

June 12, 2014

2014 Legislative Updates: Current Use, Marijuana, and Designated Forest Land Legislation

All legislation is effective June 12, 2014, unless otherwise stated.

SB 6505 – Clarifying that marijuana, useable marijuana, and marijuana-infused products are not agricultural products

Question: What property tax impacts does the passage of SB 6505 have on chapter [84.34 RCW](#)?

Answer: Section 27 of SB 6505 adds a new section to chapter 84.34 RCW. The new section provides that land used in the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, does not qualify for any of the current use classifications under chapter 84.34 RCW and does not apply to any activity, such as the acquisition of conservation futures, under chapter 84.34 RCW.

Question: SB 6505 is effective June 12, 2014. Could property used in the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, qualify for current use classification under chapter 84.34 RCW prior to June 12, 2014?

Answer: Yes. Land used to grow, raise, or produce marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, may qualify for current use classification prior to June 12, 2014.

Question: If land qualified for current use classification prior to June 12, 2014, will it continue to be eligible for classification after SB 6505 goes into effect?

Answer: No. If classified land is used to grow, raise, or produce marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, on or after June 12, 2014, then the land would no longer qualify under chapter 84.34 RCW and the assessor must begin the removal process. If property is approved for classification that is subsequently removed because of a legislative change, it would not be subject to additional tax under the provisions of [WAC 458-30-355](#) or [RCW 84.34.070\(1\)](#) and WAC 458-30-355.

Question: Does the passage of SB 6505 impact [E2SHB 2493](#) (commercial horticulture, growing plants in containers)?

Answer: No. Because land used in the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, does not qualify for any of the current use classifications under chapter 84.34 RCW, land used for growing marijuana, whether in the ground or in a container, would not qualify for the farm and agricultural land classification under chapter 84.34 RCW.

Question: Does the passage of SB 6505 have an effect on other property tax programs related to agriculture?

Answer: Yes, this bill also excludes farm machinery and equipment used for the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, from benefiting from the personal property tax exemption for farm machinery and equipment.

Question: Does property tax apply to real and personal property used in the production, processing, or selling of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates?

Answer: Yes. Property tax applies to both real property (such as land and buildings), and personal property (machinery, equipment, furniture, and supplies) used to produce, process, or sell marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates.

Question: Are marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, subject to property tax as real or personal property?

Answer: Neither. For purposes of property tax administration, marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, are exempt as business inventories under the provisions of [RCW 84.36.477](#).

For more information on SB 6505, see our [Special Notice: Recreational and Medical Marijuana – Repeal and Clarification of Excise Tax Deductions, Exemptions, and Preferential Rates](#).

[E2SHB 2493](#) – Concerning current use valuation for land primarily used for commercial horticultural purposes

Question: How did E2SHB 2493 expand the types of uses allowable for the farm and agricultural land classification under chapter 84.34 RCW?

Answer: Under existing law, land used for commercial horticultural purposes in which the primary use of the land is growing plants directly in the ground, whether under a structure (such as a greenhouse), or not, qualifies for the farm and agricultural land classification. But, land on which plants are grown in containers was allowable only if: (1) it was considered incidental to the primary use of the land being used for growing plants in the ground, and (2) the area on which plants were grown in containers did not exceed 20% of the total classified farm and agricultural land.

With the passage of E2SHB 2493, land under containers growing plants can now qualify as a primary use of classified farm and agricultural land if the following conditions are met:

- The land must not be primarily used for the storage, care, or selling of plants purchased from other growers for retail sale.
- If the land used to grow plants in containers is less than 5 acres, the land will not qualify as “farm and agricultural land” if more than 25% of that acreage is open to the general public for on-site retail sales.
- If more than 20% of the land used for growing plants in containers is covered by pavement, none of the paved area is eligible for classification as “farm and agricultural land” but up to 20% of the paved area may still qualify as “incidental use.”
- If the total contiguous land classified as farm and agricultural land is less than 20 acres, it must meet existing income or investment requirements for “farm and agricultural land” under 20 acres.

Question: How does the passage of SB 6505 impact E2SHB 2493 (commercial horticulture, growing plants in containers)?

Answer: Section 27 of SB 6505 adds a new section to chapter 84.34 RCW. The new section provides that land used in the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, does not qualify for any of the current use classifications under chapter 84.34 RCW and does not apply to any activity, such as the acquisition of conservation futures, under chapter 84.34 RCW. Because land used in the growing, raising, or producing of marijuana, useable marijuana, or marijuana-infused products, including marijuana concentrates, does not qualify for any of the current use classifications under chapter 84.34 RCW, land used for growing marijuana, whether in the ground or in a container, would not qualify for the farm and agricultural land classification under chapter 84.34 RCW.

SB 6180 – Consolidating Designated Forest Lands and Current Use Timber Land

Question: What are the effects of SB 6180 on the Designated Forest Land program under chapter [84.33 RCW](#) and the Current Use Timber Land classification under chapter 84.34 RCW?

Answer: This bill allows a county to merge its timber land classification into their designated forest land (DFL) program and terminate the timber land classification. The effects of consolidation of these programs include:

- Land classified as timber land before the merger is considered DFL as of the date the land was initially classified as timber land.
- The county assessor must notify timber land owners and the Department of the merger.
- The Department must keep a list on its Internet site of counties that have merged its timber land classification with its DFL program.
- An owner of land classified under the timber land classification in a county that is merging the two programs who has submitted a two-year notice of withdrawal request has specific options regarding withdrawal or removal from the programs.

Regardless of whether a county chooses to merge their current use timber land classification with their DFL program, this bill:

- Reduces the minimum acreage requirement for the DFL program from 20 acres to five acres.
- Changes the approval date for DFL applications from May 1 to July 1 of the year following application.
- Authorizes the assessor to require a timber management plan for DFL, less than 20 acres, if the assessor has reason to believe the land is no longer being used primarily for growing and harvesting timber.

For more detailed information on the effects of SB 6180, please visit the Department of Revenue's website at: http://dor.wa.gov/content/getaformpublication/PublicationBySubject/tax_sn_main.aspx#property and search for the publication under the Property Tax Section called Q&A – SB 6180 (DFL & Timber).

SSB 6333 - Concerning tax statute clarifications, simplifications, and technical corrections

Question: What are technical corrections and what were the technical corrections made to the Current Use and Designated Forest Land statutes?

Answer: When existing statutes become outdated as a result of court cases, are impacted by initiatives, or contain drafting errors, minor changes to the statutes are needed. Additionally, these technical corrections to existing laws may be needed to clarify the statute or improve the tax administration. This large agency bill included several clarifications and technical corrections to property tax statutes including, but not limited to:

Designated Forest Land, Compensating Tax:

Section 309 ([RCW 84.33.140](#)) - Clarifies that the treasurer, not the assessor, must mail a notice of the amount of compensating tax due along with the date it is due. The bill also adds the requirement that upon removal, land will be exempt from compensating tax if there is a sale or transfer of property to an entity having the power of eminent domain in anticipation of the exercise of such power based on official action taken by the entity or if confirmed in writing. This makes administration similar to the removal exception in the current use statutes ([RCW 84.34.108](#)(6)(b)).

Open Space, Farm and Agricultural, and Timber Lands:

Section 310 ([RCW 84.34.065](#)) – Updates a cross reference to [RCW 84.34.020](#)(2)(f).

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Section 311 (RCW 84.34.108) – Clarifies that interest and penalty are also due when land is removed from classification.

Section 312 ([RCW 84.34.300](#)) – Special benefit assessments. Clarifies when special benefit assessments for the improvement or construction of sanitary and/or storm sewerage service, or domestic water service, or certain road construction apply when land is removed or withdrawn from classification.

Section 313, 314, 315 ([RCWs 84.34.320, 330, 370](#)) – Special benefit assessments. Provides consistency between certain provisions that apply when land is either removed or withdrawn from classification.

[2ESHB 1117](#) – Transfers of real property by deed taking effect at the grantor's death

Question: What are the effects of 2ESHB 1117 on the Current Use and Designated Forest Land programs?

Answer: 2ESHB 1117 allows the transfer of real property by a “transfer on death” deed which takes effect upon the grantor's death. Like a will, a “transfer on death” deed just provides another method in which real property is transferred to a beneficiary upon the death of the owner of classified or designated land. When an heir, devisee, or beneficiary receives classified or designated land upon the death of the owner, they are not required to sign a notice of continuance and the transfer does not, by itself, result in removal of classification or designation.

If you have questions or need additional information about this Special Notice, please contact the Property Tax Division at (360) 534-1400.