

Chapter 308

Assessment of Property for Taxation

Chapter 308

NOTES OF DECISIONS

In a home rule county, "assessor" means the officer who actually performs the duties imposed on assessors. Department of Rev. v. Multnomah County, (1970) 4 OTR 133.

308.005

ATTY. GEN. OPINIONS: Deputy assessor as a public officer, 1922-24, p 276.

308.010

NOTES OF DECISIONS

One who meets the minimum requirements for certification and thus qualifies as a certified appraiser (Property Appraiser I or the equivalent) must receive the same or higher salary than a state certified appraiser meeting the minimum requirements. Boyd v. Latourette, (1962) 231 Or 400, 373 P2d 418.

ATTY. GEN. OPINIONS: Salary of certified appraisers hired by county court, 1958-60, p 93; required number and salary of appraisers, 1962-64, p 443; authority of county assessor to change salaries for employees in his office, 1966-68, p 138.

308.055

ATTY. GEN. OPINIONS: Compensation of special assessor, 1928-30, p 312.

308.061

CASE CITATIONS: Penn Phillips Lands, Inc. v. State Tax Comm., (1968) 251 Or 583, 446 P2d 670.

308.105

NOTES OF DECISIONS

Receivership does not relieve the property of a corporation from taxation. Coy v. Title Guar. & Trust Co., (1915) 220 Fed 90, 135 CCA 658, LRA 1915E, 211.

A pledgor's exempt personal property is not taxable to the pledgee while in the pledgee's possession. Weinstein v. Watson, (1948) 184 Or 508, 200 P2d 383.

The statute does not entitle the county to a lien on the property possessed but not owned by the taxpayer to satisfy a claim for taxes assessed against other property of the taxpayer. Druck v. Plastic Sheeting Co., (1958) 214 Or 186, 328 P2d 339.

Exempt property does not lose its exemption because it is temporarily in possession of another on assessment day. Western States Fire Apparatus, Inc. v. Dept. of Rev., (1970) 4 OTR 11.

Logs cut from federal lands were subject to assessment by county although title was held by the Federal Government under a conditional sales contract. Hines Lbr. Co. v. Lane County, (1952) 196 Or 420, 248 P2d 720; South Coast

Lbr. Co. v. State Tax Comm., (1964) 2 OTR 25, aff'd, 240 Or 636, 403 P2d 714.

Under a prior similar statute, the assessment of personal property was upheld where the record failed to show that plaintiff was neither the owner nor in possession of the property. Elmore Packing Co. v. Tillamook County, (1919) 55 Or 218, 105 P 898.

Tangible personal property was subject to assessment by county where Federal Government had formerly owned property and retained only the legal title solely for security if it retained title at all. Reynolds Aluminum v. Multnomah County, (1955) 206 Or 602, 287 P2d 921, cert. denied, 350 US 970, 76 S Ct 437, 100 L Ed 842.

Although parties had agreed plaintiff would bear all costs in making a cold deck, plaintiff was not liable for personal property tax costs since title remained in defendant and defendant had complete control after logs were decked. Camas Logging Co. v. Haskins, (1960) 221 Or 182, 349 P2d 852.

Taxpayer had "control" of the property. South Coast Lbr. Co. v. State Tax Comm., (1965) 240 Or 636, 403 P2d 714, aff'g 2 OTR 25.

FURTHER CITATIONS: Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540; Giustina Bros. Lbr. & Plywood Co. v. State Tax Comm., (1965) 2 OTR 165; Perry v. State Tax Comm., (1966) 2 OTR 275.

ATTY. GEN. OPINIONS: Assessment of wool or grain stored in warehouses, 1920-22, p 166, 1924-26, p 211; liability of realty of stockholder for personal property tax of corporation, 1920-22, p 303; effect of transfer of personal property after assessment day, 1924-26, p 477; situs of personal property for taxation, 1926-28, p 309; taxation of fixtures, 1930-32, p 555; tax erroneously paid on property of another, 1956-58, p 235; priority in bankruptcy of personal property taxes and interest, 1956-58, p 303; construing exemption for agricultural products consigned, 1960-62, p 218.

LAW REVIEW CITATIONS: 45 OLR 153-156.

308.115

NOTES OF DECISIONS

Separate tax assessment of timber is void unless deed contains provision reserving or conveying all timber standing upon land. Crook v. Curry County, (1956) 206 Or 350, 292 P2d 1080.

There is no personal liability for ad valorem taxes in Oregon. Willamette Valley Lbr. Co. v. United States, (1966) 252 F Supp 199.

ATTY. GEN. OPINIONS: Assessment of mineral rights, 1920-22, p 233, 300; assessment of standing timber prior to 1935 amendment, 1932-34, p 643; foreclosure of timber rights, 1948-50, p 441; assessment and valuation of reservation of mineral interests, 1960-62, p 438.

LAW REVIEW CITATIONS: 4 WLJ 458.

308.120

ATTY. GEN. OPINIONS: Liability of realty of individual partner for personal property tax of partnership, 1920-22, p 303.

308.125

ATTY. GEN. OPINIONS: Payment of tax on undivided interest when not assessed as such, 1936-38, p 547.

308.135

NOTES OF DECISIONS

The possession and control of property by the executor are those of an owner, for the purpose of assessment. *Johnson v. Oregon City*, (1868) 2 Or 327.

Where the administrator failed to prepare a list containing the true valuation of the property of the estate, the assessor had the duty of making a list of the real and personal property and a true valuation thereof. *Reid v. Multnomah County*, (1921) 100 Or 310, 196 P 394.

308.205

NOTES OF DECISIONS

1. True cash value
2. Factors affecting value
3. Methods of valuation

1. True cash value

In an appraisal, the final estimate of value cannot be provable to an absolute certainty, but is a reasonable judgment of fair, probable value. *Oak Acres Mobile Homes Park, Inc. v. Dept. of Rev.*, (1971) 4 OTR 340; *Multnomah County v. Dept. of Rev.*, (1971) 4 OTR 383.

A constant value which levels the effects of depressions and booms is the value which the statute seeks when it employs the words "normal conditions." *Appeal of Kliks*, (1938) 158 Or 669, 76 P2d 974.

The definition of "true cash value" in this section applies when the commission assesses utility property under ORS 308.505 to 308.660. *State Tax Comm. v. Consumers' Heating Co.*, (1956) 207 Or 93, 294 P2d 887.

"True cash value" does not contemplate consideration of liquidating prices nor the junk value of going concerns. *Id.*

It is the commission's duty [now department's] duty to find "true cash value" whenever assessor's value is determined to be wrong. *Georgia-Pacific Corp. v. State Tax Comm.*, (1961) 228 Or 112, 363 P2d 1105.

The commission may find "true cash value" is more than determined by the assessor. *Id.*

Book value is not as a matter of law true cash value. *Roseburg Lbr. Co. v. State Tax Comm.*, (1968) 3 OTR 209.

If a developer retains ownership and control of a recreational facility in the open area of a planned community development, the cost of the facility is not properly allocated to the lots in the development. *Tualatin Dev. Co. v. Dept. of Rev.*, (1969) 3 OTR 499.

There is no authority to strike property from the assessment roll because it was destroyed subsequent to January 1. *Schaffner v. Dept. of Rev.*, (1970) 4 OTR 23.

The statutes require value to be ascertained in accordance with market value if possible. *Portland Canning Co. v. State Tax Comm.*, (1964) 1 OTR 100, *aff'd*, 241 Or 109, 404 P2d 236; *Astoria Plywood Corp. v. Dept. of Rev.*, (1970) 4 OTR 122, *aff'd*, 258 Or 76, 481 P2d 58.

The fact that surrounding lands are appraised at less is no reason for changing the present assessment when it has not been shown that widespread relative nonuniformity

exists. *Commonwealth, Inc. v. Dept. of Rev.*, (1971) 259 Or 140, 484 P2d 1103, *rev'g* 4 OTR 80.

A substantial increase in assessed value must be supported by convincing evidence that there was such an increase, or that the increase was justified by a change in highest and best use of the property, or that the former appraisal was gross error. *Pacific Coast Land Co. v. Dept. of Rev.*, (1971) 4 OTR 314.

The assessor must be able to demonstrate that an increase in assessed value is justified at the time of the notice of increase, rather than rely on later evidence bolstered by the benefit of hindsight. *Id.*

2. Factors affecting value

Book value is not the sole measure of true cash value. *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256; *M & M Woodworking Co. v. State Tax Comm.*, (1959) 217 Or 161, 192, 314 P2d 272, 275, 317 P2d 920, 339 P2d 718; *West House, Inc. v. State Tax Comm.*, (1961) 228 Or 167, 364 P2d 598; *Freightliner Corp. v. Dept. of Rev.*, (1971) 258 Or 478, 483 P2d 1307.

Market value, even under normal conditions, is not controlling although it is entitled to consideration. *Appeal of Kliks*, (1938) 158 Or 669, 76 P2d 974.

A single cost factor in itself has no relevancy to market value. *Oregon Portland Cement Co. v. State Tax Comm.*, (1962) 230 Or 389, 369 P2d 765.

Location plays an important part in fixing the value of real property and fixtures. *Id.*

When sales are lacking, infrequent or not in the ordinary course of business, a market for the purpose of market value is not established. *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286.

Market data derived from a single sale are not representative of the market. *Bump v. Dept. of Rev.*, (1970) 4 OTR 156.

In valuing land, it is improper to assign an arbitrary percentage factor to a sale because it is made on conditional sales contract or because the contract contains a release clause. *Thornton v. Dept. of Rev.*, (1970) 4 OTR 243.

Each sale used in a market data appraisal must be subjectively and individually evaluated to determine the weight it merits in that particular valuation. *Id.*

Comparable cash sales are not necessarily entitled to added weight in evaluating market comparables. *Id.*

A lease is evidence of earning ability of property and may be significant in the income approach to valuation and considered in any appraisal. *Brown v. Dept. of Rev.*, (1970) 4 OTR 266.

A lease is not controlling in determination of either highest and best use or of value. *Id.*

When the use of land is so restricted that its ownership is of no benefit or value, the assessment for tax purposes should be nothing or merely nominal. *Tualatin Dev. Co. v. Dept. of Rev.*, (1970) 256 Or 323, 473 P2d 660, *aff'g* 3 OTR 499.

The best measure of functional obsolescence is the excessive costs of operating the old plant, determined by comparing the operating costs of the old plant and a new plant. *Reynolds Metal Co. v. Dept. of Rev.*, (1970) 258 Or 116, 477 P2d 888, 481 P2d 352, *modifying* 3 OTR 470.

In fixing true cash value of land for property tax purposes, the effect of existing leases on the value to the owner is disregarded. *Swan Lake Moulding Co. v. Dept. of Rev.*, (1970) 257 Or 622, 478 P2d 393, 480 P2d 713, *aff'g* 4 OTR 27.

The highest and best use of property is the most profitable use to which the property can be put, or that use which will yield the highest return on the investment. *J.R. Widmer, Inc. v. Dept. of Rev.*, (1971) 4 OTR 361.

Normally the net income of the property is the basis for capitalization, but if the property is not stabilized, net rent-

als of established competitive properties are preferable. *Multnomah County v. Dept. of Rev.*, (1971) 4 OTR 383.

Sales of comparable property subsequent to the assessment date must be considered as of secondary importance. *Id.*

Where pressure of circumstances created a depressed price and forced a reluctant acceptance, the price was not required to be recognized as true cash value. *State Tax Comm. v. Consumers' Heating Co.*, (1956) 207 Or 93, 294 P2d 887.

When replacement was available only by reproduction from used parts and equipment, depreciation was allowable on reproduction cost to determine valuation. *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 285.

Where property was required by zoning regulations to be maintained as open area, but its use was unprofitable, the property had no market or true cash value. *Tualatin Dev. Co. v. Dept. of Rev.*, (1969) 3 OTR 499.

The highest and best use of the property was residential, not as a golf course. *Portland Golf Club v. State Tax Comm.*, (1970) 255 Or 284, 465 P2d 883, aff'g 3 OTR 366.

Cleared land did not in this case warrant a higher valuation than uncleared land. *Vogler v. Dept. of Rev.*, (1971) 4 OTR 334.

3. Methods of valuation

The cost approach to valuation of personal property starts with replacement cost new. *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 285.

Capitalization of income of a going concern is not a proper method of assessing its real and personal property for ad valorem tax purposes, except (1) when an income capitalization figure will serve to offset an overvaluation of improvement and (2) when the income attributable to the property can be segregated with reasonable certainty. *Oregon Portland Cement Co. v. State Tax Comm.*, (1962) 230 Or 389, 369 P2d 765.

Valuation on a replacement-cost-less-depreciation basis may include a factor for economic obsolescence if relevant. *Id.*

The market data approach is to be used instead of replacement cost in determining true cash value where possible. *Coos Head Tbr. Co. v. State Tax Comm.*, (1968) 3 OTR 143, aff'd, 255 Or 1, 463 P2d 569; *Coos Head Tbr. Co. v. State Tax Comm.*, (1968) 3 OTR 201, aff'd, 255 Or 3, 463 P2d 569.

The best method of determining true cash value of forest land is by the market data approach. *Bump v. Dept. of Rev.*, (1970) 4 OTR 156.

When a market exists for the kind of property being assessed, the assessor must use the market data approach of analyzing comparable sales. *Thornburgh v. Dept. of Rev.*, (1970) 4 OTR 248.

The true cash value of property must be determined by using the market data approach based on relevant data of comparable sales whenever there is a market for the kind of property being assessed and whenever relevant comparable sales exist. *Brown v. Dept. of Rev.*, (1970) 4 OTR 266.

Selection of a gross rent multiplier requires an analysis of income of the subject property in comparison with the income of comparables and the market generally. *Oak Acres Mobile Homes Park, Inc. v. Dept. of Rev.*, (1971) 4 OTR 340.

The income approach to valuing property is helpful when the property is a going enterprise rather than individual assets. *Id.*

In comparing the subject property with comparable properties, it is essential that adjustments be made for differences between the properties to reach some common denominator or basis from which comparisons can be made. *J. R. Widmer, Inc. v. Dept. of Rev.*, (1971) 4 OTR 361.

Except where the appraiser has no other choice, the cost

approach is generally applied only as a check on estimates of value by other approaches. *Multnomah County v. Dept. of Rev.*, (1971) 4 OTR 383.

In the absence of direct evidence of value which can be used for the market data approach, the income or capitalization approach can be used when the income attributable to the property can be segregated with reasonable certainty. *Id.*

The market data approach must be based upon recent sales of comparable properties in the market. *Id.*

The cost approach method determines value of improvements by estimating the reproduction or by estimating the replacement cost and subtracting the decrease in value due to depreciation and obsolescence. *Reynolds Metal Co. v. Dept. of Rev.*, (1970) 258 Or 116, 477 P2d 888, 481 P2d 352, modifying 3 OTR 470.

In the income approach to true cash value, actual rent should have been given more consideration in determining economic rent. *Schlesinger v. State Tax Comm.*, (1964) 1 OTR 564.

Capitalization of income was a proper method of determining true cash value. *Portland Gen. Elec. Co. v. State Tax Comm.*, (1968) 249 Or 239, 437 P2d 827, rev'g 2 OTR 222 (1965) and 2 OTR 356 (1966).

The income approach, in conjunction with market data evidence, was a reliable basis on which to determine value of the mobile home park. *Oak Acres Mobile Homes Park, Inc. v. Dept. of Rev.*, (1971) 4 OTR 340.

Evidence did not show the assessor erred in using the replacement method over the reproduction method of the cost approach to determine true cash value of taxpayer's television cable system. *Southern Ore. Broadcasting Co. v. Dept. of Rev.*, (1971) 4 OTR 371.

FURTHER CITATIONS: *Georgia-Pacific Corp. v. State Tax Comm.*, (1964) 237 Or 143, 390 P2d 337; *Georgia-Pacific Corp. v. State Tax Comm.*, (1965) 241 Or 267, 405 P2d 631; *Pacific Bldg. v. State Tax Comm.*, (1965) 241 Or 525, 407 P2d 263; *State Hwy. Comm. v. Anderegg*, (1965) 241 Or 31, 403 P2d 717; *Sawyer v. State Tax Comm.*, (1965) 2 OTR 87; *Rogue Valley Manor v. State Tax Comm.*, (1965) 2 OTR 238; *West Ore. Elec. Co-op. v. State Tax Comm.*, (1966) 2 OTR 244; *Penn Phillips Lands, Inc. v. State Tax Comm.*, (1966) 2 OTR 373; *Lake County Bd. of Equalization v. State Tax Comm.*, (1968) 3 OTR 221; *Springfield Lumber Mills, Inc. v. State Tax Comm.*, (1968) 3 OTR 147; *Penn Phillips Lands, Inc. v. State Tax Comm.*, (1967) 247 Or 380, 430 P2d 349; *Wilson v. State Tax Comm.*, (1968) 3 OTR 312; *West Hills, Inc. v. State Tax Comm.*, (1969) 3 OTR 376; *Rosboro Lbr. Co. v. State Tax Comm.*, (1969) 3 OTR 395; *Penn Phillips Lands, Inc. v. State Tax Comm.*, (1969) 3 OTR 399; *Brewster v. State Tax Comm.*, (1969) 3 OTR 406; *Fitzgerald v. State Tax Comm.*, (1969) 3 OTR 447; *Pryor v. State Tax Comm.*, (1969) 3 OTR 453; *Hult Lbr. & Plywood Co. v. Dept. of Rev.*, (1969) 3 OTR 507; *West Hills, Inc. v. State Tax Comm.*, (1970) 255 Or 172, 465 P2d 233; *Penn Phillips Lands v. Dept. of Rev.*, (1970) 255 Or 488, 468 P2d 646; *Empire Lite-Rock, Inc. v. Dept. of Rev.*, (1970) 4 OTR 89; *Lake County Bd. of Equalization v. Dept. of Rev.*, (1970) 257 Or 244, 478 P2d 377, modifying (1970) 4 OTR 25.

ATTY. GEN. OPINIONS: Assessment and valuation of reservation of mineral interests, 1960-62, p 438; assessing farm property, 1962-64, p 221; market approach to true cash value of farm lands, 1962-64, p 472; valuation for timber tax classification, 1962-64, p 478; last date for establishing farm use for tax purposes, 1966-68, p 534; proposed constitutional tax limit, (1968) Vol 34, p 203.

LAW REVIEW CITATIONS: 33 OLR 179; 33 OLR 182; 42 OLR 320-325; 45 OLR 149-153; 2 WLJ 263; 4 WLJ 432-461, 561, 584, 589.

308.207

LAW REVIEW CITATIONS: 4 WLJ 495-497.

308.210

NOTES OF DECISIONS

The assessment of value by the assessor is a judicial act. *Oregon Steam Nav. Co. v. Wasco County*, (1867) 2 Or 206; *Oregon & Calif. R. Co. v. Jackson County* (1901) 38 Or 589, 64 P 307, 65 P 369; *Citizens' Nat. Bk. v. Baker County Bd. of Equalization*, (1924) 109 Or 669, 222 P 341.

An assessment roll becomes a public record when returned though not certified, no certificate being required. *Oregon R. Co. v. Umatilla County*, (1905) 47 Or 198, 81 P 352.

The assessment roll, when the valuations are entered by the assessor, has the effect of a judgment against the taxpayer, unless reviewed or revised in the manner provided by law. *Citizens' Nat. Bk. v. Baker County Bd. of Equalization*, (1924) 109 Or 669, 222 P 341.

This section does not provide an exclusive method of assessment but expressly recognizes that there may be property that by law is to be otherwise assessed. *Moe v. Pratt*, (1946) 178 Or 320, 166 P2d 479.

There is no authority to strike property from the assessment roll because it was destroyed subsequent to January 1. *Schaffner v. Dept. of Rev.*, (1970) 4 OTR 23.

FURTHER CITATIONS: *Mittleman v. State Tax Comm.*, (1965) 2 OTR 105; *Balderree v. State Tax Comm.*, (1965) 2 OTR 142; *Spear and Jackson (U.S.), Inc. v. State Tax Comm.*, (1965) 2 OTR 153; *T & R Service, Inc. v. State Tax Comm.*, (1968) 3 OTR 271; *Western States Fire Apparatus, Inc. v. Dept. of Rev.*, (1970) 4 OTR 11.

ATTY. GEN. OPINIONS: Building destroyed after assessment date, 1956-58, p 276; confidentiality of personal property tax return, 1962-64, p 155; defining "locally assessed," 1962-64, p 443; time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369; last date for establishing farm use for tax purposes, 1966-68, p 534.

308.215

NOTES OF DECISIONS

1. In general

Property is not assessed until it is set down in the assessment roll as provided in this section. *Oregon & Wash. Mtg. Sav. Bank v. Jordan*, (1888) 16 Or 113, 17 P 621; *Oregon & Calif. R. Co. v. Lane County*, (1893) 23 Or 386, 31 P 964.

There is a presumption in favor of the validity of the original assessment, and the commission has the burden of proving it was erroneous. *West House, Inc. v. State Tax Comm.*, (1961) 228 Or 167, 364 P2d 598; *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286; *Lundeen v. State Tax Comm.*, (1964) 2 OTR 13.

In contesting a commission finding of true cash value, it is not necessary for the taxpayer to allege a value at least 10 percent less than the commission's. *Pacific Bldg. v. State Tax Comm.*, (1965) 2 OTR 52, aff'd, 241 Or 525, 407 P2d 263.

There is no authority to strike property from the assessment roll because it was destroyed subsequent to January 1. *Schaffner v. Dept. of Rev.*, (1970) 4 OTR 23.

In a home rule county, "assessor" means the officer who actually performs the duties imposed on assessors. *Department of Rev. v. Multnomah County*, (1970) 4 OTR 133.

Book value of personal property was not the sole measure of value in face of substantial evidence of obsolescence. *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

2. Name of taxable person

Property in the hands of a corporate receiver may be assessed to the corporation or the receiver. *Coy v. Title Guar. & Trust Co.*, (1915) 220 Fed 90, 135 CCA 658, LRA 1915E, 211.

This section does not require an assessor to examine court, probate and other public records to keep up to date on the ownership of property. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564. *Distinguished in Kern County Land Co. v. Lake County*, (1962) 232 Or 405, 375 P2d 817.

The assessor need not display the skill and thoroughness of title searchers in determining who owns property. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

3. Description

See cases under ORS 308.235 and 308.240.

4. Separate assessment of each parcel of land

An assessment including the land of another, together with the land of the person assessed, in an aggregate assessment is void. *Strode v. Washer*, (1888) 17 Or 50, 55, 16 P 926; *Title Trust Co. v. Aylsworth*, (1901) 40 Or 20, 66 P 276.

Where noncontiguous lots are assessed together, the assessment is void. *Brentano v. Brentano*, (1902) 41 Or 15, 67 P 922; *Guthrie v. Haun*, (1938) 159 Or 50, 76 P2d 292.

Contiguous lots owned by the same person may be assessed as one parcel of land. *Guthrie v. Haun*, (1938) 159 Or 50, 76 P2d 292.

Several lots in the same block, contiguous to each other and owned by the same person, are, for the purposes of taxation, deemed one parcel of land. *Id.*

FURTHER CITATIONS: *Kelly v. Herrall*, (1884) 20 Fed 364; *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285; *Oregon Portland Cement Co. v. State Tax Comm.*, (1962) 230 Or 389, 369 P2d 765; *Mittleman v. State Tax Comm.*, (1965) 2 OTR 105; *T & R Service, Inc. v. State Tax Comm.*, (1968) 3 OTR 271; *Bump v. Dept. of Rev.*, (1970) 4 OTR 156; *J. R. Widmer, Inc. v. Dept. of Rev.*, (1971) 4 OTR 361; *Multnomah County v. Dept. of Rev.*, (1971) 4 OTR 383.

ATTY. GEN. OPINIONS: Separate assessment of real and personal property, 1932-34, p 648; confidentiality of personal property tax return, 1962-64, p 155; last date for establishing farm use for tax purposes, 1966-68, p 534.

LAW REVIEW CITATIONS: 2 WLJ 449.

308.217

CASE CITATIONS: *Warren v. Crosby*, (1893) 24 Or 558, 34 P 661; *State v. Fowler*, (1956) 207 Or 182, 295 P2d 167.

ATTY. GEN. OPINIONS: Authority of county assessors to write irrigation district taxes on separate tax roll instead of extending them on regular tax roll, 1922-24, p 188.

308.225

CASE CITATIONS: *Harvey Aluminum v. School Dist. 9*, (1967) 248 Or 167, 433 P2d 247.

ATTY. GEN. OPINIONS: Application to newly created taxing district, 1926-28, p 352, 1928-30, p 608; application to temporary road districts, 1928-30, p 422; application to school districts, 1944-46, p 231; effect of consolidation of school districts on pending tax levy, 1948-50, p 234; consolidation effective July 1, 1962-64, p 235.

308.231

ATTY. GEN. OPINIONS: Other duties, 1962-64, p 443.

308.232

NOTES OF DECISIONS

A blanket reduction in assessed valuation ordered by the board of equalization applies to an assessment corrected by stipulation between the taxpayer and assessor. *Reynolds Metal Co. v. State Tax Comm.*, (1961) 227 Or 467, 362 P2d 705.

Denial to a taxpayer of a blanket reduction in assessed valuation ordered by the board of equalization is denial of equality of assessment. *Id.*

Book value is not necessarily true cash value. *Freightliner Corp. v. Dept. of Rev.*, (1969) 3 OTR 528.

Market value of a particular kind or type of personal property used in business will differ at a given time because it is in different hands or in a different location from other like property. *Arnold v. Dept. of Rev.*, (1970) 4 OTR 174.

Each stage from manufacturer to consumer represents a different market with a different market value arising from costs and services added. *Id.*

The true cash value of office equipment in the hands of a dealer is lower than in the hands of the ultimate consumer. *Id.*

Comparable cash sales are not necessarily entitled to added weight in evaluating market comparables. *Thornton v. Dept. of Rev.*, (1970) 4 OTR 243.

When a market exists for the kind of property being assessed, the assessor must use the market data approach of analyzing comparable sales. *Thornburgh v. Dept. of Rev.*, (1970) 4 OTR 248.

Each sale used in a market data appraisal must be subjectively and individually evaluated to determine the weight it merits in the particular valuation. *Thornton v. Dept. of Rev.*, (1970) 4 OTR 243.

In valuing land, it is improper to assign an arbitrary percentage factor to a sale because it is made on conditional sales contract or because the contract contains a release clause. *Id.*

Book value of personal property was not the sole measure of value in face of substantial evidence of obsolescence. *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256.

Assignment of a ratio of 117 percent to plaintiff's property when other property in the county was assessed at 100 percent violated constitutional and statutory restrictions with respect to uniformity. *Union Pac. R.R. v. State Tax Comm.*, (1962) 232 Or 521, 376 P2d 80.

Where the federal excise tax was added to taxpayer's total cost, and included in the retail price of the manufactured goods, taxpayer was not entitled to exclude the tax for personal property tax purposes. *Freightliner Corp. v. Dept. of Rev.*, (1969) 3 OTR 528, *aff'd*, 258 Or 478, 483 P2d 1307.

FURTHER CITATIONS: *Robinson v. State Tax Comm.*, (1959) 216 Or 532, 339 P2d 432; *Weyerhaeuser Timber Co. v. State Tax Comm.*, (1960) 223 Or 280, 355 P2d 615; *Strawn v. State Tax Comm.*, (1962) 1 OTR 98, modified, 236 Or 299, 388 P2d 286; *State Hwy. Comm. v. Anderegg*, (1965) 241 Or 31, 403 P2d 717; *Portland Canning Co. v. State Tax Comm.*, (1965) 241 Or 109, 404 P2d 236; *Brown v. Dept. of Rev.*, (1970) 4 OTR 266; *Tualatin Dev. Co. v. Dept. of Rev.*, (1970) 256 Or 323, 473 P2d 660, *aff'g* 3 OTR 499.

ATTY. GEN. OPINIONS: Assessing farm property, 1962-64, p 221; constitutionality of ORS 310.125, 1964-66, p 173.

LAW REVIEW CITATIONS: 33 OLR 179; 33 OLR 183; 2 WLJ 263; 4 WLJ 432, 454, 456, 584.

308.234

CASE CITATIONS: *Penn Phillips Lands, Inc. v. State Tax Comm.*, (1968) 251 Or 583, 446 P2d 670; *Reynolds Metal Co. v. Dept. of Rev.*, (1970) 258 Or 116, 477 P2d 888, 481 P2d 352, modifying 3 OTR 470.

308.235

NOTES OF DECISIONS

1. In general
2. Name of owner
3. Description of property
4. Valuation
5. Relief from overvaluation

1. In general

Where a person owns only a part of a tract of land, an assessment of the whole to him is void. *Bradford v. Durham*, (1909) 54 Or 1, 101 P 897, 135 Am St Rep 807.

2. Name of owner

Where land was assessed to one not the owner and also was not properly described, the subsequent tax sale was void. *Martin v. White*, (1909) 53 Or 319, 100 P 290.

Where "F.E. Hodgkins" was listed as the owner instead of "Frank E. Hodgkin," the assessment was void. *Hodgkin v. Boswell*, (1913) 63 Or 589, 127 P 985.

Where "Louis" L. Smith was listed as owner of the land, the assessment was not void because the true name of the owner was "Lewis" L. Smith. *Smith v. Dwight*, (1916) 80 Or 1, 148 P 477, 156 P 573, Ann Cas 1918D, 563.

Where the property assessed was correctly described, a mistake in the name of the owner did not invalidate the assessment. *Guthrie v. Haun*, (1938) 159 Or 50, 76 P2d 292.

3. Description of property

Extrinsic evidence is admissible to identify the property, explain ambiguities and aid in the interpretation of the description. *Oregon R. & Nav. Co. v. Umatilla County*, (1905) 47 Or 198, 81 P 352.

Division of unplatted property into tax tracts and description of property by reference to such tract numbers is authorized. *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285.

An erroneous description is not fatally defective if it identifies the property and is not misleading. *Id.*

Property is correctly described even in the absence of any information in the description concerning the direction of the township and range lines from the base line and meridian, if such information can be obtained by reference to the location of the county involved in the assessment roll. *Knapp v. Josephine County*, (1951) 192 Or 327, 235 P2d 564.

An assessor does not have authority to select a description of his own that does not substantially comply with the description in the deed record. *Sellards v. Malheur County*, (1954) 202 Or 188, 272 P2d 975.

A description of land that set forth the township and range number but did not set forth the county in which it was located was not sufficient. *Martin v. White*, (1909) 53 Or 319, 100 P 290.

Where the assessment did not show whether the land was in Range 1 West or Range 1 East, the assessment was void. *Sears v. Murdock*, (1911) 59 Or 211, 117 P 305.

Where there was no entry for plaintiff's property in the column in the assessment roll entitled "Description of Land," the defect was cured by proper description in other volumes entitled "Index to Taxpayers," "Block Books" and "Division Books" which volumes were public records. *Bagley v. Bloch*, (1917) 83 Or 607, 163 P 425.

Reference to the wrong book and page did not invalidate the description where the tax certificate correctly gave the

owner's name and identified the property by correct tract numbers, and no one was misled. Id.

A delinquency certificate describing property by reference to the record of deeds without mentioning any tract number was fatally defective where the recorded deed conveyed many lots and unplatted properties. Id.

The description was sufficient where it referred to volume and page number of the deed records which contained an adequate delineation of the property involved. *Frederick v. Douglas County* (1945) 176 Or 54, 155 P2d 925.

4. Valuation

The assessment of value by the assessor is a judicial act. *Oregon Steam Nav. Co. v. Wasco County*, (1867) 2 Or 206; *Oregon & Calif. R. Co. v. Jackson County*, (1901) 38 Or 589, 64 P 307, 65 P 369; *Citizens' Nat. Bk. v. Baker County Bd. of Equalization*, (1924) 109 Or 669, 222 P 341.

An increase in the assessed valuation of property is not of itself illegal even though there may have been a decrease in its market value. *Washington-Oregon Inv. Co. v. Jackson County* (1942) 170 Or 47, 131 P2d 962.

Land is valued in relation to market value. *Williams v. State Tax Comm.*, (1963) 1 OTR 265.

The concept of valuation presupposes use of the theory of highest and best use. Id.

Valuation at the highest and best use does not permit speculative uses to be considered. Id.

If land is valued at a use other than its present use, the use must be one to which it is presently available or adaptable within the immediate future. Id.

Valuation of the assessor is presumed correct. Id.

The income from an existing lease is not determinative of the earning power of property. *Swan Lake Moulding Co. v. Dept. of Rev.*, (1971) 257 Or 622, 478 P2d 393, 480 P2d 713, aff'g 4 OTR 27.

In fixing true cash value of land for property tax purposes, the effect of existing leases on the value to the owner is disregarded. Id.

5. Relief from overvaluation

An assessment wilfully made in disregard of the requirements of this section is illegal and the collection of a tax based on such assessment may be enjoined. *California & Ore. Land Co. v. Gowen*, (1892) 48 Fed 771.

Courts of equity will enjoin collection of a tax based on an arbitrary, grossly excessive or fraudulent assessment but will not give such relief for excessive valuation with no element of fraud. *Oregon & Calif. R. Co. v. Jackson County*, (1901) 38 Or 589, 64 P 307, 65 P 369.

Where the assessment was arbitrary and capricious, the Supreme Court, in a suit to enjoin the collection of the tax, ascertained the appropriate assessed value. Id.

The taxpayer has the burden of proving by clear and convincing evidence that the assessment of its property is in excess of its true cash value or that the assessment is not reasonably proportionate to assessed valuations of similar properties in the county. *Washington-Oregon Inv. Co. v. Jackson County*, (1942) 170 Or 47, 131 P2d 962.

The presumption of assessment validity can be overcome by a preponderance of evidence. *Williams v. State Tax Comm.*, (1963) 1 OTR 265.

FURTHER CITATIONS: *Blackburn v. Lewis*, (1904) 45 Or 422, 77 P 746; *Johnson v. Crook County*, (1909) 53 Or 329, 100 P 294; *Tracy v. Reed*, (1889) 38 Fed 69, 13 Sawy. 622, 2 LRA 773; *Savings & Loan Society v. Multnomah Co.*, (1897) 169 US 421, 18 Sup. Ct. 392, 42 L Ed 803; *Brotherhood Coop. Nat. Bk. v. Hurlburt*, (1927) 21 F2d 85; *Evergreen Timber Co. v. Clackamas County*, (1963) 235 Or 552, 385 P2d 1009.

ATTY. GEN. OPINIONS: Assessing farm property, 1962-64, p 221; valuation for timber tax classification, 1962-64, p 478.

LAW REVIEW CITATIONS: 4 WLJ 443, 584.

308.236

NOTES OF DECISIONS

Principal forest area served by the road need not be owned by the taxpayer. *Simpson Tbr. Co. v. State Tax Comm.*, (1965) 2 OTR 188.

308.240

NOTES OF DECISIONS

See also cases under ORS 308.235.

If land is so situated that it cannot be definitely described by legal subdivisions or by lots and blocks, it must be described in some other manner that will make its location certain. *Jory v. Palace Dry Goods Co.*, (1896) 30 Or 196, 46 P 786.

Much is left to the good sense of the assessor as to methods of description. *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285.

This section authorizes the use of tax tract numbers and auxiliary maps. Id.

An erroneous item in the description will not invalidate the assessment if no one is misled. Id.

The test of the description is not whether it is fully understood by the man on the street, but whether it would be sufficient in a deed of conveyance from the owner or whether a court of equity would decree specific performance of a contract containing such description. *Frederick v. Douglas County*, (1945) 176 Or 54, 155 P2d 925.

An assessment merely stating the number of acres and the value was void for uncertainty. *Holmes v. Sch. Dist. 15*, (1884) 11 Or 332, 8 P 287; *Tilton v. Ore. Central Military Road Co.*, (1874) Fed Cas No. 14,055, 3 Sawy. 22.

The description "fraction of lot 2 in block 49" was void for indefiniteness since it failed to identify the particular portion of the lot. *Jory v. Palace Dry Goods Co.*, (1896) 30 Or 196, 46 P 786.

The use of "NE. of SE. ¼ and SE. of NE. ¼," in describing 80 acres, omitting the "¼," was an abbreviation permitted by this section. *Smith v. Dwight*, (1916) 80 Or 1, 148 P 477, 156 P 573, Ann Cas 1918D, 563.

The assessment was void where the only description was a reference to a recorded deed which described many lots and unplatted properties and there was no indication which of the properties described the assessment was against. *Clatsop County v. Taylor*, (1941) 167 Or 563, 119 P2d 285.

FURTHER CITATIONS: *Champ v. Stewart*, (1949) 186 Or 656, 208 P2d 454; *Kelly v. Herrall*, (1884) 20 Fed 364; *Napier v. Lincoln County Sch. Dist.*, (1970) 4 OTR 221.

ATTY. GEN. OPINIONS: Sufficiency of description of land for purposes of assessment, 1922-24, p 270; use of abbreviations, 1942-44, p 107; use of deed book and page as description of property, 1960-62, p 181; taxes against property entitled to exemption, 1960-62, p 303.

LAW REVIEW CITATIONS: 2 WLJ 436.

308.242

ATTY. GEN. OPINIONS: Time after May 1 within which county board of equalization may change particular assessments, 1964-66, p 369.

LAW REVIEW CITATIONS: 1 WLJ 174.

308.245

NOTES OF DECISIONS

This section does not limit the entries that may be made in the specified public records to lands covered by plats of government surveys or recorded town plats. Bagley v. Bloch, (1917) 83 Or 607, 163 P 425.

FURTHER CITATIONS: Clatsop County v. Taylor, (1941) 167 Or 563, 119 P2d 285.

308.250

NOTES OF DECISIONS

Statutes providing exemption from taxation must be strictly construed. Mrs. Smith's West Coast Pie Co. v. Dept. of Rev., (1971) 4 OTR 398.

The legislative history of this statute indicates that the legislature sought only to exempt those inventories which, in the usual course of business, were in the processor's possession on January 1 but would be customarily disposed of by May 1. Id.

To be entitled to an exemption as a processed product of the original raw product, the processed product should be substantially composed of and bear a substantial identity to the original raw product. Mannings Famous Foods, Inc. v. State Tax Comm., (1968) 3 OTR 249; Mrs. Smith's West Coast Pie Co. v. Dept. of Rev., (1971) 4 OTR 398.

The exemption for property transported or shipped to another point requires that the goods pass out of the possession and control of the processor. Diamond Fruit Growers, Inc. v. State Tax Comm., (1968) 3 OTR 255; aff'd, (1969) 254 Or 619, 463 P2d 359; Mrs. Smith's West Coast Pie Co. v. Dept. of Rev., (1971) 4 OTR 398.

Cane sugar is a processed product of a vegetable within the meaning of this section. California & Hawaiian Sugar Co. v. State Tax Comm., (1968) 3 OTR 319.

In order to claim the exemption, taxpayer must comply with the statute by applying therefor and submitting proof of qualification, each year before a certain time. Kolstad Canneries, Inc. v. Dept. of Rev., (1970) 4 OTR 34.

A processor is one who is in the business of converting any agricultural commodity into a marketable form. Mrs. Smith's West Coast Pie Co. v. Dept. of Rev., (1971) 4 OTR 398.

A processor of an already processed product, where the new product is substantially different from the raw product, does not come within subsection (2). Id.

The documentary proof was not sufficient. Harris v. State Tax Comm., (1969) 3 OTR 440.

FURTHER CITATIONS: M & M Woodworking Co. v. State Tax Comm., (1959) 217 Or 161, 314 P2d 272, 317 P2d 920, 339 P2d 718; Giustina Bros. Lbr. & Plywood Co. v. State Tax Comm., (1965) 2 OTR 165; Harris v. State Tax Comm., (1968) 3 OTR 133; Century Pontiac, Inc. v. State Tax Comm., (1968) 3 OTR 205; Bernard Chevrolet Co. v. State Tax Comm., (1969) 3 OTR 411; Kolstad Canneries, Inc. v. Dept. of Rev., (1970) 4 OTR 31.

ATTY. GEN. OPINIONS: Application of exemption of agricultural products to such products sold over the counter prior to April 30 of year of assessment, 1940-42, p 607; cancellation of assessment when property moved, 1954-56, p 168, 1956-58, p 256; cancellation of assessment against frozen vegetables, 1958-60, p 237; construing exemption for agricultural products consigned, 1960-62, p 218.

LAW REVIEW CITATIONS: 1 WLJ 175; 4 WLJ 438.

308.256

CASE CITATIONS: Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540.

ATTY. GEN. OPINIONS: Classification of ocean-going vessels with reference to taxation, 1930-32, p 460; application to ship whose home port is in California, taxation of steamship temporarily in Coos Bay waters, 1934-36, p 515; duty to register documented commercial fishing vessels operated as charter boats, (1971) Vol 35, p 533.

308.260

CASE CITATIONS: Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540.

308.270

NOTES OF DECISIONS

This section does not purport to provide an exclusive method of assessment, but merely authorizes the assessor to procure, and requires certain stage agencies to provide, certain information. Moe v. Pratt, (1946) 178 Or 320, 166 P2d 479.

308.280

NOTES OF DECISIONS

The orders of the State Tax Commission [now Department of Revenue] do not have to be made so as to integrate with certain times established by other statutes for the performance of duties therein required of the assessor or tax collector. State v. Smith, (1952) 197 Or 96, 252 P2d 550.

FURTHER CITATIONS: T & R Service, Inc. v. State Tax Comm., (1968) 3 OTR 271; Hult Lbr. & Plywood Co. v. Dept. of Rev., (1969) 3 OTR 507.

LAW REVIEW CITATIONS: 1 WLJ 175; 4 WLJ 459.

308.282

LAW REVIEW CITATIONS: 1 WLJ 174.

308.290

NOTES OF DECISIONS

The list does not constitute an assessment but is simply an aid in obtaining a true description of the property and is evidence from which the assessment may be made. Oregon & Wash. Mtg. Sav. Bk. v. Jordan, (1888) 16 Or 113, 17 P 621; Oregon & Calif. R. Co. v. Lane County, (1893) 23 Or 386, 31 P 964.

FURTHER CITATIONS: State v. Craig, (1919) 94 Or 302, 185 P 764; Silverfield v. Multnomah County, (1920) 97 Or 483, 192 P 413; Reid v. Multnomah County, (1921) 100 Or 310, 196 P 394; Allen v. Craig, (1921) 102 Or 254, 201 P 1079; Case v. Chambers, (1957) 210 Or 680, 314 P2d 256; West House, Inc. v. State Tax Comm., (1961) 228 Or 167, 364 P2d 598; Roseburg Lbr. Co. v. State Tax Comm., (1968) 3 OTR 209; Millak v. State Tax Comm., (1969) 3 OTR 465; Kolstad Canneries, Inc. v. Dept. of Rev., (1970) 4 OTR 34.

ATTY. GEN. OPINIONS: Divulging information given in lists and making Statistics from them, 1940-42, p 579; construing exemption for agricultural products consigned, 1960-62, p 218; confidentiality of personal property tax return, 1962-64, p 155; exceptions to confidentiality of tax records, 1964-66, p 67.

LAW REVIEW CITATIONS: 1 WLJ 175.

308.292

NOTES OF DECISIONS

Book value is not as a matter of law true cash value. *Roseburg Lbr. Co. v. State Tax Comm.*, (1968) 3 OTR 209.

FURTHER CITATIONS: *Giustina Bros. Lbr. & Plywood Co. v. State Tax Comm.*, (1965) 2 OTR 165.

LAW REVIEW CITATIONS: 37 OLR 75.

308.316

NOTES OF DECISIONS

This section is remedial and procedural in its operation, and it is not objectionable that it operates retroactively. *Jones v. State Tax Comm.*, (1958) 214 Or 392, 330 P2d 168.

308.335

NOTES OF DECISIONS

There is a presumption in favor of the validity of the original assessment, and the commission has the burden of proving it was erroneous. *West House, Inc. v. State Tax Comm.*, (1961) 228 Or 167, 364 P2d 598.

FURTHER CITATIONS: *South Coast Lbr. Co. v. State Tax Comm.*, (1964) 2 OTR 25, aff'd, 240 Or 636, 403 P2d 714.

308.345 to 308.365

CASE CITATIONS: *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Carmen v. Dept. of Rev.*, (1969) 3 OTR 516.

308.345

NOTES OF DECISIONS

This section requires assessment of land on a farm use basis when the land is zoned as farmland or constitutes unzoned farmlands under ORS 308.370, but only when one of those conditions exists. *Thornburgh v. Dept. of Rev.* (1970) 4 OTR 248.

Taxpayer did not sustain his burden of showing the income approach used to determine farm use value was incorrect. *Carmen v. Dept. of Rev.*, (1969) 3 OTR 516.

It was necessary to use the income approach to determine farm use value in this case. *Carl v. Dept. of Rev.*, (1970) 4 OTR 117.

FURTHER CITATIONS: *Oregon Farm Bu. v. State Tax Comm.*, (1967) 2 OTR 440; *Michaels v. State Tax Comm.*, (1967) 2 OTR 445; *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Bohnert v. State Tax Comm.*, (1969) 3 OTR 423; *Correa v. State Tax Comm.*, (1969) 3 OTR 450.

LAW REVIEW CITATIONS: 4 WLJ 432-461.

308.365

CASE CITATIONS: *Emanuel Lutheran Charity Bd. v. Dept. of Rev.*, (1917) 4 OTR 410.

308.370 to 308.395

CASE CITATIONS: *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Carmen v. Dept. of Rev.*, (1969) 3 OTR 516.

ATTY. GEN. OPINIONS: Election to increase rate but not amount of levy, (1969) Vol 34, p 783.

LAW REVIEW CITATIONS: 4 WLJ 445-461.

308.370

NOTES OF DECISIONS

The purpose of farm use classification was to give tax relief to farmland owners using their property for that purpose and to retard diversion of agricultural land to other uses. *Ritch v. Dept. of Rev.*, (1970) 4 OTR 206.

To qualify for assessment for farm use, an owner must ultimately receive compensation, in some form, from farming or grazing operations. *Id.*

The property was not entitled to a farm use classification. *Thomas v. State Tax Comm.*, (1968) 3 OTR 333.

The lands were used exclusively for farm use. *Reter v. State Tax Comm.*, (1969) 3 OTR 477, aff'd, 256 Or 294, 473 P2d 129; *Spooner v. Dept. of Rev.*, (1970) 4 OTR 66.

The use of the land was not primarily for the purpose of obtaining a profit in money. *Hart v. Dept. of Rev.*, (1969) 3 OTR 493.

Taxpayer did not sustain his burden of showing the income approach used to determine farm use value was incorrect. *Carmen v. Dept. of Rev.*, (1969) 3 OTR 516.

FURTHER CITATIONS: *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Reynolds v. State Tax Comm.*, (1969) 3 OTR 408; *Bohnert v. State Tax Comm.*, (1969) 3 OTR 423; *Harding v. Dept. of Rev.*, (1969) 3 OTR 513; *Monner v. Dept. of Rev.*, (1969) 3 OTR 523; *Thornburgh v. Dept. of Rev.* (1970) 4 OTR 248.

ATTY. GEN. OPINIONS: Last date for establishing farm use for tax purposes, 1966-68, p 534; proposed constitutional tax limit, (1968) Vol 34, p 203; tax deferral for state-owned farm land, (1969) Vol 34, p 634.

308.375

NOTES OF DECISIONS

Purchasers under a land sale contract are entitled to apply for special assessment. *Foy v. State Tax Comm.*, (1968) 3 OTR 307.

The application was sufficient, when affirmed by the applicant, although applicant did not state detail of acreage farmed and income received for each of the five preceding years. *Harding v. Dept. of Rev.*, (1969) 3 OTR 513.

FURTHER CITATIONS: *Bohnert v. State Tax Comm.*, (1969) 3 OTR 423; *Hartsock v. State Tax Comm.*, (1969) 3 OTR 434; *Thornburgh v. Dept. of Rev.* (1970) 4 OTR 248.

ATTY. GEN. OPINIONS: Tax deferral for state-owned farm land, (1969) Vol 34, p 634.

308.380

CASE CITATIONS: *Thomas v. State Tax Comm.*, (1968) 3 OTR 333; *Hartsock v. State Tax Comm.*, (1969) 3 OTR 434; *Ritch v. Dept. of Rev.*, (1970) 4 OTR 206.

308.390

CASE CITATIONS: *Bohnert v. State Tax Comm.*, (1969) 3 OTR 423; *Carmen v. Dept. of Rev.*, (1969) 3 OTR 516.

308.395

CASE CITATIONS: *Foy v. State Tax Comm.*, (1968) 3 OTR 307; *Bohnert v. State Tax Comm.*, (1969) 3 OTR 423.

308.405

ATTY. GEN. OPINIONS: Assessment of grain owned by nonresident stored in warehouse in Oregon, 1924-26, p 211; taxation of resident's livestock wintered in Washington and pastured in Oregon, 1928-30, p 203; personal property tax lien on house trailer moved to other state after assessment date, 1958-60, p 303.

LAW REVIEW CITATIONS: 42 OLR 318.

308.455

ATTY. GEN. OPINIONS: Procedure when home county has collected taxes for entire year, 1948-50, p 137.

308.460

ATTY. GEN. OPINIONS: Taxation of livestock owned by resident which is wintered in Washington and ranged in Oregon in summer, 1928-30, p 203; levy, apportionment and payment of taxes on transient livestock, 1936-38, p 72.

308.470**NOTES OF DECISIONS**

A prior similar Act that required the owner of transient livestock to pay taxes at the rates of the preceding year was unconstitutional under Const. Art. I, §32 and Const. Art. IX, §1 requiring uniformity of taxation. Lake County v. Schroder, (1905) 47 Or 136, 81 P 942.

ATTY. GEN. OPINIONS: Levy, apportionment and payment of tax on transient livestock, 1936-38, p 72; procedure when home county has collected taxes for entire year, 1948-50, p 137.

308.475

ATTY. GEN. OPINIONS: Validity of delayed statement of stockmen, 1920-22, p 220.

308.505 to 308.730**NOTES OF DECISIONS**

The state may levy an ad valorem tax on taxpayer's interest in lands of the United States, including tribal lands. Portland Gen. Elec. Co. v. State Tax Comm., (1968) 249 Or 239, 437 P2d 827, rev'g 2 OTR 222 (1965) and 2 OTR 356 (1966).

FURTHER CITATIONS: American Refrigerator Transit Co. v. State Tax Comm., (1964) 238 Or 340, 395 P2d 127, rev'g 1 OTR 429.

LAW REVIEW CITATIONS: 1 WLJ 178, 179; 4 WLJ 500.

308.505**NOTES OF DECISIONS**

The interests of taxpayer in the federal lands were possessory and taxable. Portland Gen. Elec. Co. v. State Tax Comm., (1965) 2 OTR 222, rev'd on other grounds, 249 Or 239, 437 P2d 827.

The state may levy a nondiscriminatory ad valorem tax on a lessee of United States property. Id.

FURTHER CITATIONS: Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540; Central Lincoln P.U.D. v. State Tax Comm., (1960) 221 Or 398, 351 P2d 694.

ATTY. GEN. OPINIONS: Right to tax tank line cars used in interstate commerce, 1920-22, p 399.

308.510**NOTES OF DECISIONS**

The law does not contemplate segregation of the real and personal property of public utility corporations and a separate assessment of each. Salem v. Marion County, (1943) 171 Or 254, 137 P2d 977.

FURTHER CITATIONS: State v. Wells, Fargo & Co., (1913) 64 Or 421, 126 P 611, 130 P 983.

ATTY. GEN. OPINIONS: Property owned by public utility and leased to another as operating or nonoperating property, 1920-22, pp 50, 93; unused and unoccupied property as operating property, 1920-22, p 116; lots owned by telephone company on which company buildings were being built, 1928-30, p 285.

308.515**NOTES OF DECISIONS**

The State Tax Commission [now Department of Revenue] has sole power to determine the valuation of the companies mentioned in this section. Parker v. Clatsop County, (1914) 69 Or 62, 138 P 239; Portland v. Portland Ry., Light & Power, (1916) 80 Or 271, 156 P 1058.

"Telephone" in its broad sense means the transmission of intelligence, messages or sound to a far point. Emerald Loggers Radio Assn. v. State Tax Comm., (1965) 2 OTR 77.

FURTHER CITATIONS: State v. Wells, Fargo & Co., (1913) 64 Or 421, 126 P 611, 130 P 983; Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540.

ATTY. GEN. OPINIONS: Assessment of nonoperating property of railroad company, 1920-22, p 116; assessment of property of foreign tank car company, 1920-22, p 399; assessment of private telephone line of livestock company, 1920-22, p 517; assessment of foreign wireless plant's station in this state, 1920-22, p 617; valuation and assessment of property of public utility, 1926-28, p 159; issuance and sale of certificates of delinquency against the personal property of a utility, 1934-36, p 539; taxation of utility districts, 1938-40, p 242.

308.520

CASE CITATIONS: State v. Wells, Fargo Co., (1913) 64 Or 421, 126 P 611, 130 P 983; Salem v. Marion County, (1943) 171 Or 254, 137 P2d 977; Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540.

308.525

CASE CITATIONS: Smith v. Columbia County, (1959) 216 Or 662, 341 P2d 540.

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67.

LAW REVIEW CITATIONS: 1 WLJ 179.

308.540**NOTES OF DECISIONS**

The consideration of all factors affecting value is required to determine true cash value since true cash value is not a matter of formula but of judgment. Knappton Towboat

Co. v. Chambers, (1954) 202 Or 618, 276 P2d 425, 277 P2d 763.

308.545

NOTES OF DECISIONS

Although the earning power and franchises of the company are considered in determining the assessed valuation of the company, the net result is a property assessment and when a tax is levied and paid on that assessment, it is a property tax and is not a tax on a business or occupation nor a tax on income and is only an indirect tax on the franchises. *Portland v. Portland Ry., Light & Power Co.*, (1916) 80 Or 271, 294, 156 P 1058.

The definition of "true cash value" given in ORS 308.205 applies when the commission [now department] assesses utility property. *State Tax Comm. v. Consumers' Heating Co.*, (1956) 207 Or 93, 294 P2d 887.

308.555

NOTES OF DECISIONS

An apportionment based upon ton-miles satisfies the commerce clause of the Federal Constitution. *Knappton Towboat Co. v. Chambers*, (1954) 202 Or 618, 276 P2d 425, 277 P2d 763.

FURTHER CITATIONS: *Smith v. Columbia County*, (1959) 216 Or 662, 341 P2d 540.

ATTY. GEN. OPINIONS: Property of public utility assessable by county assessors, 1926-28, p 159.

308.560

CASE CITATIONS: *Salem v. Marion County*, (1943) 171 Or 254, 137 P2d 977.

308.565

CASE CITATIONS: *Smith v. Columbia County*, (1959) 216 Or 662, 341 P2d 540.

308.595

NOTES OF DECISIONS

It is the duty of the commission [now director] to find "true cash value" whenever assessor's value is determined to be wrong. *Georgia-Pacific Corp. v. State Tax Comm.*, (1961) 228 Or 112, 363 P2d 1105.

The commission [now director] may find "true cash value" is more than determined by the assessor. *Id.*

Prior to the 1967 amendment verification of a petition was not jurisdictional. *Emerald Logging Radio Assn. v. State Tax Comm.*, (1964) 1 OTR 456.

FURTHER CITATIONS: *Union Pac. R.R. v. State Tax Comm.*, (1962) 232 Or 521, 376 P2d 80.

308.620

NOTES OF DECISIONS

On appeal the taxpayer is faced with the burden of overcoming the presumption that the assessing body has faithfully performed its duty, and this must be done by clear

and convincing evidence. *Knappton Towboat Co. v. Chambers*, (1954) 202 Or 618, 276 P2d 425, 277 P2d 763.

This section is limited to review of assessment and apportionment functions only. *Union Pac. R.R. v. State Tax Comm.*, (1962) 232 Or 521, 376 P2d 80.

308.630

NOTES OF DECISIONS

The procedure for review in the circuit court is a special statutory proceeding and appeal may be taken from the circuit court under general law. *State Tax Comm. v. Consumers' Heating Co.*, (1956) 207 Or 93, 294 P2d 887.

FURTHER CITATIONS: *Case v. Chambers*, (1957) 210 Or 680, 314 P2d 256; *Strawn v. State Tax Comm.*, (1963) 1 OTR 98.

308.635

ATTY. GEN. OPINIONS: Issuance of certificates of delinquency against public utility property, 1934-36, p 539.

308.640

ATTY. GEN. OPINIONS: Issuance of certificates of delinquency against public utility property, 1934-36, p 539; distribution of tax by county treasurer, 1960-62, p 122.

308.715

LAW REVIEW CITATIONS: 4 WLJ 476.

308.720

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67.

308.805

LAW REVIEW CITATIONS: 4 WLJ 476.

308.810

ATTY. GEN. OPINIONS: Exceptions to confidentiality of tax records, 1964-66, p 67.

308.815

ATTY. GEN. OPINIONS: Distribution of tax by county treasurer, 1960-62, p 122.

308.865

ATTY. GEN. OPINIONS: Removal under court order in forcible entry and unlawful detainer action, (1970) Vol 35, p 150.

308.875

ATTY. GEN. OPINIONS: Duty when mobile home owner is not named as owner on vehicle registration records, (1970) Vol 35, p 176.