

# Chapter 321

1989 EDITION

## Timber Taxes

### FOREST PRODUCTS HARVEST TAX

- 321.005 Definitions for ORS 321.005 to 321.185 and 321.560 to 321.600
- 321.011 Policy
- 321.012 Public to share cost of suppressing fires caused by public
- 321.015 Levy of privilege tax on the harvesting of forest products
- 321.028 Purposes of taxes levied under ORS 321.015 and 321.152
- 321.035 Determination of moneys available in Oregon Forest Land Protection Fund
- 321.045 Payment of tax; returns; estimated tax; payment
- 321.145 Tax revenue credited to suspense account; refunds
- 321.152 Distribution from suspense account
- 321.185 Forest Research and Experiment Account established; source; use; appropriation

### WESTERN OREGON FOREST LAND AND SEVERANCE TAX

- 321.257 Definitions for ORS 321.257 to 321.381
- 321.262 Purposes of ORS 321.257 to 321.381
- 321.267 Exemptions from ORS 321.257 to 321.381; tax in addition to ORS 321.005 to 321.185; limitations
- 321.272 Severance tax imposed on timber on private lands; assessment and taxation of western Oregon forest land
- 321.274 Severance tax on hardwood timber on private lands; western Oregon forest land; election by owner
- 321.277 Rate of severance tax
- 321.282 Designation of areas for determination of stumpage values by department; net stumpage recovery basis for certain taxpayers
- 321.284 Stumpage values; appeal by timber owners
- 321.287 Semiannual payments; determination of amount harvested; delinquency
- 321.299 Western Oregon Timber Tax Reserve Account
- 321.302 Western Oregon Tax Reserve Account; transitional transfers
- 321.307 Western Oregon Timber Tax Account; allocation to districts
- 321.308 Western Oregon Timber Tax Offset Guarantee Account
- 321.309 Western Oregon Timber Tax Offset Guarantee Account; transfers into account
- 321.311 Authority of taxing district to contract indebtedness
- 321.312 Severance tax offset against levies
- 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

- 321.322 Returns; time for filing; extension
- 321.347 Land designations; classifications; certain elections by landowners
- 321.349 Impact on valuation of change from farm use assessment to forest land designation
- 321.352 Western Oregon forest land assessment; standards; certification of values to assessors; appeals of values by certain taxpayers
- 321.357 Value of forest land classified as of July 1, 1977, as reforestation land
- 321.358 Application for designation as forest land; contents; approval
- 321.359 Removal of designation; exceptions; appeal from reassessment or denial; requalification
- 321.361 Redesignation as forest land after removal in certain years due to platting
- 321.362 Notation of forest land on tax roll for potential additional tax liability
- 321.367 State Forester report on forest lands failing minimum stocking; review of management plan; declassification and reclassification
- 321.372 Additional tax upon removal of forest land designation; attachment of lien; payment
- 321.375 Notice of appeal of forest land value; form of notice
- 321.379 Reports by seller or purchaser of privately owned timber; reports by purchasers of private and public log purchases
- 321.381 Confidentiality of reports submitted under ORS 321.379
- 321.390 Application of disqualification penalties to certain land

### EASTERN OREGON SEVERANCE TAX

- 321.405 Definitions for ORS 321.405 to 321.520
- 321.410 Legislative findings; purpose of ORS 321.405 to 321.520
- 321.415 Scope of ORS 321.405 to 321.520; effect on other taxes
- 321.420 Exemption of eastern Oregon timber from general ad valorem tax; assessment of timber land by county assessors
- 321.425 Severance tax imposed on eastern Oregon timber; additional severance tax on certain timber; rate; measurement of amount harvested
- 321.430 Determination of immediate harvest values; application by areas
- 321.432 Elective tax calculation; net stumpage recovery procedures
- 321.435 Payment of tax; filing of returns; order of crediting payments; payment of tax under \$5 excused
- 321.475 Collection of tax and effect of paying tax pending appeal

## REVENUE AND TAXATION

- 321.485 Eastern Oregon Timber Tax Account; deposit of tax revenues; refunds; credits and remittances to counties
- 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
- 321.520 Apportionments not to be included as anticipated receipts
- 321.815 Application for forest land designation; contents; approval
- 321.820 Removal of forest land designation; notice; appeal; requalification
- 321.823 Redesignation as forest land after removal in certain years due to platting
- 321.825 Additional tax upon removal of forest land designation; lien; prepayment

### GENERALLY

- 321.550 Notice of intent to harvest; rules; effect of failure to file notice
- 321.560 Audit of returns; interest and penalties
- 321.570 Warrant for collection of delinquent taxes
- 321.580 Effect of failure or refusal to make return
- 321.590 Tax as lien on forest products
- 321.600 Tax as debt; collection; limitation
- 321.609 Enforcement of ORS 321.005 to 321.520 by department; rules
- 321.682 Confidentiality of reports and returns filed under ORS 321.045, 321.322, 321.435 and 321.950
- 321.684 Authority of department to make certain disclosures
- 321.686 Penalty for violation of ORS 321.682

### WESTERN OREGON SMALL TRACT OPTIONAL TAX

- 321.705 Definitions for ORS 321.705 to 321.765
- 321.710 Legislative findings; purpose of ORS 321.705 to 321.765
- 321.715 Administration by State Forester; rules and regulations; publicizing; report to legislature
- 321.720 Determination of true cash value of forest land classified under ORS 321.705 to 321.765; exemption of timber from separate assessment
- 321.721 Reduction of true cash value
- 321.725 Eligibility of forest land for classification; eligible owners
- 321.727 Exceptions from minimum acreage requirements of ORS 321.725 for certain lands
- 321.730 Application for classification; certification by State Forester; affidavits of continuing eligibility; false statements
- 321.732 Review of classified land by State Forester; notice of deficiencies; declassification
- 321.737 Assessment roll and tax roll to show potential additional tax liability
- 321.740 Application fees
- 321.745 Assignment of "site class"; redeterminations
- 321.747 Application of severance tax to harvest of timber on small tract
- 321.760 Declassifications
- 321.765 Appeals
- 321.795 Change from timber assessment to special open space use assessment

### SPECIAL ASSESSMENT OF FOREST LANDS

- 321.805 Definitions for ORS 321.805 to 321.825
- 321.810 Determining true cash value of forest land

- generally; appeal of values; notice of appeal
- 321.815 Application for forest land designation; contents; approval
- 321.820 Removal of forest land designation; notice; appeal; requalification
- 321.823 Redesignation as forest land after removal in certain years due to platting
- 321.825 Additional tax upon removal of forest land designation; lien; prepayment

### MISCELLANEOUS PROVISIONS

- 321.950 Estimated tax liability; payment procedure
- 321.960 Penalties applicable to land assessed as farm use or under designated forest land or small tract optional taxes
- 321.970 Disqualification due to acquisition by government for park, wildlife, preservation or recreation purpose

### PENALTIES

- 321.991 Penalties

### CROSS REFERENCES

- Administration of revenue laws generally, Ch. 305
- Administrative appeals, 305.265 to 305.285
- Administrative procedures and rules of state agencies, 183.310 to 183.550
- Appeal procedure, 305.280
- Appeals to Oregon Tax Court, 305.410
- Assessment of forest lands for fire suppression costs, 477.880
- Claim for refund of any tax paid, 305.270
- Coniferous trees, transportation without bill of sale, 164.825 to 164.855
- Deficiency procedure, 305.265
- Emergency Fire Cost Committee, 477.440 to 477.460
- General provisions relating to property taxation, Ch. 306
- Interest on deficiency, delinquency or refund, 305.220
- Management assistance to nonindustrial private forest landowners, 526.425
- Procedure for assessment and collection of property taxes, Chs. 308, 309, 310, 311, 312
- Separately owned standing timber, to whom assessed, 307.010, 308.115
- Tax Court, Oregon, 305.405 to 305.555
- Verification of documents filed under tax laws, falsification prohibited, 305.810, 305.815
- When tax document deemed filed with tax official, 305.820

321.135

- Rules, making and filing, 183.310 to 183.550

321.185

- Rehabilitation of forest lands, loaning credit of state to provide funds, Const. Art. XI-E, §1

321.415

- Borrowing and bonding capacities of eastern Oregon political subdivisions, determination, 287.010

321.430

- Timber values to reflect presence of roads, 308.236

## TIMBER TAXES

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**321.570**

Release of lien by department, 305.140  
Revenue department as party to action involving prop-  
erty subject to lien, 305.130

**321.600**

Action in other states for Oregon taxes, 305.610  
Reciprocal recognition of tax liability, 305.610

**REVENUE AND TAXATION**

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**FOREST PRODUCTS HARVEST TAX**

**321.005 Definitions for ORS 321.005 to 321.185 and 321.560 to 321.600.** As used in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460, unless the context requires otherwise:

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

(2) "Protected forest lands" means those lands which are protected from the starting or spread of fire thereon or therefrom by:

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

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

(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 paragraph (c) of this subsection, 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.

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

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

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

(6) "Forest products" means products from harvested timber.

(7) "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.

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

(9) "Taxpayer" means the owner of timber at time of harvest.

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

(11) "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.

(12) "Timber" means all logs which can be measured in board feet and other forest

products as determined by department rule. [1953 c.375 §1; 1957 c.309 §3; 1961 c.726 §412; 1965 c.253 §139, 1967 c.429 §38, 1981 c.321 §9; 1983 c.539 §1, 1985 c.759 §5]

**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 321.185 and 321.560 to 321.600. [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 of five cents per thousand feet, board measure, upon taxpayers on the harvesting of all merchantable forest products harvested on forest lands.

(2) In addition to the tax levied by subsection (1) of this section, there hereby is levied a forest products harvest tax upon taxpayers of 30 cents per thousand feet, board measure, on all merchantable forest products harvested on forest lands for the payment of benefits as provided in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

(3) In addition to the taxes levied under subsections (1) and (2) of this section, there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forest land for the purposes described in ORS 321.028.

(4) Subject to subsection (5) 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 321.185 and 321.560 to 321.600 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.

(5) 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 321.185 and 321.560 to 321.600. [1953 c.375 §2, 1957 c.309 §14, 1981 c.321 §10, 1985 c.759 §6; 1989 c.769 §1]

Note: Section 1, chapter 627, Oregon Laws 1989, provides.

Sec. 1. Notwithstanding any other provisions of law, for the fiscal years beginning July 1, 1989, and July 1, 1990, the rate of tax levied by ORS 321.015 (1) shall be 16 cents higher than the rate that otherwise would be in effect under ORS 321.015 (1). [1989 c.627 §1]

Note: Section 2, chapter 766, Oregon Laws 1989, provides:

Sec. 2. The rate of the privilege tax imposed under ORS 321.015 (3) is 16 cents per thousand feet, board measure, on the harvesting of all merchantable forest products harvested on forest land on or after July 1, 1989, and prior to July 1, 1991. [1989 c.766 §2]

321.020 [Repealed by 1953 c.375 §38]

321.025 [1953 c.375 §3; 1959 c.537 §1; 1961 c.242 §1, 1967 c.429 §11; 1977 c.182 §1; 1981 c.321 §1; repealed by 1985 c.759 §40]

321.027 [1977 c.172 §2, 1979 c.375 §1; 1981 c.348 §1, 1983 c.682 §1; repealed by 1985 c.746 §3 and 1985 c.759 §40]

**321.028 Purposes of taxes levied under ORS 321.015 and 321.152.** (1) The purpose of the tax levied by ORS 321.015 (3) 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 1990 and 1991.

(2) Notwithstanding ORS 291.238, the moneys transferred to the State Forestry Department Account under ORS 321.152 (3) 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 §3, 1979 c.375 §2; 1981 c.348 §2; 1983 c.682 §2; 1985 c.759 §7; 1987 c.551 §3, 1989 c.766 §3]

321.030 [Repealed by 1953 c.375 §38]

**321.035 Determination of moneys available in Oregon Forest Land Protection Fund.** (1) For purposes of determining the moneys available in the Oregon Forest Land Protection Fund described in ORS 477.750 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. [1953 c.375 §4; 1961 c.297 §4; 1963 c.88 §1; 1967 c.429 §7, 1985 c.759 §8]

321.037 [1967 c.429 §9; repealed by 1985 c.759 §40]

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. The tax shall be delinquent if not paid by the due date which shall be determined without regard to any extension of time for filing the return.

(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 upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 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

semiannual 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 established under ORS 305.220 for each 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; 1982 s.s.1 c.16 §12; 1989 c.588 §1]

321.050 [Repealed by 1953 c.375 §38]

321.055 [1953 c.375 §7; 1975 c.593 §19; 1977 c.870 §45; 1981 c.706 §8, 1982 s.s.1 c.16 §13; 1985 c.759 §10; renumbered 321.560]

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 [1953 c.375 §9; 1981 c.706 §9, 1983 c.696 §14; 1985 c.759 §11; 1985 c.761 §17; renumbered 321.570]

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 [1981 c.706 §2; 1985 c.759 §12; renumbered 321.580]

321.095 [1953 c.375 §11; 1983 c.740 §92; 1985 c.759 §13; renumbered 321.590]

321.100 [Repealed by 1953 c.375 §38]

321.105 [1953 c.375 §12, 1985 c.759 §14; renumbered 321.600]

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 [1953 c.375 §15; 1985 c.759 §15; renumbered 321.609]

321.140 [Repealed by 1953 c.375 §38]

**321.145 Tax revenue credited to suspense account; refunds.** (1) The revenue from the taxes levied by ORS 321.005 to 321.185 and 321.560 to 321.600 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445.

(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), (2) and (3) 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), (2) and (3) 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. [1953 c.375 §16; 1957 c.309 §4; 1957 c.528 §6; 1961 c.270 §1, 1985 c.759 §16]

321.150 [Repealed by 1953 c.375 §38]

**321.152 Distribution from suspense account.** (1) Subject to ORS 321.145 (2), moneys remaining in the department's suspense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of each year shall be transferred to the various appropriation accounts described in subsections (2), (3) and (4) of this section.

(2) That part of the moneys derived from taxes levied by ORS 321.015 (1) shall be transferred to the Forest Research and Experiment Account described in ORS 321.185.

(3) That part of the moneys derived from taxes levied by ORS 321.015 (3) shall be transferred to the State Forestry Department Account referred to in ORS 526.060.

(4) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be transferred to the Oregon Forest Land Protection Fund described in ORS 477.750. [1985 c.759 §3]

**Note:** 321.152 was added to and made a part of ORS chapter 321 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

321.160 [Repealed by 1953 c.375 §38]

321.165 [1953 c.375 §19; 1957 c.309 §5; 1961 c.297 §5; 1965 c.253 §140; 1967 c.429 §12; 1981 c.321 §11; repealed by 1985 c.759 §40]

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 321.015 (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; 1985 c.759 §17]

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 [1953 c.375 §18; 1957 c.309 §7, 1961 c.297 §7; repealed by 1985 c.759 §40]

321.225 [1953 c.375 §33; repealed by 1985 c.759 §40]

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 321.381.** As used in ORS 321.257 to 321.381, unless the context requires otherwise:

(1) "Arms-length transaction" means a transaction made in the open market where there is no duress, where each party is independent of the other and where there are no trades or hidden considerations involved.

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

(3) "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.

(4) "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.

(5) "Inadequate sales data" means sale volume of less than 20 percent of the harvest volume reported for that timber age class in the market area for the two prior reporting periods as described in ORS 321.322 or less than 10 timber sales transactions.

(6) "Log Purchase Value Index" shall be based on log grade recovery classes as set by rule which correspond to the timber age classes. The "Log Purchase Value Index" means the percentage change in the average value of log purchases from private lands calculated by comparing the two preceding reporting periods.

(7) "Market area" means those groups of areas containing timber with similar values as designated by the department by the authority under ORS 321.282 (1). The department shall designate market areas by rule.

(8) "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.

(9) "Stumpage value" of timber means values determined from log grade value tables adopted or used by the department pursuant to ORS 321.282.

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

(11) "Taxpayer" means the owner of timber at time of harvest.

(12) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule.

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

(14) "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; 1983 c.539 §2, 1985 c.759 §18; 1989 c.1083 §1]

**321.260** [Formerly 528.020; repealed by 1977 c.892 §51]

**321.262 Purposes of ORS 321.257 to 321.381.** The purposes of ORS 321.257 to 321.381 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 321.381; tax in addition to ORS 321.005 to 321.185; limitations.** (1) The following timber and forest land are not subject to ORS 321.257 to 321.381:

(a) Timber and forest land assessed by the department pursuant to ORS 308.505 to 308.660, 308.705 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.

(e) Except as provided in ORS 321.274, land and hardwood timber, including but not limited to hybrid cottonwood, which are:

(A) Grown or growing on land which has been prepared by intensive cultivation methods such as plowing or turning over the soil and which is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for inclusion in the "furnish" for manufacturing paper products;

(C) Harvested on a rotation cycle within 10 years after planting; and

(D) Fertilized, subject to insect and disease control, cultivated and irrigated.

(2) The tax imposed by ORS 321.277 shall be in addition to that levied by ORS 321.005 to 321.185 and 321.560 to 321.600.

(3) Nothing contained in ORS 321.257 to 321.381 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 321.185 and 321.560 to 321.600.

(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; 1989 c.887 §5]

**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]

**321.274 Severance tax on hardwood timber on private lands; election by owner.** (1) Notwithstanding ORS 321.267 (1)(e), and upon the election of an owner made as provided under subsection (2) of this section, the taxes imposed under ORS 321.257 to 321.381 on timber harvested from other privately owned land in western Oregon are imposed on hardwood timber harvested from land in western Oregon described in ORS 321.267 (1)(e) that is privately owned.

(2) An owner having total ownership of forest land in western Oregon in excess of five acres but not in excess of 2,000 acres who elects to claim a credit allowed under ORS 316.094 or 317.102 for reforestation project costs paid or incurred in connection with a reforestation project as described under ORS 321.267 (1)(e) on the forest land and for which a preliminary certificate is issued for a tax year beginning on or after January 1, 1990, shall be considered to have made the election to pay the severance tax imposed under subsection (1) of this section upon the harvest, on and after the date the preliminary certificate is issued, of all such hardwood timber harvested from all forest land owned by the owner on the date the preliminary certificate is issued. For purposes of this section, "ownership or total ownership" shall be determined in the same manner as "ownership or total ownership" is determined for purposes of ORS 321.705 to 321.765. If, after the date the preliminary certificate is issued, the forest land planted in hardwood timber as described in ORS 321.267 (1)(e) is sold or otherwise transferred, the election shall be binding upon the purchaser or transferee and all subsequent purchasers and transferees, as to that particular land, until such time as all of the hardwood timber on that land has been harvested, the land is changed in use or the timber is exempt under other provision of ORS 321.257 to 321.381, all to be determined subject to rules adopted by the department. [1989 c.887 §7b]

Note: 321.274 was added to and made a part of ORS 321.257 to 321.375 by legislative action but was not

added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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 [1977 c.892 §50a; repealed by 1983 c.740 §92a]

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 February 1 and August 1 of each year, for use during the six-month period beginning January 1 and July 1 of the same year, the department shall prepare and adopt by order tables of values by log grade or other appropriate system recognized 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. Such stumpage values shall be based upon voluntary purchases of standing timber made in the ordinary course of business for harvest within 37 months 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 local market conditions in western Oregon. 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. Beginning with the January 1, 1992, through June 30, 1992, valuation period, and ending with the July 1, 1993, through December 31, 1993, valuation period, in the event there are inadequate sales data in a market area, the department shall use the Log Purchase Value Index for the affected timber age class for the market area as defined by rule. 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 average volume per acre harvested, logging conditions, and 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, blowdown or other causes.

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

(3) Public hearings shall be held at least 45 days 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 owner-

ship 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 stumpage recovery and eligibility for the alternate calculation of the tax provided in this subsection. [1977 c.892 §6; 1979 c.454 §1; 1983 c.563 §1, 1985 c.759 §19; 1989 c.1083 §2]

**321.284 Stumpage values; appeal by timber owner.** (1) Within 21 days after the stumpage value tables are adopted by the department as provided in ORS 321.282, a timber owner may appeal either the stumpage values or any allowances of all relevant factors, or both, as listed in ORS 321.282 to the Oregon Tax Court. Values modified by the court shall apply only to the complainant. Multiple appeals may be consolidated by the court. In the event that five or more timber owners owning in the aggregate not less than five percent of the total forest land subject to ad valorem taxation in a single land market area, or their representative organization appeals, values modified by the court shall apply to all timber owners in that market area.

(2) An appeal to the Oregon Tax Court under this section shall be taken in the same manner and form as a complaint filed under ORS 305.560. A timber owner shall be considered to be aggrieved by the department's values if the timber owner owns timber in western Oregon. The court has jurisdiction to affirm or modify the values contained in the stumpage tables adopted by the department.

(3) Notwithstanding ORS 305.275 (4), no appeal to the director is required before an appeal may be taken to the court under this section.

(4) An appeal filed in the Oregon Tax Court pursuant to this section shall have priority over all other cases pending before the court and shall be heard and decided as soon after coming to issue as is reasonably possible.

(5) If the Oregon Tax Court fails to render a decision before May 1 for the valuation period January 1 to June 30, or by November 1 for the valuation period July 1 to December 31, the stumpage values adopted by the department shall be used as the stumpage values for the tables referred to in ORS 321.282 until a decision is reached. If the court establishes stumpage values different from those adopted by the department, the provisions of ORS 321.560 shall apply, except that no penalty shall be assessed for deficiencies attributable to changes in the stumpage values and any refund shall be payable, with interest, no later than the end of the fiscal year beginning on July 1 following the calendar year in which the court renders the decision. [1989 c.1083 §4]

**Note:** 321.284 was added to and made a part of 321.257 to 321.375 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**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** [1977 c.892 §7a; repealed by 1985 c.759 §40]

**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** [1977 c.892 §8; 1979 c.438 §1; 1981 c.623 §7; repealed by 1985 c.759 §40]

**321.299 Western Oregon Timber Tax Reserve Account.** (1) The Western Oregon Timber Tax Reserve Account is established, separate and distinct from the General Fund. The Western Oregon Timber Tax Reserve Account shall consist of the following:

(a) The moneys transferred to the account under ORS 321.302.

(b) The moneys transferred to the account under subsection (2) of this section.

(2) Prior to August 20 of the fiscal year beginning July 1, 1986, and prior to August 20 of each fiscal year thereafter, the department shall determine the balance in the Western Oregon Timber Tax Reserve Account. If the balance in the Western Oregon Timber Tax Reserve Account is less than 10 percent of the average of the timber tax collections from all timber taxes imposed under ORS 321.277 in the three preceding fiscal years, the department shall cause to be transferred to the Western Oregon Timber Tax Reserve Account, on a periodic basis, from the Western Oregon Timber Tax Account during the current fiscal year, 50 percent of the amount needed, as of the date of determination, to bring the balance in the Western Oregon Timber Tax Reserve Account to 10 percent of the average of the timber tax collections in the three previous fiscal years. The remaining amount needed to bring the balance in the Western Oregon Timber Tax Reserve Account to 10 percent of the average of the timber tax collections in the three preceding fiscal years shall be transferred in the next succeeding fiscal year. The transfer shall be made before the determination is made under this subsection for that next succeeding fiscal year.

(3) If the balance in the Western Oregon Timber Tax Reserve Account as determined under subsection (2) of this section is more than 10 percent of the average timber tax collections in the three preceding fiscal years, 75 percent of the excess determined prior to August 20, 1986, and all of the excess determined prior to August 20 of any year thereafter shall be transferred to the Western Oregon Timber Tax Account and shall be included in the estimates of the department made under ORS 321.312 (2)(b) as amounts to be credited and paid as timber tax collections for the current fiscal year.

(4) If, for any fiscal year, the amounts available for distribution from the Western Oregon Timber Tax Account do not equal the offsets, as determined and certified under ORS 321.312 (3), an amount equal to the deficiency shall be transferred from the Western Oregon Timber Tax Reserve Account to

the Western Oregon Timber Tax Account and shall be paid in the same manner as other moneys in the Western Oregon Timber Tax Account are distributed until each taxing district receives for the fiscal year an amount equivalent to its offset.

(5) All moneys in the Western Oregon Timber Tax Reserve Account shall be invested, upon certification of the amounts available for investment in the account, as provided in ORS 293.701 to 293.776, and the earnings shall be credited to the account. [1985 c.759 §21b; 1989 c.966 §23]

**321.300** [Formerly 528.090; 1967 c 105 §7; repealed by 1977 c 892. §51]

**321.302 Western Oregon Tax Reserve Account; transitional transfers.** 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 as follows: One-third of the account balance as of August 1, 1985, shall be transferred to the Western Oregon Timber Tax Account; and the entire account balance shall be transferred to the Western Oregon Timber Tax Reserve Account created under ORS 321.299 as of August 1, 1986. Any interest accruing or paid to the Western Oregon Tax Reserve Account on or after August 1, 1986, shall be considered as interest paid or accrued to the Western Oregon Timber Tax Reserve Account. 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, 1983 c 763 §25; 1985 c.759 §21]

**321.305** [Formerly 528.095; repealed by 1977 c.892 §51]

**321.307 Western Oregon Timber Tax Account; allocation to districts.** (1) 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, separate and distinct from the General Fund, established under the provisions of ORS 293.445 which shall be known as the Western Oregon Timber Tax Account. Interest earned on cash balances invested by the State Treasurer shall be credited to this account. Moneys are appropriated continuously for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed by ORS 321.277. This appropriation shall be from the Western Oregon Timber Tax Account.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied by ORS 321.277 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. This 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.

(3)(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 as provided in subsections (1) and (2) of this section and ORS 321.311 and transfers required under ORS 321.299, 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 average of the district's rates of levy in the ad valorem tax roll for the five preceding fiscal years, bears to the average harvest value of timber harvested in all districts in the county multiplied by the corresponding average 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 average of the district's rates of levy in the ad valorem tax roll for the five preceding fiscal years bears to the assessed value of forest land in all districts in the

county multiplied by the corresponding average 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.

(4) All moneys credited to the taxing districts pursuant to subsection (3) of this section are continuously appropriated to the districts in whose names they are credited, and the department shall remit the full amounts including interest 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. A working balance may be retained in the Western Oregon Timber Tax Account for the payment of administrative expenses provided by subsection (1) of this section. [1977 c.892 §10, 1979 c.438 §7, 1981 c.623 §9; 1985 c.759 §22; 1989 c.966 §24; 1989 c.1083 §16]

**321.308 Western Oregon Timber Tax Offset Guarantee Account.** (1) The Western Oregon Timber Tax Offset Guarantee Account is established in the General Fund.

(2) The account shall consist of the moneys transferred to the account under ORS 321.309. All moneys in the account shall be invested, upon certification of the amounts available for investment in the account, as provided in ORS 293.701 to 293.776, and the earnings shall be credited to the account. [1989 c.1083 §14]

**Note:** 321.308, 321.309 and 321.311 were added to and made a part of 321.257 to 321.375 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**321.309 Western Oregon Timber Tax Offset Guarantee Account; transfers into account.** (1) Notwithstanding ORS 321.307 (3)(a), one-half of the entire balance over \$29 million, of the moneys otherwise to be credited to taxing districts under ORS 321.307 (3)(a) in 1990-1991, shall be transferred to the Western Oregon Timber Tax Offset Guarantee Account established under ORS 321.308.

(2) Notwithstanding ORS 321.307 (3)(a), one-half of the entire balance over \$30 million, of the moneys otherwise to be cred-

ited to taxing districts under ORS 321.307 (3)(a) in 1991-1992, shall be transferred to the Western Oregon Timber Tax Offset Guarantee Account established under ORS 321.308.

(3) The estimates of severance tax revenues or collections prepared under ORS 321.312 (2) shall not include the amounts required to be transferred under subsection (1) or (2) of this section. The amounts so transferred shall not be distributed to taxing districts under ORS 321.307, and shall not be used to reduce the levy of taxing districts under ORS 321.312, in the fiscal or tax year beginning July 1, 1990, or in the fiscal or tax year beginning July 1, 1991. [1989 c.1083 §13]

**Note:** See note under 321.308.

**321.310** [Formerly 528.100; repealed by 1977 c.892 §51]

**321.311 Authority of taxing district to contract indebtedness.** (1) If, notwithstanding ORS 321.299 (4) and 321.312 (4) and (5), and for any reason, the amount distributed to a taxing district under ORS 321.307 for any fiscal year is less than the amount offset against the levy of the taxing district under ORS 321.312 for the same fiscal year, the taxing district may contract indebtedness to meet current expenses by issuance of short-term promissory notes not in excess of the amount of the difference.

(2) If, as determined prior to August 20 of each fiscal year, and notwithstanding ORS 321.299 (4) and 321.312 (4), the amount distributed to any taxing district for the preceding fiscal year from the Western Oregon Timber Tax Account established under ORS 321.307 does not equal its offset, as determined and certified under ORS 321.312 (3), for the preceding fiscal year, the difference shall be remitted to the taxing district from the Western Oregon Timber Tax Account established under ORS 321.307 and amounts are continuously appropriated to the department for that purpose. Payment under this subsection shall be made in the same manner as other moneys in the Western Oregon Timber Tax Account are distributed. Amounts distributed under this subsection shall not be further offset under ORS 321.312.

(3) Nothing in this section shall affect the authority of a taxing district to contract indebtedness under law other than this section. [1989 c.1083 §15]

**Note:** See note under 321.308

**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)(a) Prior to January 15, 1986, and prior to January 15 of each year thereafter, the Department of Revenue shall prepare a preliminary estimate of the revenues received from all taxes levied under ORS 321.277 as a result of the harvesting of timber that will be credited to taxing districts for the ensuing fiscal year. The estimate shall include an estimate of the proportion of those revenues that each taxing district will receive. The estimate shall be forwarded to the taxing unit and may be used by the taxing unit in the preparation of its budget.

(b) Prior to August 20 of the fiscal year beginning July 1, 1986, and prior to August 20 of each fiscal year thereafter, the Department of Revenue, on the basis of its records and other information available to the department, shall prepare a final estimate of the collections that will be credited to each taxing district as a result of the harvest of timber during the calendar quarter beginning July 1, October 1 and January 1 of the current fiscal year and shall certify the final estimates so prepared to the appropriate county treasurer for use by the county treasurer and by the county assessor both in determining the amount of revenue to be distributed to the taxing district as limited by subsection (6) of this section and the amount of revenue to be offset against the levy of the taxing unit under subsection (3) of this section. In making the estimate, the department shall take into consideration any transfers to or from the Western Oregon Timber Tax Reserve Account required under ORS 321.299.

(3) Not later than August 20 of each year beginning on or after July 1, 1986, 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 the department's estimate of collections that will be credited to the taxing district as a result of the harvest of timber during the calendar quarters beginning July 1, October 1 and January 1 of the current fiscal year as certified under paragraph (b) of subsection (2) of this section. However, the amount on deposit each August 20 shall be deemed to include amounts payable to the treasurer by the department not later than August 31 pursuant to ORS 321.307 (4) 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 the tax year beginning July 1, 1986, and each tax year thereafter shall be the amount so certified to the assessor by the treasurer.

(4) Subject to ORS 321.299, 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 from 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 321.307 (4) 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. [1977 c.892 §11; 1979 c.438 §2; 1985 c.759 §23]

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 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 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 by the decimal equivalent of the average of the rates of levy used in the district for ad valorem taxation in the current and the four preceding tax years.

(2)(a) For purposes of paragraph (a) of subsection (1) of this section, 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) For purposes of this section, "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) 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; 1983 s.s. c.5 §23; 1985 c.613 §15; 1985 c.759 §24]

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 made on or before the due date further time not exceeding 30 days for filing a return. The tax shall be delinquent if not paid by the due date which shall be determined without regard to any extension of time for filing the return.

(2) All severance tax payments received under ORS 321.257 to 321.381 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 321.381 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; 1989 c.588 §3]

321.325 [Formerly 528.120; repealed by 1977 c.892 §51]

321.327 [1977 c.892 §14; 1981 c.706 §11; 1982 s.s.1 c.16 §14; repealed by 1985 c.759 §40]

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

321.332 [1977 c.892 §18; repealed by 1985 c.759 §40]

321.335 [Formerly 528.150; repealed by 1977 c.892 §51]

321.337 [1977 c.892 §19; repealed by 1985 c.759 §40]

321.340 [Formerly 528.160; 1973 c.348 §8; repealed by 1977 c.892 §51]

321.342 [1977 c.892 §22; repealed by 1985 c.759 §40]

321.344 [1981 c.706 §4; 1983 c.740 §93; repealed by 1985 c.759 §40]

321.345 [Formerly 528.170; 1973 c.348 §9; repealed by 1977 c.892 §51]

321.346 [1981 c.706 §5; 1983 c.696 §15; 1983 c.740 §94; repealed by 1985 c.759 §40]

**321.347 Land designations; classifications; certain elections by landowners.** For the purposes of ORS 321.257 to 321.381:

(1) All land in western Oregon valued as forest land for ad valorem tax purposes as January 1, 1977, shall retain that classification for the purposes of ORS 321.257 to 321.381 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 321.381 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]

**321.349 Impact on valuation of change from farm use assessment to forest land designation.** (1) Subject to subsection (3) of this section, land that is changed under ORS 321.960 from special assessment at true cash value for farm use under ORS 308.370 (1) or (2) to special assessment as forest land under ORS 321.257 to 321.381, at the election of the owner made under rules adopted by the Department of Revenue, shall not be valued under ORS 308.205, 308.232, 321.352 and 321.357 for the assessment year of the change and years thereafter in which such special forest land assessment is in effect for the land, but shall be valued under ORS 308.345, if:

(a) The land has been assessed under ORS 308.370 (1) or (2) for at least the 10 consecutive years immediately prior to the year for which the change is first effective;

(b) The planting of the timber takes place after October 15, 1983, and qualifies for the current assessment year for special assessment as forest land under ORS 321.272 (2);

(c) The timber on the land is of an average age of less than 40 years; and

(d) The land is held by an owner having a total ownership of forest land in western Oregon not in excess of 2,000 acres, as determined under subsection (4) of this section.

(2) If land described in subsection (1) of this section was classified as reforestation land under ORS 321.255 to 321.360 (1975 Replacement Part) on July 1, 1977, the percentage provided in ORS 321.357 shall be applied

to the value determined under subsection (1) of this section.

(3) If timber on land valued under subsection (1) of this section reaches, for any assessment year, an average age of 40 years or more, this section shall cease to apply. However, without application and without any additional tax, interest or penalty, the land shall for that assessment year and for each year thereafter for which the land is qualified, be valued under ORS 308.205, 308.232, 321.352 and 321.357.

(4) In computing a forest land owner's acreage for purposes of subsection (1) of this section, all of the owner's forest land, as defined in ORS 321.257, in western Oregon shall be included. As used in this subsection, "total ownership" includes (a) forest land owned by the owner individually; and (b) forest land owned by any corporate or other group owner in which the owner holds a share of ownership of 10 percent or more. No owner may have forest land valued under subsection (1) of this section if the owner, or any individual having a share in the owner, has a spouse, brother, sister, ancestor or lineal descendant who is an owner, or who holds a share in an owner having forest land valued under subsection (1) of this section. However, the county assessor may grant exceptions to this requirement if the owner satisfactorily demonstrates that the combination of ownership with the indicated relatives arose from bona fide business reasons other than a desire to circumvent the 2,000 acre limitation imposed under subsection (1) of this section. [1983 c.657 §8]

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) (1983 Replacement Part). 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) (1983 Replacement Part).

(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, 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. 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 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; 1985 c.613 §16]

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 platted under ORS chapter 92.

(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) The county assessor shall approve an application for forest land designation if the assessor finds that the land is properly classifiable as forest land. The county assessor shall not find land properly classifiable as forest land if:

(a) The application states the land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species; or

(b) Subject to the provisions of ORS 321.257, the land does not substantially meet minimum stocking or acreage requirements under rules adopted by the department. Otherwise, the determination whether the land is properly classifiable as forest land 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 deemed to have been approved unless, within three months of the date such application was delivered to the assessor or prior to July 1, whichever is later, the assessor shall notify the applicant in writing of the extent to which the application is denied. [Formerly 321.618; 1981 c.804 §93; 1983 c.462 §5; 1983 c.657 §2; 1989 c.1083 §9]

**321.359 Removal of designation; exceptions; appeal from reassessment or denial; requalification.** (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 the assessor removes the forest land designation under paragraph (b) of this subsection.

(b) The county assessor shall remove the forest land designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation;

(B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(C) Discovery by the assessor that the land is no longer forest land; or

(D) The act of platting the land under ORS chapter 92.

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

(d) Paragraph (b) 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.

(3) If, under subparagraph (D) of paragraph (b) of subsection (1) of this section, the county assessor removes the forest land designation upon the act of platting the land, the land, or a part of the land, may be requalified for forest land designation upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

(b) Submission by the owner of an application for designation as forest land as provided in ORS 321.257 to 321.381;

(c) Meeting all of the qualifications for designation as forest land as provided in ORS 321.347 to 321.375; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use. [Formerly 321.619; 1983 c.462 §6; 1983 c.563 §2; 1985 c.759 §24a; 1987 c.158 §52]

**Note:** The amendments to 321.359 by section 5, chapter 174, Oregon Laws 1987, do not apply after January 1, 1992. See section 8, chapter 174, Oregon Laws 1987. The text is set forth for the user's convenience.

**321.359.** (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 the assessor removes the forest land designation under paragraph (b) of this subsection.

(b) The county assessor shall remove the forest land designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation;

(B) Except as provided in paragraph (e) of this subsection, sale or transfer to an ownership making it exempt from ad valorem property taxation,

(C) Discovery by the assessor that the land is no longer forest land, or

(D) The act of platting the land under ORS chapter 92.

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

(d) Paragraph (b) 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

(e) The county assessor shall not remove the forest land designation from land when that land is transferred to the Director of Veterans' Affairs or while the land is held by the Director of Veterans' Affairs

(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.

(3) If, under subparagraph (D) of paragraph (b) of subsection (1) of this section, the county assessor removes the forest land designation upon the act of platting the land, the land, or a part of the land, may be requalified for forest land designation upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

(b) Submission by the owner of an application for designation as forest land as provided in ORS 321.257 to 321.375,

(c) Meeting all of the qualifications for designation as forest land as provided in ORS 321.347 to 321.375; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use.

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

**321.361 Redesignation as forest land after removal in certain years due to platting.** Land that has been removed from forest land designation under ORS 321.257 to 321.381 for the 1981, 1982 or 1983 assessment years solely because the land is included in a subdivision platted and recorded under ORS chapter 92 may be redesignated as forest land if:

(1) The owner submits an application for forest land designation under ORS 321.257 to 321.381; and

(2) The land meets all the qualifications for forest land designation under ORS 321.257 to 321.381. [1983 c.462 §8]

**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 report on forest lands failing minimum stocking; review of management plan; declassification and reclassification.** (1) The State Forester shall report to each county assessor in western Oregon on or before February 28, 1989, 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 527.610 to 527.730. 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, the State Forester shall review the owner's management plan and inspect the property. If the State Forester 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, the State Forester 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 321.381 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 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, 1983 c.669 §1; 1987 c.158 §53]

**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 five times (or such lesser number of times, corresponding to the number of years of forest land designation of such property) the total amount by which the taxes assessed against the land would have been increased if it had been valued without such designation during the last year in which such designation was in effect for the land.

(2) When the designation of forest land is removed as a result of a sale or transfer described in ORS 321.359 (1)(b)(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; 1983 c.462 §16; 1985 c.759 §25]

**321.375 Notice of appeal of forest land 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 321.352 (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; 1985 c.759 §26]

321.377 [1977 c.892 §53; repealed by 1985 c.759 §40]

**321.379 Reports by seller or purchaser of privately owned timber; reports by purchasers of private and public log purchases.** (1) Any seller or purchaser in an arms-length transaction of privately owned timber located within western Oregon shall, within 30 days after the sale or purchase of the timber, report the particulars of the sale or purchase to the department. The particulars that must be reported shall be those designated by rule of the department and shall be relevant to the valuation of stumpage. The report shall be made on forms provided by the department.

(2) On or before September 1 of each year, purchasers of logs shall report private

log purchases from timber harvested from within western Oregon for the first six months of that calendar year to the department as prescribed by rule of the department. On or before March 1 of each year, purchasers of logs harvested from within western Oregon shall report private log purchases for the second six months of the preceding calendar year to the department.

(3) On or before September 1 of each year, purchasers of logs shall report public log purchases from timber harvested within western Oregon for the first six months of that calendar year to the department under rules adopted by the department. On or before March 1 of each year, purchasers of logs harvested from within western Oregon shall report public log purchases for the second six months of the preceding calendar year to the department under rules adopted by the department.

(4) Any seller or purchaser who fails to report a sale or purchase as required under subsection (1) or (2) of this section shall be liable for a penalty of \$1,000 for each failure to report, which shall be assessed and collected in the manner provided in ORS 321.560 and 321.570. [1989 c.1083 §5]

**321.381 Confidentiality of reports submitted under ORS 321.379.** (1) Particulars of timber and log sales or purchases, reported to the department under ORS 321.379, shall be confidential records of the department. Those records shall be available to the State Forestry Department, the Legislative Revenue Officer, or authorized representatives of the Legislative Revenue Officer, for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850, and to the authorized agents of the Federal Government and the several states on a reciprocal basis where the Federal Government and states have a provision of law which provides confidentiality meeting or exceeding that provided by this section.

(2) Violation of subsection (1) of this section is subject to a fine not exceeding \$5,000 or, if an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

(3) Notwithstanding subsection (1) of this section, if stumpage value tables are appealed to the Oregon Tax Court under ORS 321.284, the department may disclose to the court any information received under ORS 321.379 that the department collected in determining the stumpage values under appeal. [1989 c.1083 §6]

**Note:** Section 7, chapter 1083, Oregon Laws 1989, provides:

**Sec. 7.** The department shall collect data and information needed to evaluate other methods of valuing timber for purposes of ORS 321.257 to 321.381 and shall report its evaluation in findings and recommendations to the Joint Interim Committee on Revenue and School Finance prior to the Sixty-sixth Legislative Assembly. [1989 c.1083 §7]

**321.390 Application of disqualification penalties to certain land.** (1) ORS 321.274 and the amendments to ORS 215.203, 307.320 and 321.267 by sections 5 to 7, chapter 887, Oregon Laws 1989, apply to assessment years beginning on or after January 1, 1990, and to timber harvested on or after January 1, 1990.

(2) Nothing in the amendments to ORS 215.203, 307.320 or 321.267 by sections 5 to 7, chapter 887, Oregon Laws 1989, shall be construed to subject any land to the disqualification penalties imposed under ORS 321.372 or 321.960 or other law. However, if land described in ORS 321.267 (1)(e), as amended by section 5, chapter 887, Oregon Laws 1989, becomes disqualified for special assessment at true cash value for farm use on or after January 1, 1990, or on or after that date is changed to assessment under another law under ORS 321.960 and is thereafter declassified or disqualified for special assessment, then any years prior to 1990 for which special assessment under a law listed under ORS 321.960 (2) was in effect for the land shall be included in determining the disqualification or declassification penalty as otherwise provided by law.

(3)(a) If on January 1, 1990, or upon any date thereafter, land is or becomes land described under ORS 321.267 (1)(e) and the land is not located within an exclusive farm use zone, the owner shall make application for special valuation as farm use land in the manner provided under ORS 308.375, as follows:

(A) If the change in use takes place on or after July 1, the owner shall file the application on or before April 1 of the following year.

(B) If the change in use takes place prior to July 1, the owner shall file the application on or before August 1 of the same year.

(b) If an application is filed as provided under this subsection, the owner shall have seven years beginning with the first year of classification to meet the income requirements of ORS 308.372 and need not meet the two-year farm use requirements of ORS 308.370 (2). [1989 c.887 §8]

**Note:** 321.390 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 Preface to Oregon Revised Statutes for further explanation

**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 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.

(5) "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.

(6) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule.

(7) "Taxpayer" means the owner of timber at time of harvest. [1961 c.627 §1; 1971 c.654 §7; 1983 c.539 §3; 1985 c.759 §27]

**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 321.185 and 321.560 to 321.600.

(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) Land used exclusively for growing cultured Christmas trees, and the cultured Christmas trees growing thereon, as defined in ORS 215.203, shall not be subject to the provisions of ORS 321.405 to 321.520 and 321.805 to 321.825.

(5) 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 321.185 and 321.560 to 321.600. [1961 c.627 §5; 1963 c.60 §1; 1977 c.892 §39; 1983 c.657 §3]

**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 pursuant 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 August 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 issued by the department in duplicate. One copy shall be delivered to the Secretary of State, and the other copy shall

be retained on file in the office of the department.

(2) The department shall select various areas in eastern Oregon which shall be treated as units for the application of the immediate harvest values determined under this section. The department shall determine unit values for immediate harvest for each species in each area, except that for Ponderosa pine the department may make further value classifications based on age, size and other relevant factors. The areas shall be selected, within the discretion of the department based on administrative feasibility, to include timber having similar growing and marketing conditions. The determination of the size and location of appropriate areas shall not be subject to review by the courts.

(3) As used in this section, "immediate harvest value" means the amount that each species or subclassification of timber would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such value shall be determined by methods which make reasonable and adequate allowances for age, size, quality, growing conditions, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors. [1961 c.627 §4a; 1983 c 563 §3; 1985 c.761 §19]

**321.432 Elective tax calculation; net stumpage recovery procedures.** (1) An owner who harvests less than 500,000 board feet of timber in the calendar year 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 ORS 321.430.

(2) For purposes of this section, "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 paragraphs:

(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.

(3) The department may require such proof from the owner as it deems necessary

to determine the amount of stumpage recovery and eligibility for the alternate calculation of the tax provided in this section. [1987 c.551 §5]

**321.435 Payment of tax; filing of returns; order of crediting payments; payment of tax under \$5 excused.** (1) 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 which shall be determined without regard to any extension of time for filing the return.

(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 upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(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; 1989 c.588 §2]

**321.440** [1961 c.627 §7; 1975 c.593 §20; 1977 c.870 §49; 1981 c.706 §13; 1982 s.s.1 c.16 §15; 1983 c.563 §4; repealed by 1985 c.759 §40]

**321.445** [1961 c.627 §8; 1981 c.706 §14; repealed by 1985 c.759 §40]

**321.450** [1961 c.627 §9; 1981 c.706 §15; 1983 c.696 §16; 1983 c.740 §96; repealed by 1985 c.759 §40]

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

**321.460** [1961 c.627 §11; 1977 c.892 §40; repealed by 1985 c.759 §40]

**321.465** [1961 c.627 §12; 1983 c.740 §97; repealed by 1985 c.759 §40]

**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** [1961 c.627 §15; repealed by 1985 c.759 §40]

**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, separate and distinct from the General Fund, established under the provisions of ORS 293.445 which shall be known as the Eastern Oregon Timber Tax Account. Interest earned on cash balances invested by the State Treasurer shall be credited to this account. Moneys are appropriated continuously for use in reimbursing the General Fund for expenses incurred in the collection of taxes imposed by ORS 321.405 to 321.520. The appropriation shall be from the Eastern Oregon Timber Tax Account.

(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 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 subsections (1) and (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 and interest earned thereon 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. A working balance may be retained in the Eastern Oregon Timber Tax Account for the payment of administrative expenses provided by 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; 1985 c.759 §28, 1989 c.966 §25]

321.490 [1961 c.627 §16(4); 1963 c.86 §3; 1979 c.438 §6; repealed by 1985 c.759 §40]

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 the county treasurer 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 the county treasurer 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]

**GENERALLY****321.550 Notice of intent to harvest; rules; effect of failure to file notice.**

(1) No person shall cut, sever or remove or cause to be cut, severed or removed any timber from land in 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 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 and 321.560 to 321.600.

(2) 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 timber tax return.

(3)(a) If, on or after October 3, 1989, a person fails to file a written notice as required in subsection (1) of this section with respect to any harvest over 5,000 board feet, the department shall notify the person. If, after the person has been notified, the person fails to file a written notice as required in subsection (1) of this section with respect to any subsequent harvest, over 5,000 board feet, there shall be added to the amount of the timber tax required to be shown on the return as a result of the subsequent harvest a delinquency penalty of \$250 for each violation occurring within a calendar year. The department shall collect the penalty in the same manner as other taxes are collected.

(b) No penalty shall be imposed under this subsection if a penalty for failure to file the notice with the State Forester has been imposed under ORS 527.992.

(c) The delinquency penalty shall first be added to either the western Oregon forest land and severance tax imposed under ORS 321.257 to 321.381, or the eastern Oregon severance tax imposed under ORS 321.405 to 321.520, if either tax is applicable to the harvest. If neither tax is applicable, the delinquency penalty shall be added to the forest products harvest tax imposed under ORS 321.005 to 321.185. [1985 c.759 §2, 1989 c.588 §4]

**321.560 Audit of returns; interest and penalties.**

(1)(a) 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 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600, except where the context requires otherwise.

(b) In addition, on or before August 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) If a taxpayer fails to file a return required by ORS 321.045, 321.257 to 321.381 or 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.

(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) 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 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600 or the rules adopted thereunder, a penalty of 100 percent of such delinquency or deficiency shall be added, plus interest at the rate established under ORS 305.220 for each month, or any fraction thereof, computed on the full amount of the delinquency or deficiency plus penalty, from the time the return was due.

(5) 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.

(6) A delinquent tax or a deficiency shall bear interest at the rate established under ORS 305.220 for each month, or any fraction thereof, from the time the return was due. [Formerly 321 055]

**321.570 Warrant for collection of delinquent taxes.**

(1) If any tax imposed by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600, or any portion of such tax, is not paid within

30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed, the department may issue a warrant, 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. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) The sheriff shall, within five days after the receipt of the warrant, record a copy with the county clerk, and the clerk shall immediately enter in the County Clerk Lien Record the name of the taxpayer mentioned in the warrant, and 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 recorded. The amount of the warrant so recorded 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. 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 record, 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.

(3) 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.

(4) 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. [Formerly 321.075; 1989 c.625 §78]

**321.580 Effect of failure or refusal to make return.** If any taxpayer neglects or refuses to make a return required to be made by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600 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 tax-

payer 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 321.570. [Formerly 321.092]

**321.590 Tax as lien on forest products.** The taxes imposed by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600 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 87.222 and 87.236 to 87.346, and may be attached and be foreclosed in the manner provided in those statutes. [Formerly 321.095]

**321.600 Tax as debt; collection; limitation.** All taxes, interest and penalties due and unpaid under ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600 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 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600 shall be instituted after the expiration of six years from the date such taxes were due. [Formerly 321.105]

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

**321.609 Enforcement of ORS 321.005 to 321.520 by department; rules.** (1) ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 and 321.560 to 321.600 shall be enforced and the taxes imposed by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 and 321.560 to 321.600 shall be collected by the department which shall have the power to prescribe forms and to adopt rules for the ascertainment, assessment and collection of the taxes imposed by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600.

(2) For the purpose of determining the taxes imposed by ORS 321.005 to 321.185, 321.257 to 321.381, 321.405 to 321.520 or 321.560 to 321.600, the department may:

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

(b) Examine the 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 of the land from which any timber has been harvested. [Formerly 321.135]

- 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]

**321.682 Confidentiality of reports and returns filed under ORS 321.045, 321.322, 321.435 and 321.950.** Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045, 321.322, 321.435 and 321.950. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to subsection (2) of ORS 321.684 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues. As used in this section, "offi-

cer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person. [1989 c.1083 §18]

**321.684 Authority of department to make certain disclosures.** (1) The department may:

(a) Furnish to any taxpayer or authorized representative, upon request of the taxpayer or authorized representative, a copy of the taxpayer's timber tax return filed with the department for any year, or a copy of any report filed by the taxpayer in connection with the return.

(b) Publish a list of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics classified so as to prevent the identification of taxable value or any particulars contained in any report or return.

(d) Disclose a taxpayer's name, address and social security number or employer identification number to the extent necessary in connection with the processing and mailing of forms for any report or return required in the administration of ORS 321.045, 321.322, 321.435 and 321.950.

(e) Disclose names and addresses of taxpayers filing under ORS 321.282 (4) and 321.432 to Oregon State University pursuant to surveys and programs related to forest management.

(2) The department also may disclose and give access to information described in ORS 321.682 to:

(a) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

(b) The United States Forest Service, Bureau of Land Management and the State Forestry Department pursuant to their regulatory programs and for investigative purposes related to timber theft.

(c) The Attorney General, assistants and employees in the Department of Justice or other legal representative of the State of Oregon, to the extent the department considers disclosure or access necessary for the performance of the duties of advising or representing the department pursuant to ORS 321.045, 321.322, 321.435 and 321.950.

(d) Employees of the State of Oregon, other than the Department of Revenue or Department of Justice, to the extent the department considers disclosure or access necessary for such employees to perform their duties under contracts or agreements between the department and any other department, agency or subdivision of the State of

Oregon in the department's administration of the tax laws.

(e) The Legislative Revenue Officer or the authorized representative upon compliance with ORS 173.850. Such officer or representative shall not remove from the premises of the department any materials that would reveal the identity of any taxpayer or any other person or the volume of harvest and value reported on individual returns and reports.

(f) Any agency of the State of Oregon, or any person, or any officer or employee of such agency or person to whom disclosure or access is given by state law and not otherwise referred to in this section, including but not limited to the Secretary of State as Auditor of Public Accounts under section 2, Article VI of the Constitution of the State of Oregon.

(3) Each officer or employee of the department and each person described or referred to in paragraphs (b) to (f) of subsection (2) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 321.682 and 321.686 relating to penalties for the violation of ORS 321.682, and shall, as a condition of employment or performance of duties, execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of ORS 321.682. [1989 c.1083 §19]

**321.686 Penalty for violation of ORS 321.682.** Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment. [1989 c.1083 §20]

### 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 the authorized representative of the State Forester.

(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.533 §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 for 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; 1985 c.157 §2]

**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 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 or the average age of timber on the forest land is not in excess of 40 years. However, forest land bearing timber of a predominate size of eight inches or less or of an average age of 40 years or less when classified may continue under such classification until the average age of the timber

reaches 90 years. If the State Forester determines that the forest land proposed to be classified consists of areas of substantially different size or age classes, the State Forester may consider each area separately and determine a predominant size or age 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, total ownership shall be included even though portions of the forest land of the owner 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 ap-

plicant 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; 1983 c.745 §1]

**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 shall be made on or before April 1 of the assessment year for which classification is first desired or in the calendar year previous to the calendar year for which classification is first desired. 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 to determine if the land meets the eligibility requirements under ORS 321.705 to 321.765.

(3) If the State Forester determines that an applicant's land is eligible for classification under ORS 321.705 to 321.765, the State Forester 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 and the land shall be classified under ORS 321.705 to 321.765 as of the January 1 of the first assessment year for which the application applies. 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, the owner 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 §36, 14; 1967 c.619 §1; 1969 c.326 §2; 1971 c.684 §2; 1977 c.893 §9; 1979 c.553 §3; 1985 c.157 §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 forest management practices to be corrected.

(b) Allow the owner a reasonable time, as determined by the State Forester, to cor-

rect the deficiencies in 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 the State Forester 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"; re-determinations.** (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:

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(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.

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(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 the opinion of the State Forester such standards are not appropriate for a particular species, the State Forester may adopt different

standards which are demonstrated to the satisfaction of the State Forester 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 the initiative of the State Forester, 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]

**321.747 Application of severance tax to harvest of timber on small tract.** (1) Notwithstanding ORS 321.267 (2), 321.720 (3) or any other law, if land or a portion of land is classified or is changed to the classification granted under ORS 321.705 to 321.765 for ad valorem property tax purposes on or after October 15, 1983, and the land or portion would have failed to qualify for such classification or change except for the amendments to ORS 321.725 by section 1, chapter 745, Oregon Laws 1983, then if, within five years after January 1 of the first assessment year for which classification is granted timber is harvested from the land, ORS 321.257 to 321.381 shall apply to the harvest of the timber with the exception of cultured Christmas trees.

(2) Nothing in this section shall be construed to affect any determination made as to classification or declassification of land under ORS 321.705 to 321.765 or designation or removal of land from designation under ORS 321.257 to 321.381. [1983 c 745 §4]

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 or of an average age of less than 40 years. 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 321.322, 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)(a) Declassifications certified under this section shall take effect as of the date that the notice of declassification is sent by certified mail or delivered by the State Forester to the owner. If the declassification is effective before July 1 of the current assessment year, the declassification shall apply for the current assessment year. However, if the declassification is effective on or after July 1, classification shall continue for the current assessment year and declassification shall apply for the assessment year beginning the following January 1.

(b) A notice of declassification mailed or delivered under this section shall inform the owner of the land of ORS 321.960 and the opportunity, if qualified to do so, to change to classification or designation under one of the other special assessment laws listed in ORS 321.960. The notice shall be in lieu of any further notice required under ORS 321.960 (5) and shall contain the information required in a notice given under ORS 321.960 (5).

(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 321.381, 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; 1983 c.745 §2; 1985 c.157 §1]

**Note:** The amendments to 321.760 by section 6, chapter 174, Oregon Laws 1987, do not apply after January 1, 1992. See section 8, chapter 174, Oregon Laws 1987. The text is set forth for the user's convenience.

**321.760.** (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) Except as provided in paragraph (c) of this subsection, 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 or of an average age of less than 40 years. 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.

(c) Forest land shall not be declassified upon transfer of the land to the Director of Veterans' Affairs or while the forest land is held by the Director of Veterans' Affairs.

(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 321.322, 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)(a) Declassifications certified under this section shall take effect as of the date that the notice of declassification is sent by certified mail or delivered by the State Forester to the owner. If the declassification is effective before July 1 of the current assessment year, the declassification shall apply for the current assessment year. However, if the declassification is effective on or after July 1, classification shall continue for the current assessment year and declassification shall apply for the assessment year beginning the following January 1.

(b) A notice of declassification mailed or delivered under this section shall inform the owner of the land of ORS 321.960 and the opportunity, if qualified to do so, to change to classification or designation under one of the other special assessment laws listed in ORS 321.960. The notice shall be in lieu of any further notice required under ORS 321.960 (5) and shall contain the information required in a notice given under ORS 321.960 (5).

(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.

**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]

**321.795 Change from timber assessment to special open space use assessment.** (1) Land specially assessed under any of the special assessment laws listed in ORS 321.960 (2) for an assessment year beginning on or after January 1, 1982, shall be changed to special open space use assessment under ORS 308.740 to 308.790 if:

(a) Application for special open space use assessment is or has been made under ORS 308.750;

(b) The land qualifies for such special open space use assessment;

(c) The application for special open space use assessment is or has been approved under ORS 308.755 and 308.760;

(d) The open space use is for a golf course open to the general public with or without payment of fee or charge; and

(e) All or a portion of the land is within or is contiguous to an urban growth boundary as defined in ORS 308.399.

(2) Land described in subsection (1) of this section shall not, upon the change from farm or forest use to open space use, be subject to any of the additional taxes, penalties or interest ordinarily applicable when land specially assessed under one of the special assessment laws listed under ORS 321.960 (2) is disqualified, declassified or otherwise removed from such special assessment.

(3) When land that has been changed from special assessment as farm or forest land to special open space use assessment under subsections (1) and (2) of this section is later withdrawn or otherwise removed from such open space use assessment, all the provisions of ORS 308.740 to 308.790 shall apply except that there shall be added to the amount of additional taxes imposed under ORS 308.770 or 308.775 and computed under ORS 308.760 (3), the amount of the additional taxes, interest and penalties that, except for subsections (1) and (2) of this section, would have been added at the time of the change. However, in making the computation of the amount to be added under this subsection, the number of years specified in ORS 308.395, 308.399, 321.372, 321.760 (3)(a) and (b), 321.825 or 321.960, whichever is applicable, shall be reduced by the number of continuous years of open space use assessment in effect for the land pursuant to the change. At the time of the change to open space use and each year thereafter, the assessor shall determine and note upon the assessment and tax rolls the added amount of potential additional taxes, if any, that may become due under this subsection.

(4) For purposes of ORS 308.780 and in construing any other provision of ORS 308.740 to 308.790, the amount of additional taxes, interest and penalties added under subsection (3) of this section shall be treated as additional taxes imposed under ORS 308.770 or 308.775.

(5) Upon receipt of any application for special open space use assessment under ORS 308.740 to 308.790, in addition to the notice required under ORS 308.025, the public official or agency shall notify the owner of the provisions of this section. [1983 c.543 §1]

**Note:** 321.795 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 Preface to Oregon Revised Statutes for further explanation.

### 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 308.372, 308.375, 308.380, 308.390 and 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. 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.

(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; 1983 c.539 §4]

**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 321.560, 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; 1985 c.759 §31]

**321.815 Application for forest land designation; contents; approval.** (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 platted under ORS chapter 92.

(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) The county assessor shall approve an application for forest land designation if the assessor finds that the land is properly classifiable as forest land. The county assessor shall not find land properly classifiable as forest land if the application states the land is not being held or used for the predominant purpose of growing and harvesting trees of marketable species. Otherwise, the determination whether the land is properly classifiable as forest land 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 considered to have been approved unless, within three months of the date such application was delivered to the assessor or prior to July 1, whichever is later, 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; 1983 c.462 §9; 1983 c.657 §1]

**321.820 Removal of forest land designation; notice; appeal; requalification.** (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 the county assessor removes the forest land designation under paragraph (b) of this subsection.

(b) The county assessor shall remove the forest land designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation;

(B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(C) Discovery by the assessor that the land is no longer forest land; or

(D) The act of platting the land under ORS chapter 92.

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

(d) Paragraph (b) 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.

(3) If, under subparagraph (D) of paragraph (b) of subsection (1) of this section, the county assessor removes the forest land designation upon the act of platting the land, the land, or a part of the land, may be requalified for forest land designation upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing with respect to the land;

(b) Submission by the owner of an application for designation as forest land as provided in this section;

(c) Meeting all of the qualifications for designation as forest land as provided in ORS 321.805 to 321.825; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use. [1971 c.654 §5; 1973 c.296 §1; 1977 c.870 §53; 1977 c.893 §21a; 1983 c.462 §10; 1983 c.563 §5; 1987 c.158 §54]

**Note:** The amendments to 321.820 by section 7, chapter 174, Oregon Laws 1987, do not apply after January 1, 1992. See section 8, chapter 174, Oregon Laws 1987. The text is set forth for the user's convenience.

**321.820.** (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 the county assessor removes the forest land designation under paragraph (b) of this subsection.

(b) Except as provided in paragraph (e) of this subsection, the county assessor shall remove the forest land designation upon:

(A) Notification by the taxpayer to the assessor to remove the designation,

(B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(C) Discovery by the assessor that the land is no longer forest land; or

(D) The act of platting the land under ORS chapter 92.

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

(d) Paragraph (b) 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.

(e) Forest land designation shall not be removed upon transfer of the land to the Director of Veterans' Affairs or while the forest land is held by the Director of Veterans' Affairs.

(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.

(3) If, under subparagraph (D) of paragraph (b) of subsection (1) of this section, the county assessor removes the forest land designation upon the act of platting the land, the land, or a part of the land, may be requalified for forest land designation upon.

(a) Payment of all additional tax, interest or penalty that remains due and owing with respect to the land;

(b) Submission by the owner of an application for designation as forest land as provided in this section;

(c) Meeting all of the qualifications for designation as forest land as provided in ORS 321.805 to 321.825, and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for forest use

**321.823 Redesignation as forest land after removal in certain years due to platting.** Land that has been removed from forest land designation under ORS 321.805 to 321.825 for the 1981, 1982 or 1983 assessment years solely because the land is included in a subdivision platted and recorded under ORS chapter 92 may be redesignated as forest land if:

(1) The owner submits an application for forest land designation under ORS 321.805 to 321.825; and

(2) The land meets all of the qualifications for forest land designation under ORS 321.805 to 321.825. [1983 c.462 §12]

**321.825 Additional tax upon removal of forest land designation; 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)(b)(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; 1983 c.462 §17]

## 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 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 the 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 established under ORS 305.220 for each 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 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.

(3) This section does not apply to an owner who elects to compute tax liability pursuant to ORS 321.282 (4) or 321.432. [1979 c.454 §4; 1982 s.s.1 c.16 §16; 1987 c.551 §6]

**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 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 disqualifica-

tion 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).

(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 assessment 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, 1985 c.607 §3]

**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 Preface to Oregon Revised Statutes for further explanation.

**321.970 Disqualification due to acquisition by government for park, wildlife, preservation or recreation purpose.**

321.970. (1) No additional taxes, interest or penalty shall be imposed under ORS 321.372, 321.760, 321.825 or 321.960 upon an owner of land that has received special assessment as forest land under ORS 321.272 (2), 321.420 (2) or 321.720 if the land becomes

disqualified for such special assessment because the land is acquired:

(a) For use as a park or recreation area by a governmental agency as a result of the lawful exercise of the power of eminent domain or the threat or imminence thereof;

(b) By the State Parks and Recreation Department by purchase, agreement or donation under ORS 390.121;

(c) By a city, county or park and recreation district organized under ORS chapter 266 for public recreational purposes or for the preservation of scenic or historic places; or

(d) By the State Department of Fish and Wildlife under ORS 496.146 for wildlife management purposes.

(2) No additional taxes, interest or penalty shall be imposed under ORS 321.372, 321.760, 321.825 or 321.960 upon an owner of land that has received special assessment as forest land under ORS 321.272 (2), 321.420 (2) or 321.720 if the land becomes disqualified for such special assessment when it is acquired and used as follows:

(a) The land is registered under ORS 273.581 as a natural heritage conservation area;

(b) The land is acquired by a private nonprofit corporation;

(c) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage elements of the area;

(d) If the land is retained by the corporation, it remains open to the public without charge for the uses described in paragraph (c) of this subsection; and

(e) The land is managed pursuant to a voluntary agreement under ORS 273.581 (5).

(3) The additional taxes, interest or penalties that would have been imposed at the time of disqualification shall be imposed when the land is no longer used as described in subsection (2) of this section. [1983 c.773 §4; 1985 c.607 §4; 1989 c.904 §33]

**PENALTIES**

321.990 [Repealed by 1953 c.375 §38]

**321.991 Penalties.** (1) Violation of any provision of ORS 321.005 to 321.185 and 321.560 to 321.600 is punishable, upon con-

viction, 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]**

**REVENUE AND TAXATION**

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