shall be a portion of such total determined by dividing the product thus determined for each district by the total of all products thus determined. Such product determined for the year 1977-1978 shall be the basis of credit for each district for the last fiscal quarter of the preceding fiscal year and for the first two fiscal quarters of the fiscal year.

(b) All revenues remaining in the Western Oregon Transition Account after the close of the third fiscal quarter as of May 10 of the fiscal year shall be credited to the individual districts in the portion that the product resulting from multiplying the 1977-1978 adjusted assessed value of the district by the current rate of levy for the district is of the total of all products thus determined.

(c) If the amount of collection offsets as determined in ORS 321.312 (2) has not been met for any district after the accounts of the districts have been credited following the close of the third fiscal quarter, the amount needed to meet the amount of any offset that remains unmet shall be transferred from the Western Oregon Tax Reserve Account and shall be credited and paid to each district until the amount of its collection offset as determined in ORS 321.312 (2) has been met.

(4) All moneys credited to the taxing districts pursuant to subsection (3) of this section, and ORS 321.302 (4), are continuously appropriated to the districts in whose names they are credited, and the department shall remit the full amounts remaining to the credit of each district as of the 10th day of the second month following the close of each calendar quarter to the county treasurers of the respective counties in which the districts are located on or before the last day of that month, together with the department's certification of the amount thereof which is for the credit of each district.

(5) The Western Oregon Transition Account shall be abolished as of the time of the August 15, 1986, distribution to the county treasurers.

(6) The Department of Revenue may by rule adjust the 1977-1978 rate of levy of intermediate education, common and union high school districts used in subsection (3) of this section to eliminate effect of the intermediate education district equalization levy and offset which was discontinued for 1978-1979 and subsequent years by chapter 840, Oregon Laws 1977. [1977 c 892 §8, 1979 c 438 §1, 1981 c 623 §7]

**321.300** [Formerly 528 090, 1967 c 105 §7, repealed by 1977 c 892 §51]

**321.302 Western Oregon Tax Reserve Account; transitional transfers; investment; State Judicial System Account.** (1) The revenue from all taxes levied by ORS 321.277 as a result of harvesting during the first quarter of the calendar year 1978 shall be remitted by the department to the State Treasurer who shall deposit it in the General Fund to the credit of the Western Oregon Tax Reserve Account, which account is hereby established.

(2) All taxes, penalties and interest collected under ORS 321.645 to 321.670 (1975 Replacement Part) as a result of harvesting during the calendar year 1977 shall be remitted by the tax collector of each county in western Oregon to the State Treasurer who shall deposit them in the General Fund to the credit of the Western Oregon Tax Reserve Account.

(3) On or before May 15, 1979, and the 15th day of each May thereafter, up to and including 1987, if the total taxes collected under ORS 321.277 as a result of timber harvested during the 12-month period ending the preceding March 31 has been less than the amount of ad valorem taxes levied on timber in western Oregon for the year 1977-1978, the department shall order a transfer of funds from the Western Oregon Tax Reserve Account. A portion of the transfer shall be to the Western Oregon Transition Account. The portion shall be a percentage of the transfer which is equal to the percentage set forth in ORS 321.297 (2) for the fiscal year in which falls such May 15. The balance of the transfer shall be to the Western Oregon Timber Tax Account created by ORS 321.307. The amount of such transfer ordered shall be equal to the difference between the taxes levied under ORS 321.277 and the ad valorem taxes for the year 1977-1978, or the entire balance in the Western Oregon Tax Reserve Account if it is less than such difference. Additional taxes which were levied under ORS 321.645 to

321.670 (1975 Replacement Part) in the calendar year 1977 as a result of harvesting during the calendar year 1976 shall be considered a part of the ad valorem taxes for the year 1977-1978 for this purpose.

(4) Amounts transferred in accordance with subsection (3) of this section shall be credited and paid under ORS 321.297 (3) and (4) and 321.307 (4) and (5), respectively, in the same manner that severance taxes are credited and paid for the last quarter of the 12-month period in which the taxes levied under ORS 321.277 were less than the ad valorem taxes for the fiscal year 1977-1978.

(5) All moneys in the Western Oregon Tax Reserve Account shall be invested, upon certification from the department of the amounts available for investment in the account, as provided in ORS 293.701 to 293.776, and the earnings from such investment shall be credited to the account. However, upon authorization of the Emergency Board, all or a portion of the earnings from the investment of timber tax receipts in the account on the date of the authorization and all or a portion of the earnings from the investment of timber tax receipts on and after that date and prior to June 30, 1985, but not to exceed the amount determined by the Emergency Board to be necessary for the purposes described in section 145, chapter 3, Oregon Laws 1981 (special session), shall be placed to the credit of an account that is created in the General Fund and shall be known as the State Judicial System Account. For purposes of determining the amount of earnings in the Western Oregon Tax Reserve Account on the date of the authorization, payments made out of the account pursuant to ORS 321.297 prior to and after November 1, 1981, shall be considered to have been made from the principal of timber tax receipts.

(6) The Western Oregon Tax Reserve Account shall be abolished at such time after May 15, 1981, as there are no funds in the account. Any funds remaining in the account after July 31, 1985, shall be transferred to the Western Oregon Timber Tax Account according to the following schedule: One-third of the account balance as of August 1, 1985; one-half of the account balance as of August 1, 1986; and the entire fund balance as of August 1, 1987. Any distribution made according to the provisions of this subsection shall not be considered a severance tax receipt for the purposes of ORS 321.312 (3). [1977 c 892 §9, 1981 s s c 3 §144]

321.305 [Formerly 528 095, repealed by 1977 c 892 §51]

**321.307 Western Oregon Timber Tax Account; amount deposited; allocation of amount to districts.** (1) A portion of the revenue from the taxes levied by ORS 321.277 shall be remitted by the department to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445 which shall be known as the Western Oregon Timber Tax Account

(2) Subject to ORS 321.302 (1), the portion of the revenue remitted and deposited in accordance with subsection (1) of this section shall be a percentage of the revenue from taxes levied by ORS 321.277 which are collected by the department during fiscal years beginning with the fiscal year ending on June 30, 1979, and thereafter, as follows:

Fiscal Year	Percentage
June 30, 1979	none
June 30, 1980	none
June 30, 1981	none
June 30, 1982	20%
June 30, 1983	40%
June 30, 1984	60%
June 30, 1985	80%
June 30, 1986 and thereafter	100%

(3) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied by ORS 321.277 hereby is appropriated continuously to the department and shall be used by the department for the payment of all refunds of taxes levied by ORS 321.277 which have been audited and approved by the department. A portion of said appropriation shall be from the Western Oregon Transition Account. Said portion shall be a percentage of said appropriation which is equal to the percentage set forth in ORS 321.297 (2) for the fiscal year during which the refunds are approved for payment. The balance of the appropriation shall be from the Western Oregon Timber Tax Account. Any penalties, interest and taxes due from the taxpayer on account of taxes imposed by ORS 321.277 shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded.

(4)(a) The records of the department shall reflect the amount of revenue deposited in the Western Oregon Timber Tax Account which it has credited to the account of each taxing

district. Subject to appropriations for refunds as provided in subsection (3) of this section, the department shall credit the entire balance of such revenue to such districts. The amount credited to each district from the revenue collected during each calendar quarter shall be determined by allocating the revenue collected in each calendar quarter to the several western Oregon counties and then by allocating the share of each county among the several participating taxing districts within that county. Seventy-five percent of the collections shall be allocated in the proportion that the average annual harvest value of timber harvested in each county during the last five calendar years preceding the fiscal year in which the collection occurs bears to the average annual harvest value of timber harvested in all western Oregon counties during the same period. Twenty-five percent of the collections shall be allocated in the proportion that the assessed value of forest land in each western Oregon county during the preceding fiscal year bears to the assessed value of forest land in all western Oregon counties during such fiscal year. The amounts as allocated shall be apportioned and credited to each participating district in each county as follows:

(A) Seventy-five percent thereof shall be apportioned in the proportion that the average annual harvest value of timber harvested in the district during said five years, multiplied by the district's rate of levy in the ad valorem tax roll for the preceding fiscal year, bears to the average harvest value of timber harvested in all districts in the county multiplied by the corresponding rate of levy in each district.

(B) Twenty-five percent thereof shall be apportioned in the proportion that the assessed value of forest land in the district during the preceding fiscal year multiplied by the district's rate of levy in the ad valorem tax roll for the same fiscal year bears to the assessed value of forest land in all districts in the county multiplied by the corresponding rate of levy in each district.

(b) For purposes of this subsection, the average annual harvest value of timber harvested from land classified under ORS 321.255 to 321.360 (1975 Replacement Part) as reforestation land as of July 1, 1977, shall be adjusted. The adjustment shall be computed by dividing the total severance tax rate imposed upon timber harvested from such reforestation land by six and one-half percent. The resulting factor shall be multiplied by the value of timber harvested from the reforestation lands.

(c) Notwithstanding paragraph (a) of this subsection, for the fiscal year ending June 30, 1982, the average annual harvest value of timber used in determining the allocation of 75 percent of the collections in each county and each district shall be that average value of timber harvested in each county and each district during the last three calendar years preceding the fiscal year in which the collection occurs. For the fiscal year ending June 30, 1983, this average value shall be that average value of timber harvested during the last four calendar years preceding the fiscal year in which the collection occurs.

(5) All moneys credited to the taxing districts pursuant to subsection (4) of this section are continuously appropriated to the districts in whose names they are credited, and the department shall remit the full amounts remaining to the credit of each district as of the 10th day of the second month following the close of each calendar quarter to the county treasurers of the respective counties in which the districts are located on or before the last day of that month, together with the department's certification of the amount thereof which is for the credit of each such district.

[1977 c 892 §10, 1979 c 438 §7, 1981 c 623 §9]

**321.310** [Formerly 528 100; repealed by 1977 c 892 §51]

**321.312 Severance tax offset against levies.** (1) Each year when extending the levies of the taxing districts upon the assessment rolls the county assessor shall offset against the levy submitted by each taxing district an estimated amount of revenue to be raised from severance taxes imposed by ORS 321.277 and correspondingly reduce the amount of the levy to be collected through extension on the tax roll for the current fiscal year.

(2) For fiscal years 1978-1979, 1979-1980 and 1980-1981 the estimated amount of revenue to be applied as a collection offset against the levy of a taxing district pursuant to subsection (1) of this section shall be an amount equal to the ad valorem taxes levied by the district on timber in the year 1977-1978, including additional taxes levied under ORS 321.645 to 321.670 (1975 Replacement Part) in the calendar year 1977 as a result of harvesting during the calendar year 1976 plus any additional severance tax moneys on deposit as of June 30, which were in excess of the previous year's offset amount. For each fiscal year beginning with 1981-1982, the

amount of the collection offset shall be the amount determined by the preceding sentence multiplied by the percentage in ORS 321.297 (2).

(3) Not later than August 20 of each year starting in 1981, each county treasurer in western Oregon shall certify to the county assessor of the county the amount of severance tax receipts then on deposit to the credit of each taxing district in the county under ORS 321.307 plus an amount equal to 75 percent of the receipts from the severance tax in the preceding year which were credited to each taxing district multiplied by the appropriate percentage for the fiscal year as specified in ORS 321.307 (2). However, the amount on deposit each August 20 shall be deemed to include amounts payable to the treasurer by the department on August 15 pursuant to ORS 321.297 (4) and 321.307 (5) even if payment has not been made by August 20. Subject to instructions from the department pursuant to subsection (4) of this section, the estimated amount of revenue to be offset against the levy of a district pursuant to subsection (1) of this section for 1981-1982 and subsequent years shall be the amount so certified to the assessor by the treasurer.

(4) If the department has reason to believe that estimates made pursuant to subsection (3) of this section will be greater than the revenue from severance taxes which will actually be available to the taxing district in the fiscal year, it may instruct the assessor to decrease the estimate accordingly, and such corrected estimate shall be the amount offset against the levy submitted by the district pursuant to subsection (1) of this section.

(5) Each county treasurer shall thereafter distribute the moneys on deposit on August 20 and the moneys remitted to him from the Western Oregon Transition Account and the Western Oregon Timber Tax Account during that fiscal year, to the taxing districts to which they have been credited as certified by the department pursuant to ORS 321.297 (4) and ORS 321.307 (5) until the total of the moneys which were thus on deposit plus the total thus remitted, or the amount offset against the levy under subsection (1) of this section, whichever is the lesser, has been distributed.

(6) If the moneys on deposit on August 20 plus the moneys thus remitted to the treasurer and credited to a taxing district exceed the amount offset against the levy under subsection (1) of this section, the county treasurer

shall hold such excess receipts on deposit in a special account until the following year when they shall be included in and treated as moneys on deposit on August 20 of such following year.

(7) The Department of Revenue may by rule adjust the 1977-1978 ad valorem taxes levied in subsection (2) of this section on timber by intermediate education, common and union high school districts to eliminate the effect of the intermediate education district equalization levy and offset which was discontinued for 1978-1979 and subsequent years by chapter 840, Oregon Laws 1977. [1977 c 892 §11, 1979 c 438 §2]

**321.315** [Formerly 528 110, 1967 c 105 §8, repealed by 1977 c 892 §51]

**321.317 Timber valuation for computation of borrowing and bonding capacity of western Oregon taxing districts; computation of local district contribution under ORS 327.063.** (1)(a) For purposes of determining the borrowing and bonding capacities of taxing districts in western Oregon, timber shall be considered as though it remained on the tax rolls at true cash values which would produce a levy of ad valorem taxes equal to the severance taxes levied under ORS 321.277 (1) and collected and distributed to the taxing districts in the most recent fiscal year. Such true cash value equivalent shall be determined by dividing the severance tax less the dollar amount of the timber offsets as defined in subsection (3) of this section by the decimal equivalent of the rate of levy used in the district for ad valorem taxation and further dividing the quotient by the ratio for all other taxable property as certified by the department under ORS 309.160 and posted under ORS 309.032.

(b) For purposes of determining the "local district contribution" under ORS 327.063 for school districts in western Oregon, timber shall be considered as though it remained on the tax rolls at assessed values which would produce a levy of ad valorem taxes equal to the severance taxes levied under ORS 321.277 (1) and collected and distributed to the taxing districts in the most recent fiscal year. Such assessed value equivalent shall be determined by dividing the severance tax less the dollar amount of the timber offsets as defined in subsection (3) of this section by the decimal equivalent of the rate of levy used in the district for ad valorem taxation.

(2) For purposes of this section:

(a) Any district which has a zero rate of levy in any year shall use the true cash value or assessed value equivalent developed in the most recent year in which an ad valorem tax was levied.

(b) "Severance taxes levied under ORS 321.277 (1) and collected and distributed to the taxing districts" means the amount of severance taxes allocated to the district by the Department of Revenue exclusive of any interest which may have been earned by the county treasurer following receipt by the county treasurer of the tax revenues and the distribution of such revenues.

(3) For purposes of this section, "dollar amount of timber offset" means the dollar amount of timber offsets in the year 1977-1978 multiplied by the appropriate percentage for the fiscal year as specified in ORS 321.297 (2).

(4) When the amount computed for local distribution under ORS 327.063 pursuant to this section is for a school district where all 12 grades are not operated or provided by the same district, the amount computed shall be reduced as provided in ORS 327.006 (9). [1977 c 892 §12, 1979 c 438 §3, 1981 c 677 §1, 1981 c 804 §90]

**321.320** [Formerly 528 115, repealed by 1977 c 892 §51]

**321.322 Returns; time for filing; extension.** (1) On or before the last day of July and January, each owner who has harvested any timber during the preceding two calendar quarters, shall prepare a return on the form prescribed by the department showing the amounts and kinds of timber harvested for the preceding two calendar quarters, the amount of tax for which the owner is liable for harvesting during the preceding two calendar quarters and such other relevant information as the department considers necessary to determine the tax due correctly and shall mail or deliver the return, together with a remittance for the unpaid balance of the tax, to the office of the department at Salem, Oregon. The return shall be signed and certified 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 upon written application further time not exceeding 30 days for filing a return and payment of the tax due.

(2) All severance tax payments received under ORS 321.257 to 321.375 shall be credited first to penalty and then to interest accrued on the tax being paid and then to the tax.

(3) An owner incurring less than \$10 total severance tax liability under ORS 321.257 to 321.375 in any two calendar quarters is excused from the payment of such tax but shall be required to file a return. [1977 c 892 §13, 1979 c 454 §3, 1981 c 706 §10]

**321.325** [Formerly 528 120, repealed by 1977 c 892 §51]

**321.327 Audits, deficiencies, assessments, refunds and appeals governed by ORS chapters 305 and 314; small claims election; interest and penalties.** (1) The provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refund, conferences, appeals to the director of the department and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes, penalties and interest under ORS 321.257 to 321.375, except where the context requires otherwise. An 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.

(2) A delinquent tax or a deficiency shall bear interest at the rate of one percent per month, or any fraction thereof, from the time the return was due.

(3) If a taxpayer fails to file a return required by ORS 321.257 to 321.375 or fails to pay a tax at the time the tax becomes due, there shall be added to the amount of tax required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(4) If the failure to file a return continues for a period in excess of three months after the due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of such tax. Penalty is in addition to the delinquency penalty imposed by subsection (3) of this section.

(5) 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 321.257 to 321.375 or the rules adopted, 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.

(6) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credits against the tax which may be lawfully claimed on the return. [1977 c 892 §14, 1981 c 706 §11]

**321.330** [Formerly 528 140, repealed by 1969 c 595 §17]

**321.332 Lien priorities; foreclosure.** The taxes imposed by ORS 321.257 to 321.342 shall operate as a first lien on the timber and timber products from the time of harvest and upon any land of the owner of the timber. The lien on timber and timber products shall follow the timber and timber products in the same manner as provided for liens on timbers and wood products under ORS 87.222 and 87.236 to 87.346, and may be attached and be foreclosed in the manner provided in those statutes. [1977 c 892 §18]

**321.335** [Formerly 528 150, repealed by 1977 c 892 §51]

**321.337 Taxes, interest and penalties constitute debt to state; remedies.** All taxes, interest and penalties due and unpaid under ORS 321.257 to 321.342 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. [1977 c 892 §19]

**321.340** [Formerly 528 160, 1973 c.348 §8, repealed by 1977 c 892 §51]

**321.342 ORS 321.257 to 321.342 enforced by department; departmental audit powers.** (1) ORS 321.257 to 321.342 shall be enforced and the taxes imposed thereby shall be collected by the department which shall have the power to prescribe forms and to adopt rules for the ascertainment and collection of such taxes

(2) For the purpose of determining the taxes imposed by ORS 321.257 to 321.342, the department may:

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

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

(c) Subpoena 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. [1977 c 892 §22]

**321.344 Collection of tax when taxpayer does not file return.** If any owner neglects or refuses to make a return required to be made by ORS 321.257 to 321.272, 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 certified 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 may proceed to collect the tax in the manner provided in ORS 321.346. [1981 c 706 §4]

**321.345** [Formerly 528 170, 1973 c 348 §9, repealed by 1977 c 892 §51]

**321.346 Warrant to sell property to pay tax; filing; lien; unsatisfied warrant.**

(1) If any tax imposed by ORS 321.257 to 321.272, or any portion of such tax, is not paid within the time provided by law, the department may issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the owner owing the tax, found within that county, for the payment in the amount of the tax, 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 from the sale, within 60 days after receipt of the warrant. The sheriff shall, within five days after the receipt of the warrant, file a copy with the county clerk, and the clerk shall immediately 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 of the tax and penalties for which the warrant is issued and the date when the copy is filed. 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 immediately 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 shall be entitled to the same fees for 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. [1981 c 706 §5]

**321.347 Land designations; classifications; certain elections by landowners.** For the purposes of ORS 321.257 to 321.375:

(1) All land in western Oregon valued as forest land for ad valorem tax purposes on January 1, 1977, shall retain that classification for the purposes of ORS 321.257 to 321.375 unless it is specifically excluded from the provisions thereof or unless it is removed from that classification as provided in ORS 321.359 or is no longer land the highest and best use of which is forest land

(2) Land designated as forest land pursuant to ORS 321.605 to 321.680 (1975 Replacement Part) shall retain the original date of such designation

(3) Lands classified as reforestation lands as of July 1, 1977, pursuant to ORS 321.255 to 321.360 (1975 Replacement Part) shall be considered to have been designated as forest land from the date of original classification as reforestation lands. Any lands so classified prior to February 1, 1972, shall be presumed to have been designated not earlier than February 1, 1972, for the purposes of back taxes imposed by ORS 321.372.

(4) Pursuant to the election of the owner, as provided in section 45, chapter 892, Oregon Laws 1977, land which, as of January 1, 1977, was designated under the provisions of ORS 321.705 to 321.765 shall be considered to have been designated as forest land for the purposes of ORS 321.257 to 321.375 from the date of the original designation under those provisions. Any lands so designated prior to January 1, 1972, shall be presumed to have been designated not earlier than January 1, 1972, for the purposes of back taxes imposed by ORS 321.372

(5) Land in western Oregon described in ORS 321.267 (1)(d), which as of January 1,

1977, was designated as forest land pursuant to ORS 321.358 or classified as reforestation lands pursuant to ORS 321.255 to 321.360 (1975 Replacement Part) may upon application of the owner filed prior to January 1, 1978, be classified and assessed pursuant to ORS 321.705 to 321.765, commencing as of January 1, 1978, without the imposition of either the adjustment tax provided in ORS 321.750 (1977 Replacement Part) or the additional tax provided in ORS 321.960 (4). [1977 c 892 §23, 1979 c 553 §10, 1981 c 419 §7]

**321.350** [Formerly 528 180, 1973 c 348 §10, repealed by 1977 c 892 §51]

**321.352 Western Oregon forest land assessment; standards; certification of values to assessors; appeals of values by certain taxpayers.** (1) Notwithstanding ORS 308.205, for the assessment years 1978 and 1979, forest land in western Oregon shall be assessed at true cash value for forest use on the basis of January 1, 1977, assessed values, established pursuant to ORS 321.622 (1975 Replacement Part), adjusted by the percentage change in the average stumpage value of young growth Douglas fir timber, classes B, C and D, in the market area in which the forest land is located. For the assessment year 1980, the assessed value of forest land shall be its 1978 value, adjusted by a moving average percentage change calculated pursuant to subsection (2) of this section for the year 1979, and then further adjusted by the percentage increase in the state-wide assessed value computed for all other property in the manner provided by the first sentence of ORS 309 160 (2). For each assessment year after 1980, the value of forest land shall be the previous year's value as adjusted by the moving average percentage change calculated under subsection (2) of this section.

(2)(a) Each year, the department shall determine a percentage change in the average stumpage value of young growth Douglas fir timber, classes B, C and D, for the current and two preceding years when compared with a similar calculation made in the previous year. For the year 1978, the percentage change shall be determined by using the average for 1975, 1976 and 1977 and the average for 1976, 1977 and 1978. For purposes of obtaining the averages required by this subsection:

(A) In computing the increase or decrease in stumpage value for any year after 1979, the stumpage values established as of October 1

under ORS 321.282 for severance tax purposes shall be used.

(B) The standards for classes B, C and D shall be the standards used by the department for valuing timber under ORS 321.622 (1975 Replacement Part).

(b) For assessment years beginning on or after January 1, 1981, and prior to January 1, 1984, the moving average percentage change under paragraph (a) of this subsection shall not be greater than the percentage increase in the state-wide assessed value computed for all other property in the manner provided by the first sentence of ORS 309.160 (2).

(3) For purposes of determining forest land values pursuant to subsections (1) and (2) of this section, forest land in western Oregon shall be divided into those market areas as the department shall establish by rule.

(4) Prior to March 1 of each year, the department shall determine and certify to the appropriate county assessor the true cash values of forest land as provided in subsections (1) to (3) of this section. Except as provided in subsection (7) of this section, and subject to ORS 309.160, the county assessor shall use the value so certified in the preparation of the assessment and tax rolls of the county for the tax year 1978-1979 and for each tax year thereafter.

(5) At any time after the certification of values pursuant to subsection (4) of this section, but not later than March 20, five or more taxpayers owning in the aggregate not less than five percent of the total forest land acreage subject to ad valorem taxation in a single land market area may appeal any or all of the values in that area directly to the director of the department by filing a joint petition with the director in the manner provided for appeals from orders of the county boards of equalization. Notice of the appeal shall be made in each county having values affected by the appeal, either by personal service by certified mail on each taxpayer affected, or by publication made once a week for two consecutive weeks in a newspaper of general circulation in the county. The notice shall designate the values appealed, and include a statement of the provisions of subsection (6) of this section. The petition shall designate one of the group as the representative of all, and all proceedings before the department and any appeal from its determination shall be conducted procedurally as though the designated representative were the only petitioner. Un-

less the right to a hearing is waived by stipulation of the designated representative and the department, the hearing on the appeal shall be held not earlier than 15 days nor later than 45 days after the filing of the petition. The order of the director on the appeal shall be issued not later than 60 days following the filing of the petition and if not issued within that time, the relief requested in the petition shall be deemed to have been denied. The group, by and through its representative, may appeal to the Oregon Tax Court by filing a complaint with the tax court within 30 days after a copy of the order has been served on the representative or within 90 days from the filing of the petition with the director if the director fails to issue an order. Except as provided in this subsection, an appeal to the tax court shall be taken and heard in the same manner as is provided with respect to appeals from orders of the director in property tax cases.

(6) If the tax court increases or reduces any of the values under appeal, the decree of the court shall apply to the valuation of all forest land in the designated market area for that year. An appeal may be taken to the Oregon Supreme Court from the decree of the tax court. Unless changed upon appeal to the Supreme Court, the tax court determination shall be binding upon the department and upon each assessor and taxpayer affected by such determination of value.

(7) If an appeal is made to the tax court under this section, and the decision of the court is not rendered on or before the next September 1, the higher of (a) the value asserted by the representative group or (b) the comparable value used in arriving at the true cash value of forest land on the assessment and tax rolls for the prior tax year shall be used in computing the true cash value of those forest land values that are based on the value under appeal.

(8) The tax court and Supreme Court on appeal shall hear and determine appeals under subsections (5) to (7) of this section expeditiously as may be appropriate for the timely and orderly completion of the assessment process for the assessment year under appeal.

(9) All other appeals from the application of the forest land values certified by the department under subsection (4) of this section shall be taken in the time and manner otherwise provided by law for such property tax appeals. [1977 c 892 §24, 1979 c 437 §1; 1981 c 428 §1, 1981 c 804 §91]

**Note:** Section 1, as amended by section 17, chapter 178, Oregon Laws 1981, and section 2, chapter 497, Oregon Laws 1979, provide

**Sec. 1.** (1) If a final order is entered in any appeal by reason of which the value of forest land in western Oregon was entered on the assessment and tax roll for the assessment year 1977, or any assessment year thereafter, under ORS 321 377 (2)(b), 321 622 (6) (1975 Replacement Part), as amended by chapter 753, Oregon Laws 1977, or ORS 321 352 (7), the officer or officers in possession of the assessment and tax rolls shall make the corrections stated in the order of the Department of Revenue, the decision of the Oregon Tax Court or the decision of the Supreme Court, whichever is applicable. Any additional taxes and interest attributable thereto, collected because the value of the forest land is greater than that entered in the rolls under ORS 321 377 (2)(b), 321 622 (6) (1975 Replacement Part), as amended by chapter 753, Oregon Laws 1977, or ORS 321 352 (7) for the assessment year shall be deposited with the county treasurer to be held in special accounts pursuant to this subsection. The county treasurer shall apportion the collections to the various taxing units in which the forest land is 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 units for such year and shall hold such moneys in special accounts in the name of the taxing unit to which they are apportioned

(2) 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 unit 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 unit 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

(3) The moneys held in special accounts by the county treasurer under this section shall not be considered as budget resources in preparing estimates under ORS 294 305 to 294 520

(4) If the owner of the forest land, the value of which was determined under ORS 321 377 (2)(b), 321 622 (6) (1975 Replacement Part), as amended by chapter 753, Oregon Laws 1977, or ORS 321 352 (7), so desires, the owner may tender to the county treasurer an estimate of the additional taxes which may ultimately be assessed against the forest land. The county treasurer shall provide a special account for such deposits and shall invest the deposits during the time the matter is in litigation. The interest earned on the account shall be credited to it.

(5) Upon the termination of the controversy, the principal amount in the account necessary to pay the taxes, and interest on such taxes, as finally ordered, shall be retained together with the portion of the interest earned on the investment of the retained taxes during the period held by the county treasurer and shall be distributed as provided in subsections (1) to (3) of this section. Moneys in the account in excess of that required to be retained shall be refunded to the owner. Notwithstanding ORS 311.812, the owner of the forest land shall not be entitled to any interest in excess of that earned during

the time the money was held by the county treasurer on the sum of the principal refunded

Sec. 2. This Act is repealed on January 1, 1985

**321.355** [Formerly 528 190, 1973 c 348 §11, repealed by 1977 c 892 §51]

**321.357 Value of forest land classified as of July 1, 1977, as reforestation land.** Notwithstanding ORS 308.205, 308.232, 321.352 and 321.810, the true cash value of forest land in eastern and western Oregon classified as of July 1, 1977, as reforestation land under ORS 321.255 to 321.360 (1975 Replacement Part) shall be determined by multiplying its value determined under ORS 308.205, 308.232, 321 352 and 321.810, whichever are applicable, by a percentage. The percentage applied for the assessment year 1978 shall be five percent. For each assessment year thereafter, and until the percentage applied reaches 100 percent, the percentage applied shall be five percent more than the percentage applied for the preceding assessment year. [1977 c 892 §24a, 1981 c 804 §92]

**321.358 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 special assessment as forest land is first desired, and the owner may also do so within 30 days of receipt of notice of its assessment as omitted property or notice of an increase in its true cash value, or by December 15 of the year of increased assessment if the owner does not receive the 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 the land is timberland subject to ORS chapter 477, and if it is not, the reasons therefor.

(i) 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

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

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

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

(m) An affirmation that the statements contained in the application are true

(3) Land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species if the application so states, if it is subject to a plat filed under ORS 92.100 or, subject to the provisions of ORS 321.257 (2), the land does not substantially meet minimum stocking or acreage requirements under rules adopted by the department. 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 the assessor shall designate the land as forest land, except as to land which the assessor 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, the assessor shall notify the applicant in writing of the extent to which the application is denied. [Formerly 321 618, 1981 c 804 §93]

**321.359 Removal of designation; exceptions; appeal from reassessment or denial of application.** (1) (a) When land has once been designated as forest land either as a result of an application being filed therefor or through the application of ORS 321.347 (3) or (4), it shall be valued as such until: (A) Notification by the taxpayer to the assessor to remove such designation; (B) sale or transfer to an ownership making it exempt from ad valorem property taxation; or (C) 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 transferred to a government entity in exchange for other forest land located within the State of Oregon

(2) A taxpayer whose application filed under ORS 321.358 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 chapter 305. [Formerly 321.619]

**321.360** [1963 c 606 §10, 1969 c 595 §15, 1973 c 305 §13, repealed by 1977 c 892 §51]

**321.362 Notation of forest land on tax roll for potential additional tax liability.** The tax roll shall show the notation "Forest Land-Potential Additional Tax Liability" for each parcel of land designated as forest land by the assessor upon application of the owner or by the application of ORS 321.347 (3) or (4). That notation shall not be made with respect to parcels of undesignated forest land. [1977 c 892 §28]

**321.367 State Forester to report to county assessor forest lands that fail minimum stocking; review of management plan; declassification and reclassification.** (1) The State Forester shall report to each county assessor in western Oregon as of March 1, 1982, the locations in accordance with subsection (3) of this section of all lands designated as forest lands under ORS 321.358 which were logged prior to 1973 and are suitable for the growing and harvesting of timber, that fail to meet the minimum stocking required under ORS chapter 527. The State Forester shall not include in such report any land for which the owner shows just cause as to why acceptable stocking levels have not been achieved and has provided an acceptable management plan for achieving the required stocking levels within a reasonable period of time.

(2) At any time the State Forester has reason to believe that the forest land is not being managed as forest land, he shall review the owner's management plan and inspect the property. If he then determines the land is not being managed in accordance with a plan

which makes provision for (a) Regeneration of all suitable nonstocked land; (b) protection from fire, insects, disease, animal damage, undesirable vegetative competition, and (c) final harvest, he shall advise the owner of any deficiency and notify the county assessor

(3) The county assessor, upon receipt of the report from the State Forester for any legal subdivision of 20 acres or more or any tax lot of lesser size under subsection (1) of this section or notice under subsection (2) of this section, shall cease to treat such lands as forest land under ORS 321.257 to 321.375 and shall value such lands under ORS 308.205 and 308.232

(4) When the owner of forest land declared ineligible for forest land taxation under this section provides satisfactory information to the State Forester of subsequent action taken to correct the deficiency resulting in the disqualification of his land, or provides an acceptable management plan to correct such deficiency, the State Forester shall so indicate to the county assessor. The assessor shall then assess the land under ORS 321.352, if the land is otherwise qualified for such assessment.

[1977 c 892 §28a, 1979 c 454 §5]

**321.372 Additional tax upon removal of forest land designation; attachment of lien; payment.** (1) If and when the designation of forest land is removed pursuant to ORS 321.359 from any parcel of designated forest land, there shall be added to the tax extended with respect to such property on the next tax roll an amount equal to (a) the difference between the amount of tax last levied with respect to such land as forest land and an amount equal to the new assessed value of such land multiplied by the tax rate of the most recent tax levy in the tax code area in which the land is located, multiplied by (b) a number equal to the number of years, not to exceed five years, during which the land was designated and assessed as forest land, determined by application of ORS 321.347.

(2) When the designation of forest land is removed as a result of a sale or transfer described in ORS 321.359 (1)(a)(B), the lien of such increased taxes described in subsection (1) of this section shall attach as of the date preceding such sale or transfer.

(3) The amount determined to be due pursuant to subsection (1) of this section may be paid to the tax collector prior to completion of the next general property tax roll, pursuant to ORS 311.370. [1977 c 892 §29, 1979 c 350 §15]

**321.375 Notice of appeal of value; form of notice.** For any assessment year beginning on or after January 1, 1982, for which the value of forest land in western Oregon is determined under ORS 321.377 (2)(b), 321.622 (6) (1975 Replacement Part), as amended by chapter 753, Oregon Laws 1977, or 321.352 (7), the county assessor or tax collector shall notify the owner of each affected parcel of the appeal of the forest land value, and that additional taxes may be assessed if the court determines that the value of the forest land is greater than the value placed upon the assessment and tax rolls. The notice may be on or accompany the tax statement, or may be mailed to the owner by separate mailing within 30 days before or after the tax statement is mailed. If the notice is on the tax statement, the words "forest land value under appeal-potential additional tax liability" or other similar phrase shall be considered to meet the requirements of this section. If an owner owns more than one parcel of forest land in the county, and the notice is given by separate mailing, only one notice need be given to that owner [1981 c 428 §3]

**Note:** Section 4, chapter 428, Oregon Laws 1981, provides

**Sec. 4.** At the discretion of the county assessor, the notice described in section 3 of this 1981 Act may be mailed as provided in section 3 of this 1981 Act in the assessment year 1981

**321.377 Assessment of forest land for 1977 based on January 1, 1977, assessed values; effect on base land class values; appeal.** (1) Notwithstanding ORS 308 205, for the assessment year 1977, forest land in western Oregon shall be assessed at true cash value for forest use on the basis of January 1, 1977, assessed values, established pursuant to ORS 321.622 (1975 Replacement Part).

(2) (a) On or before September 1, 1977, the department shall determine and certify to the appropriate county assessors the true cash value of forest land in western Oregon. Subject to paragraph (b) of this subsection, in determining the forest land values, the department shall use the assessed values determined by the department and made available to the county assessors pursuant to ORS 321.622 (1975 Replacement Part) as of January 1, 1977, or, if an order has been issued by the director under subsection (3) of this section, the values determined by the order. The county assessor shall use the values so certified in the preparation of the tax rolls of the county for the tax year 1977-1978

(b) If an appeal is made under subsection (4) of this section to the Oregon Tax Court, and the decision of the court is not rendered on or before September 15, the assessor shall use in the preparation of the tax rolls of the county for the tax year 1977-1978 true cash values of forest land using the higher of (A) the base land class values asserted by the taxpayer, or if more than one taxpayer has appealed, the average of the values asserted by the appealing taxpayers weighted by acres of land under appeal or (B) the comparable base land class values used in arriving at true cash value of forest land on the assessment and tax rolls for the 1976 assessment year

(3) All orders of county boards of equalization changing the base land class values of forest lands from the values determined by the department and made available to county assessors under ORS 321 622 (1975 Replacement Part) as of January 1, 1977, are null and void. "Base land class" means a category of land quality used by the department in its determination of forest land values as of January 1, 1977. Within 10 days after July 28, 1977, the clerk of each county board of equalization to which any appeal has been taken requesting a change of base land class values shall file with the department a copy of the petition filed with the board and a copy of the file of the board with respect to such petition, including a copy of any minutes or order of the board concerning any hearing or action of the board. The petition to the board with respect to base land class values shall be deemed filed with the department upon such filing by the clerk of the board. Unless the right to a hearing is waived by the petitioner and the department, after giving notice of a time and place for hearing the petition, the department shall hear the petition not earlier than 15 days and not later than 45 days from the filing by the clerk of the board with the department. The order of the director shall be issued not later than 60 days following the filing with the department, and if not issued within that time, the relief requested in the petition as to base land class values shall be deemed to have been denied. All issues other than the issue of base land class value which are or were raised before boards of equalization shall be determined by such boards and appealed as otherwise provided by law.

(4) Appeal from an order of the director under subsection (3) of this section may be taken to the Oregon Tax Court by filing a complaint therein within 30 days after a copy

of the order has been served or within 90 days after the petition is deemed filed with the department under subsection (3) of this section if the director fails to issue his order. Except as provided in this section, an appeal to the tax court shall be taken and heard in the same manner as is provided with respect to appeals from orders of the director in property tax cases.

(5) If the tax court increases or reduces any of the base land class values under appeal, the decree of the tax court or if changed upon appeal, the decision of the Supreme Court, shall apply to the valuation of all forest land of the same base land class in the designated market area for the year 1977. An appeal may be taken to the Oregon Supreme Court from the decree of the tax court. The final determination of the tax court or the Supreme Court on appeal shall be binding upon the department and upon each assessor and taxpayer affected by such determination of value.

(6) The tax court and Supreme Court on appeal shall hear and determine appeals under subsections (4) and (5) of this section as expeditiously as may be appropriate for the timely and orderly completion of the assessment process for the assessment year under appeal. [1977 c 892 §53]

**Note:** See note under 321.352

### EASTERN OREGON SEVERANCE TAX

**321.405 Definitions for ORS 321.405 to 321.520.** As used in ORS 321.405 to 321.520, 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) "Forest land" means forest land as defined in ORS 321.805.

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

(5) "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.

(6) "Timber" means wood growth, mature or immature, growing or dead, standing or down, in eastern Oregon. [1961 c.627 §1, 1971 c.654 §7]

**321.410 Legislative findings; purpose of ORS 321.405 to 321.520.** (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 321.520 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 321.520; effect on other taxes.** (1) 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 321.520.

(2) The tax imposed under the provisions of ORS 321.405 to 321.520 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 321.520

(4) Nothing contained in ORS 321.405 to 321.520 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. [1961 c 627 §5, 1963 c 60 §1, 1977 c 892 §39]

**321.420 Exemption of eastern Oregon timber from general ad valorem tax; assessment of timber land 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 321.520

(2) Beginning January 1, 1972, and each year thereafter, forest land shall be appraised by the various county assessors and such forest land shall continue to be assessed and taxed in accordance with ORS 321.805 to 321.825. [1961 c 627 §3, 1963 c 225 §1, 1971 c 654 §8]

**321.425 Severance tax imposed on eastern Oregon timber; additional severance tax on certain timber; rate; measurement of amount harvested.** (1) 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.

(2) In addition to the severance tax imposed by subsection (1) of this section, all owners of timber in eastern Oregon shall pay a severance tax on the immediate harvest value of merchantable timber harvested from land designated as reforestation land pur-

suant to ORS 321.255 to 321.360 (1975 Replacement Part), as of July 1, 1977. The rate of the tax shall be seven and one-half percent on the immediate harvest value of merchantable timber harvested in 1978. For each calendar year thereafter, the rate shall be one-quarter percent less than the rate imposed for the preceding calendar year, until for the calendar year 2008, the additional rate imposed by this subsection shall be zero.

(3) The receipts from the tax imposed by subsection (2) of this section for the first calendar quarter of 1978 shall be held by the Department of Revenue for distribution until the appraised values are adjusted pursuant to ORS 321.485 (1975 Replacement Part) as of July 1, 1978. [1961 c 627 §4, 1977 c 892 §39a]

**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 director 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 ordi-

nary 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 321.520 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, and ending with the calendar quarter ending December 31, 1979. Commencing with the calendar quarter beginning January 1, 1980, and subject to the provisions related to quarterly estimated tax payments provided in ORS 321.950, the tax shall be due and payable semiannually on or before the last day of July and January of each year with respect to all timber harvested during the preceding two calendar quarters. 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 July and January, each owner shall make out a return on the form prescribed by the department showing the amount of tax for which the owner is liable for the preceding two calendar quarters 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 unpaid balance 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 321.520 shall be credited first to penalty and then to interest accrued on the tax being paid and then to the tax.

(4) Owners incurring less than \$5 total tax liability under ORS 321.405 to 321.520 in any reporting period are excused from the payment of such tax but shall be required to file a return. [1961 c 627 §6, 1963 c 86 §1, 1979 c 454 §6, 1981 c 706 §12]

**321.440 Audits, deficiencies, assessments, refunds and appeals governed by ORS chapters 305 and 314; interest and penalty for delinquency.** (1) The provisions of ORS chapters 305 and 314 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refund, conferences, appeals to the director of the department and appeals to the Oregon Tax Court, and the procedures relating thereto, shall apply to the determination of taxes, penalties and interest under ORS 321.405 to 321.520, except where the context requires otherwise. In addition, on or before July 31 of the year of determination, any owner may appeal to the Oregon Tax Court (other than to the small claims division) for the revision of a harvest value for an area determined pursuant to ORS 321.430. Also, an 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.

(2) A delinquent tax or a deficiency shall bear interest at the rate of one percent per month, or any fraction thereof, from the time the return was due.

(3) If a taxpayer fails to file a return required by ORS 321.405 to 321.520 or fails to pay a tax at the time the tax becomes due, there shall be added to the amount of tax required to be shown on the return a delinquency penalty of five percent of the amount of such tax.

(4) If the failure to file a return continues for a period in excess of three months after the due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of such tax. Penalty is in addition to the delinquency penalty imposed by subsection (3) of this section.

(5) 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 321.520 or the rules adopted, 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.

(6) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credits against the tax which may be lawfully claimed on the return.

[1961 c 627 §7, 1975 c 593 §20, 1977 c 870 §49, 1981 c 706 §13]

**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 321.520, 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 certified 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, 1981 c 706 §14]

**321.450 Warrant for collection of delinquent taxes; lien on real property.** (1) If any tax imposed by ORS 321.405 to 321.520, or any portion of such tax, is not paid within the time provided by law, the department may issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the owner owing the tax, found within that county, for the payment in the amount of the tax, 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 from the sale, within 60 days after receipt of the warrant. The sheriff shall, within five days after the receipt of the warrant, file a copy with the county clerk, and the clerk shall immediately 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 of the tax and penalties for which the warrant is issued and the date when the copy is filed. 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 immediately 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 shall be entitled to the same fees for 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, 1981 c 706 §15]

**321.455** [1961 c 627 §10, repealed by 1981 c 706 §16]

**321.460 Tax as lien on forest products.** The taxes imposed by ORS 321.405 to 321.520 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 timbers and wood products under ORS 87.222 and 87.236 to 87.346, and may be attached and be foreclosed in the manner provided in those statutes. [1961 c 627 §11, 1977 c 892 §40]

**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 321.520 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 321.520. [1961 c 627 §12]

**321.470** [1961 c 627 §13; 1965 c 6 §13; 1967 c 115 §1, repealed by 1977 c 870 §59]

**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 321.520 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 321.520; rules and regulations.** (1) ORS 321.405 to 321.520 shall be enforced and the taxes imposed by ORS 321.405 to 321.520 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 321.520.

(2) For the purpose of determining the taxes imposed by ORS 321.405 to 321.520, 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 321.520 shall be remitted by the department 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 321.520 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 321.520 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 321.520 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 321.520, 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 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 10th 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 last 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; 1971 c.408 §2; 1981 c 623 §8]

**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 321.520 which have been paid from the General Fund. Whenever the unobligated balance in the Administrative Subaccount is less than \$30,000 the department shall order the transfer to the subaccount of the sum of \$30,000 from the suspense account created by ORS 321.485 (1). [1961 c 627 §16(4), 1963 c 86 §3, 1979 c 438 §6]

**321.495** [1961 c 627 §17, repealed by 1971 c 408 §4]

**321.500** [1961 c 627 §18, repealed by 1971 c 408 §4]

**321.505** [1961 c 627 §19, 1963 c 86 §4; repealed by 1971 c 408 §4]

**321.510** [1961 c 627 §20, 1965 c.326 §1, repealed by 1971 c 408 §4]

**321.515 County treasurer to furnish amounts 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 August 20 of each fiscal year, each county treasurer in eastern Oregon shall certify to the county assessor of the county the amount of severance tax receipts then on deposit plus an amount equal to 50 percent of the receipts from the severance tax in the preceding year. Each county assessor shall apply the amount so certified 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 ORS 321.485 (3) 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 which have been apportioned to the various taxing units within the county. The county treasurer shall thereafter distribute the moneys on deposit on August 20 and 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.

(5) If the amounts received by the treasurer under subsection (4) of this section are greater than one-half of the previous year's county severance tax share, the county treasurer shall hold such excess receipts in a special account until they are certified and apportioned under subsections (1) to (4) of this section. [1961 c 627 §21, 1971 c 408 §3]

**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** [1961 c 627 §23, 1963 c 86 §5, repealed by 1971 c 408 §4]

**321.530** [1961 c 627 §24, 1967 c 335 §37, repealed by 1971 c 408 §4]

**321.605** [1961 c 659 §2, 1963 c 60 §2, 1967 c 543 §1, 1975 c 745 §1, repealed by 1977 c.892 §51]

**321.610** [1961 c 659 §1, repealed by 1977 c 892 §51]

**321.615** [1961 c 659 §3, repealed by 1977 c.892 §51]

**321.617** [Formerly part of 321 620, repealed by 1977 c 892 §51]

**321.618** [Formerly part of 321 620, 1973 c 237 §1, 1977 c 884 §21, 1977 c 892 §54b, renumbered 321 358]

**321.619** [Formerly part of 321 620, 1971 c 684 §5; 1977 c 870 §50, 1977 c 892 §27, 1977 c 893 §20c; renumbered 321.359]

**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** [Formerly part of 321 620, repealed by 1977 c 892 §51]

**321.622** [1961 c 659 §7(1), (3), repealed by 1977 c 892 §51]

**321.625** [1961 c 659 §6(1), repealed by 1977 c 892 §51]

**321.630** [1961 c 659 §6(2), repealed by 1977 c 892 §51]

**321.635** [1961 c 659 §7(2), repealed by 1977 c 884 §32, 1977 c 892 §51]

**321.640** [1961 c 659 §8, repealed by 1977 c 892 §51]

**321.645** [1961 c 659 §5(1), (2), (3), (4) and (5), repealed by 1977 c 892 §51]

**321.650** [1961 c 659 §5(6), 1975 c 636 §1, repealed by 1977 c 892 §51]

**321.655** [1961 c 659 §5(7), (8), 1967 c 78 §6, repealed by 1977 c 892 §51]

**321.660** [1961 c 659 §5(9), 1965 c 6 §14, 1967 c 78 §7, repealed by 1977 c 892 §51]

**321.665** [1961 c 659 §5(10), 1963 c 60 §3, repealed by 1977 c 892 §51]

**321.670** [1961 c 659 §5(11), repealed by 1977 c 892 §51]

**321.675** [1961 c 659 §5(12); repealed by 1977 c 892 §51]

**321.680** [1961 c 659 §5(13), 1963 c 576 §39, repealed by 1977 c 892 §51]

### 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, in the judgment of the State Forester, is suitable for the production of timber or cultured Christmas trees and is being utilized primarily for that purpose. Forest land often contains isolated openings which, because of rock outcrops, river wash, swamps, chemical conditions of the soil, brush and other like conditions prevent adequate stocking of such openings for the production of trees of a marketable species. If such openings in their natural state are necessary to hold the surrounding forest land in forest use through sound management practices, they are deemed forest land. Forest land does not include buildings, structures, machinery, equipment or fixtures

erected upon, under or above the soil, but does include roads described in ORS 308.236. Land used exclusively for growing cultured Christmas trees shall include that portion of such lands under buildings supporting accepted farming practices, areas used in the loading and sorting of Christmas trees and access roads used in the management of Christmas tree lands.

(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) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Service of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species; weed and brush control and one or more of the following practices: Basal pruning, fertilization, insect and disease control, stump culture, soil cultivation, irrigation.

[1961 c 714 §1, 1977 c 892 §41, 1977 c 893 §1a, 1979 c 553 §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 of the values per acre determined by the State Forester under ORS 321.720 (1). [1961 c 714 §9, 1975 c 617 §3]

**321.720 Determination of true cash value of forest land classified under ORS 321.705 to 321.765; exemption of timber from separate assessment.** Notwithstanding ORS 308.205 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 in accordance with the site class assigned to the land. The State Forester shall determine a true cash value per acre for each site class as defined in ORS 321.745 by using an income approach that capitalizes the average annual net income over a rotation age including periodic and final harvests. In using the income approach, the capitalization rate shall be 17 percent. The income approach used in determining the value per acre of the forest land shall be based upon the following factors:

(a) The volume of timber or quantities of related products that each site class may be expected to produce under reasonable and prudent levels of resource management using Staebler's gross yield and mortality tables for fully stocked stands of Douglas fir;

(b) A rotation age consistent with the site class and with prudent management practices;

(c) Thinning and other periodic harvest volume and value including final harvest;

(d) Current immediate harvest value of the timber volume to be derived from all harvests; and

(e) Costs of growing the timber volume through the final harvest.

(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 application for classification of the land is made with the State Forester under 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, 1975 c 617 §1, 1977 c 892 §42, 1977 c 893 §3, 1979 c 787 §1]

**Note:** Section 1, chapter 531, Oregon Laws 1981, provides

**Sec. 1.** Section 2, chapter 787, Oregon Laws 1979, is amended to read

**Sec. 2.** The amendments to ORS 321.720 by section 1, chapter 787, Oregon Laws 1979, apply to assessment years beginning on or after January 1, 1980

**Note:** Section 3, chapter 531, Oregon Laws 1981, provides

**Sec. 3.** Notwithstanding the 17 percent capitalization rate specified in ORS 321.720 (1), the capitalization rate utilized to determine the value of land classified under ORS 321.705 to 321.765 for those assessment years that begin on or after January 1, 1982, and prior to January 1, 1985, shall be 20 percent

**321.721 Reduction of true cash value.** The true cash value per acre for each site class determined by the State Forester under ORS 321.720 (1) shall be reduced as follows:

Assessment Date	Percent Reduction
January 1, 1976	50%
January 1, 1977	40%
January 1, 1978	30%
January 1, 1979	20%
January 1, 1980	10%
January 1, 1981, and thereafter	None

[1975 c 617 §2]

**Note:** 321.721 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 321 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation

**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;

(b) The size of timber on the forest land that predominates is not in excess of eight inches in diameter, breast high, outside the bark. However, forest land bearing timber of a predominate size of eight inches 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 size classes, he may consider each area separately and determine a predominant size of timber for each such area for purposes of this subsection;

(c) The land is being held or used for the predominant purpose of growing and harvesting trees of marketable species and such trees are well distributed over the area to be classified; and

(d) The land meets the minimum forest management standards established by rule by the State Forester, or if the owner has a plan approved by the State Forester for meeting those standards.

(2) Only owners having a total ownership of forest land in western Oregon in excess of 10 acres but not in excess of 2,000 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 (a) forest land owned by the applicant owner individually and (b) 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 may classify all or a portion of the lands that are eligible for classification under ORS 321.705 to 321.765. However, if the owner elects to classify only a portion of the lands eligible for classification, the owner must either:

(a) Classify all of the eligible lands that are contained in each tax lot that contains any lands proposed to be classified; or

(b) Furnish an adequate legal description of the lands that the owner desires classified to the State Forester and to the county assessor. As used in this paragraph, "adequate

legal description" means a legal description which the State Forester and the county assessor may use to locate the forest land and determine its acreage without undue difficulty.

(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 2,000-acre limitation imposed by this section. [1961 c 714 §4, 1969 c 326 §1, 1971 c 684 §1, 1975 c 617 §6, 1977 c 893 §6, 1979 c 553 §2]

**321.727 Exceptions from minimum acreage requirements of ORS 321.725 for certain lands.** Notwithstanding the minimum acreage requirement imposed by ORS 321.725 (2), owners with 10 acres or less of land that is classified under ORS 321.705 to 321.765 as of the July 1, 1977, assessment date shall remain classified until the land is removed from such classification as provided in ORS 321.760. However, land described in this section shall not be removed from classification upon transfer of ownership if the sole reason for the removal is that the new owner has a total ownership of forest land in western Oregon of 10 acres or less. [1977 c 893 §8]

**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. Applications made on or before December 31 of any calendar year may receive the classification as of January 1 of the year following provided such lands meet eligibility requirements as set forth in ORS 321.725. Application shall be made on appropriate forms supplied by the State Forester, and shall include the following:

(a) A description of all land the applicant desires to be classified under ORS 321.705 to 321.765.

(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, including cultured Christmas trees

(d) Whether the land has been subdivided or a plat has been filed under ORS 92.120.

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

(f) 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.

(g) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified under ORS 321.705 to 321.765.

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

(2) The State Forester, in determining whether the application submitted under subsection (1) of this section should be approved, shall weigh the relevant evidence submitted on the application form required by subsection (1) of this section.

(3) 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 that is the subject of the classification is located. A copy of such certification shall be sent to the applicant.

(4) 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.

(5) In the event the application submitted under subsection (1) of this section is not or cannot be made acceptable to the State Forester, the State Forester shall not classify the land. Any adverse ruling by the State Forester under this section shall be made within 90 days of the receipt of the application.

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

(7) 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, 1971 c 684 §2, 1977 c 893 §9; 1979 c 553 §3]

**321.732 Review of classified land by State Forester; notice of deficiencies; declassification.** (1) The State Forester shall review all classified lands periodically, but in any event not less than once in every five years, to insure that the lands are managed in accordance with the minimum forest management standards described in ORS 321.725. In the event that the State Forester finds that the owner of classified lands is not complying with ORS 321.725, the State Forester shall.

(a) Notify the owner in writing of the specific deficiencies in his forest management practices to be corrected.

(b) Allow the owner a reasonable time, as determined by the State Forester, to correct the deficiencies in his forest management practices. In fixing a reasonable time, the State Forester shall consider available materials, equipment and the season of the year.

(2) If, after notice under subsection (1) of this section is given, the State Forester determines that management of the land continues to fail to meet minimum management standards under ORS 321.725, and that the deficiencies which were the subject of the notice have not been corrected within the time specified in the notice, the State Forester shall declassify the land pursuant to ORS 321.760 (1)(b). [1977 c 893 §12; 1979 c 553 §4]

**321.735** [1961 c 714 §5, 1963 c 582 §1, 1965 c 371 §1, 1967 c 619 §2, 1969 c 326 §3, repealed by 1979 c 553 §11]

**321.737 Assessment roll and tax roll to show potential additional tax liability.** The assessment roll and the tax roll shall show "potential additional tax liability" for each parcel of land classified under ORS 321.705 to 321.765. [1979 c 553 §4b]

**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** [1961 c 714 §11, 1963 c 582 §2, 1965 c 371 §2, 1971 c 684 §3, 1977 c.892 §43, repealed by 1979 c 553 §11]

**321.755** [1961 c 714 §12, 1963 c 576 §40, repealed by 1979 c 553 §11]

**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. An owner may request declassification for all or a portion of the forest lands that are classified under ORS 321.705 to 321.765. However, if the owner requests declassification of only a portion of the classified forest land, the owner must either:

(A) Request declassification of all of the forest lands that are contained in each tax lot that contains any forest lands for which declassification is requested; or

(B) Furnish an adequate legal description of the land which the owner desires be declassified to the State Forester and to the county assessor. As used in this subparagraph, "adequate legal description" means a legal description from which the State Forester and the county assessor may locate the forest land requested to be declassified and determine its acreage without undue difficulty.

(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)(a) Forest land shall be declassified upon sale or transfer to an ownership making it exempt from ad valorem property taxation. Except as provided by this paragraph, the sale or transfer to a new owner or the transfer by reason of death of a former owner to a new owner shall not operate to declassify the land so long as the land continues to meet all of the eligibility requirements under ORS 321.725 and 321.730, except that the land need not meet the requirement that the predominant size of timber on the forest land be eight inches in diameter, breast high, outside the bark. However, the county assessor shall notify the State Forester if a sale or transfer of the forest land occurs for the purpose of determining the continued eligibility of the forest land for classification under ORS 321.705 to 321.765. The State Forester shall notify the county assessor in writing of the finding within 90 days after the date the county assessor's notice is mailed or delivered.

(b) The lien for increased taxes and interest on land declassified shall attach on the day preceding a sale or transfer of the land making it exempt from ad valorem taxation or on the day preceding a sale or transfer that follows or is connected with a division of the land that results in its declassification.

(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 ad valorem taxes on real property, an amount equal to the sum of:

(a) An additional tax in the amount of five times (or such lesser number of times, corresponding to the number of years of small tract optional tax classification applicable to the property) the total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to ORS 321.720 during the last year in which

the special classification was in effect for the forest land;

(b) The amount of severance taxes which would have been payable under ORS 321.257 to 321.342, during the five years immediately preceding such extension on the tax roll; and

(c) Interest on the amounts of taxes added pursuant to paragraph (b) 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 tax collector prior to completion of the next general property tax roll, pursuant to ORS 311.370.

(6) No additional tax shall be imposed under paragraph (a) or (b) of subsection (3) of this section if:

(a) The forest land or portion thereof that is declassified is designated as forest land at the election of the owner pursuant to ORS 321.347 (4) and section 45, chapter 892, Oregon Laws 1977. If the land is later removed from designation under ORS 321.257 to 321.375, however, the land shall be subject to the back taxes imposed by ORS 321.372 in the manner provided in ORS 321.347 (4) (relating to computation of the period of classification as designated forest land).

(b) The land is changed to assessment under ORS 308.370 or 321.352 pursuant to ORS 321.960. If the land is later removed from special assessment as farm or forest land, however, the additional tax or penalty under ORS 321.960 (4) shall apply. [1961 c 714 §10; 1969 c 326 §4, 1971 c.684 §4, 1975 c.617 §7, 1977 c 892 §44, 1977 c 893 §10a, 1979 c 350 §16, 1979 c 553 §5a; 1981 c 419 §8, 1981 c 791 §11]

**Note:** Section 8, chapter 791, Oregon Laws 1981, provides.

**Sec. 8.** The amendments to ORS 308.395, 308.399, 308.404, 308.406, 321.760, 321.825 and 321.960 by sections 1 to 7 of this Act apply to disqualifications or declassifications occurring on or after the effective date of this Act [November 1, 1981] For disqualifications or declassifications occurring prior to the effective date of this Act, the law in effect prior to the effective date of this Act shall continue to apply

**321.765 Appeals.** (1) Any owner affected by a determination of the State Forester made under ORS 321.705 to 321.765 may appeal to the State Board of Forestry under such rules as it may adopt. A suit to set aside any decision of the board may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for ad valorem property tax cases under ORS chapter 305

(2) On or before March 1 of the assessment year for which a determination is made, any owner affected by a determination of true cash value per acre for a site class made by the State Forester under ORS 321.720 (1) may appeal to the State Board of Forestry for a revision of the true cash value per acre for the site class. The appeal shall be made under such rules as the State Board of Forestry may adopt. A suit to set aside a 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 chapter 305. [1961 c 714 §13, 1965 c 6 §15, 1977 c 870 §60, 1977 c 893 §13a, 1979 c.553 §6]

**321.770** [1975 c 617 §5, repealed by 1977 c 893 §19]

**Note:** Section 45, chapter 892, Oregon Laws 1977, provides

**Sec. 45.** (1) Notwithstanding ORS 321.705 to 321.770, land classified under ORS 321.705 to 321.770 on January 1, 1977, at the election of the owner made within the period specified in subsection (2) of this section, shall be designated as forest land subject only to the severance taxes and ad valorem taxes provided in sections 5 and 24 of this Act commencing with January 1 next following the filing of such election

(2) The election to which reference is made in subsection (1) of this section shall be made on a form provided by the Department of Revenue and shall be filed with the assessor of the county in which the land is situated not later than December 31, 1983.

(3) The designation made pursuant to this section shall be considered a declassification of the land as classified pursuant to ORS 321.705 to 321.770. However, the land shall not be subject to any additional tax, penalty or interest by reason of such declassification imposed by ORS 321.760, 321.960 or any other law

## SPECIAL ASSESSMENT OF FOREST LANDS

**321.805 Definitions for ORS 321.805 to 321.825.** As used in ORS 321.805 to 321.825, unless the context requires otherwise:

(1) "Forest land" means land east of the summit of the Cascade Mountains which is not assessed as farmland pursuant to ORS 308.370 to 308.395 and is not assessed as property pursuant to ORS 308.505 to 308.990;

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 ORS 321.805 to 321.825, or is land the highest and best use of which is the growing and harvesting of such trees. Forest land is the land alone.

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

(3) 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. [1971 c 654 §2, 1977 c 892 §46]

**321.810 Determining true cash value of forest land generally; appeal of values; notice of appeal.** (1) Notwithstanding ORS 308.205 and 308.235, and for purposes of ORS 308.232, the true cash value of forest land shall be determined under this section. Land which has been designated as forest land under ORS 321.805 to 321.825 shall be valued as forest land under this section and shall be noted on the assessment and tax roll as being forest land potentially subject to increased taxes under ORS 321.825 (1).

(2) The true cash value of forest land for the assessment year 1982 shall be \$25 per acre. For the assessment year 1983, and for each assessment year thereafter, the true cash value of forest land shall be determined by multiplying the true cash value of the forest land for the previous year by the forest land index calculated by the Department of Revenue and certified to the appropriate county assessors under subsection (3) of this section.

(3) The Department of Revenue shall calculate, and certify to each county assessor on or before October 15, 1982, and on or before October 15 of each year thereafter, the forest land index to be used in the calculation of the true cash value of forest land as of the next assessment date. Except as provided in subsection (7) of this section, the county assessor shall use the index so certified in the preparation of the assessment and tax rolls.

(4) As used in this section, "forest land index" means the number 1.0 plus the decimal equivalent of 50 percent of the percentage change, whether positive or negative, in the sum of the yearly average immediate harvest

value of timber harvested over the previous five July 1 to June 30 fiscal years compared to the sum of the five yearly average immediate harvest values beginning one year prior to the most recent five-year harvest dates. The average immediate harvest value for each year shall be calculated by the Department of Revenue by dividing the total of the immediate harvest values on the returns by the total of the volumes on the returns. The volumes and immediate harvest values used to determine the index shall be based upon those volumes reported in thousand board feet or in the unit of measure in which the preponderance of volume has been reported. The returns used shall be the severance tax returns timely filed under ORS 321.435

(5) At any time after the certification of the index pursuant to subsection (3) of this section, but not later than March 20, five or more taxpayers owning in the aggregate not less than five percent of the total forest land acreage subject to ad valorem taxation in eastern Oregon may appeal the values directly to the director of the department by filing a joint petition with the director in the manner provided for appeals from orders of the county boards of equalization. Notice of the appeal shall be made in each county having values affected by the appeal, either by personal service, by certified mail on each taxpayer affected, or by publication made once a week for two consecutive weeks in a newspaper of general circulation in the county. The notice shall designate the values appealed, and include a statement of the provisions of subsection (6) of this section. The petition shall designate one of the group as the representative of all, and all proceedings before the department and any appeal from its determination shall be conducted procedurally as though the designated representative were the only petitioner. Unless the right to a hearing is waived by stipulation of the designated representative and the department, the hearing on the appeal shall be held not earlier than 15 days nor later than 45 days after the filing of the petition. The order of the director on the appeal shall be issued not later than 60 days following the filing of the petition and if not issued within that time, the relief requested in the petition shall be deemed to have been denied. The group, by and through its representative, may appeal to the Oregon Tax Court by filing a complaint therein within 30 days after a copy of the order has been served on the representative or within 90 days from the filing of the petition with the director if

the director fails to issue an order as provided herein. Except as herein modified, an appeal to the tax court shall be taken and heard in the same manner as is provided with respect to appeals from orders of the director in property tax cases.

(6) If the tax court increases or reduces any of the values under appeal, the decree of the court shall apply to the valuation of all forest land for that year. An appeal may be taken to the Oregon Supreme Court from the decree of the tax court. Unless changed upon appeal to the Supreme Court, the tax court determination shall be binding upon the department and upon each assessor and taxpayer affected by such determination of value.

(7) If an appeal is made to the tax court under this section or ORS 321.440, and the decision of the court is not rendered on or before the next September 1, the most recent uncontested forest land index shall be used in computing forest land values on the assessment and tax rolls.

(8) The tax court and Supreme Court on appeal shall hear and determine appeals under subsections (5) to (7) of this section expeditiously as may be appropriate for the timely and orderly completion of the assessment process for the assessment year under appeal.

(9) All other appeals from the application of the forest land index certified by the department under subsection (3) of this section shall be taken in the time and manner otherwise provided by law for such property tax appeals. [1971 c 654 §3; 1981 c 337 §1]

**321.815 Application for designation of land as forest land; contents; determination of land use; approval of application.** (1) An owner of land desiring that it be designated as forest land for purposes of ORS 321.810 shall make application to the county assessor on or before April 1 following the assessment date on which special assessment as forest land is first desired, and the owner may also do so within 30 days of receipt of notice of its assessment as omitted property or of the sending of notice of an increase in its true cash value, or by December 15 of the year of increased assessment if the owner does not receive the 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 being held or used for the predominant purpose of grazing or raising of livestock.

(g) Whether the land has been subdivided or a plat has been filed under ORS 92.120.

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

(i) Whether the land is timber land 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 in the application 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 92.120. 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 the assessor shall designate the land as forest land, except as to land which the assessor finds is not properly classifiable as forest land. The application shall be considered to have been approved unless, within three months of the date such applica-

tion was delivered to the assessor, the assessor shall notify the applicant in writing of the extent to which the application is denied.

[1971 c 654 §4, 1977 c 884 §24, 1981 c 804 §94]

**321.820 Removal of designation as forest land; notice; appeal.** (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 an ownership making it exempt from ad valorem property taxation; or (C) 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 transferred to a government entity in exchange for other forest land located within the State of Oregon.

(2) A taxpayer whose application filed under ORS 321.815 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 chapter 305. Orders of the department shall be subject to appeal as provided in ORS chapter 305. [1971 c 654 §5, 1973 c 296 §1, 1977 c 870 §53, 1977 c 893 §21a]

**321.825 Addition of tax upon land removed from designation of forest land; lien; prepayment.** (1) Whenever land designated as forest land as a result of an application being filed therefor under ORS 321.805 to 321.825 thereafter becomes disqualified, 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 additional tax equal to five times (or such lesser number of times, corresponding to the number of years of forest land designation applicable to such property) the total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to ORS 321.815 (3) and 321.820 (1) during the last year in which forest land designation was in effect for the land.

(2) In cases where the designation of forest land is removed as a result of a sale or transfer described in ORS 321.820 (1)(a)(B), the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.

(3) The amount determined to be due under subsection (1) of this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370. [1971 c 654 §6, 1977 c 893 §24, 1979 c 350 §17, 1981 c 791 §6]

Note: See note under 321.760

## MISCELLANEOUS PROVISIONS

**321.950 Estimated tax liability; payment procedure.** (1) Commencing with each six-month tax period described in ORS 321.322 or 321.435 beginning on or after January 1, 1980, each owner expecting to incur a liability pursuant to ORS 321.277 of \$5,000 or pursuant to ORS 321.425 of \$2,500, or more for the period shall, on forms prescribed by the Department of Revenue, make and file with the department on or before the last day of the fourth month of the period an estimate of his tax liability for the period. At least one-half of the estimated tax shall be remitted to the department with the estimated tax report and the balance shall be remitted to the department on or before the due date of the severance tax return for the period described in ORS 321.322 or 321.435, whichever is applicable, without regard for any extension of the due date thereof.

(2) If the amount remitted with an estimated report filed on or before the due date thereof is at least 50 percent of the severance tax of the owner as due for the period immediately preceding the period for which the report is made or at least 40 percent of his severance tax liability as due for the period for which the report is made, or 100 percent of the severance tax liability on the actual timber harvested for the first calendar quarter of the six-month tax period, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate of one percent per month or fraction thereof shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment which would have been due had the owner estimated his liability for the period in an amount equal to his liability as due for such period. The provisions of ORS chapters

305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section.

(3) This section does not apply to an owner who elects to compute his tax liability pursuant to ORS 321.282 (4). [1979 c 454 §4]

**Note:** 321 950 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 321 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

**321.955** [Formerly 308 309, 1965 c 412 §1, 1971 c 272 §1, 1975 c 636 §2, repealed by 1977 c 892 §51]

**321.960 Penalties applicable to land assessed as farm use or under designated forest land or small tract optional taxes.**

(1) Land which is assessed under any of the special assessment laws listed in subsection (2) of this section shall not be subject to the additional taxes or penalties imposed by ORS 308.395, 308.399, 321.372, 321.760 (3)(a) or (b), 321.825 or any other additional tax or penalty when such land is changed to a different special assessment listed in subsection (2) of this section.

(2) The provisions of this section apply to the following special assessment laws:

(a) ORS 308.370 (1), relating to special farm use assessment of land in an exclusive farm use zone

(b) ORS 308.370 (2), relating to special farm use assessment requiring application under ORS 308.375.

(c) ORS 321.358, relating to classification as designated forest land in western Oregon.

(d) ORS 321 730, relating to classification as western Oregon small tract optional tax land

(e) ORS 321.815, relating to classification as designated forest land in eastern Oregon.

(3) If, after disqualification or declassification occurs under one special assessment law, the owner is required to file an application or claim for classification under another special assessment law:

(a) If the disqualification or declassification is effective prior to July 1 in any year, the owner shall file the required claim or application on or before August 1 of that year.

(b) If the disqualification or declassification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current assessment and tax rolls, and the owner shall file the

required claim or application in the next calendar year in accordance with the laws governing the particular classification.

(4)(a) Land which was assessed under any of the special assessment laws listed in subsection (2) of this section but was changed to assessment under a different special assessment law shall be subject to the additional tax imposed under paragraph (b) of this subsection when such land becomes disqualified or declassified from special assessment and does not become qualified in the next assessment year for assessment under any other special assessment law listed in subsection (2) of this section. No other additional tax or penalty shall be imposed on such land at the time of disqualification or declassification

(b) Except as provided in paragraphs (c) and (d) of this subsection, upon disqualification or declassification, the assessor shall notify the owner thereof and there shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an additional tax equal to five times (or such lesser number of times, corresponding to the number of continuous preceding years of special assessment under any of the special assessment laws listed in subsection (2) of this section and applicable to such land) the total amount by which the taxes assessed against the land would have been increased if it had been valued without regard to any of the special assessment laws listed in subsection (2) of this section during the last year in which any such special assessment was in effect for the land.

(c) In determining the additional tax or penalty under paragraph (b) of this section, the number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in subsection (2) of this section prior to a disqualification of the land for special assessment as farm use land under ORS 308.370 (1) under the conditions described in ORS 308.399 (3)(b).

(d) If land, upon disqualification or declassification, is land that is receiving or has received special assessment as farm use land under ORS 308.370 (1) during one or more of the continuous preceding years of special assessment in effect for the land, and upon the most recent removal from special assessment under ORS 308.370 (1) was not in an

urban growth boundary, in making the computation of additional tax or penalty in accordance with paragraphs (b) and (c) of this subsection, the phrase "10 times" shall be substituted for the phrase "five times". However, the number of continuous preceding years of special assessment under the special assessment taxes listed in subsection (2)(b) through (e) of this section that may be taken into consideration for purposes of computing the additional tax or penalty shall not exceed five. As used in this section, "urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3).

(5) Where any land has been granted special assessment under any of the special assessment laws listed in subsection (2) of this section, and the land is disqualified or declassified from such special assessment, the owner shall be given notice of the provisions of this section either in the order or notice of disqualification or declassification provided by law, or if there is none provided by law, by written notice from the county assessor. Notice shall be given by the assessor within 15 days of the effective date of such disqualification or declassification. The notice also shall advise the owner of the administrative act necessary to change the property to another classification listed in subsection (2) of this section, and shall give notice of the imposition of any additional taxes or penalties that would result from the declassification or disqualification if no reclassification is made under one of the other special assessment laws listed in subsection (2) of this section. Notwithstanding the provisions of paragraph (a) of subsection (3) of this section, if the disqualification or declassification is effective prior to July 1 in any year, the owner shall have no less than 30 days after the effective date of the notice within which to file an application or claim for reclassification under another special assess-

ment law listed in subsection (2) of this section.

(6) If an owner of land disqualified or declassified under one of the special assessment laws listed in subsection (2) of this section files an application for classification for special farm use assessment under ORS 308.370 (2), the owner shall have five years beginning with the first year of classification under ORS 308.370 (2) within which to qualify for the two-year farm use requirement of that section and the income requirement under ORS 308.372 [1975 c 617 §4, 1977 c 892 §47, 1979 c 553 §7, 1981 c 419 §1; 1981 c 791 §9]

**Note:** See note under 321 760

**Note:** 321 960 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 321 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation

## 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) Violation of ORS 321.730 (7) 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 321.730 (7) [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; 1977 c.892 §50]

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## CHAPTER 322

[Reserved for expansion]

