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States' Differential Tax Assessment of Agricultural Land Statutes *Oregon*



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A National Agricultural Law Center Research Publication

States' Differential Tax Assessment of Agricultural Land Statutes State of Oregon

[Or. Rev. Stat. § 308A](#)

Current through all legislation enacted during the 2018 Regular Session and 2018 Special Session of the 79th Legislative Assembly, the ballot measure approved at the Jan. 23, 2018 special election, and ballot measures approved and rejected at the Nov. 6, 2018 General Election, pending classification of undesignated material and text revision by the Oregon Reviser. See ORS 173.160. Non-legislative changes made by the Legislative Counsel Committee, consisting of codifications, renumbers, and other non-legislative revisions, have been incorporated.

§ 308A.050. Intent of Legislature

The Legislative Assembly recognizes that agriculture and related land uses contribute significantly to Oregon's character and economy. The Legislative Assembly finds that providing the means for agriculture to continue and prosper is in the interest of all residents of this state, who benefit directly or indirectly from agricultural production and stewardship of farmlands and ranchlands. Valuation of farm properties based upon market data from sales for investment or other purposes not connected with bona fide farm use encourages the conversion of agricultural land to other uses. The identification of agricultural land for farm use, as provided by law, substantially limits alternative uses of such land and justifies the valuation of that land based on its agricultural production capability. Therefore, it is the declared intent of the Legislative Assembly that bona fide farm properties be assessed for ad valorem property tax purposes at a value that is exclusive of values attributable to urban influences or speculative purposes.

§ 308A.056. "Farm use" defined

- (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by:
 - (a) Raising, harvesting and selling crops.
 - (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof.
 - (c) Dairying and selling dairy products.
 - (d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows.



- (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.
 - (f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection.
 - (g) Preparing, storing or disposing of, by marketing, donation to a local food bank or school or otherwise, the products or by-products raised for human or animal use on land described in this section.
 - (h) Implementing a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located.
 - (i) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.
- (2) “Farm use” does not include the use of land subject to timber and forestland taxation under ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood).
- (3) For purposes of this section, land is currently employed for farm use if the land is:
- (a) Farmland, the operation or use of which is subject to any farm-related government program;
 - (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 - (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of this subsection, prior to maturity;
 - (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
 - (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that is not currently being used for any economic farm use;
 - (f) Except for land under a single-family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);



- (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- (i) Land lying idle for no more than one year when the absence of farming activity is the result of the illness of the farmer or a member of the farmer's immediate family, including injury or infirmity, regardless of whether the illness results in death;
- (j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber, including hybrid cottonwood);
- (k) Land subject to a remediation plan previously presented to the assessor for the county in which the land that is the subject of the plan is located; or
- (l) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - (i) Only the crops of the landowner are being processed;
 - (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
 - (iii) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

(4) As used in this section:

- (a) "Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a profit in money and customarily utilized in conjunction with farm use.
- (b) "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 Agricultural 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:

- (i) Basal pruning;
- (ii) Fertilizing;
- (iii) Insect and disease control;
- (iv) Stump culture;
- (v) Soil cultivation; or
- (vi) Irrigation.

§ 308A.059. Authority to define farm use

(1) The Department of Revenue shall provide by rule for a more detailed definition of farm use, consistent with the general definition in ORS 308A.056, to be used by county assessors in determining qualification for special assessment under ORS 308A.068. The rules shall not be designed to exclude from the special assessment those lands that are in farm use as defined in ORS 308A.056 for which tax relief is intended.

(2) In determining qualification for special assessment under ORS 308A.068, the county assessor shall consider the use of the land by the owner, renter or operator thereof together with any other lands that are a part of one farming unit being operated by the owner, renter or operator.

§ 308A.062. Exclusive farm use zones; qualification of farmland

(1) Any land that is within an exclusive farm use zone and that is used exclusively for farm use shall qualify for farm use special assessment under ORS 308A.050 to 308A.128, unless disqualified under other provisions of law.

(2) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year.

§ 308A.065. Review of zoning ordinances by county counsel; notice of unqualified land; assessment pending zone requalification



(1) Upon written request of the county assessor or county governing body, the county counsel shall review the zoning ordinances of the county that purport to establish exclusive farm use zones to determine if any zone mentioned in the ordinance is not an exclusive farm use zone. If the county counsel is in doubt as to whether a zone is an exclusive farm use zone, the county counsel shall request the assistance of the Department of Revenue under ORS 305.110. The county counsel shall promptly notify the county assessor and county governing body by letter of the findings of the county counsel.

(2) If the assessor discovers any land that has been granted farm use special assessment under ORS 308A.062 that is not qualified for such assessment because the zone is not an exclusive farm use zone, the assessor shall immediately notify the county governing body of this fact.

(3) Within six months from the date the county governing body receives notice from the assessor or from the Land Conservation and Development Commission that a farm use zone is not an exclusive farm use zone, the county governing body shall qualify the zone as an exclusive farm use zone within the meaning of ORS 308A.062. The assessor shall continue to assess the land at the special assessment provided in ORS 308A.107 until the county governing body qualifies the zone or the land is disqualified under ORS 308A.113.

(4) Subsections (1) to (3) of this section shall provide the exclusive procedure for correcting the erroneous granting of farm use special assessment as exclusive farm use zone farmland when the zone does not meet the definition of an exclusive farm use zone under ORS 308A.053.

§ 308A.068. Qualification of farmland in nonexclusive farm use zones

(1) Any land that is not within an exclusive farm use zone but that is being used, and has been used for the preceding two years, exclusively for farm use shall qualify for farm use special assessment:

(a) If the land meets the income requirements set forth in ORS 308A.071; and

(b) Upon compliance with the application requirements set forth in ORS 308A.077.

(2) (a) The provisions of this section shall not apply to any land with respect to which the owner has granted, and has outstanding, any lease or option to buy the surface rights for other than farm use.

(b) This subsection does not apply in the case of a lease or option to buy surface rights:

(A) (i) For the exploration of geothermal resources, as defined by ORS 522.005, mineral resources or other subsurface resources;
or

(ii) For the use of land for hunting, fishing, camping or other recreational use; and



(B) If the exploration, use or possession engaged in pursuant to the lease or option to buy does not interfere with the farm use of the farmland.

(3) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year.

§ 308A.071. Income requirements for farmland in nonexclusive farm use zones

- (1) For purposes of ORS 308A.050 to 308A.128, farmland or a farm parcel that is not within an area zoned for exclusive farm use is not used exclusively for farm use unless all of the prerequisites of subsections (2) to (5) of this section are met.
- (2) (a) Except as provided in subsection (6) of this section, in three out of the five full calendar years immediately preceding the assessment date, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the following amount for a calendar year:
 - (A) If the farm unit consists of 6- ½ acres or less, the gross income from farm use shall be at least \$650.
 - (B) If the farm unit consists of more than 6- ½ acres but less than 30 acres, the gross income from farm use shall be at least equal to the product of \$100 times the number of acres and any fraction of an acre of land included.
 - (C) If the farm unit consists of 30 acres or more, the gross income from farm use shall be at least \$3,000.
- (b) For purposes of determining the number of acres to be considered under paragraph (a) of this subsection, the land described in ORS 308A.056 (3) and the land, not exceeding one acre, used as a homestead shall not be included.
- (c) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not all under the same ownership, the gross income requirements applicable to the farm parcel shall be as provided under paragraph (a) of this subsection. In addition, the gross income from farm use of a farm parcel described under this paragraph must be at least:
 - (A) One-half of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit; or



- (B) A cash or net share crop rental of one-quarter of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit. For purposes of this subparagraph, “net share crop rental” means the value of any crop received by the owner of the farm parcel less any costs borne by the owner of the farm parcel.
- (3) Excise or income tax returns are filed with the Department of Revenue for purposes of ORS chapter 316, 317 or 318 by the farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules showing rental income received by the owner of the farm parcel, during the years to which the income requirements of this section apply.
- (4) Upon request, a copy of the returns or the schedules of the returns showing the gross income received from farm use is furnished by the taxpayer to the county assessor.
- (5) The burden of proving the gross income of the farm unit for the years described in subsection (2) of this section is upon the person claiming special assessment for the land.
- (6) The failure of a farm unit to produce the amount of gross income required by subsection (2) of this section shall not prevent the farm unit from meeting the qualifications of this section if:
- (a) The failure is because:
- (A) The effect of flooding substantially precludes normal and reasonable farming during the year; or
- (B) Severe drought conditions are declared under ORS 536.700 to 536.780; and
- (b) The farm unit produces the required amount of gross income in three out of the last five nonflood or nondrought years.
- (7) As used in this section:
- (a) “Farm parcel” means the contiguous land under the same ownership, whether assessed as one or more than one tax lot.
- (b) “Gross income” includes the value of any crop or livestock that is used by the owner personally or in the farming operation of the owner, but does not include:
- (A) The value of any crop or livestock so used unless records accurately reflecting both value and use of the crop or livestock are kept by the owner in a manner consistent with generally accepted accounting principles; and



- (B) The purchase cost of livestock.
- (c) “Owner” or “ownership” means any person described under ORS 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an owner as tenant in common or other joint ownership interest.

§ 308A.077. Nonexclusive farm use zone farmland; application for special assessment

- (1) Any owner of nonexclusive farm use zone farmland entitled to special assessment under ORS 308A.068 must, to secure the assessment, make application therefor to the county assessor on or before April 1 of the first year in which the assessment is desired.
- (2) (a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include any information as may reasonably be required to determine the entitlement of the applicant.

(b) The application may be signed by any one of the following:
 - (A) The owner of the farmland who holds an estate therein in fee simple or for life.
 - (B) Any one of tenants in common or tenants by the entirety, holding an estate in the farmland in fee simple or for life.
 - (C) Any person of legal age, duly authorized in writing to sign an application on behalf of any person described in subparagraph (A) or (B) of this paragraph.
 - (D) The guardian or conservator of an owner, or the executor or administrator of an owner's estate.
 - (E) The purchaser of the fee simple or life estate of an owner under a contract of sale.
- (c) The assessor or the deputy of the assessor may not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.
- (3) There shall be attached to each application the affidavit or affirmation of the applicant that the statements contained therein are true.

§ 308A.080. Qualification of acquired land

- (1) Acquired land shall qualify for farm use special assessment if:
 - (a) The acquired land:



- (A) Is not in an exclusive farm use zone;
 - (B) Is, immediately upon acquisition, put into farm use; and
 - (C) Is operated as part of the total farming unit with the original land; and
- (b) The original land:
- (A) Is owned by the purchaser of the acquired land;
 - (B) Is in farm use;
 - (C) Is assessed under ORS 308A.107; and
 - (D) Produced gross income of at least \$10,000 in the calendar year prior to acquisition.
- (2) Land that qualifies for farm use special assessment under subsection (1) of this section shall, for purposes of the gross income requirement under ORS 308A.071, be added to and treated as a part of the entire farming unit upon acquisition.
- (3) In order for acquired land described in this section to qualify under ORS 308A.068, an application must be filed under ORS 308A.077 on or before April 1 of the first year following acquisition in which farm use special assessment is sought for the acquired land.

§ 308A.083. Effect of qualification; “potential additional tax liability” notation

In the case of exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062 or nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068, the county assessor shall enter on the assessment and tax roll the notation “potential additional tax liability” until the land is disqualified under ORS 308A.113 or 308A.116.

§ 308A.086. Requalification for farm use special assessment

- (1) Any land that has been disqualified from farm use special assessment under ORS 308A.050 to 308A.128 may requalify for special assessment under ORS 308A.050 to 308A.128 at the same time and in the same manner and under the same provisions of law as land initially qualifies for farm use special assessment under ORS 308A.050 to 308A.128.
- (2) Land that requalifies under this section must meet applicable qualification requirements as of the assessment date for the tax year for which special assessment of the requalified land under ORS 308A.050 to 308A.128 is sought.
- (3) This section does not apply to the requalification of land that was disqualified and that is described:



- (a) In the case of land in an exclusive farm use zone, under ORS 215.236 (relating to nonfarm dwellings) and ORS 308A.706 (1)(a) (relating to compatible nonuse);
- (b) In the case of nonexclusive farm use zone farmland, under ORS 308A.089 (relating to requalification during first year of disqualification), 308A.116 (4) (relating to subdivision), 308A.122 (relating to abatement for failure to meet income requirements) or 308A.706 (1)(a) (relating to compatible nonuse); and
- (c) Under ORS 308A.706 (1)(d) (relating to change in special assessment).

§ 308A.089. Requalification of disqualified nonexclusive farm use zones; fees

(1) Notwithstanding ORS 308A.724, land that was nonexclusive farm use zone farmland and that has been disqualified by the county assessor from farm use special assessment for the reason that the land is no longer in farm use as described under ORS 308A.116 (1)(c) may be requalified for farm use special assessment for the first year in which the disqualification is in effect.

(2) Disqualified farmland may requalify for special assessment under this section upon compliance with the following:

(a) The owner shall make application for requalification to the county assessor on or before December 15 of the tax year for which the disqualification is first in effect.

(b) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor.

(c) The application shall contain the information necessary to determine that the property meets the requirements of ORS 308A.071 and the other requirements for property to receive a farm use special assessment under ORS 308A.050 to 308A.128.

(d) The application shall be signed by the owner and shall be accompanied by a filing fee of:

(A) \$1 for each \$1,000 (or fraction of \$1,000) of real market value of the property as determined under ORS 308.232.

(B) Not less than \$10 or more than \$250.

(e) There shall be annexed to each application for requalification the affidavit or affirmation of the applicant that the statements contained therein are true.

(3) Upon receipt of the application, the county assessor shall determine if the property meets the requirements of ORS 308A.071 and the other requirements for farm use special assessment under ORS 308A.050 to 308A.128 for the year in which the disqualification is first in effect.



(4) Upon approval of the application the county assessor shall notify the officer in charge of the assessment and tax roll of the requalification for special assessment under ORS 308A.068. The officer shall correct the current assessment and tax roll to reflect the special assessment, as provided under ORS 311.205 (1)(e).

(5) Upon disapproval of the application, the county assessor shall notify the owner of the application's disapproval and the land's continued disqualification. If notice of disapproval is not mailed prior to April 15 of the tax year, the application shall be considered approved.

(6) As used in this section, "owner" means the person or persons entitled to file for special assessment under ORS 308A.077 (2)(b).

§ 308A.092. Method of determining value for farm use

(1) This section applies to:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The values for farm use of farmland shall be determined utilizing an income approach. In utilizing the income approach, the capitalization rate shall be the effective rate of interest charged in Oregon by the Federal Farm Credit Bank system at the time of closing on loans for farm properties estimated as an average over the past five reported calendar years, plus a component for the local tax rate. The Department of Revenue annually shall determine and specify the rate according to the best information available, and shall certify the rate to the county assessors.

(3) The county assessors shall develop tables for each assessment year that reflect, for each class and area, the values determined under this section and that express the values as values per acre.

§ 308A.107. Farm use value; maximum assessed values and assessed values

(1) The value for farm use, maximum assessed value and assessed value shall be determined under this section for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The value for farm use for each property subject to special assessment under this section shall equal the applicable value derived from the tables created pursuant to ORS 308A.092 for the tax year multiplied by the acreage of the property within the applicable class and area.



- (3)
 - (a) The maximum assessed value for property subject to special assessment under this section shall be determined as provided in this subsection.
 - (b) The county assessor shall develop tables for each tax year that provide, for each class and area, a maximum assessed value per acre that is equal to 103 percent of the assessed value per acre for the preceding tax year or 100 percent of the maximum assessed value per acre for the preceding tax year, whichever is greater.
- (4) Property subject to special assessment under this section shall have an assessed value for the tax year equal to the acreage of the property that is within the same class and area multiplied by the lesser of the value per acre applicable to the property under subsection (2) of this section or under subsection (3) of this section.
- (5) If property subject to special assessment under this section consists of different classes, the assessed value of the property shall be the sum of the assessed values computed for each applicable class under subsection (4) of this section.
- (6) Property that newly qualifies for farm use special assessment shall, for the first tax year for which the special assessment applies, have:
 - (a) A value for farm use as determined under subsection (2) of this section;
 - (b) A maximum assessed value as determined under the tables developed under subsection (3) of this section; and
 - (c) An assessed value as determined under subsections (4) and (5) of this section.

§ 308A.110. Farm use special assessment not applicable to real property improvements, machinery, and personal property

Except for property that is exempt or specially assessed under other provisions of law, real property improvements and machinery or other personal property on, attached to or in any other respect connected with property subject to assessment under ORS 308A.050 to 308A.128, including property used in operations that constitute farm use operations, shall have an assessed value determined under ORS 308.146. Real property improvements and machinery and personal property may not be assessed as provided in ORS 308A.050 to 308A.128.

§ 308A.113. Disqualification of farmland in exclusive farm use zones; reversal of disqualification

- (1) Land within an exclusive farm use zone shall be disqualified from special assessment under ORS 308A.062 by:
 - (a) Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as farmland;
 - (b) Removal of the land from any exclusive farm use zone; or



- (c) Establishing a nonfarm dwelling on the land under ORS 215.236.
- (2) Notwithstanding subsection (1)(a) of this section, the county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:
 - (a) The effect of flooding substantially precludes normal and reasonable farming during the year; or
 - (b) Severe drought conditions are declared under ORS 536.700 to 536.780.
- (3) (a) Disqualification under subsection (1)(a) of this section is reversed if the taxpayer:
 - (A) Notifies the assessor in writing pursuant to ORS 308A.718 of the taxpayer's intention to seek certification for a remediation plan; and
 - (B) Presents a certified remediation plan to the assessor within one year after the date of disqualification.
 - (b) In addition to the grounds for disqualification under subsection (1)(a) of this section, the assessor may disqualify land granted farm use special assessment pursuant to a remediation plan upon:
 - (A) Discovery, or notice from an extension agent of the Oregon State University Extension Service, that the plan is not being implemented substantially as certified; or
 - (B) Discovery, or notice from the owner, tenant or lessee or from an extension agent of the Oregon State University Extension Service, that the plan as certified is no longer necessary, practicable or effective.
- (4) (a) Notwithstanding ORS 308.210, 308A.062, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.
 - (b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.
- (5) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733.

§ 308A.116. Disqualification of farmland in nonexclusive farm use zones; reversal of disqualification



- (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS 308A.068 shall be disqualified from such special assessment upon:
 - (a) Notification by the taxpayer to the assessor to remove the special assessment;
 - (b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;
 - (c) Removal of the special assessment by the assessor upon the discovery that the land is no longer in farm use for failure to meet the income requirements under ORS 308A.071 or is no longer in farm use;
 - (d) The act of recording a subdivision plat under the provisions of ORS chapter 92; or
 - (e) Termination of a lease between a public owner of the farmland and a taxable lessee described in ORS 307.110.
- (2) The county assessor shall not disqualify the land that has been receiving special assessment upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner if the land continues to be used solely for farm use.
- (3) When, for any reason, the land or any portion thereof ceases to be used solely for farm use, the owner at the time of the change in use shall notify the assessor of the change prior to the next January 1 assessment date.
- (4) If under subsection (1)(d) of this section, the county assessor disqualifies land for special assessment upon the act of platting the land, the land, or a part of the land, may be requalified for special assessment 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 special assessment under ORS 308A.077;
 - (c) Meeting all of the qualifications for farm use special assessment under ORS 308A.068; and
 - (d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for farm use.
- (5) The county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:
 - (a) The effect of flooding substantially precludes normal and reasonable farming during the year; or
 - (b) Severe drought conditions are declared under ORS 536.700 to 536.780.



- (6) (a) Disqualification under subsection (1)(c) of this section is reversed if the taxpayer:
- (A) Notifies the assessor in writing pursuant to ORS 308A.718 of the taxpayer's intention to seek certification for a remediation plan; and
 - (B) Files an application for a certified remediation plan with the assessor within one year after the date of disqualification.
- (b) In addition to the grounds for disqualification under subsection (1)(c) of this section, the assessor may disqualify land granted farm use special assessment pursuant to a remediation plan upon:
- (A) Discovery, or notice from an extension agent of the Oregon State University Extension Service, that the plan is not being implemented substantially as certified; or
 - (B) Discovery, or notice from the owner, tenant or lessee or from an extension agent of the Oregon State University Extension Service, that the plan as certified is no longer necessary, practicable or effective.
- (7) (a) Notwithstanding ORS 308.210, 308A.068, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.
- (b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.
- (8) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733.

§ 308A.119. Abatement; termination of abatement

- (1) If on January 1 of any year any farmland assessed under ORS 308A.068 has become disqualified for farm use special assessment because of any gross income or other requirement of ORS 308A.071, the collection of the additional taxes under ORS 308A.700 to 308A.733 shall be deferred, but only if each year for a period of five consecutive years (or such lesser number of years in which farm use assessment was in effect prior to disqualification) beginning on January 1 of the first year the land became so disqualified, the land is used as farmland (including, for the purposes of this section, the growing of forest products). As the limited use is continued and completed each year, additional taxes are abated on the basis of an abatement of one year's additional tax for each year of limited use beginning with the oldest year for which additional taxes are due for up to five years (or the number of years for which farm use assessment was in effect, whichever is less). Beginning



on the January 1 the land became so disqualified the land shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law without regard to any special assessment laws.

(2) If at any time prior to the expiration of the five-year (or lesser) period specified in subsection (1) of this section the land is used for a higher and better use than farmland, the abatement process shall terminate, 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) the additional taxes that still remain deferred and unabated under subsection (1) of this section.

(3) When land described in this section is used for a higher and better use than farmland during the five-year (or lesser) period described in subsection (1) of this section, the owner shall notify the county assessor before the following January 1 of the change in use.

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

§ 308A.122. Requalification of farmland; effect on potential additional taxes

If during the period specified in ORS 308A.119, the farmland again meets the gross income or other requirements of ORS 308A.071, the owner may apply to the assessor on or before April 1 of the next calendar year, in the manner provided in ORS 308A.077, for farm use special assessment. If satisfied that the requirements of ORS 308A.071 have been met, the assessor shall restore farm use special assessment to the land. The potential additional taxes for all years not already abated under ORS 308A.119 shall continue as a potential liability against the land under ORS 308A.119 and 308A.706, except that each oldest year of potential liability shall abate as the total of all other years of potential additional tax liability for prior years reaches five.

§ 308A.125. Historic cemeteries within exclusive farm use zones

Any land that has received special assessment as exclusive farm use zone farmland, has been used as a cemetery at any time between 1810 to 1950, contains fewer than 50 marked graves, is less than one acre in size and was issued a patent, whether recorded or unrecorded, before 1900 may be partitioned from a parcel that shall continue to qualify for special assessment. The parcel that continues in special assessment and the partitioned cemetery shall not be subject to the provisions of ORS 308A.703 as a result of partitioning under this section.

§ 308A.128. District assessments inapplicable to farmland in exclusive farm use zones

(1) Except as otherwise provided in subsection (2) of this section, the assessments and levies of the following taxing units and special districts shall not be imposed while land is qualified for special assessment as exclusive farm use zone farmland under ORS 308A.062:

(a) Sanitary districts formed under ORS 450.005 to 450.245.

(b) Domestic water supply districts formed under ORS chapter 264.



(c) Water authorities, sanitary authorities or joint water and sanitary authorities formed under ORS 450.600 to 450.989.

(2) Subsection (1) of this section does not apply to:

(a) Benefit assessments or special ad valorem tax levies imposed upon homesites situated within a parcel of farm use land. As used in this paragraph, “homesite” means not more than one acre of land upon which are constructed nonfarm dwellings and appurtenances; or

(b) Benefit assessments or special ad valorem tax levies imposed subsequent to disqualification of lands for farm use special assessment under ORS 308A.062.

