

# Current Use and Designated Forestland Administration

*Revised: December 2024*



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## Part 1 Introduction

The Department of Revenue (Department) oversees the administration of Washington's property tax laws to ensure statewide equity and uniformity. Supervision involves interacting with county assessors and their staff and reviewing their processes.

The laws and rules for the Current Use and Designated Forestland Programs are described in [RCW 84.34](#), [RCW 84.33](#), [WAC 458-30](#), and [WAC 458-40](#).

There are two purposes for this manual:

1. To offer guidance on current use issues that are brought to county assessor's offices.
2. To provide a reference resource for all county staff administering the programs. This reference contains the type of information staff may need to refer to in the performance of their duties. We have included appendices with relevant statutes, rules, forms, and other miscellaneous items.

We encourage comments on any changes you would like to see made to the manual. Please direct your comments to:

Department of Revenue  
Property Tax Division  
Post Office Box 47471  
Olympia, WA 98504-7471  
Phone (360) 534-1400  
Fax (360) 534-1380

## Part 2 Open Space Taxation Act

The Open Space Taxation Act was enacted in 1970, and allows eligible open space, farm and agricultural, and timberlands to be valued at their current use rather than at their highest and best use. The act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, to ensure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens ([RCW 84.34.010](#)).

The Open Space Taxation Act created the Current Use Program under [RCW 84.34](#), providing for three classifications of land that include:

1. Open Space Land;
2. Farm and Agricultural Land; and
3. Timberland

Proper approval and classification of property into the program is vital. It is important to understand that any property tax exemption or valuation reduction results in a shift of the tax burden to other taxpayers. The tax shift for property classified in the program falls on the property owners in the taxing districts where the classified property is located. The tax burden may be greater on the remaining taxpayers. Improper classification results in some taxpayers receiving benefits not allowed under current law. This creates an inequity in taxation.

The assessor is required to maintain two values for each parcel that is classified:

- Value placed on land if it was not classified, commonly referred to as the “fair market value”.
- Current use land value based on its current use, as classified by the granting authority.

There are various deadlines important in administering the Current Use Program. The [Property Tax Calendar](#) is a helpful resource in keeping track of these deadlines.

## 2.1 Open Space (including farm and agricultural conservation)

### Definitions

#### **Open space land RCW 84.34.020(1)**

Open space land is defined as:

1. Any land zoned for open space by an official comprehensive land use plan adopted by any city or county legislative authority.
2. Land which the preservation in present use would:
  - a. Conserve and enhance natural or scenic resources, or
  - b. Protect streams or water supply, or
  - c. Promote conservation of soils, wetlands, beaches or tidal marshes, or
  - d. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or
  - e. Enhance recreation opportunities, or
  - f. Preserve historic sites, or
  - g. Preserve visual quality along highway, road, and street corridors or scenic vistas, or
  - h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.

As a condition of granting open space classification, the legislative authority may not require public access on land classified for promoting conservation of wetlands.

The assessed value of open space land can be determined by using a Public Benefit Rating System (PBRs); or the value cannot be less than the lowest per acre value of classified farm and agricultural land in the county (RCW 84.34.060).

#### **Farm and agricultural conservation**

Farm and agricultural conservation land is not its own classification, rather it is considered as a sub-classification of open space. This sub-classification is intended to preserve land that no longer meets the requirements of the farm and agricultural land classification, or has never been classified, and has a high potential for returning to commercial agriculture. The land may still be farmed while in farm and agricultural conservation, but it is not required.

## Qualifications

### Open Space

Open space land can be any land area designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly. The entire parcel, or portions of a parcel, can qualify for this classification.

### Application and Approval

Applications for open space and open space farm and agricultural conservation must be submitted using forms provided by the Department. Applications can be made any time during the calendar year to the granting authority in the county where the land is located. Any owner or contract purchaser may apply for either classification; they must sign the application and the open space taxation agreement.

The county legislative authority approves the application if the land is within an unincorporated area. If the county legislative authority accepts an application for land located in an incorporated city, they must notify the city and hold a hearing in person or by phone. Both the city and the county need to approve the application.

An application can be approved for all the land that is applied for, or in part, if some portions do not meet the qualifications for classification. The granting authority considers public benefits of preserving the current use of the land and the resulting revenue loss or tax shift when considering approval or denial. If any part of the application is denied, the applicant may withdraw their application.

**Applications must be approved or denied within six months** after the application is received by the granting authority (RCW 84.34.037 and WAC 458-30-230).

It is important for property owners to understand the timing of the assessment process. When an application is approved, the current use value is applied to the land in the following assessment year. That value is used to determine the amount of taxes to be paid in the next year.

Example:

- Application is submitted and approved in 2019.
- Current use value is applied to assessment year 2020.
- Relief for taxes due in 2021.

**Steps to approve open space land (including open space farm and agricultural conservation) applications WAC 458-30-230:**

These steps are suggested guidelines for the granting authority. Other factors unique to specific properties and circumstances may need to be considered in the decision to approve an application. The decision to accept land into the classification is determined by the granting authority.

1. Review the application and supporting documents with the applicant to ensure the application is complete and includes all the necessary information.
2. Collect the fee if one is required, and date stamp the application with the date received. A copy of all applications should be retained.
3. Review each application. The granting authority determines whether the application is located in an area designated with an official comprehensive land use plan.
  - If a land use plan exists: the application must be treated in the same manner as a proposed amendment to that plan.
  - If a land use plan does not exist continue to step four.
4. Inspect the property to ensure it meets the program qualifications (recommended). Law or rule does not require an inspection of the property. However, an inspection is recommended to ensure the property meets the program qualifications.
5. Schedule a public hearing to consider the approval or denial of the application.
6. Publish notice of hearing ten days before in a newspaper of general circulation.
7. Granting authority approves or denies application at the hearing.
8. Within five days of approval, an Open Space Taxation agreement must be prepared and sent to the owner for signature. We suggest using the Department's Open Space Taxation Agreement Chapter 84.34 RCW form (REV 64 0022). The agreement must be delivered to the owner by certified mail with return receipt requested (WAC 458-30-240(3)(a)).
9. The granting authority must send a copy of the agreement to the assessor within ten days after the signed copy is returned.

The assessor must record the agreement with the county auditor within 10 days of receipt (WAC 458-30-245(3)). A record of the recorded agreement will appear on the title report for the parcel.



### **Application fee WAC 458-30-220**

The processing fee is established by the city or county legislative authority and is required when an application for classification or reclassification is submitted. This fee covers the cost of processing the application and the cost for recording documents.

## **Denial**

### **Open space**

An open space application can be denied in whole, or in part, if:

- The intended use of the land has no public benefit by preserving the current use of the land.
- The application does not have sufficient information to approve the application in a timely manner.
- The property has no potential to return to commercial farming (farm and agricultural conservation).

If an application is denied, the applicant must be notified in writing. The notification should include the reason for the denial and information about how to appeal the decision to the superior court.

## **2.2 Farm and Agricultural Land**

### **Definition**

#### **RCW 84.34.020(2)(a)(i)**

Land devoted primarily to the production of livestock, or agricultural commodities for commercial purposes.

Commodities include WAC 458-30-200(2)(d):

- Agricultural, horticultural, or aquaculture produce or crops.
- Raising of livestock and poultry – breeding or increasing the size of the animal.
- Bees.
- Fur bearing animals.
- Production of milk, eggs, wool, fur, meat, or honey.

**Farm and agricultural land RCW 84.34.020(2)**

1. Any parcel of land **20 or more acres**, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
  - a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
  - b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
  - c. Other commercial agricultural activities established under WAC 458-30.
2. Any parcel of land **five acres or more but less than 20 acres**, devoted primarily to agricultural uses, and has produced a gross income equivalent to:
  - a. Prior to January 1, 1993, \$100 or more per acre per year for three of the five calendar years preceding the date of application.
  - b. On or after January 1, 1993, \$200 or more per acre per year for three of the five calendar years preceding the date of application.
  - c. "Gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
3. Any parcel of land **five acres or more but less than 20 acres**, devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
  - a. Seven years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
  - b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to \$100 or more per acre in the current or previous calendar year.
4. Any parcel of land **less than five acres** devoted primarily to agricultural uses and has produced a gross income of:
  - a. Prior to January 1, 1993, \$1,000 or more per year for three of the five calendar years preceding the date of application.
  - b. On or after January 1, 1993, \$1,500 or more per year for three of the five calendar years preceding the date of application.

**Gross Income WAC 458-30-200(2)(aa)**

Gross income is cash income received from commercial agricultural purposes. Gross income includes USDA payments for participating in a crop reduction program when payments are based on the productive capacity of the land. It also includes the wholesale

value of products donated to food banks or feeding programs as long as they are produced on land at least five, but less than 20 acres.

Gross income for any farm and agricultural land **does not** include the following:

- The value of any products produced on the land and consumed by the owner or lessee.
- Cash income derived from leases for the use of the land for noncommercial agricultural purposes.
- Payments for soil conservation programs.
- The value represented from a trade of goods and services.

Farm and agricultural land includes any of the following:

- **Incidental uses** compatible with agricultural purposes, including wetland preservation, provided such use does not exceed **20 percent** of the classified land.
- Land on which **appurtenances** necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
- Any non-contiguous parcel one to five acres, that is an **integral** part of the farming operations.
- Land on which **housing** for employees, or the principal place of residence of the farm operator or owner is located. The use of the housing or residence must be **integral** to the use of the classified land for agricultural purposes. The land must be contiguous and 20 acres or more.
- Land used primarily for **equestrian-related** activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.
- Land primarily used for **commercial horticultural purposes**, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not.

The current use value applies to the land only, not to improvements such as, buildings, perennial plans, or irrigation systems. These improvements are valued at their fair market value.

## Qualifications

The land must be used primarily for commercial agricultural purposes. Farming must be on a continuous and regular basis, prior to and following the application for classification. The owner or lessee must demonstrate that they have an intent to make a monetary profit from cash income by producing an agricultural product.

## Application and Approval

Applications must be on forms prepared by the Department that are supplied by the assessor. The form must be submitted to the assessor by December 31 (WAC 458-30-215(5)). All applications are automatically approved if not approved or denied by May 1 (RCW 84.34.035 and WAC 458-30-225(4)) of the year following the initial application. Any owner or contract purchaser may apply for farm and agricultural classification.

It is important for property owners to understand the timing of the assessment process. When an application is approved, the current use value is applied to the land in the following assessment year. That value is used to determine the amount of taxes paid in the next year.

Example:

- Application submitted and approved in 2017.
- Current use value applied to assessment year 2018.
- Relief for taxes due in 2019.

### **Steps to approve farm and agricultural land applications WAC 458-30-225:**

These steps are suggested guidelines. Other factors unique to specific properties and circumstances may need to be considered in the decision to approve an application.

1. Review the application and supporting documentation with the applicant to ensure the application is complete and includes all the necessary information.
2. Collect the fee if one is required, and date stamp the application with date received. A copy of all applications should be retained.
3. Review each application. The application should include:
  - A description of the current use of the land, including productivity of typical crops.
  - Sales receipt(s).
  - A copy of the federal income tax return with schedules documenting farm income.
  - Other information requested by the assessor that is relevant to the application.
4. Law or rule does not require an inspection of the property.
5. If there is a residence on the land, verify if it is the primary residence of the owner or operator. WAC 458-30-317 explains the requirements for land associated with

the residence of the farm operator or housing for farm and agricultural employees to be eligible for classification.

6. Approve the application, if the property meets the qualifications.
7. Send the applicant an approval letter for the land that qualifies, and the Department's Notice of Approval or Denial Application for Classification as Farm and Agricultural Land under RCW 84.34.020(2) form (REV 64 0088).

The assessor must record the notice of approval with the county auditor within 10 days after approved (WAC 458-30-245(4)). A record of the recorded agreement will appear on the title report for the parcel.

#### **Application fee WAC 458-30-220**

The processing fee is established by the city or county legislative authority and is required when an application for classification or reclassification is submitted. This fee covers the cost of processing the application and the cost for recording documents.

#### **Denial**

If an application is denied in full, or in part, the applicant must be notified in writing. The notification should include the reason for the denial and information about how to appeal the decision to the county board of equalization. The assessor should use the Department's Notice of Approval or Denial Application for Classification as Farm and Agricultural Land under RCW 84.34.020(2) form (REV 64 0088e).

Reasons for denying a farm and agricultural application may include:

- The application is incomplete or does not have sufficient supporting documentation.
- The land is not being farmed for commercial purposes.
- The income or investment requirements for parcels less than 20 acres have not been met.
- The applicant has not responded to the assessor's request for information.
- The application fee has not been paid.

## 2.3 Timberland

### Definition

#### **Timberland RCW 84.34.020(3)**

Timberland is defined as any parcel of land that is five or more acres, or multiple parcels of land that are contiguous and total five or more acres that are devoted primarily to the growth and harvest of timber for commercial purposes.

### Qualifications

To qualify for timberland classification:

- Land must be used primarily for the growth and harvest of timber for commercial purposes.
- It must be five or more contiguous acres, meaning land that adjoins and touches other land owned by the same owner or held under the same ownership (WAC 458-30-200(2)(o)).
- There are no statutory gross income requirements, but the land must be managed with intent to grow and harvest timber for commercial purposes.
- There is no **homesite** allowance for land in this classification. All homesites must be valued at fair market value.
- No more than 10% of the land can be used for incidental uses that are compatible with the growing and harvesting of timber.

RCW 84.34.400 allows counties the option of merging their timberland classification into designated forestland. Counties are required to notify the Department after taking action to merge these classifications. The Department must maintain a list of counties that have merged classifications.

After a county merges their timberland and designated forestland classifications, an owner can no longer apply for the timberland classification; they must apply for designated forestland. Part 3 – Designated Forestland has more information about the merger of timberland and designated forestland classifications.

### Application and Approval

Applications for timberland must be submitted on forms that have been provided by the Department. Applications can be made any time during the calendar year. Any owner or contract purchaser may apply for timberland classification. The applicant must sign the application and any agreements required by the granting authority.

The county legislative authority approves the application if the land is within an unincorporated area.

If the county legislative authority accepts an application for land located in an incorporated city, they must notify the city and hold a hearing either in person or by phone. Both the city and the county need to approve the application.

An application can be approved in full or in part if some portions of the land do not meet the qualifications. If any part of the application is denied, the applicant may withdraw their application.

**Applications will be approved or denied within six months** after the application is received by the granting authority (RCW 84.34.041 and WAC 458-30-232(7)).

It is important for property owners to understand the timing of the assessment process. When an application is approved, the current use value is applied to the land in the following assessment year. That value is used to determine the amount of taxes to be paid in the next year.

Example:

- Application submitted and approved in 2017.
- Current use value applied to assessment year 2018.
- Relief for taxes due in 2019.

**Steps to approve timberland applications WAC 458-30-232:**

These steps are suggested guidelines for the granting authority. Other factors unique to specific properties and circumstances may need to be considered in the decision to approve an application.

1. Review the application and supporting documents with the applicant to ensure the application is complete and includes all the necessary information.
2. Collect the fee if one is required and date stamp the application with date received. A copy of all applications should be retained.
3. Review the application. The application must include a timber management plan and the form must be filled out completely.

1. Inspect the property to ensure the land meets the program qualifications (recommended). Law or rule does not require an inspection of the property. However, an inspection is recommended to ensure the land meets the program qualifications.
  - a. Is the soil and land capable of producing timber?
  - b. Does it meet the acreage requirements?
  - c. Are there conditions, covenants, or restrictions that will prevent harvest?
2. Schedule a public hearing to approve or deny the application.
3. Publish a notice of public hearing ten days before the hearing in a newspaper of general circulation.
4. Granting authority approves or denies application at hearing.
5. Within five days of the application approval, prepare the agreement and send it to the owner for signature. We suggest using the Department's Open Space Taxation Agreement Chapter 84.34 RCW form (REV 64 0022). This must be delivered to the owner by certified mail with return receipt requested (WAC 458-30-240(3)(a)).
6. The granting authority must send a copy of the agreement to the assessor within ten days after the signed copy is returned.
7. The assessor must record the agreement with the county auditor within ten days after approval (WAC 458-30-245(4)). A record of the agreement will appear on the title report for the parcel.

#### **Application fee WAC 458-30-220**

The processing fee is established by the city or county legislative authority and is required when an application for classification or reclassification is submitted. This fee covers the cost of processing the application and the cost for recording documents.

#### **Denial**

An application may be denied in full, or in part. A reason for partial denial may be that a portion of the land contains a homesite or buildings that are not used for growing and harvesting timber.

Certain factors result in an automatic denial RCW 84.34.041(3) and WAC 458-30-232(4)(c):

- Land does not contain a stand of timber unless:



- a. The land was recently harvested or supports a growth of brush or noncommercial type timber, and the application contained a plan to restock within three years or longer if seeds or seedlings are unavailable, or
  - b. Only isolated areas on the land do not meet the minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions.
- The applicant has failed to comply with an order regarding a violation of restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions.
  - The land abuts a body of salt water and is within 200 feet of the high tide line.

The reason for the denial must be in writing and mailed to the applicant. Appeals for denials of applications for initial classification or reclassification are made to the county superior court where the land is located.

### **Timber management plan**

A timber management plan is required for all land approved in the timberland classification. It must be filed at the time of application, or when a sale or transfer of timberland occurs and a notice of continuance is signed.

The Department's publication [Guidelines for Timber Management Plans](#) is a helpful tool to provide landowners who are interested in the program. **Resources**

Here are some additional resources that are helpful in the administration of the timberland classification:

- Washington State University Forest and Wildlife Extension [forestry.wsu.edu](http://forestry.wsu.edu).
- Washington Forest Protection Association [wfpa.org](http://wfpa.org).
- Washington State Department of Natural Resources [dnr.wa.gov/sflo/](http://dnr.wa.gov/sflo/).
- Trust for Public Lands [tpl.org](http://tpl.org).
- Washington State Department of Revenue, Forest Tax section [foresttax.dor.wa.gov](http://foresttax.dor.wa.gov).
- USDA Web Soil Survey [websoilsurvey.nrcs.usda.gov/app/](http://websoilsurvey.nrcs.usda.gov/app/).

## Part 3 Designated Forestland

Washington State encourages sound forestry practices so that present and future generations can enjoy the benefits they provide. As a way to encourage forestry, landowners may choose to have their land designated as forestland. This designation often results in lower assessed value and lower property taxes.

### Definition

#### **Designated forestland RCW 84.33.035(5)**

Designated forestland means any parcel of land that is five or more contiguous acres devoted primarily to growing and harvesting timber. Designated forestland means the land only and does not include a residential homesite. The term also includes land used for incidental uses that are compatible with the growing and harvesting of timber, but no more than 10 percent of the land may be used for such incidental uses.

### Qualifications

To qualify for designated forestland, the following requirements apply:

- Land must be used primarily to grow and harvest timber.
- It must be five or more contiguous acres.
- Owner must comply with forest practice laws and regulations.
- There are no income requirements, but the land management must be consistent with intent to grow and harvest timber.
- There is no homesite allowance for land in this classification; homesites must be valued at fair market value.
- The assessor may request a timber management plan to verify that the land will be growing timber.

### Application and Approval

Applications must be on forms prepared by the Department that are supplied by the assessor. Applications must be submitted to the assessor by December 31. All applications are considered approved if not acted upon prior to July 1 (RCW 84.33.130(7)) of the year following the initial application. Any owner or contract purchaser may apply for designated forestland classification.

It is important for property owners to understand the timing of the assessment process. When an application is approved, the designated forestland value is applied to the land in the following assessment year. That value is used to determine the amount of taxes paid in the next year.

Example:

- Application submitted and approved in 2017.
- Value applied to assessment year 2018.
- Relief for taxes due in 2019.

**Steps to approve designated forestland application RCW 84.33.130:**

These steps are suggested guidelines. Other factors unique to specific properties and circumstances may need to be considered in the decision to approve an application.

1. Review the application and supporting documents with the applicant to ensure the application is complete and includes all the necessary information.
2. Collect the fee if one is required and date stamp with date received. A copy of all applications should be retained.
3. Review the application to ensure it is filled out completely. Review the timber management plan if one is required.
4. Law or rule does not require an inspection of the property. However, an inspection is recommended to ensure the land meets the program qualifications.
  - a. Is the soil and land capable of producing timber?
  - b. Does it meet the acreage requirements?
  - c. Are there conditions, covenants, or restrictions that will prevent harvest?
5. If the property meets the qualifications, the assessor approves the application.
6. Send applicant an approval letter for the land that qualifies, and DOR form **Notice of Approval or Denial of Application for Designated Forestland (REV 62 0049)**.
7. The assessor must record the notice of approval with the county auditor within ten days after the application is approved (WAC 458-30-245(4)). A record of the agreement will appear on the title report for the parcel.

**Application fee RCW 84.33.130(2)**

The processing fee is established by county legislative authority and is required when an application for classification or reclassification is submitted. This fee covers the cost of processing the application and the cost for recording documents.

## Denial

An application may be denied in full, or in part. A reason for denial may be that a portion of the land contains a homesite or buildings that are not used for growing and harvesting timber. If there is no timber on the property when inspected because it was recently harvested, the timber management plan should show a plan for restocking.

The denial must be in writing and mailed to the applicant. Owners may appeal the denial for initial classification or reclassification to the county board of equalization.

### **Certain factors result in an automatic denial RCW 84.33.130(6):**

- Land does not contain a stand of timber *unless*:
  - a. The land was recently harvested or supports a growth of brush or noncommercial type timber and the application contained a plan to restock within three years or longer if seeds or seedlings are unavailable, or
  - b. Only isolated areas on the land do not meet the minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions.
- The applicant has failed to comply with an order regarding a violation of restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions.
- The land abuts a body of salt water and is within 200 feet of the high tide line.

## Resources

The Department's publication [Guidelines for Timber Management Plans](#) is a helpful tool to provide landowners who are interested in the program.

Here are some additional resources that are helpful in the administration of the program:

- Washington State University Forest and Wildlife Extension [www.forestry.wsu.edu](http://www.forestry.wsu.edu)
- Washington Forest Protection Association [www.wfpa.org](http://www.wfpa.org)
- Washington State Department of Natural Resources [www.dnr.wa.gov/sflo/](http://www.dnr.wa.gov/sflo/)
- Trust for Public Lands [www.tpl.org](http://www.tpl.org)
- Washington State Department of Revenue, Forest Tax section [www.foresttax.dor.wa.gov](http://www.foresttax.dor.wa.gov)
- USDA Web Soil Survey <https://websoilsurvey.nrcs.usda.gov/app/>

## Part 4 Administration and Processes

### 4.1 Public Benefit Rating System (PBRs)

If the county chooses to adopt a PBRs, the county legislative authority customizes the PBRs criteria to what they think will be beneficial to the residents of the county. All open space parcels are rated based on PBRs criteria and awarded points that correspond to a percentage reduction of fair market value. This results in consistent and uniform assessment of open space parcels.

The county legislative authority can adopt a PBRs at any time. If a county has previously approved parcels in the open space classification and adopts a PBRs, the county legislative authority must apply the new criteria to *all* open space parcels, not just parcels approved after the PBRs was adopted. This means the county legislative authority must go back and review all parcels in the open space classification to ensure they are valued using the current PBRs (WAC 458-30-330(6)).

If previously classified open space land does not qualify for classification under the newly adopted PBRs, the assessor is not to remove the land from the open space classification. The land will retain its status as classified open space land. The assessor determines the value of the land using the PBRs.

Within 30 days of receiving notification of the new assessed value established by the PBRs, the owner may request removal of classification of the land without additional tax, interest, and 20 percent penalty.

#### **Process to adopt a new PBRs RCW 84.34.055 and WAC 458-30-330:**

1. Following a public hearing, the county legislative authority may direct the county planning department to set open space priorities and to adopt a PBRs. The plan must include, but is not limited to:
  - a. Criteria to determine eligibility of land; some suggested criteria are:
    - i. natural heritage database
    - ii. state office of historic preservation
    - iii. state, national, county/or state registers of historic places
    - iv. shoreline master program
    - v. studies conducted by Department of Fisheries, Natural Resources, and Wildlife
  - b. A process to establish a PBRs;
  - c. An assessed valuation schedule developed by the assessor, with a list of the percentage reduction points.
2. Schedule at least one public hearing for approval by the county legislative authority.

**Rate parcels after a plan is adopted WAC 458-30-330(6):**

1. The planning department or other designated agent must review all parcels in the open space classification and assign a recommended number of priority rating points using the PBRs.
2. Submit recommendation to the county legislative authority for approval.
3. County legislative authority sends approved recommendation to assessor.
4. Assessor uses approved priority-rating points, assessed valuation schedule to determine new assessed value, and notifies the owner of the new assessed value of land in the manner provided in RCW 84.40.045.

**Example using PBRs rating criteria**

A wildlife conservation area was approved for the open space classification. The county rates and values the land using its PBRs. In this county, wildlife conservation areas receive eight priority-rating points. Under the PBRs, the number of points equals a 55% reduction in the fair market value of the land. The fair market value of the land is \$120,000, and the current use value is \$54,000.

## 4.2 Continuing Classification after Sale or Transfer

If current use land or designated forestland is sold or transferred and the new owner chooses to retain the classified status of the land, certain steps must be followed before the sale or transfer may be recorded or filed (WAC 458-30-275(3) and WAC 458-30-700(3)).

**New owner steps for continuance**

1. To continue classification, DOR form Notice of Continuance (REV 64 0047) or the Real Estate Excise Tax Affidavit (REET) must be signed by the new owners.
2. If requested by the assessor, complete DOR form Request for Information Verifying Intent to Continue Current Use Classification or Designated Forestland (REV 64 0073).

**Assessor steps for continuance**

1. Verify the Notice of Continuance has been completed and signed.
2. Determine whether the land should retain its current classification status, and if not, the land should be removed. The assessor has up to fifteen days after the Notice of Continuance form is received to make this determination. This may include inspecting the property, reviewing the timber management plan (if one is required), and checking income levels.
3. If necessary, consult with the county legislative authority to determine if the land is classified as open space or timberland.

4. If the land continues to meet program requirements, check the continuance box on the Notice of Continuance form and sign the REET affidavit.
5. Prepare the documents and send to the auditor's office for recording.

Although not required, it is recommended the assessor review the completed Notice of Continuance form with the new owner, so they understand the classification requirements.

### **Open space land, including farm and agricultural conservation**

Review the classification requirements with the new owner.

### **Timberland**

Review the timber management plan with the new owner to see if it is still applicable. If necessary, the new owner may need to submit a revised or new plan.

### **Farm and agricultural land**

The assessor may require additional information before allowing farm and agricultural land to continue in the classification by a new owner. A farm plan or statement on how the new owner intends to continue farming the land are examples of additional information that may be required.

### **Designated forestland**

The assessor has the option of requiring a timber management plan from the new owner when the property is being continued in the designated forestland classification.

## **4.3 Homesite**

The land under a principal residence of the farm owner or operator, or land under housing of farm and agricultural employees, may qualify as farm and agricultural land if it meets certain conditions. Land classified as open space and timberland must be valued at its fair market value (RCW 84.34.020 and WAC 458-30-317).

To qualify as an integral homesite, the residence or employee housing must be located on 20 or more acres, and be:

- Occupied by the farm owner/operator and used to conduct farm business., or
- Occupied by a farm employee who is employed at least twenty-five hours per week, or
- Used for seasonal or migratory workers who work on the farm during planting, growing, or harvesting seasons.

Although there is no statutory requirement stating how big a homesite must be, the typical homesite is one acre (PTA 4.3.2012 Integral Homesite).

**Example of a *qualifying* homesite**

Two dwellings are located on a parcel of land that is more than 20 acres. One is the principal residence of the farm operator/owner and the seasonal farm workers who work on the farm only during harvest occupy the second residence. Both dwellings qualify as integral to the farm operation; both homesites qualify as farm and agricultural land.

**Example of a *non-qualifying* homesite**

A residence located on a 25-acre parcel of farm and agricultural land is occupied by the landowner’s son who works fulltime at a business in the city. Because the son does not work on the farm, the residence is not integral to the farm operation. The homesite does not qualify as farm and agricultural land.

**4.4 Reclassification**

In 1992, the Legislature created a process and options for landowners to change or transfer between the classification of their land in RCW 84.33 and 84.34. The name given to this process is “reclassification” making it possible to switch between certain classifications. Certain designations can be reclassified without being subject to additional tax, interest, or 20 percent penalty or compensating tax.

Circumstances that may cause an owner to seek reclassification include:

- The land is no longer being used for the purpose for which classification was granted.
- The owner decides to change the use of the land.
- The land no longer meets the requirements for classification/designation.
- The land is in the process of being removed from classification/designation.

<b>Reclassifications that are not subject to additional tax:</b>	
<b>From:</b>	<b>To:</b>
Open space farm and agricultural conservation RCW 84.34.020(1)(c)	<ul style="list-style-type: none"> <li>• Farm and agricultural land RCW 84.34.020(2)</li> <li>• (ONLY if land was previously classified as farm and agricultural.)</li> <li>•</li> </ul>
Farm and agricultural land RCW 84.34.020(2)	<ul style="list-style-type: none"> <li>• Timberland RCW 84.34.020(3).</li> <li>• Open space RCW 84.34.020(1).</li> <li>• Open space farm and agricultural conservation land RCW 84.34.020(1)(c).</li> <li>• Designated forestland RCW 84.33.</li> </ul>



Designated forestland RCW 84.33	<ul style="list-style-type: none"> <li>• Farm and agricultural land RCW 84.34.020(2).</li> <li>• Open space land RCW 84.34.020(1).</li> <li>• Timberland RCW 84.34.020(3).</li> </ul>
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Example: A farmer owns thirty acres in the farm and agricultural classification. The county sent an audit letter to the farmer, but the farmer is not able to prove the minimum gross income requirements. The farmer no longer wants to farm the land. The farmer can request to reclassify the land into open space farm and agricultural conservation, with no additional tax, interest, or 20 percent penalty due.

Applications for reclassification are processed in the same manner as new applications. The county may require an application fee for reclassification.

**Reclassification steps if an owner seeks change of classification WAC 458-30-325(4)**

1. The owner must file an application for reclassification.
2. The assessor must forward a copy of the application to the appropriate granting authority within seven days of receipt.
3. The assessor retains a copy of all applications.
4. When an application for reclassification is submitted, the classification is not changed until the application is approved.

**Reclassification steps if the assessor has begun the removal process WAC 458-30-325(3)**

1. The owner must file an application for reclassification within 30 days after receiving the Notice of Removal.
2. If an application for reclassification is submitted within 30 days, the land is not considered removed until the application is approved or denied.

If an application for reclassification is approved, the minimum gross income requirements may be deferred up to five years if the land is reclassified from open space conservation, timberland, or designated forest land.

Example:

- Application is submitted and approved in 2019
- Current use value is applied to assessment year 2020
- Relief for taxes are due in 2021

If an application for reclassification is denied, the owner has the same appeal rights as in the initial application process.

## 4.5 Removals

Land that no longer meets classification requirements for current use or designated forestland may need to be removed, and additional tax or compensating tax may be due.

### **Current use – including open space, farm and agricultural land, and timberland**

**The reasons for removal of land classified in the current use program are provided in RCW 84.34.108 and WAC 458-30-295:**

- Written notice from the owner to remove all or a portion of the classified land.
- Sale or transfer to an owner making all or a portion of the land exempt from property taxes.
- Sale or transfer to a new owner, unless the owner signed a notice of continuance.
- An owner who fails to respond to a request from the assessor for information regarding use of the land.
- The granting authority denies an owner's request for reclassification.
- The assessor determines land no longer meets criteria.
- The assessor discovers the land was classified in error.

If the land removed is classified as open space land or timberland, the assessor may ask the granting authority to provide reasonable assistance in determining whether the classified land continues to meet the criteria for classification. The granting authority must provide this assistance within thirty days of receiving the assessor's request for assistance (RCW 84.34.108(1)).

### **Process when an assessor discovers a change in use WAC 458-30-295(5) and WAC 458-30-300(2):**

1. The assessor must send the owner, by certified mail, return receipt requested, a written notice regarding this determination, e.g., the Notice of Intent to Remove Current Use Classification REV 64 0071).
2. The owner must respond, in writing, to the assessor's inquiry about the use of the classified land within 30 calendar days of the postmark date of the notice, or land may be removed.
3. Unless the owner demonstrates to the assessor that the classified use of the land has not changed, the assessor will remove the land from classification and impose additional tax, interest, and 20 percent penalty.
4. The assessor determines the amount of additional tax, interest, and 20 percent penalty due, and notifies the treasurer.

5. The treasurer mails a written notice of the total amount due to the owner. The tax, interest, and 20 percent penalty are due 30 days after the owner is notified. If not paid, a lien is placed against the property

**Additional tax, interest, and 20 percent penalty WAC 458-30-300(3)**

The amount for additional tax, interest, and penalty is determined as follows:

1. The amount of additional tax is equal to the difference between the property tax paid because of classified status and the property tax that would have been paid on the land based on fair market value. The amount is the total difference for the seven tax years preceding the year of withdrawal or removal and the taxes owed for the remainder of the current year.
2. Interest is calculated at the same rate charged on delinquent property taxes RCW 84.56.020.
3. The penalty equals 20 percent of the sum of the figures identified in steps 1 and 2.

Engrossed House Bill 1982, from the 2022 legislative session, added a new section of RCW 84.56.020(5)(a), reducing the delinquent interest rate and eliminating the delinquent tax penalty for some parcels when removed from current use classification for taxes levied prior to 2023. This reduction to 9% applies to *any* residential parcel with four or fewer units. Importantly, there are no exceptions for parcels classified as Current Use. Therefore, any homesite or residential parcel with four or fewer units is subject to the 9% delinquent interest rate upon removal from the Current Use or Farm and Agricultural designation. Land only parcels continue to be subject to the 12% delinquent interest rate.

Example: A property owner has two contiguous parcels totaling 40 acres in the Current Use Farm and Agricultural classification. Parcel A has 20 acres with a one-acre homesite and is the primary residence of the property owner. Parcel B has 20 acres with no structures. An audit determines the property is not being used for agricultural purposes and no longer qualifies for the classification. When calculating the compensating tax owed upon removal, Parcel A is subject to the 9% delinquent interest rate, while Parcel B is subject to the 12% delinquent interest rate.

Refer to the table below to determine the appropriate interest rate, and penalties if applicable, for the appropriate year:

When	Taxes levied for	Interest	Delinquent Tax Penalty
2021 and prior	All real and personal property	12%	3% on June 1 and 8% on December 1
2022	All real and personal property	12%	None
2023 and after	Residential parcel w/ four or fewer units	9%	None
	All other real and personal property	12%	3% on June 1 and 8% on December 1

**Exceptions**

Current use has several exceptions when additional taxes, interest, and 20 percent penalty are not imposed when land is removed from classification (RCW 84.34.108(6) and WAC 458-30-300(5)). They include:

1. Transfer to a government entity in exchange for other land located within the State of Washington.
2. When land is taken by an entity having the power of eminent domain, the entity must exercise the intent of that power in writing or by official action. Evidence of the eminent domain action should be available for review.
3. Natural disaster such as a flood, windstorm, earthquake, wildfire, or other calamity.
4. Official action by an agency of the State of Washington or by the county or city where the land is located which does not allow the present use of the land.
5. Transfer of land to a church when the land would qualify for exemption under RCW 84.36.020. The church would have to apply for the exemption and be approved by the Department.
6. Acquisition of property interests by state agencies or agencies or organization qualified under RCW 84.34.210 and RCW 64.04.130 for the purposes listed in those sections.
7. Removal of farm and agricultural land that is an integral homesite for a farm owner/operator, or housing for farm employees (RCW 84.34.020(2)(f)).
8. Removal of classification after a law is enacted that creates a new exemption and the landowner asks the assessor to remove the land from classification.
9. Creation, sale, or transfer for a forest riparian easement (RCW 76.13.120).

10. Creation, sale, or transfer of a conservation easement on private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species (under RCW 76.09.040).
11. Sale or transfer within two years of the death of an owner who held at least a 50 percent interest in land which has been continuously classified since 1993.
12. The assessor discovers land was classified in error through no fault of the owner.

## **Removal Form Guide**

The Notice of Removal of Current Use Classification and Additional Tax Calculation form (64 003) has been prepared by the Department for the Assessor's office to use for this process. The following guidelines will help with understanding the form and processing the removal.

### **Page One**

The top left hand corner needs to be filled out with the seller or owner's name and address, or the assessor's address so that the assessor can forward a copy to the seller or owner. The following needs to be filled in:

- County
- Grantor - (If there is a change in ownership)
- Grantee/Property owner
- Mailing Address
- Legal Description – If the legal description is too lengthy, you can attach it to the form. Make a note of this in the Legal Description area.
- Assessor's Parcel/Account Number
- You may include county auditor recording numbers for documents related to the owners' purchase of the property, and classification records such as the original approved application.

### **Check Boxes**

- Indicate which classification the land is being removed from
- Indicate why the land is being removed.
- Additional documentation or explanation will explain to the taxpayer and provide a clearer picture on why the land is being removed.

- Is the removal subject to additional tax, interest, and penalty? **You must check yes or no.** At this point, the removal form provides two options:
  - If you answer **no**, the removal is not subject to additional tax, interest, and penalty, you need to complete the questions on the remainder of page one.
  - If you answer **yes**, the removal is subject to additional tax, interest, and penalty, you need to proceed to page 2 of the form.

If **NO**, removal is not subject to additional tax, interest, and penalty, complete the following steps: Current Use and Designated Forestland Administration

1. Page 1 – question 1

- Enter date of removal
- Date of removal is the first date after the taxpayer has been notified of removal, given the chance to provide additional information, and ultimately the assessor determines the land no longer qualifies.

2. Page 1 – question 2

- Go to page 3 – Step 8: Enter the recording fee amount due.
- Also, include the same comment that you included for #8 under the Yes option.

3. **(REQUIRED)** Step 10 Calculation of Tax for Remainder of Current Year. Even if the land is going into exempt status, you must calculate the remainder of the year’s fair market value taxes.

- Current year tax is not due within 30 days, current year tax is due pursuant to RCW 84.56.020 (By April 30 and October 31).

4. Provide a brief explanation on why the removal meets the exemptions that are on page 4 of the form. Write in plain language why the exemption selected applies. One example would be “The home site is not being used as an integral part of the farm. The owner/operator does not live in the residence.” (RCW 84.34.020 (6)(g))

If the box is checked **yes**, the removal is subject to additional tax, interest, and penalty.

Proceed to page 2:

- Enter the Parcel No.
- Enter the Date of Removal

### **Calculation of Current Year’s Taxes to Date of Removal**

Follow the instructions on the sheet to determine the calculation of current year’s difference between current use tax and fair market value tax due.

### **Calculation of Current Year Interest**

Interest is calculated from April 30 of each tax year through the month of removal. For example: If the land was removed in September, it would be five months from April 30. Divide five months by 100, which equals the amount of interest.

Beginning January 1, 2023:

- 2A - 12% delinquent interest rate (1% monthly) for all other parcels.
- 2B - 9% delinquent interest rate (.75% monthly) for residential property (parcels with four or fewer residential units).

### **1. Calculation of Prior Year's Additional Tax and Interest**

Interest is calculated from April 30 of each year through the month of removal at 1% per month. Tax Year 1 will be the year preceding the year of removal. This means that from the example above that the 5 five months added to 12 months at 1% would be 17% interest, then for each year after another 12% is added to represent the 1% of delinquent tax interest for the year.

- 9% delinquent interest rate (.75% monthly) for residential property (parcels with four or fewer residential units) starting with the 2023 tax year.
- 12% delinquent interest rate (1% monthly) for all other parcels.

### **2. Total Additional Tax and Interest**

- This is a total of the entries from item 3 of column 8.

### **3. 20% Penalty**

- This does not apply if the owner requested a withdrawal after the land has been classified for 10 years or more, and they meet the requirements of RCW 84.34.070.

### **4. Total Additional Tax, Interest, and Penalty**

- Total of entries in items 4 and 5

### **5. Prorated Tax and Interest for Current Year**

- Items 1c and 2. The 20% penalty does not apply to this.

### **6. Recording Fee for Removal**

- The owner is responsible for the recording fee for the removal (WAC 458-30-245(5)).

### **7. Total of Tax, Interest, Penalty, and Recording Fee**

- Total lines 6, 7, and 8.

**8. Calculations of Tax for Remainder of the Current Year**

- This part of the form is always calculated regardless of if the property meets the requirements for the additional tax not to be imposed. These taxes are for the current year and the owner would still be required to pay them.
  
- Number of days from the date of the removal to end of year divided by the number of days in the year. This equation will give you the proration factor.
  - a) True and Fair value, January 1 of the year removed, multiplied by the levy rate divided by 1,000 multiplied by the proration factor equals the tax portion of the True & Fair Market Value taxes.
  
  - b) Current Use value, January 1, of year removed multiplied by the levy rate, divided by 1,000 multiplied by the proration factor equals the current use value

**Amount of tax of tax due for remainder of current year**

Line 10a minus 10b.



**Sample removal calculation (Rev 64 0023)**

Parcel No: _____	Date of Removal: <u>09/22/2024</u>
<b>1. Calculation of Current Year's Taxes to Date of Removal.</b>	
$\frac{265}{\text{No. of days in Current Use}} \div \frac{365}{\text{No. of days in year}} = \frac{0.7260273973}{\text{Proration Factor (apply to 1a and 1b)}}$	
a. $\frac{\$170,600}{\text{True \& Fair Value (Jan 1 of year removed)}} \times \frac{12.6534624661}{\text{Levy Rate}} \div 1,000 \times \frac{0.7260273973}{\text{Proration Factor}} = \$1,567.26$	
b. $\frac{\$12,700}{\text{Current Use Value (Jan 1 of year removed)}} \times \frac{12.6534624661}{\text{Levy Rate}} \div 1,000 \times \frac{0.7260273973}{\text{Proration Factor}} = \$116.67$	
c. Amount of additional tax for current year to date of removal (1a minus 1b) = <u>\$1,450.59</u>	
<b>*Beginning January 1, 2023:                      9% interest rate for residential property (parcel with residence of four or fewer units) (.75% monthly)                      12% interest rate for all other parcels (1% monthly)                      RCW 84.56.020(5)</b>	
<input type="checkbox"/> This parcel has a residence (four or fewer units) - use 2B for current year	
<b>2A. Calculation of Current Year Interest - no residential unit</b> (Interest is calculated from April 30 of each tax year through the month of removal at the rate 1% per month)	
$\frac{\$1,450.59}{\text{Amount of tax from 1c}} \times \frac{5}{\text{Number of Months}} \div 100 = \$72.53$	
<b>2B. Calculation of Current Year Interest - with residential unit(s)</b> (Interest is calculated from April 30 of each tax year through the month of removal at the rate .75% per month)	
$\frac{\$1,450.59}{\text{Amount of tax from 1c}} \times \frac{5}{\text{Number of Months}} \div 100 = \$0.00$	

**3. Calculation of Prior Year's Additional Tax and Interest.** (Interest is calculated from April 30 of each tax year through the month of removal at the rate of 1% per month, or .75% per month for a parcel with a residence of four or fewer units\*.) Tax Year 1 will be the year preceding the year of removal.

Col's		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
No. of Yrs	Tax Year	True & Fair Value	Current Use Value	Difference 1-2	Levy Rate	Additional Tax Due 3x4	Interest Rate 12% annual (1%/mo.) 9% annual (.75%/mo.)*	Total Interest 5x6	Total Tax & Interest 5+7
1	2023	\$170,600	\$12,700	\$157,900	12.6299478869720	\$1,994.27	17.00%	\$339.03	\$2,333.29
2	2022	\$162,500	\$12,400	\$150,100	11.3569636063460	\$1,704.68	29.00%	\$494.36	\$2,199.04
3	2021	\$162,500	\$12,100	\$150,400	11.2972863081500	\$1,699.11	41.00%	\$696.64	\$2,395.75
4	2020	\$162,500	\$11,400	\$151,100	11.0538596588500	\$1,670.24	53.00%	\$885.23	\$2,555.46
5	2019	\$162,500	\$26,000	\$136,500	10.4273731760200	\$1,423.34	65.00%	\$925.17	\$2,348.51
6	2018	\$164,200	\$22,950	\$141,250	9.8218995203260	\$1,387.34	77.00%	\$1,068.25	\$2,455.60
7	2017	\$167,000	\$24,500	\$142,500	9.7584425993940	\$1,390.58	89.00%	\$1,237.61	\$2,628.19
<b>Totals</b>								\$5,646.28	\$16,915.84

4. Total Additional Tax and Interest (Total of entries in item 3, column 8) = \$16,915.84

5. 20% Penalty - fill in (Does not apply if owner requested withdrawal after 10 years) = \$3,383.17

6. Total Additional Tax, Interest, and Penalty (Total of entries in items 4 and 5) = \$20,299.01

7. Prorated Tax and Interest for Current Year (Items 1c and 2) = \$1,523.12

8. Recording Fee for Removal - fill in = \$65.00

9. Total of Tax, Interest, Penalty, and Recording Fee (Add lines 6, 7, and 8) = \$21,887.13

(Payable in full 30 days after the date the treasurer's statement is received. Any amount unpaid on its due date is considered delinquent. From the date of delinquency until paid, interest will be charged at the same rate applied by law to delinquent ad valorem property taxes.)

**10. Calculation of Tax for Remainder of Current Year.**

$$\frac{100}{\text{No. of days from date of removal to end of year}} \div \frac{365}{\text{No. of days in year}} = \frac{0.2739726027}{\text{Proration Factor}}$$

a.  $\frac{\$170,600}{\text{True & Fair Value (Jan 1 of year removed)}} \times \frac{12.6534624661}{\text{Levy Rate}} \div 1,000 \times \frac{0.2739726027}{\text{Proration Factor}} = \$591.42$

b.  $\frac{\$12,700}{\text{Current Use Value (Jan 1 of year removed)}} \times \frac{12.6534624661}{\text{Levy Rate}} \div 1,000 \times \frac{0.2739726027}{\text{Proration Factor}} = \$44.03$

c. Amount of tax due for remainder of current year (10a minus 10b) = \$547.39

## Designated forestland

### Reasons for removal of land in the designated forestland program (RCW 84.33.140 and WAC 458-30-700(2))

The assessor must remove land from designated forestland when:

1. The owner submits a written request to remove the land.
2. The owner sells or transfers the land to an individual or entity exempt from property tax.
3. The assessor determines the land is no longer devoted primarily to and used for growing and harvesting timber.
4. The owner failed to comply with an order regarding a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of RCW 76.
5. Restocking has not occurred to the extent or within the time specified in the application.
6. The owner sells to a new owner who failed to complete a notice of continuance, except for transfer by a transfer on death deed or a transfer to a new owner who is the heir of a deceased owner.
7. The assessor discovers the land was classified in error.

For example, A forestland owner logged their property and have not replanted within the three-year period. The owner has not followed the timber management plan and is currently out of compliance. The property will need to be removed since it is no longer being used to grow and harvest timber. Compensating tax is owed for the time the property has been in the program, up to nine years.

### Process when an assessor discovers a change in use (WAC 458-30-700(5))

Complete the following steps:

1. The assessor must notify the owner of their intent to remove the property and give the owner an opportunity to respond.
2. The owner must respond to the assessor's inquiry about the use of the forestland.

3. If the assessor determines the land needs to be removed, they must mail the owner a notice of removal within 30 days with reasons for removal. Use DOR form **Notice of Removal of Designated Forestland and Compensating Tax Calculation (REV 62 0047)**.

This can only occur after:

- a) The owner declines the opportunity to be heard,
  - b) The owner fails to respond to the first notice, or
  - c) The assessor received and considered the owner's response but believes the land does not qualify and needs to be removed.
4. The notice of removal includes the calculation for compensating tax owed, reasons for removal, and the date of removal.

#### **Compensating tax RCW 84.33.140(11)**

The amount of compensating tax is equal to the difference between the property tax paid because of classified status, and the property tax that would have been paid on the land based on fair market value. The amount is the total difference up to nine tax years.

#### **Exceptions**

Designated forestland has several exceptions when compensating taxes are not imposed when land is removed from the classification (RCW 84.33.140(13) and WAC 458-30-700(6)(e)).

1. Transfer to a government entity in exchange for other forestland located within the State of Washington.
2. When land is taken by an entity having the power of eminent domain the entity must exercise the intent of that power in writing or by official action. Evidence of the eminent domain action should be available for review.
3. A donation of fee title, development rights, or the right to harvest timber in order to protect, preserve, maintain, improve, restore, limit the future use of, or conserve the property for future use and enjoyment. This donation must be made to a: state agency, federal agency, county, city, town, metropolitan park district as defined in RCW 35.61.010, metropolitan municipal corporation defined in RCW 35.58.020, nonprofit historic preservation corporation defined in RCW 64.04.130, nonprofit nature conservancy corporation or association defined in RCW 84.34.250, or a federally recognized Indian tribe.

4. The sale or transfer to a government entity or a nonprofit nature conservancy used for the protection and conservation of lands. Also, for acquisition and management as a community forest trust.
5. Sale or transfer to the state parks and recreation commission for park and recreation purposes.
6. Official action by an agency of the State of Washington or by the county or city where the land is located which does not allow the present use of the land.
7. Creation, sale, or transfer for forest riparian easement (RCW 76.13.120).
8. Creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species (RCW 76.09.040).
9. Sale or transfer within two years of the death of an owner who held at least a 50% interest in land which has been continuously classified since 1993.
10. The assessor discovers land was classified in error through no fault of the owner.
11. Natural disaster such as a flood, windstorm, earthquake, wildfire, or other calamity.
12. Per SHB 1818 from the 2024 legislative session, no compensating tax is due on the sale or transfer of timberland if the sale is to a government entity and the government entity manages the land in the same manner as designated forestland under chapter 84.33 RCW or property classified as timberland under chapter 84.34 RCW.
  - a. The government entity must provide the county assessor with a timber management plan or a notice of intent to manage the land once every revaluation cycle, which could be once every 4-6 years depending on the county assessor's revaluation plan, as required under the new exception. The timber management plan must be recorded in the county auditor's office and government entity is responsible for recording fee.

**Sample removal calculation (Rev 62 0047)**

Parcel No: \_\_\_\_\_ Date of Removal: 01/30/2017

**1. Calculation of Current Year's Taxes to Date of Removal.**

<u>30</u>	÷	<u>365</u>	=	<u>0.0821917808</u>
No. of days in DFL		No. of days in year		Proration Factor (apply to 1a and 1b)

a.  $\frac{\$175,000}{\text{True \& Fair Value (Jan 1 of year removed)}} \times \frac{11.2500000000}{\text{Levy Rate per \$1,000 of AV}} \div \frac{1,000}{\text{Levy Rate per \$1,000 of AV}} \times \frac{0.0821917808}{\text{Proration Factor}} = \$161.82$

b.  $\frac{\$50,000}{\text{Forest Land Value}} \times \frac{11.2500000000}{\text{Levy Rate per \$1,000 of AV}} \div \frac{1,000}{\text{Levy Rate per \$1,000 of AV}} \times \frac{0.0821917808}{\text{Proration Factor}} = \$46.23$

c. Total amount of compensating tax for current year to date of removal (1a minus 1b) = \$115.59

**2. Calculation of Prior Year's Compensating Tax.**

True & Fair Value (Jan 1 of year removed)	Forest Land Value	Total Assessed Value	Last Levy Rate Extended Against Land Divided by 1,000	Tax Due	Years*	Compensating Tax
\$175,000	\$50,000	\$125,000	0.0011	\$141	9	\$1,265.63

\* Number of years in designation, not to exceed 9. Recording fees: \_\_\_\_\_

Total Amount of prior year's compensating tax plus recording fee: \$1,265.63

3. Total Compensating Tax to the Date of Removal (1c plus 2). = \$1,381.22  
(See page one for payment due date)

**4. Calculation of Tax for Remainder of Current Year.**

<u>335</u>	÷	<u>365</u>	=	<u>0.9178082192</u>
No. of days from date of removal to end of year		No. of days in year		Proration Factor (apply to 4a and 4b)

a.  $\frac{\$175,000}{\text{True \& Fair Value (Jan 1 of year removed)}} \times \frac{11.2500000000}{\text{Levy Rate}} \div \frac{1,000}{\text{Levy Rate}} \times \frac{0.9178082192}{\text{Proration Factor}} = \$1,806.93$

b.  $\frac{\$50,000}{\text{Forest Land Value}} \times \frac{11.2500000000}{\text{Levy Rate}} \div \frac{1,000}{\text{Levy Rate}} \times \frac{0.9178082192}{\text{Proration Factor}} = \$516.27$

c. Amount of tax due for remainder of current year (4a minus 4b) = \$1,290.66

d. Taxes are payable on regular due dates and may be paid in half payments under provisions of RCW 84.56.020.

### 4.6 Withdrawal

When an owner no longer wishes to keep the land in classification, there is a process to withdraw from the program. To withdraw all or part of their land from classification, the owner must submit a request to withdraw to the assessor.

An owner may apply for withdrawal, with no 20% penalty, after being classified for at least 10 years. The owner cannot request withdrawal if the assessor has already started the removal process.

## **Current use – including open space, farm and agricultural land, and timberland**

### **Process when a landowner wants to withdraw RCW 84.34.070:**

1. The owner must submit a request to withdraw classification to the assessor using the Notice of Intent to Withdraw Current Use Assessment Classification form (REV 64 0027).
2. The assessor fills out the Notice of Removal of Current Use Classification form (REV 64 0023) and calculates additional tax and interest from the date withdrawal is requested. (20% penalty applies if owner has been classified less than 10 years).
3. The additional tax and interest calculation is submitted to the treasurer, they issue a statement for payment within 30 days.
4. If the property was in open space or timberland, the assessor must send a copy of the request to the county legislative authority within seven days of receipt.
5. The assessor files the completed Notice of Removal with the county auditor for recording.

### **Additional tax and interest (WAC 458-30-300(3))**

The amount for additional tax and interest is determined as follows:

- a) The amount of additional tax is equal to the difference between the property tax paid because of classified status and the property tax that would have been paid on the land based on fair market value. The amount is the total difference for the seven tax years preceding the year of withdrawal or removal and the taxes owed for the remainder of the current year.
- b) Interest is calculated at the same rate charged on delinquent property taxes as stated in RCW 84.56.020.

## **Designated forestland**

### **Procedure when owner wants to withdraw:**

1. The owner fills out the Property Owner's Request for Removal of Designated Forestland form (REV 62 0033).
2. The assessor determines if compensating tax is owed.
3. The assessor fills out the Notice of Removal of Designated Forestland and Compensating Tax Calculation form (REV 62 0047) and calculates the amount of compensating tax. The owner must pay the county treasurer within 30 days after the date they are notified of the amount owed.
4. The assessor files the completed Notice of Removal with the county auditor for recording.

## 4.7 Appurtenances

An appurtenance is something necessary and essential for the production, preparation, or sale of commercial agricultural products. Land under the appurtenance may qualify as classified land; the appurtenance must be valued at market value (WAC 458-30-200(2)(h)).

Examples of appurtenances:

- Barn.
- Tool shed.
- Equipment shed.
- Machinery.

### **Open space land and farm and agricultural conservation**

RCW 84.34.020(1)

Land under appurtenances **does not** normally qualify for farm and agricultural conservation land. A comprehensive land use plan may designate land area as open space, even if that land contains a building. Refer to Special Notice Land Containing Historical Sites Classified as Open Space Land in Appendix B.

### **Timberland**

RCW 84.34.020(3)

Includes the land under appurtenances necessary for the production, preparation, or sale of the timber.

### **Farm and agricultural land**

RCW 84.34.020(2)(e)

Includes the land under appurtenance necessary for the production, preparation, or sale of agricultural products.

### **Designated forestland**

RCW 84.33.035(5)

Includes the land under appurtenances necessary for the production, preparation, or sale of the timber.

## 4.8 Incidental Use

Incidental use means a use of classified land that is compatible with commercial agricultural purposes or the commercial growing and harvesting of timber (WAC 458-30-200(2)(bb)). Some examples of incidental use:

- Wetland preservation
- Gravel pit (if the gravel is used exclusively on the property)
- Farm woodlot



- Produce stand

The assessor is required to ensure that incidental use on classified land does not exceed the allowable amount for each classification. The assessor should review all classified parcels to make sure incidental use is appropriate.

Further Incidental Use and Appurtenance Guidance is included in [Appendix F](#).

### **Open space land, including farm and agricultural conservation**

RCW 84.34.020(1)

These classifications do not provide an allowance for incidental use.

### **Timberland**

RCW 84.34.020(3)

The timberland classification allows for up to 10% of the land to be used for incidental uses.

### **Farm and agricultural land**

RCW 84.34.020(2)(e)

The farm and agricultural land classification allows for up to 20% of the land to be used for incidental uses.

### **Designated forestland**

RCW 84.33.035(9)

The designated forestland classification allows for up to 10% of the land to be used for incidental uses.

## **4.9 Merging Timber and Designated Forestland**

RCW 84.34.400 allows counties the option to merge their timberland classification into their designated forestland program. Counties are required to notify the Department after taking action to merge these classifications. The Department must maintain a [list](#) of these counties.

### **Steps to merge timberland into designated forestland**

1. Enact an ordinance or resolution that:
  - a. Terminates the timberland classification.
  - b. Declares the land previously classified as timberland is now designated as forestland under RCW 84.33.
2. Once the timberland classification is terminated:
  - a. Land is now designated forestland as of the date it was originally classified as timberland.
  - b. The agreement (Open Space Taxation Agreement) prepared by the granting authority when land was approved as timberland is now terminated.
  - c. The county must notify the Department that the classifications have merged.

## Part 5 Valuation

When land is classified open space, farm and agriculture, or timberland the assessor must review and update the market and current use values every year ([RCW 84.41.030](#), [RCW 84.41.041](#), & [WAC 458-30-265](#)).

### **Market value of open space, farm and agriculture, or timberland**

The assessor continues to maintain a fair market value each year while land is classified. The fair market value of land is determined through sales of similar land or capitalization of income based on use of the land, considering the highest and best use of the land ([RCW 84.40.030](#) & [WAC 458-07-030](#)WAC 458-07-030).

Highest and best use of land may be farm or agricultural use, or it may be another use such as residential or commercial. Highest and best use is the most profitable, legally permissible, and the most probable use of the land ([WAC 458-07-030](#)).

Other considerations related to market value:

- The fair market values for the years that land was in current use classification are necessary to calculate additional tax due at the time of removal or withdrawal.
- The assessor must notify the property owner when there is a change in either the market or current use value (WAC 458-30-265).
- The property owner has the right to appeal both market and current use values.

## 5.1 Open Space (including farm and agricultural conservation)

### **RCW 84.34.060 and WAC 458-30-267**

Open space classified parcels are valued considering the current use of the property rather than the highest and best use (fair market value).

WAC 458-30-267 (1) requires:

- (a) In valuing land classified as open space, the assessor shall consider only the way in which the land and improvements are currently used; the assessor shall not consider potential uses of the land.*
- (b) The assessed value of open space land shall not be less than the minimum value per acre of classified farm and agricultural land in the county.*

An alternative method of valuing open space land is using a PBRS.

**Open space valuation with PBRS**

**RCW 84.34.055, WAC 458-30-268, and WAC 458-30-330**

Determining the assessed value of open space land can be difficult because the features of each parcel are unique and the benefit to the citizens of the county is subjective. With a PBRS, the reduction in assessed value given to a parcel is measured by predetermined criteria. This criteria is customized to what the county legislative authority thinks will be of benefit to the residents of the county. A PBRS allows all open space parcels to be valued based on identical criteria and awarded points that correspond to a percentage reduction of market value.

**5.2 Farm and Agricultural Land**

**RCW 84.34.065 and WAC 458-30-260**

The legislative intent of the farm and agricultural classification is to preserve the use of land for farming and agriculture use by basing the assessed value on the actual use of the land.

**Current use value vs. market value**

The difference between market and current use values may be large or minimal depending on various factors.

- Land determined to have a highest and best use as potential development to residential or commercial generally sells at a greater price than agricultural land.
- Current use value may be much less than market value in an area where there is pressure to transition agricultural land to residential or commercial development.
- Current use value may be the same as market value in a rural area not under pressure to transition to residential or commercial use, where use as agricultural land is the highest and best use of the property.

**Valuation based on income approach**

The assessed value of farm and agricultural land is determined using the income approach based on the earning or productive capacity of the land. Net income from agricultural use of the land, divided by the capitalization rate, equals the current use value of the land.

**Example of income approach to calculate current use value per acre:**

Step	Action
1	Gross income per acre
2	Less expenses per acre
3	Equals net income per acre
4	Net income per acre / capitalization rate = current use value per acre

### **Earning or productive capacity**

Methods to determine net income based on earning or productive capacity are prioritized in [RCW 84.34.065](#) and [WAC 458-30-260](#), and include the use of net cash rental or cash value of crops.

- 1) **Net cash rental based on leases** is the first preferred method. If net cash rental data is not available then the assessor may use the second preferred method.
- 2) **Cash value of crops typically grown on land** is the second preferred method. Cash value of crops typically grown on land, less production costs, equals the net income. This method is more complex because of the need to analyze and deduct crop production costs to isolate the income attributable to the land.
- 3) **Reasonable amount based on the lands estimated productivity** is the third preferred method. When land is not being used for commercial agricultural purposes, or if there is not enough information to determine the net cash rental or earning or productive capacity of the land, the assessor can compute a reasonable amount based on the land's estimated productive capacity.

### **Cash rentals and leases**

Net cash rental is the first preferred method to use for calculating current use value of farm and agricultural land. The income producing capability may be determined by using several types of rental agreements.

### **Cash leases**

Ideally, the assessor will have access to farm and agricultural land leases based on cash rentals on an annual basis. The law includes factors to consider when evaluating cash leases:

- Cash value of leases can include government subsidies, if subsidies are based on the earning or productive capacity of the land.
- Only leases of land available for rent for at least three years, to a reliable person, without unreasonable restrictions for producing agricultural crops, may be used when valuing agricultural land.

### **Crop share leases**

When there are not enough cash leases, crop share leases are another source for determining earning and productive capability. This type of lease is an agreement commonly used in wheat growing regions when the landowner and the farmer share the profits from the crop. The landowner and the person farming the land negotiate a lease agreement explaining the crop split, payment of expenses, and other pertinent information. A written agreement is preferred, but some agreements may be verbal. The cash value of the crop, less the cost of fertilizer, insurance, and transportation is capitalized to determine the value of the land.

## **Earning or productive capacity based on net cash rental**

Use the first preferred valuation method based on net cash rental (leases) to determine the current use valuation of land.

### **Determine income by leases or rentals – choose unit of comparison (acre, bushel, etc.)**

1. Gather and evaluate lease and rental payment information
  - a. Collect leases for various categories of farm and agricultural land that are similar and grow the same types of crops (irrigated crop land, dryland crop land, pasture, grazing, and other categories)
    - b. Consider leases paid on a yearly basis
    - c. Use only leases of land available for rent for a period of at least three years to any reliable person without unreasonable restrictions on its use to produce agricultural crops
2. Include government subsidies, if:
  - a. The landlord receives the subsidy in addition to rent, and
  - b. The subsidy is based on the earning or productive capacity of the land
3. Lease payments shall be averaged as follows:
  - a. Each annual lease or rental payment in an area of land with similar qualities and comparable crops are averaged for at least the preceding five crop years

### **Deduct allowable expenses**

4. Allowable costs and expenses usually paid by the landlord are deducted from the typical cash rental.
  - a. Allowable costs and expenses are based on the average for at least the preceding five crop years
  - b. Evaluate expenses for the same number of years as used for the income. If basing income on a 5-year history, then use 5-year history for expenses. Other timeframes may be used, but the period should be the same for income and expenses
  - c. Do not deduct property tax as an expense because the capitalization rate includes a property tax component

### **Adjust for irrigation (only if applicable)**

5. Deduct rent attributable to irrigation system

### **Divide net income by capitalization rate**

6. Equals value per unit of comparison (acre, bushel, etc.)

### **Irrigation**

If the land is irrigated and tenant's use of the irrigation system is included in the rental of the land, the rent attributable, if any, to the irrigation system, should be deducted to determine the net cash rental of the land only.

The irrigation equipment is listed on the assessment roll (as real or personal property) at its true and fair value ([WAC 458-30-260\(5\)\(a\)\(ii\)\(B\)](#)). Classification of irrigation systems as real or personal property are defined in [WAC 458-12-012](#).

### **Earning or productive capacity based on value of typical crops**

Use the second preferred method when there are not enough leases available to determine the value of the land based on net cash rental.

#### **Determine income – choose unit of comparison (acre, bushel, etc.)**

1. Determine the income based on cash value of typical crops grown on land of similar quality and location
  - a. Typical crop income averaged over at least five crop years
  - b. Cash value includes, but is not limited to, government subsidies if the subsidies are based on the earning or productive capacity of the land
  - c. Any acreage that is kept out of production because of government subsidies should be included in the total acreage

#### **Deduct allowable expenses**

2. Subtract the standard production costs of the crops
  - a. Evaluate expenses for the same number of years as used for the income. If basing income on a 5-year history, then use 5-year history for expenses. Other timeframes may be used, but the period should be the same for income and expenses
  - b. Do not deduct property tax as an expense because the capitalization rate includes a property tax component
3. The cash value of crops minus the production costs of crops are averaged over at least five crop years

#### **Divide net income by capitalization rate**

4. Equals value per unit of comparison (acre, bushel, etc.).

The income approach using the value of typical crops can be more complex than using net cash rental. When using the value of typical crops method the appraiser determines and adjusts for all production costs of the crops to reach a residual level of income attributable to only the land. *(In the future, the section above will be expanded and include an example)*

### **Earning or productive capacity based on crop share leases**

Leases based on crop sharing are useful in the valuation of dryland crops (primarily wheat). This type of lease may also be applicable for valuation of other types of farm and agricultural land when cash leases are not available.

To calculate value:

1. Gather and evaluate crop share lease information
  - a. Collect leases for various categories of farm and agricultural land that are similar and grow the same types of crops (irrigated crop land, dryland crop land, pasture, grazing, and other categories)
  - b. Evaluate terms of leases
    - i. Ratio of crop share between landlord and tenant
    - ii. Determine the land and production costs that are shared and/or paid by the landlord and tenant

### **Determine income – choose unit of comparison (acre, bushel, etc.)**

2. Determine gross income of typical crop
  - a. Based on cash value of typical crops grown on land of similar quality and location
  - b. Typical crop income averaged over at least five crop years
  - c. Any acreage that is kept out of production because of government subsidies should be included in the total acreage
3. Include government subsidies, if:
  - a. The landlord receives the subsidy in addition to rent, and
  - b. The subsidy is based on the earning or productive capacity of the land

### **Deduct allowable expenses**

4. Determine expenses that must be adjusted between the income levels of gross income and net income to the landlord:
  - a. What are production costs of crops averaged over at least five crop years
  - b. What expenses will the landlord typically pay or split with the tenant
  - c. What is the crop share to the landlord
  - d. At what point does the landlord receive income
  - e. Evaluate expenses for the same number of years as used for the income. If basing income on a 5-year history, then use 5-year history for expenses. Other timeframes may be used, but the period should be the same for income and expenses
5. Adjust for irrigation (only if applicable)
  - a. Deduct rent attributable to the irrigation system
6. Deduct allowable expenses and calculate the crop share of net income to the landlord

**Divide net income by capitalization rate**

7. Equals value per unit of comparison (acre, bushel, etc.)

(In the future, the section above will be expanded and include an example)

**Annual wheat and barley memo to assessors WAC 458-30-205(5)**

To assist counties in areas where the predominate use is dryland and typical crops include wheat and barley, the Department is required to issue a five-year average wheat price. The Department sends a memo with the average wheat and barley prices to assessors by December 31 each year for use in the following assessment year.

December 30, 2024

**TO:** All County Assessors  
**FROM:** Melissa Olivas, Supervisor, County Performance and Administration  
Property Tax Division  
**SUBJECT: CURRENT USE - 2024 FIVE-YEAR AVERAGE GRAIN PRICES**

The Department of Revenue (Department) annually provides a five-year average of wheat and barley prices for use by assessors in appraising land in the farm and agricultural classification of the Current Use Program.

**Wheat and Barley Prices**

The wheat and barley price averages are based on data from the United States Department of Agriculture, as reported in the [National Agricultural Statistics Service](#). If you have any questions regarding the components of these averages, please contact [Melissa Olivas](#) at (360) 534-1425.

2024 Average Grain Prices (5-Year Average)	
Wheat	Barley
\$6.91 per bushel	\$6.15 per bushel

**Capitalization rate information for 2025 assessment year**

The Department annually provides the interest rate and property tax component of the capitalization rate, which is used to calculate current use farm and agricultural land values each year. New rates are published each year in WAC 458-30-262. The following WAC will not be updated until January 2025.

- [WAC 458-30-262](#) – Agricultural land valuation-interest rate- property tax component.

**Why isn't the Department providing crop subsidy payments?**

The 2014 farm bill eliminated guaranteed subsidy payments through the former cyclical and counter-cyclical payment program and began a new program. Under the current federal program (2018 [farm bill](#)), the Department cannot obtain standardized payment information as it varies by county and farmer. The Department will continue to monitor federal subsidy programs, and we recommend counties with land that may benefit from federal programs, do the same.



## Capitalization Rate

Applying a capitalization rate (cap rate) is the final step in calculating the current use value per acre (or other unit of comparison). The cap rate is the sum of two components: a statewide interest rate and county specific property tax rate (RCW 84.34.065).

### Interest rate

- One interest rate applies statewide.
- The Department annually publishes the interest rate by rule (WAC 458-30-262).
- The rule is adopted on or before January 1, each year providing the interest rate to be used for that assessment year.
- The rate is a five-year average of interest rates charged on mortgages by financial institutions making loans secured by farm and agricultural lands.
- An owner of farm and agricultural land or an assessor may appeal the Department's rate to the state Board of Tax Appeals within 30 days after publication.

### Property tax component

- The Department annually determines a specific rate for each county, which is published by rule WAC 458-30-262.
- The property tax component is determined by dividing the total taxes levied in the county for the prior year's assessment by the total assessed value of all property in the county, then multiplying that amount by 100.
- The rule providing the property tax component to be used is adopted on or before January 1, of that assessment year.

### New capitalization rate must be applied each year

The interest rate and property tax component change each year. If analysis of income and expense data indicate no change from the previous year in the net income, it is important to apply the new cap rate annually.

## Resources

### Advisory Committee RCW 84.34.145 and WAC 458-30-345

The county legislative authority appoints the advisory committee made up of five members who are ideally a part of the active farming community. Each member will serve a one-year term. Members may be removed from the advisory committee by a majority vote of the county legislative authority. The advisory committee should elect officers and adopt operating procedures. All meetings and records shall be open to the public according to the open public meetings act (RCW 42.30 and 42.32).

The advisory board cannot give advice regarding valuation of specific parcels. They can supply the assessor with advice on typical crops, land quality, and net cash rent to assist the assessor in determining appropriate values.

### **Websites**

The following websites have information for farm and agricultural valuation.

- USDA National Agricultural Statistical Service [quickstats.nass.usda.gov/](http://quickstats.nass.usda.gov/).
- Washington State Department of Agriculture [agr.wa.gov](http://agr.wa.gov).
- USDA Natural Resources Conservation Service [nrcs.usda.gov](http://nrcs.usda.gov).
- USDA Farm Service Agency [fsa.usda.gov](http://fsa.usda.gov).
- Washington State University Agricultural Resource Center [arc.wsu.edu](http://arc.wsu.edu).
- Washington State University-Farm Management [cahnrs.wsu.edu/research/](http://cahnrs.wsu.edu/research/).
- Washington State Hay Growers Association [wa-hay.org](http://wa-hay.org).
- Washington State Farm Bureau [wsfb.com](http://wsfb.com).
- Office of Farmland Preservations [cc.wa.gov/ofp](http://cc.wa.gov/ofp).
- American Farmland Trust [hsc.wa.gov/ofp/](http://hsc.wa.gov/ofp/).
- USDA Subsidy Information [askfsa.custhelp.com/app/home](http://askfsa.custhelp.com/app/home).

## **5.3 Timber and Designated Forestland**

The Department annually adjusts and certifies forestland values to be used by the county assessors in preparing assessment rolls. The assessors assign the forestland values to the property based on land grades and operability classes. The timber on designated forestland is exempt from property taxes but is subject to timber excise tax under RCW 84.33. For additional information on timber excise tax, please refer to the Timber Excise Tax publication or visit [foresttax.dor.wa.gov](http://foresttax.dor.wa.gov).

Land grade and operability classes are published in WAC 458-40-530.

Forestland values are updated annually in WAC 458-40-540.

Designated forestland does not require a dual assessment roll to be maintained by assessors and a change of value notice is not required. The timberland classification requires the assessor to maintain a dual role, and a change in value notice must be mailed to owners if value changes are made.

## 5.4 Homesites

### Integral

The land under qualified integral homesites are valued according to RCW 84.34.065 (1) and WAC 458-30-317 (5)(a). The integral homesite is valued by dividing the prior year's farm and agricultural land value in the county by the prior year's total acreage in the farm and agricultural land in the county. The value of site improvements to the land that serve the residence or employee housing, such as water, septic/sewer, power must be added to the parcel. The site improvement value can be added with the land, or as a separate valuation for improvements.

### Formula to calculate integral homesite value

Prior year's farm and agricultural land value in the county divided by the prior year's total acreage of farm and agricultural land in the county.

**Example:** County A has 65,000 acres of farm and agricultural land, the prior year's farm and agricultural land value was \$16,250,000. The county has determined the value for land improvements is \$15,000.

$$\begin{aligned}
 \$16,250,000 / 65,000 &= \$250 \text{ per acre for integral homesite} \\
 &+ \$15,000 \text{ estimated value for land improvements} \\
 &= \$15,250 \text{ total value for integral homesite}
 \end{aligned}$$

### Non-integral

If the residence or housing for employees does not meet all the requirements for classification as an integral homesite, the land on which the residence or housing is located must be valued at its fair market value per RCW 84.40.030.

## Part 6 Audit Process

Only parcels that meet the statutory requirements are allowed to continue in current use and designated forestland. To determine continuing eligibility, the assessor may request relevant information necessary to determine if the land is eligible for continued classification or designation.

Monitoring all parcels in current use and designated forestland on a periodic basis adds integrity to the assessment process and ensures other property owners are not shouldering a disproportionate amount of property tax.

### 6.1 Open Space (Including farm and agricultural conservation)

Assessors may require owners of classified land to provide data regarding the use of land, and similar information to continue classification in the program.

#### **Procedure WAC 458-30-270:**

1. The assessor sends a request for information to the owner by first class mail and requires the owner to provide the requested information or data in writing within 60 calendar days.
2. If no response is received within 60 calendar days, the assessor sends the owner a second request by certified mail, return receipt requested. Include **Notice of Intent to Remove Current Use Assessment Classification (REV 64 0071)**, and notify the owner they must respond within 30 calendar days.
3. If the owner does not respond to the first or second request for information, the assessor may begin the process to remove the land from classification.

#### **Some of the relevant data counties may collect include:**

- Is the owner following the requirements in the Open Space Taxation Agreement?
- Has the use of the land changed?
- Is the land being preserved for the potential return to commercial agriculture production?

### 6.2 Farm and Agricultural Land

Assessors may require owners of classified land to provide data regarding the use of land, productivity of typical crops, and similar information to continue classification in the program (RCW 84.34.121).

**Procedure WAC 458-30-270:**

1. The assessor sends a request for information to the owner by first class mail, and requires the owner to provide the requested information or data in writing within 60 calendar days.
2. If no response is received within 60 calendar days, the assessor sends the owner a second request by certified mail, return receipt requested. Include **Notice of Intent to Remove Current Use Assessment Classification (REV 64 0071)**, and notify the owner they must respond within 30 calendar days.
3. If the owner does not respond to the first or second request for information, the assessor may begin the process to remove the land from classification.

**Some of the relevant data counties may collect include:**

- Receipts from sales of agricultural products produced on the classified land.
- Federal income tax returns such as Schedule F or other documents listing income, production costs, and operating expenses.
- Rental or lease agreements/receipts.
- Government payments and subsidies.
- Crop and livestock data.
- Crop production/yield rates.
- Other income/expense information related to the land.

## 6.3 Timberland

Assessors may require owners of classified land to provide data regarding the use of land, and similar information to continue classification in the program (RCW 84.34.121).

The Department of Natural Resources provides Forest Practice Permits (cutting permits) for timber. These can be very helpful for counties to review as part of an audit process.

**Procedure WAC 458-30-270:**

1. The assessor sends a request for information to the owner by first class mail, and requires the owner to provide the requested information or data in writing within 60 calendar days.
2. If no response is received within 60 calendar days, the assessor sends the owner a second request by certified mail, return receipt requested. Include **Notice of Intent to Remove Current Use Assessment Classification (REV 64 0071)**, and notify the owner they must respond within 30 calendar days.

3. If the owner does not respond to the first or second request for information, the assessor may begin the process to remove the land from classification.

**Some of the relevant data counties can collect includes:**

- Timber harvest information.
- Information on whether the timber management plan is being followed.

## 6.4 Designated Forestland

Assessors are not required to perform audits on designated forestland, but the Department encourages counties do this to ensure owners are in compliance with program requirements.

The Department of Natural Resources provides Forest Practice Permits (cutting permits) for designated forestland. These can be very helpful for counties to review as part of an audit process.

**There are no audit procedures in law or rule for designated forestland. To ensure continued compliance the assessor may consider using the following procedures:**

1. The assessor sends a request for information to the owner by first class mail, and requires the owner to provide the requested information or data in writing within 60 calendar days.
2. If no response is received within 60 calendar days, send the owner a second request by certified mail, return receipt requested. Include a statement that failure to provide requested information within 30 calendar days may cause the land to be removed. Include an estimate of the compensating tax.
3. If the owner does not respond to the first or second request for information, the assessor may begin the process to remove the land from classification.

**Some of the relevant data counties can collect includes:**

- Timber harvest information.
- Information on whether the timber management plan is being followed.
- Information on whether the owner is following the requirements in the application.

## Part 7 Appeals

Several reasons landowners may choose to file an appeal with the county board of equalization (BOE) for current use and designated forestland classifications include:

- Denial of an application for classification or reclassification.
- Removal from classification.
- Assessed value.

The Department provides the following petition forms that must be used for an appeal:

Form	Title
64 0075	Taxpayer Petition to the County BOE for Review of Real Property Valuation Determination
64 0077	Taxpayer Petition to the County BOE for Review of Current Use or Designated Forestland Determination (denial of application or removal)

The avenue of appeal depends on the land classification. Each classification and the correct avenue to file an appeal are listed below.

### 7.1 Denial of Application for Classification or Reclassification

Within 30 days after receiving a notice of denial a seller, transferor, or owner may appeal this decision to:

Classification type	Appeal to
Open space land (WAC 458-30-250(4)(b))	Superior Court
Farm and agricultural conservation land (WAC 458-30-250(4)(b))	Superior Court
Timberland (WAC 458-30-232(7) and 250(4)(b))	Superior Court
Farm and agricultural land (RCW 84.34.035 and WAC 458-30-225(5))	Board of Equalization
Designated forestland (RCW 84.33.130(8) and WAC 458-30-700)	Board of Equalization

### 7.2 Removal from Classification

Within 30 days after receiving a notice of removal a seller, transferor, or owner may appeal this decision to:

Classification type	Appeal to
Open space land WAC 458-30-295(8)	Board of Equalization

Farm and agricultural conservation land WAC 458-30-295(8)	Board of Equalization
Timberland WAC 458-30-295(8)	Board of Equalization
Farm and agricultural land RCW 84.34.108(3) and WAC 458-30-295(8)	Board of Equalization
Designated forestland RCW 84.33.140(9) and WAC 458-30-700(5)	Board of Equalization

The seller, transferor, or owner may not appeal the amount of the additional tax, interest, or 20 percent penalty, or the compensating tax. They may only appeal the removal of the land from the classification.

### 7.3 Assessed Value

Within 30 days (or 60 days if the county legislative authority extended the deadline) after receiving a valuation notice, an owner may appeal the current use or fair market value to the county board of equalization. This process is the same as any other valuation appeal.

If a landowner is appealing timberland or designated forestland values, the owner is most likely appealing which land grade and operability class the assessor has assigned to the land. The Department calculates the timberland and designated forestland values according to RCW 84.33.140. The Department updates these values, which are published annually in WAC 458-40-540.



## Part 8 Administrative Issues/Solutions

### 8.1 Foreclosure

Foreclosures are not among the list of circumstances in RCW 84.34.108 that require the assessor to remove land from classification.

If the land is classified at the time of the foreclosure sale, the new owner can choose whether to sign a Notice of Continuance. If a lending institution signs the Notice of Continuance, the land must continue to meet the requirements for classification.

If...	And/or...	Then...
Notice of continuance is signed	Requirements for classification are met	Land may stay classified.
Notice of continuance is NOT signed	Requirements for classification are NOT met	Land must be removed and additional tax, interest, 20 percent penalty, or compensating tax are due at the time of sale.

Ultimately, the assessor makes the decision on whether to grant continuance based on the information provided.

### 8.2 Two-year Death Window

#### **RCW 84.34.108(6)(k) and WAC 458-30-300(7)(k)**

Under certain circumstances, the land can be removed without the owner being subject to additional tax, interest, and 20% penalty; or compensating tax. For the removal to qualify for the two-year death window, it must meet the following criteria:

- The sale or transfer of the land is within two years of the death of the owner;
- The owner must have held at least a 50 percent interest in the land;
- The individual or entity receiving the land from the deceased owner is selling or transferring the land; and
- The land has been continuously designated or classified under RCW 84.33 or RCW 84.34 since 1993.

The date of death shown on the death certificate begins the two-year period for sale or transfer. If classified or designated land meets the criteria for the two-year window when removed, the triggering event is the death of the owner. The two-year period for sale or transfer is based on the date of death on the death certificate; the owner must be a person.

## 2-Year Death Window Exception Q&A

Question	Answer
Does the two-year death window exception apply to all land classified in the current use program and designated forest land?	<p>Yes, as long as all the following requirements are met:</p> <ul style="list-style-type: none"> <li>• The land has been continuously classified since 1993;</li> <li>• The deceased owner held at least a 50% ownership in the land; and</li> <li>• The heir sells or transfers the land within two years of the date of death of the owner.</li> </ul>
What is meant by “continuously classified since 1993?”	<p>The two-year death benefit window exception only applies to land classified as of 1993 or before and where there has been no break in classification. Any land initially classified (not reclassified) after 1993 would not be eligible for the two-year death exception window.</p>
What if the land was subject to multiple ownership changes since it was initially classified?	<p>As long as the land was continuously classified, the number of ownership changes would not be relevant.</p>
When an heir inherits land from a deceased party’s estate and does not want to continue classification, can the land be removed without the imposition of additional tax, penalty, and interest?	<p>No. When an owner of classified land dies, title to the land immediately vests in their heirs or devisees and the land maintains its special tax status; this transfer does not require removal. The heir or devisee is not required to sign a notice of continuance in order to retain this special tax status.</p>
If an heir sells or transfers classified land to a third party within the two-year window, is the heir subject to additional tax, penalty, and interest if the third party does not sign a notice of continuance?	<p>No. If the third party chooses not to sign the notice of continuance, the land is removed without the imposition of additional tax, penalty, and interest as long as:</p> <ul style="list-style-type: none"> <li>• The land has been continuously classified since 1993,</li> <li>• The deceased owner held at least 50% ownership in the land; and</li> <li>• The heir sells or transfers the land within two years of the date of death of the owner.</li> </ul>

### 8.3 Equestrian Activities

In 2009 SHB 1733 amended RCW 84.34 to allow land used primarily for equestrian related activities for which a charge is made to be classified as open space farm and agricultural land. These activities include stabling, training, riding, clinics, shows, or grazing for feed. It still needs to meet the requirements of farming for commercial purposes and meet the income requirements for classified land that is under 20 acres.

RCW 84.34.020(2)(g) Any land that is used primarily for equestrian related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements of (a), (b), or (c) of this subsection.

There have been many questions about the grazing of horses; below is an example that may help with the confusion on grazing.

**Example:** Bob owns six acres and leases the land to his neighbor to graze six horses. Bob charges \$1,000/year per horse, which exceeds the \$200/acre requirement, this property meets the minimum income requirements.

### 8.4 Marijuana and Industrial Hemp

Marijuana is not defined as an agricultural product for purposes of the current use programs. Land used to grow or process marijuana is not allowed in the program (RCW 84.34.410 and WAC 458-30-200(2)(d)).

#### **WAC 458-30-200 (2)(d)**

"Agricultural product" means livestock and plants that are produced for commercial purposes and includes any agricultural, horticultural, or aqua cultural produce or crop; the raising of livestock, poultry, bees, or fur-bearing animals; or the production of milk, eggs, wool, fur, meat, honey, or other substances obtained therefrom. When used in relation to livestock or fur-bearing animals used for food or fiber, "raising" means breeding or increasing the value, size, or weight of the animal. Agricultural product does not include marijuana, useable marijuana, or marijuana-infused products as those terms are defined in RCW 69.50.101.

**Example:** Jordan received a license to grow marijuana to increase income from his eggplant farm. He built a large building to process the marijuana. The land he is using to grow the marijuana must be removed from classification, as well as the land under the building being used to process the marijuana. Land and appurtenances still used to farm eggplants, however, may remain classified.

## 8.5 Segregations

If land is sold or transferred that creates a segregation, the owner of the newly created parcel and the owner of the original parcel must comply with the requirements of the classification including minimum gross income or investment requirements to qualify for the continued classification (WAC 458-30-275(7)(c)).

**Example:** Jeri owns 30 acres in farm and agricultural classification. She decides to downsize her farm and divides her property into two fifteen acre parcels and sells one of the parcels. The purchaser completes a Notice of Continuance (REV 64 0047) and Request for Information Verifying Intent to Continue (REV 64 0073). Jeri and the new purchaser must now meet income requirements on each of the fifteen-acre parcels separately.

## Appendix A Property Tax Advisories

These statements, known as Tax Advisories, are formal interpretative statements issued by the Department that address and/or clarify the tax administration of property tax.

### A.1 PTA 5.1.2009 Perennial Plantings



# Property Tax Advisory

**Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.**

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NUMBER: PTA 5.1.2009

ISSUE DATE: 02/02/09

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SPECIFIC question PERTAINING TO land classified as farm and agricultural land under chapter 84.34 RW, WHEN THE LAND QUALIFIES FOR CLASSIFICATION BECAUSE OF THE COMMERCIAL AGRICULTURAL ACTIVITY PRODUCED FROM PERENNIAL PLANTINGS.

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**Question:** Farm and agricultural land can qualify for current use status under RCW 84.34.020(2) when the commercial agricultural activity is from the raising, harvesting, and selling of crops produced directly from perennial plants (i.e., orchard fruit trees, grape vines, hops, etc). The question has been asked, “Is it appropriate to put an improvement value on perennial plants located on classified land, even if the highest and best use of the land (when being valued at a ‘true and fair value’ under RCW 84.40.030) indicates that a higher value is warranted by a use not requiring continued existence of the perennial plant improvements?” Another way to phrase the question is, “Can perennial plants have one value when estimating ‘current use value,’ and a different value (or no value) under the ‘fair market value’ assessment?”

**Answer:** The Department of Revenue’s (Department) answer is “yes.” For land classified under chapter 84.34 RCW, an assessor is required to value the land at its “current use” value and at its “true and fair” (market) value under RCW 84.40.030. Because of this, the assessor must value the land both in its current agricultural use and at its highest and best use. Under the highest and best use scenario, it is possible the land would be utilized in a manner in which the perennial plants would have no contributory value. *However*, when the perennial plants located on classified farm and agricultural land under RCW 84.34.020(2) are of a marketable variety, those improvements *cannot* be disregarded—i.e., assigning no contributory value to the perennial plants when valuing the property under the current use statutes.

The following analysis supports the Department's answer:

The process for the assessment of property for ad valorem taxation is delineated in chapter 84.40 RCW. Specifically, RCW 84.40.030 sets forth the basis for the valuation of real property and states, in pertinent part, that "all real property shall be valued at one hundred percent of its true and fair value in money ... unless specifically provided otherwise by law."

Implicit in determining true and fair value is the principle of "highest and best use," which is further defined in WAC 458-07-030(3). This rule states, in pertinent part, that "highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment."

One exception to this "true and fair value" requirement is the Current Use Program (program) which was created by the Open Space Taxation Act. This program allows certain property owners to have their land assessed and valued on the basis of its "current use" rather than its "highest and best use." The Legislature determined it was in the state's best interest to promote preservation of open space land, timberland, and farm and agricultural land by enacting such a program.

For property to be classified in the program, property owners must meet specific requirements as to the use of the land, and any tax benefit resulting from the "current use" valuation extends only to the *land*. Implicit with land classified in the program is the fact that improvements, such as appurtenances or perennial plants, are to be valued at their true and fair value. Subsequent to the inception of the program, Attorney General Opinion 1977-16 (opinion) specifically addressed whether the valuation of perennial plants should be valued as a unit (inclusive with the land value) or should be valued separately, in which the answer was the latter.

The opinion elaborated on the distinction that "growing crops" are exempt from taxation, whereas perennial plants are taxable. The distinguishing characteristics were that growing crops are those products grown from the soil for annual production, while perennial plants produce fruit or some other vegetation harvested annually. The opinion further indicated that a "valuation method which fails to reflect the combined value of land and perennial plants located thereon would, in effect, at least partially exempt such perennial plants from taxation ... [and that] exemptions from taxation, however, are an exclusive matter of legislative concern and administrative officers thus cannot create a tax exemption where none exists by statute. ... It follows that for purposes of ad valorem taxation under chapter 84.34 RCW, farm and agricultural land and taxable perennial plantings located thereon should be listed and valued separately rather than being listed and valued as a unit."

The process for "current use" valuation of land classified as farm and agricultural land is set forth in RCW 84.34.065, which requires a specific method of valuation for the land only. The improvements, on the other hand, are to be listed separately and valued on the basis

of their “true and fair” value, which is the highest and best use of those improvements. The Attorney General opinion noted above specifies—and the Department agrees—that “the land itself is the only item of property which can be subject to a higher and better use. It would seem self-evident that both the ‘highest and best use’ and the ‘current use’ of perennial plants are the same (i.e., as perennial plants).”

The Department believes that when the perennial plants qualify the land for farm and agricultural classification, the assessor needs to determine if the market dictates that that variety of perennial plants has a true and fair (market) value, irrespective of the highest and best use of the land under RCW 84.40.030. If it is determined that the perennial plants have “true and fair” value, as evidenced by the market, then that value *is* the improvement value when the land is classified as farm and agricultural land.

The Department recognizes that instances occur when perennial plants themselves may not have true and fair value due to lack of market evidence that the perennial plants have any value. This could be the case, whether the land is *classified* as farm and agricultural land (valued at a “current use” value) or *unclassified* (valued on the basis of highest and best use “true and fair” value). Examples of this would include: when particular perennial plants have limited marketability due to declining crop production of the plants, i.e. orchard trees that have reached the end of their physical life; or, when market conditions change and more contemporary varieties are sought, i.e. orchard trees reaching the end of their economic life because the fruit is no longer desirable.

Additionally, the Department recognizes that at times perennial plants may not have true and fair value when viewed as a component of general market conditions. An example would be when the highest and best use of the land represents a market value in excess of the combined land and perennial plant value, and the plants do not contribute value on the “market” side, even though the plants might be a marketable variety. Importantly, this would be the case only on the “market” side—otherwise, for land classified as farm and agricultural land, the assessor needs to determine “true and fair” value (as evidenced by the market) for the perennial plants apart from the highest and best use of the land. In such a case, the perennial plants would have an improvement value under the current use valuation scenario, but no value in the estimation of the parcel under the general market value scenario.

In summary, the Department maintains that when land that qualifies for farm and agricultural classification under RCW 84.34.20(2) because the commercial agricultural activity directly results from the existence of perennial plants situated on the land *and* the market dictates that the perennial plants have a true and fair value regardless of the highest and best use of the land, the assessor is responsible to value and assess the perennial plants accordingly. However, the value of the perennial plants may not always be applicable in the market value estimations for the same parcel.

## A.2 PTA 14.2.2009 Removal of Tribal Lands



# Property Tax Advisory

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**Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.**

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NUMBER: PTA 14.1.2009 (Revised)

ISSUE DATE: 02/10/09

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### **Transfer or removal of land owned by a federally recognized Indian Tribe classified under chapter 84.33 or 84.34 RCW.**

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**Question:** Is compensating tax or additional tax due when land owned by a federally recognized Indian Tribe is transferred or removed from designation under chapter 84.33 RCW or classification under chapter 84.34 RCW?

**Answer:** No. The United States Court of Appeals for the 9th Circuit determined in *Quinault Indian Nation v. Grays Harbor County*, 310 F.3d. 645 (2002), that the compensating tax imposed when designated forest land is transferred to the United States to be held in trust for the Tribe was more in the nature of an excise tax than a property or ad valorem tax, and thus the Tribe was not liable for the tax. The Department of Revenue has concluded that this decision should also be applied to land classified under chapter 84.34 RCW, as well as designated forest land under chapter 84.33 RCW. The 9th Circuit Court effectively added this conclusion to the list of transfers and transactions, set forth in RCW 84.33.140(13) and RCW 84.34.108(6), that are exempt from the payment of compensating and additional tax.

**Specific Facts:** In 1998, the Quinault Indian Nation purchased designated forest land, mostly in Grays Harbor County. The Tribe signed a notice of continuance at the time of sale, and the land remained designated forest land under chapter 84.33 RCW. As designated forest land, the land was valued on a reduced basis for property tax purposes.

In 2000, the Tribe sold the land to the U.S. government to be held in trust for the Tribe. Under RCW 84.33.140(5)(b), the county was required to remove the land from designation; that is, “sale or transfer to an ownership making the [designated] land exempt from ad valorem taxation” is one of the occurrences listed as triggering removal. Land belonging exclusively to the United States is exempt from property tax (see RCW 84.36.010). The county then imposed compensating tax in accordance with RCW 84.33.140(11) because the transfer was not within one of the exceptions listed in RCW 84.33.140(13).



The Quinault Nation believed that the county lacked the authority to levy this tax and filed suit in the United States District Court. The District Court ruled in favor of Grays Harbor County and held that the tax was a permissible “taxation of land” under the *Indian General Allotment Act of 1887*, 24 Stat. 388, as amended, 25 U.S.C. § 331 *et seq.* The Tribe appealed this decision to the U.S. Court of Appeals, 9<sup>th</sup> Circuit.

The 9<sup>th</sup> Circuit reversed the District Court on the basis that ambiguous statutes are to be construed in favor of the Indians. (See *County of Yakima v. Confederated Tribes & Bands of the Yakima Indian Nation*, 502 U.S. 251, 269 (1992).) The determining factor, in the judgment of the Court, was whether the compensating tax could be characterized as a permissible taxation of land, that is, a permissible “ad valorem tax,” or whether it was an impermissible “excise tax.”

The court felt the compensating tax was ambiguous in nature; it is not solely an ad valorem tax based on value, nor is it a straightforward excise tax. The court was most interested in the fact that the compensating tax was triggered by the sale or transfer of designated forest land. It found that the formula used to calculate the amount of compensating tax owed was a hybrid of market value and tax savings. Because the compensating tax had characteristics of both property and excise taxes, the 9<sup>th</sup> Circuit Court applied the rule of liberal construction in favor of tribal interests and concluded that the compensating tax was an impermissible excise tax on the Quinault Indian Nation.

**Conclusion:** In its decision, the 9th Circuit Court did not address land classified in the Current Use Program under chapter 84.34 RCW. Despite some distinctions between chapter 84.33 and 84.34 RCW, the *additional taxes* imposed under 84.34 RCW are calculated and applied in a very similar manner. The Department concludes that the *Quinault* decision applies to the *additional tax* imposed on the removal from classification and transfers of land classified in the Current Use Program (chapter 84.34 RCW) in the same manner as the *compensating tax* imposed on the removal from designation and transfers of land under the Designated Forest Land Program (chapter 84.33 RCW).

## A.3 PTA 12.3.2014 Christmas Trees



# Property Tax Advisory

Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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NUMBER: PTA 12.3.2014

ISSUE DATE: 06/04/2014

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### CLASSIFICATION OF LAND USED FOR CHRISTMAS TREE PRODUCTION

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The purpose of this bulletin is to clarify the statutory guidelines for designation of Christmas tree lands under Chapter 84.33 RCW.

RCW 84.33.170 states in part: “. . . this chapter shall not exempt from the ad valorem tax nor subject to the excise tax imposed by this chapter, Christmas trees and short-rotation hardwoods, which are cultivated by agricultural methods, and the land on which the Christmas trees and short-rotation hardwoods stand shall not be taxed as provided in RCW 84.33.140. However, short-rotation hardwoods, which are cultivated by agricultural methods, on land classified as timber land under chapter 84.34 RCW, shall be subject to the excise tax imposed under this chapter.

#### Disqualifying Conditions

Lands used for growing Christmas trees **are not** eligible for designation under chapter 84.33 RCW when ALL of the following conditions exist:

- (a) In advance of planting the trees, the land has been cleared of unwanted tree stumps, forest debris, and unwanted plant growth.
- (b) The soil has been prepared for planting by plowing or turning over the soil with a plow or tiller.
- (c) Subsequent to planting the trees, all unwanted plant growth is continuously controlled by spraying with herbicides or physical means such as mowing or brush cutting.

The removal of stumps and SCARIFICATION of land using a brush rake mounted on a bulldozer or tractor shall not be considered plowing or tilling of the soil, and shall not be sufficient reason for denying designation. The distinction between scarification and

plowing or tilling is that scarification is intended to remove unwanted vegetation, roots, and other debris by uprooting it with a minimum disturbance of the soil. Plowing or tilling, on the other hand, is intended to prepare the soil for planting through the purposeful turning over of the soil creating a uniform, relatively smooth surface.

Land growing Christmas trees may be classified as designated forest land if it does not meet the foregoing criteria. However, the land must also meet the other statutory requirements for designation including a minimum of 20 contiguous acres.

#### Classification under Open Space Farm and Agricultural

Christmas tree land that does not qualify under Chapter 84.33 RCW may be classified under the Current Use Farm and Agricultural Classification provided it meets the eligibility requirements contained in RCW 84.34.020. The true and fair value of Christmas tree lands so classified shall be determined in accordance with RCW 84.34.065.

## A.4 PTA 16.1.2011 County Ordinances



# Property Tax Advisory

Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.

NUMBER: PTA 16.1.2011

ISSUE DATE: 10/26/11

## Establishing Additional Eligibility Requirements for the Current Use Program

In response to multiple inquiries from county officials and property owners as to whether assessors and county legislative authorities have the authority to establish additional eligibility requirements for the three current use classifications other than those allowed in chapters 84.34 RCW and 458-30 WAC, the Department of Revenue has issued this Property Tax Advisory.

**Question:** May counties adopt ordinances establishing eligibility requirements for the three current use classifications in chapter 84.34 RCW that are in addition to the eligibility requirements in state statute?

**Answer:** Counties may adopt ordinances that establish additional eligibility requirements for the “open space” and “timber land” classifications, but not for the “farm and agricultural land” classification. However, additional eligibility requirements for the open space and timber land classifications must not conflict with state law and not arbitrarily or capriciously restrict access to either classification.

### Analysis:

Article XI § 11 of the Washington State Constitution (“Constitution”) allows local governments to adopt regulations that are not in conflict with state law. It provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws.”

Washington case law has established two tests to determine a local ordinance’s validity with respect to state law. An ordinance is invalid if:

- it directly conflicts with a state statute<sup>1</sup>; or

<sup>1</sup> *State v. Kirwin*, 165 Wn.2d 818, 825, 203 P.3d 1044 (2009).

- the Legislature manifests an intent to preempt the field/subject matter.<sup>2</sup>

Article VII § 11 of the Constitution allows three classes of land to qualify for current use valuation: open space land, farm and agricultural land, and timber land. Statutory criteria and procedures contained in chapter 84.34 RCW govern the three classifications of land. The Department of Revenue’s analysis of the validity of local ordinances for the three classifications of land is discussed below.

Example One: The county legislative authority passes an ordinance adopting a PBRS. The section on Farm and Agricultural Conservation Land in the ordinance states the following:

“Farm and Agricultural Conservation Land” means:

- Land that was either previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of that subsection and is reclassified as open space land: or
- Traditional farmland not classified under chapter 84.33 or 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

Eligible lands must meet one of these definitions and return to commercial agricultural production within 10 years.

The county legislative authority approves and denies all open space land (which includes the farm and agricultural conservation land sub classification) applications. The decision to grant or deny the application is a legislative determination and is reviewable only for “arbitrary or capricious”<sup>3</sup> actions (RCW 84.34.037(5)). In determining whether classification will be granted, the revenue loss or tax shift as well as the benefits from preserving or protecting environmental, scenic, or recreational resources must be considered (RCW 84.34.037(2)).

The county legislative authority may adopt a PBRS that establishes additional eligibility requirements for classifying property as open space land (RCW 84.34.055). However, the additional requirements may not arbitrarily or capriciously restrict access to the open space land classification.

The eligibility requirement in this example which limits the amount of time a parcel can be classified as farm and agricultural conservation land may be permissible under RCW

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<sup>2</sup> *Id.* at 827.

<sup>3</sup> “Arbitrary and capricious” has been defined as action which is willful and unreasoning, without consideration and in disregard of facts and circumstances. *See, Heinmiller v. Dep’t of Health*, 127 Wn.2d 595, 903 P.2d 433, *cert. denied*, 518 U.S. 1006, 116 S. Ct. 2526, 135 L. Ed. 2d 1051 (1995).

84.34.037(4) as a condition of granting the open space land classification. This condition appears consistent with the intent that “farm and agriculture conservation land” have a high potential for returning to commercial agriculture as described in RCW 84.34.037(2)(c)(ii).

On the other hand, if land does not return to commercial agricultural production within the required period, the assessor could remove it from classification because the land did not meet the conditions of approval. An alternative to removing the land from classification could be reducing the benefit the parcel receives from being classified as farm and agricultural conservation land. This alternative may be more appropriate for land being preserved for long-term agricultural purposes instead of land that has a high potential of returning to commercial agricultural use within 10 years.

In contrast, if the county legislative authority passes an ordinance requiring all parcels be removed from classification after a 10-year period, *regardless of how the land is being used*, it could be considered arbitrary and capricious because land would be removed even if it is actively farmed or being preserved for future commercial agricultural use. Additionally, land used for commercial agriculture that cannot qualify for reclassification as farm and agricultural land under RCW 84.34.020(2) because it entered farm and agricultural conservation land as “traditional farmland,” should not be removed simply because of a time limitation if it meets the other statutory requirements for classification.

Example Two: The county legislative authority passes an ordinance that requires a minimum parcel size of 10 acres for classification as open space land.

Open Space Land – RCW 84.34.020(1)

Although there is no minimum parcel size requirement under state law, a county may require a minimum parcel size to qualify as open space land. For this example, the intent of the minimum acreage requirement is to maximize the benefit to the public by granting classification to larger parcels, so this would fall within the discretion granted by the statute to consider public benefit when approving an application.

Farm and Agricultural Land – RCW 84.34.020(2)

Unlike the open space land classification, the county assessor approves and denies all applications for the farm and agricultural land classification. This difference, together with the fact that the definition of “farm and agricultural land” contains detailed and objective criteria for determining whether a property qualifies, indicates that counties may not adopt ordinances that establish additional eligibility requirements for the farm and agricultural land classification without conflicting with Article XI § 11 of the Washington Constitution.

If a county adopts an ordinance that places additional restrictions on the eligibility for the farm and agricultural land classification, then the ordinance is removing a benefit that is available under the state statute. As such, an ordinance with minimum acreage

requirements would conflict with state statute and be considered invalid by Washington courts.

Thus, the Department takes the position that state law preempts counties from imposing additional eligibility requirements beyond those listed in state statute.

*Timber Land – RCW 84.34.020(3)*

The county legislative authority approves and denies all timber land applications. This discretion primarily involves whether the property is devoted to the growth and harvest of timber for commercial purposes (RCW 84.34.020(3)).

As with the application process for open space land, the granting or denial of an application for the timber land classification is a legislative determination and is reviewable only for arbitrary and capricious actions (RCW 84.34.041(4)).

The county legislative authority must act upon the application “with due regard for all relevant evidence and without any one or more items of evidence necessarily being determinative.” (RCW 84.34.041(3))<sup>4</sup> Thus, the application must be considered as a whole, in its entirety, as to whether the county believes the property is devoted primarily to the growth and harvest of timber for commercial purposes.

Accordingly, counties may restrict the approval of applications by enacting ordinances that require certain conditions be satisfied depending on the characteristics of the property or the information in the timber management plan as long as a single condition, by itself, is not determinative of whether the application is denied.

However, to reconcile this provision with the language in RCW 84.34.041(3), these conditions must be related to ensuring the property is devoted primarily to the growth and harvest of timber for commercial purposes. Consequently, the Department would consider conditions, such as an ordinance imposing minimum acreage requirements that differ from those allowed in state statute, to be invalid as it conflicts with state statute.

Example Three: The county legislative authority adopts an ordinance that states the following:

Pursuant to RCW 84.34.020(3), the primary use of the property must be for the production of forest crops. To qualify for classification as timber land, the land cannot contain a residence if it is at least 5 but less than 20 acres. It is deemed that such land is being used primarily as a home site, and

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<sup>4</sup> However, see RCW 84.34.041(3) for three specific circumstances in which an application can be denied without regard to other evidence.

therefore does not comply with the intent and purpose of the timber land classification.

State law defines "timber land," in RCW 84.34.020(3), in part, as follows:

"Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential home site.

Under state law, parcels that are less than 20 acres, but at least five acres, may be classified as timber land, even if there is a residence. The county ordinance, however, prohibits parcels smaller than 20 acres, with a residence, from qualifying for the timber land classification.

State law would allow a six-acre parcel of land with a one-acre home site to qualify for the timber land classification. If a parcel includes a home site, the home site acreage is excluded from the qualifying timber acreage.

The ordinance takes away a possibility that exists in state law; therefore, the Department would consider the ordinance to be invalid as it conflicts with the state statute.



## A.5 PTA 4.3.2012 Integral Home Sites



# Property Tax Advisory

**Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.**

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NUMBER: PTA 4.3.2012

ISSUE DATE: 3/19/2012

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### **Specific Question Pertaining to the Administration and Qualification of the Land on Which a Residence is Sited for Property Classified as Farm and Agricultural Land Under Chapter 84.34 RCW**

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**Question:** When a residence located on land classified as farm and agricultural land under RCW 84.34.020(2)(f) is not occupied by a farm owner or operator and is not used in connection with the farm operation, does that land qualify to be included within the total parcel classified as farm and agricultural land classification under RCW 84.34.020(2)?

**Answer:** The Department of Revenue's answer is no. The correct administration for a parcel of land on which a residence is sited that does not qualify under RCW 84.34.020(2)(f) is to segregate the unqualified area from classification and value that portion at its true and fair market value. The following analysis supports the Department of Revenue's answer.

The process for the listing and assessment of property for purposes of ad valorem taxation is delineated under chapter 84.40 RCW. Specifically, RCW 84.40.030 sets forth the basis for the valuation of real property and states, in pertinent part, that "all real property shall be appraised at one hundred percent of its true and fair value in money...unless specifically provided otherwise by law."

Implicit in determining true and fair value is the principle of highest and best use. That principle is identified in WAC 458-07-030(3) which states, in pertinent part, that "unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment."

Because property is valued on the basis of its highest and best use, the Legislature recognized it was in the state's best interest to promote the preservation of open space

lands, timber lands, and farm and agricultural lands. Therefore, the Legislature enacted the Open Space Taxation Act, creating the Current Use Program under chapter 84.34 RCW. The enactment of this program allows for some property owners to have their land assessed and valued on the basis of its “current use,” rather than its “highest and best use,” usually resulting in lower assessed values. In order for the land to be classified in the program, property owners must meet specific requirements as to the use of the land.

The Legislature also understood that land classified in the current use program resulted in a tax-shift because of the reduced valuation. Consequently, they implemented a means of collecting back taxes in the event that the requirements for the use of the land were not adhered to by the land owner.

Under RCW 84.34.020 (2), farm and agricultural land is defined, in part, to mean:

- (a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:
  - (i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;
  - (ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or
  - (iii) Other similar commercial activities as may be established by rule;
- (f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

This statute stipulates that the land must be devoted primarily to the production of livestock or agricultural commodities for commercial purposes. It also stipulates that the land on which a residence is located **may** be classified as farm and agricultural land **if** the land is 20 acres or more and the land is the principal place of residence of the farm operator or owner and the housing is integral to the use of the classified land for agricultural purposes. The land is not eligible for classification if it does not meet these criteria. In fact, prior to 1992, RCW 84.34.020(2)(f) did not exist.

Furthermore, RCW 84.34.065, which provides a method of valuation for property classified as farm and agricultural land, was revised in 1992 to include a method for valuing land that qualifies under RCW 84.34.020(2)(f). Likewise, revisions to WAC 458-30-260, effective November 1995, reflected valuation procedures addressing land that does not qualify under RCW 84.34.020(2)(f). Specifically, WAC 45830-260(8) states in pertinent part that “if the residence or housing for employees does not meet all the requirements for classification [under RCW 84.34.020(2)(f)], the land may not be classified as farm and agricultural land and it must be valued at its true and fair value.” [Emphasis added.]

When land fails to qualify, or no longer continues to qualify, under RCW 84.34.020(2)(f), then the land attributable to the residence – typically referred to as a homesite – is removed from classification and is valued at its true and fair value under RCW 84.40.030.

The typical homesite area used by most assessors is one acre. Despite the fact that no statutory basis exists for a one-acre homesite, the Washington Board of Tax Appeals in Garlinger v. Rausch, BTA Docket No. 51609 (1998) made “official notice” of a one-acre homesite. The Board stated in their *ANALYSIS AND CONCLUSIONS* that “based on numerous hearings before this board, we [BTA] take official notice of the fact that one acre is the generally accepted standard used by assessors in valuing homesites located on land which falls under the various open space classifications.”

Two different scenarios exist that must be considered as a result of the answer to the initial question, for correct administration of related land. Those scenarios are:

- (a) An initial application is made for a 20-acre parcel (or multiple parcels totaling 20 acres), but the land on which the residence (homesite) is sited does not meet the requirements under RCW 84.34.020(2)(f);
- (b) A 20-acre parcel (or multiple parcels totaling 20 acres) that was previously classified as farm and agricultural land, but the land on which the residence (homesite) is sited no longer meets the requirements under RCW 84.34.020(2)(f).

If one acre is used for a homesite area, then – in the scenarios noted – the Department would interpret that, upon removal of the one-acre homesite from the 20-acre parcel, a 19-acre parcel of *classified* land remains. Consequently, those 19 acres are subject to the minimum income or investment requirements outlined in RCW 84.34.020(2)(b) or (d), as applicable.

Likewise, in the event that a one-acre homesite is removed from classification because the residence no longer qualifies under RCW 84.34.020(2)(f), the residual 19 acres remain the *classified* farm and agricultural land. Those 19 acres then become subject to the minimum income or investment requirements outlined in RCW 84.34.020(2)(b) or (d), as applicable.

In summary, land that does not meet the requirements or criteria for the current use program under chapter 84.34 RCW may not be classified. The Department contends that no provision exists for a homesite to be classified or valued as farm and agricultural land when it does not meet the criteria under RCW 84.34.020(2)(f).

## Appendix B Legislation and Special Notices

This section contains special notices that relate to the Current Use Programs.

### B.1 E2SHB 1208 Public Hearing Procedures – Open Space

#### **E2SHB 1208 – RCW 84.34.037 and RCW 84.34.041 – Public Hearing Procedures**

Although this bill affects several aspects of property tax administration, only the impact on the Current Use Program is discussed in this Property Tax Special Notice.

**Question:** What are the effects of E2SHB 1208?

**Answer:** This bill allows the county legislative authority and the city legislative authority to participate in a public hearing through teleconference or by meeting separately during the approval process of an application for classification for open space land or timber land located in an incorporated area. If each legislative body meets separately, both bodies must confirm that they have approved the application in its entirety.

**Question:** What if one of the legislative bodies modifies the application?

**Answer:** Both legislative bodies must approve the entire application without modification or they must approve the application with identical modifications.

Published July 23, 2009.

### B.2 2SHB 1484 Removals from Current Use and DFL

#### **2SHB 1484 – RCW 84.33.140, 84.33.145, and 84.34.108 – Removals from Current Use and Designated Forest Land**

**Question:** What are the effects of 2SHB 1484?

**Answer:** (1) This bill allows land classified under chapter 84.34 RCW and chapter 84.33 RCW to be removed without the imposition of additional tax or compensating tax, respectively, if the removal resulted from the creation, sale, or transfer of a conservation easement under RCW 76.09.040. The conservation easement must be for private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species. Land removed as a result of the creation, sale, or transfer of a fee interest for the riparian open space program will now be subject to additional and compensating tax.

(2) This bill also expands the existing exception from compensating tax for forest land removed from designation for conservation purposes. Currently, when land is removed from designation for conservation purposes because of a transfer of property interests to a governmental entity, nonprofit nature conservancy corporation, or nonprofit historic preservation corporation, compensating tax is not due if the land is located in King County. This exception to compensating tax is now expanded to counties with a population of more than 600,000 that is Pierce and Snohomish Counties.

**Question:** If designated forest land is to be removed because of a sale or transfer of fee title to one of the entities listed above for conservation purposes, must the purpose of the sale or transfer be exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan or approved for state natural resources conservation area purposes?

**Answer:** If the sale or transfer of fee title occurs in a county other than King, Pierce, and Snohomish, then the purpose of the sale or transfer must be exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan or approved for state natural resources conservation area purposes in order for the removal to be exempt from compensating tax.

Published July 23, 2009.

### B.3 SHB 1733 Equestrian Related Activities

#### **SHB 1733 - RCW 84.34.020, 84.34.108, and 84.33.140 – Land used for Equestrian-Related Activities and Exceptions to Additional Tax and Compensating Tax**

**Question:** What are the effects of SHB 1733?

**Answer:** (1) This bill provides that any land used primarily for equestrian activities such as stabling, training, riding, clinics, schooling, shows, or grazing for feed are eligible for current use valuation as farm and agricultural land. Land must also meet the minimum income requirements as outlined in RCW 84.34.020(2)(b) and (c).

(2) The bill also provides that land being removed from either current use classification or forest land designation is not subject to additional tax or compensating tax, respectively, if the land was classified or designated in error, through no fault of the owner. However, if an independent basis exists for removing the land, such as failing to meet the minimum income requirements or not using the land to grow and harvest timber, the removal would be subject to the additional tax or compensating tax.

**Question:** What method should the assessor use to value land used for equine-related activities?

**Answer:** According to RCW 84.34.065, the current use value of farm and agricultural land is determined by the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. This applies to land that is used for equine-related activities as well. The assessor may calculate this value using various methods. For example, the assessor could calculate the current use value based on net cash rental of similar properties, capitalization of income from typical crops, a soil capability analysis, or the average per acre value of farm and agricultural land in the county.

**Question:** If someone owns horses and boards them on their land, is the land eligible for the farm and agricultural land classification?

**Answer:** No. In order to qualify for classification, the horses must be used for a commercial purpose. Simply owning horses and boarding them on the land for personal use is not a commercial purpose. However, if the owner uses their horses for a commercial purpose, such as riding lessons, the land would qualify for the farm and agricultural land classification.

**Question:** Does the exception to additional tax or compensating tax apply to land being removed from classification or designation if a Notice of Continuance was approved in error by the assessor?

**Answer:** Yes. All land presently classified as current use or designated as forest land can be removed without the imposition of additional tax or compensating tax if the original application for classification, the application for reclassification, or the notice of continuance was approved in error, through no fault of the owner.

Published July 23, 2009.

## B.4 EHB 1815 Standing Crops and Removal Notices

### EHB 1815 - RCW 84.34.020 and RCW 84.34.108 – Standing Crops and Removal Notices

**Question:** What are the effects of EHB 1815?

**Answer:** (1) This bill expands the definition of "farm and agricultural land" to include any parcel of land that is five acres or greater, but less than 20 acres that:

- Has a standing crop with an expected harvest within seven years. Landowners must show an expenditure in the production of the crop of \$100 or more per acre for the current or previous calendar year; or
- Has a standing crop of short rotation hardwoods with an expectation of harvest within 15 years. Landowners must show an expenditure in the production of the crop of \$100 or more per acre for the current or previous calendar year.

In addition to the expanded definition, the law continues to allow land that produces a gross income from agricultural purposes of \$200 or more per acre per year for three of the five calendar years preceding the date of application to qualify for the farm and agricultural land classification. If land was admitted to this classification prior to January 1, 1993, the land must produce a gross income from agricultural purposes of \$100 or more per year for three of the five calendar years preceding the date of application.

(2) The bill also requires county assessors to provide information regarding the process to appeal the county assessor's decision to remove property from the current use program. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

**Question:** What is a standing crop?

**Answer:** A standing crop is defined as Christmas trees, vineyards, fruit trees, or other perennial crops that are planted by agricultural methods normally used in commercial production of that particular crop and typically do not produce harvestable quantities of that crop in the initial years after planting.

**Question:** If classified farm and agricultural land is five acres or greater but less than 20 acres and is used to grow standing crops, what requirements must be met for continuing eligibility?

**Answer:** For continuing eligibility, the owner must show either an expenditure in the production of the standing crop of \$100 or more per acre for the current or previous year, or at least \$200 of gross income per acre per year for three of the past five years. If land was classified as farm and agricultural land prior to January 1, 1993, the owner must show either an expenditure in the production of the standing crop of \$100 or more per acre for the current or previous year or at least \$100 of gross income per acre per year for three of the past five years.

**Question:** Does the new expenditure requirement only apply to new applications submitted on or after July 26, 2009?

**Answer:** No. Land currently classified as farm and agricultural land that is five acres or greater but less than 20 acres and being used for growing standing crops could also continue to qualify by meeting either the expenditure or gross income requirements. However, if land is not currently classified as farm and agricultural land, then the new expenditure requirements for standing crops will apply to new applications for classification or reclassification submitted on or after July 26, 2009.

**Question:** Who will revise the removal forms so they comply with the additional appeal information requirements?

**Answer:** The Department of Revenue will revise all forms provided on our website. However, because the appeal information will be different for each county, the assessor should revise the removal form used in his or her office to ensure it reflects current law, including any changes made by recent legislation.

Published July 23, 2009.

## B.5 SHB 5401 Public Hearing Procedures – Open Space

### SSB 5401 - RCW 84.33.140 and RCW 84.34.108 – Removals from Current Use and Designated Forest Land

**Question:** What are the effects of SSB 5401?

**Answer:** This bill, which is similar to SSHB 1484, allows land classified under chapter 84.34 RCW and designated under chapter 84.33 RCW to be removed without the imposition of additional tax or compensating tax, respectively, if the removal resulted from the creation, sale, or transfer of a conservation easement under RCW 76.09.040. The conservation easement must be for private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species. Land removed as a result of the creation, sale, or transfer of a fee interest for the riparian open space program will now be subject to additional and compensating tax.

Published July 23, 2009.



## B.6 SB 6180 Consolidation of CU Timber and Designated Forest Land

### 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 landowners 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 search for the publication under the Property Tax Section called *Q&A – SB 6180 (DFL & Timber)*.

Published June 12, 2014.

## B.7 SB 6505 Marijuana is not an agricultural product

### **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 benefitting 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 (Insert link here when it's available).

Published June 12, 2014.

## **B.8 E2SHB 2493 Current use land for commercial horticultural purposes**

### **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 percent 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 percent of that acreage is open to the general public for on-site retail sales.
- If more than 20 percent 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 percent 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.

Published June 12, 2014.

## B.9 SSB 6333 Clarifications to Designated Forest Land statutes

### 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).

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.

Published June 12, 2014.

## B.10 2ESHB 1117 Transfers upon grantor's death

### **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.

Published June 12, 2014.

## B.11 SHB 1747 Eliminate two-year notice to withdraw from Current Use

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- [76.09.040](#) Forest practices rules – Adoption – Review of proposed rules – Hearings – Riparian open space program.
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## **C.5 WAC 458-30 Open Space Taxation Act**

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## **C.6 WAC 458-40 Taxation of Forestland and Timber**

- [458-40-530](#) Property tax, forestland—Land grades—Operability classes.
- [458-40-540](#) Forestland values—(updated yearly).

## Appendix D Definitions and Terminology

The following definitions/terminology are taken from property tax statutes, property tax rules, advisories, various letters and publications, USDA Glossary, or Blacks' Law Dictionary. These definitions are terms commonly used in the Current Use Programs.

### D.1 Definitions

<b>A</b>	
Ad valorem tax	A tax based on the value of property.
Additional tax (Current Use) RCW 84.34.108	The difference between the property tax paid as open space land, farm and agricultural land, or timberland and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified; plus interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed without penalty if the land had been assessed without regard to classification.
Affidavit	The real estate excise tax affidavit required by RCW 82.45 and WAC 458-61. The affidavit will be prescribed by the department and furnished to county treasurers. This form is used by landowners to report sales or transfers of classified land. The owner or transferor and the purchaser or transferee, or agents of each, must sign the affidavit under penalty of perjury.
Agreement	Agreement executed between an owner and the granting authority regarding the classification or reclassification of land as either open space or timberland under RCW 84.34.
Agricultural methods	The cultivation of trees that are grown on land prepared by intensive cultivation and tilling, such as irrigating, plowing, or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising trees such as Christmas trees and short-rotation hardwoods.
Agricultural product	Livestock and plants that are produced for commercial purposes and includes any agricultural, horticultural, or aqua cultural produce or crop; the raising of livestock, poultry, bees, or fur-bearing animals; or the production of milk, eggs, wool, fur, meat, honey, or other substances obtained therefrom. When used in relation to livestock or fur-bearing animals used for food or fiber, "raising" means breeding or increasing the value, size, or weight of the animal. Agricultural product does not include marijuana,

	useable marijuana, or marijuana-infused products as those terms are defined in RCW 69.50.101.
Applicant	Owner who submits an application for classification or reclassification of land under chapter 84.34 RCW.
Application	An application for classification or reclassification of land under chapter 84.34 RCW.
Appraisal	An estimate of value.
Approval	A determination by the granting authority that land qualifies for classification or reclassification under chapter 84.34 RCW.
Appurtenance	Something used with and related to or dependent upon another thing; that is, something that belongs to something else, an adjunct. The thing appurtenant is strictly necessary and essential to the proper use and enjoyment of the land, as well as useful or necessary for carrying out the purposes for which the land was classified under chapter 84.34 RCW.
Aquaculture	The growing and harvesting of marine or freshwater flora or fauna in a soil or water medium for commercial agricultural purposes.
Assessed value RCW 84.04.020 RCW 84.04.030	The terms "assessed valuation of taxable property," "valuation of taxable property," "value of taxable property," "taxable value of property," "property assessed," and "value," whenever used in any statute, law, charter or ordinance with relation to the levy of taxes in any taxing district, shall be held and construed to mean "assessed value of property" as defined in RCW 84.04.030.  RCW 84.04.030 – Assessed value of property shall be held and construed to mean aggregate valuation of property subject to taxation by any taxing district as placed on the last completed and balanced tax rolls of the county preceding the date of any tax levy.
Assessment date RCW 84.40.020 WAC 458-12-360	All real and personal property in this state that is subject to taxation shall be listed and assessed every year, with reference to its value on the first day of January of the year in which it is assessed.
Assessment ratio RCW 84.40.030	All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.
Assessment year RCW 84.40.020 RCW 84.04.040	January 1 through December 31st of any year. The year the property is listed and assessed by the county assessor.  The assessment year is the calendar year prior to the year the taxes become due and payable.
Assessor	The county assessor or any agency or person who is authorized to act on behalf of the assessor.

<b>B</b>	
Barter	The value represented from an exchange of goods or services for other goods or services.
<b>C</b>	
Change in use	A direct action taken by an owner that actually changes the use of, or has started changing the use of, classified land to a use that is not in compliance with the conditions of the agreement executed between the owner and the granting authority or to a use that is otherwise not in compliance with the provisions RCW 84.34 and WAC 458-30-295.
Change of use	When land which is classified under RCW 84.34 or designated under RCW 84.33 is applied to some other use.
Classified land	A parcel(s) of land that has been approved by the appropriate granting authority for taxation under RCW 84.34.
Commercial agricultural purposes	The use of farm and agricultural land on a continuous and regular basis, prior to and subsequent to application for classification or reclassification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income by producing an agricultural product.
Compensating tax	Tax calculated on removal from designated forestland classification.
Conservation activities	Conservation systems, practices, or management measures designed to address a resource concern. Structural, vegetative, and land management measures (including agricultural drainage management systems), and planning needed to address a resource concern are included.
Conservation Reserve Enhancement Program (CREP)	Initiated following the 1996 Farm Act, CREP is a State-Federal conservation partnership program targeted to address specific State and nationally significant water quality, soil erosion, and wildlife habitat issues related to agriculture. The program offers additional financial incentives beyond the Conservation Reserve Program to encourage farmers and ranchers to enroll in 10-15 year contracts to retire land from production. CREP is funded through the Commodity Credit Corporation.
Conservation Reserve Program (CRP)	Established in 1985 and administered by USDA's Farm Service Agency, CRP is the latest version of long-term land retirement programs used in the 1930s and 1960s. CRP provides farm owners or operators with an annual per-acre rental payment and half the cost of establishing a permanent land cover, in exchange

	for retiring environmentally sensitive cropland from production for 10-15 years. In 1996, Congress limited enrollment to 36.4 million acres at any time. The 2002 Farm Bill increased the enrollment limit to 39.2 million acres. Beginning in 2010, the 2008 Farm Bill limited enrollment to 32 million acres. Producers offered land for competitive bidding based on an Environmental Benefits Index during periodic signups or automatically enroll more limited acreages in such practices as riparian buffers, field windbreaks, and grass strips on a continuous basis. CRP is funded through the Commodity Credit Corporation.
Contiguous RCW 84.34.020(6)(a)	Land adjoining and touching other property held by the same ownership. Land divided by a public road, railroad, public right of way, or waterway, but otherwise an integral part of a farming operation.
County legislative authority WAC 458-30-200(q)	The county commission, council, or other legislative body.
County recording authority RCW 84.04.045 WAC 458-15-015	The county auditor or the county recording authority as authorized under Home Rule Charter.
Current assessment year	The year the property is listed and valued by the county assessor.
Current tax year	The year the taxes are due and payable.
Current use	Present use of the land.
<b>D</b>	
Delinquent assessments	Assessment remaining unpaid on and after the due date for which a penalty for non-payment is attached.
Delinquent interest RCW 84.56.020	Penalty for non-payment of a tax or assessment by the due date.
Department RCW 84.04.047	Department of Revenue of the state of Washington.
Designated forestland	Land primarily devoted to, and used for growing and harvesting timber but its value for other purposes may be greater than its value for use as forestland.
Dryland	A system of producing crops in semiarid regions (usually with less than 20 inches of annual rainfall) without the use of irrigation. Frequently, part of the land will lie fallow in alternate years to conserve moisture.



<b>E</b>	
Easement	Voluntary sale or donation of specific use rights to land. Examples of rights that could be sold include the rights to use land for cropping purposes (in Wetlands Reserve Program and Grassland Reserve Program). Landowners who sell or donate an easement retain all other ownership rights to the land, including the right to sell the land. Future owners of land subject to an easement are legally required to abide by easement terms. Easements are perpetual or are long-term, 25 years or more.
<b>F</b>	
Farm and agricultural land RCW 84.34.020	Land devoted primarily to the production of livestock, agricultural commodities, etc., for commercial purposes.
Farm woodlot WAC 458-30-200	An area of land within a parcel(s) of classified farm and agricultural land that is used in a manner compatible with commercial agricultural purposes including, but not limited to, the growing and cutting of trees for the use of the owner or the sheltering of livestock.
Fiscal year RCW 84.04.040	The assessment year and fiscal year shall commence January 1 <sup>st</sup> and end December 31 <sup>st</sup> in each year.
Forestland RCW 84.33.035(5)	"Forestland" is synonymous with "designated forestland" and means any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres that is or are devoted primarily to growing and harvesting timber. Designated forestland means the land only and does not include a residential homesite.
Forestry Riparian Easement	A forestry riparian easement covers only qualifying timber (those trees which a landowner cannot harvest under the Forest Practices Rules) No right of public or use is created by the easement. The purpose of the easement is to protect the qualifying timber and its associated riparian function. Riparian function includes stabilizing the stream bank, trapping sediment, shading the water, and providing leaf litter and large woody debris.
<b>G</b>	
Grazing	Allowing animals to feed on pastureland or under forest canopy.
Grazing land	(1) Collective term used by NRCS for rangeland, pastureland, grazed forestland, native and naturalized pasture, hayland, and grazed cropland. Although grazing is generally a predominate use, the term is used independent of any use. (2) Land used primarily for production of forage plants maintained or manipulated

	primarily through grazing management. Includes all lands having plants harvestable by grazing without reference to land tenure, other land uses, management, or treatment practices.
<b>H</b>	
Harvested (forestland) RCW 84.33.035(6)	The time when in the ordinary course of business, the quantity of timber by species is first definitely determined. The amount harvested must be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department.
Highest and best use WAC 458-07-030(3)	Basis for valuing property for assessment purposes. Highest and best use is the most profitable likely use for which a property can be put. It is the use, which will yield the highest return on the owner's investment.
Homesite RCW 84.34.020(2)(f) WAC 458-30-317	The land under a principal residence or housing for farm and agricultural employees can qualify for a lower assessed value if it meets certain conditions. Homesites are only allowed on land in farm and agricultural land classification.
<b>I</b>	
Improvement	Any valuable change in or addition to real property, such as buildings, septic, other utilities.
Industrial hemp	The tough, coarse fiber of the cannabis plant, used to make cordage, yarn, and fabric.
Irrigation	The artificial application of water to the soil for full crop production, used in arid regions or when rainfall is not sufficient.
Irrigated land	Land with irrigation, this is typically valued differently than non-irrigated land.
<b>L</b>	
Land	The soil with everything on it and under it.
Land use code WAC 458-53-020	The identification of each real property parcel by numerical digits as representations of the major use of the property. The Land Use Code is derived from the Standard Land Use Coding Manual as prepared by the Federal Bureau of Public Roads and includes use classifications specified by state law.
Legislative authority	Government authority of a city, town, or county.
<b>M</b>	
Marijuana RCW 84.34.410 WAC 458-30-200	Not a commercial agricultural crop, land and appurtenances used in the growing and production of marijuana are not allowed in any of the Current Use Programs.

Market value (see True and Fair Value)	In an open and competitive market, a buyer willingly pays and a seller willingly takes this highest estimated, and acceptable, price for an item.
<b>N</b>	
Net cash rental RCW 84.34.065	Average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops.
Notice of change of value RCW 84.40.045 WAC 458-12-360	A notice mailed by the assessor to the taxpayer when there is a change in the true and fair value of real property (land and/or improvements) or a change in value of land in open space classification.
Notice of continuance	An affidavit on the real estate excise tax form or a separate form which is signed by the new owner/owners at the time of sale or transfer of ownership when classified or designated land (open space, timberland, forestland, or farm and agricultural land) is desired to continue under the respective classification or designation.
<b>O</b>	
Open space land RCW 84.34.020	"Open space land" means (a) any land area designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under RCW 84.34.108(8). As a condition of granting open space classification, the legislative body may not require public access on land classified under RCW

	84.34.108(1)(b)(iii) for the purpose of promoting conservation of wetlands.
Owner WAC 458-30-200(hh)	Any person(s) having a fee interest in a parcel of land; or (ii) The contract vendee when the land is subject to a real estate contract.
<b>P</b>	
Power of eminent domain	The right of government to take private property for public use (usually by purchase).
Primary use WAC 458-30-200(ll)	The existing use of a parcel or parcels of land so prevalent that when the characteristic use of the land is evaluated a conflicting or nonrelated use appears to be very limited or excluded. The primary use of a parcel does not represent a specific percentage of the total classified land.
<b>R</b>	
Real property	Exclusive rights of possession, dominion, and use. A mental concept of real estate arising from ownership.
Reforestation	To replant an area with trees.
Resolution RCW 84.41.041	A special or temporary order of a legislative body (requires less legal formality than an ordinance or statute). (See definition of Ordinance.)
<b>S</b>	
Short rotation hardwoods	Hardwood trees, such as but not limited to hybrid cottonwoods, cultivated by agricultural methods in growing cycles shorter than fifteen years.
Small harvester	Every person who from his or her own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding two million board feet in a calendar year. When the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in the timber. Small harvester does not include persons performing under contract the necessary labor or

	mechanical services for a harvester, and it does not include the harvesters of Christmas trees or short-rotation hardwoods.
Special benefit assessment	Special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.
Standing crops	Includes short rotation hardwoods, Christmas trees, vineyards, fruit trees, or other perennial crops that: (i) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (ii) Typically do not produce harvestable quantities in the initial years after planting.
<b>T</b>	
Tax/taxes RCW 84.04.100	The word "tax" and its derivatives, "taxes," "taxing," "taxed," "taxation" and so forth shall be held and construed to mean the imposing of burdens upon property in proportion to the value thereof, or the purpose of raising revenue for public purposes.
Tax lien RCW 84.60.010	All taxes and levies which have been lawfully imposed or assessed upon the real and personal property. Liens include charges and expenses concerning the taxes.  A claim that governmental units have upon properties until taxes have been paid.
Timber RCW 84.33.035	"Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees and short-rotation hardwoods.
Timberland RCW 84.34.020(3)	Any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timberland means the land only.
Timber management plan	A plan prepared by a trained forester, or any other person with adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. Such a plan may include:  A legal description of the forestland;  A statement that the forestland is held in contiguous ownership of five or more acres and is primarily devoted to and used to grow and harvest timber;

	<p>A brief description of the timber on the forestland or, if the timber on the land has been harvested, the owner's plan to restock the land with timber;</p> <p>A statement about whether the forestland is also used to graze livestock;</p> <p>A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and</p> <p>If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forestland within three years.</p>
Transfer	The conveyance of the ownership of a parcel of land without an exchange of valuable consideration and may include situations where classified land is donated to an owner, corporation, partnership, or limited liability corporation.
True and Fair Value RCW 84.40.030 WAC 458-07-030	The basis of all assessments. Means market value and is the amount of money a buyer willing but not obligated to buy would pay for it to a seller willing but not obligated to sell. In arriving at a determination of such value, the assessing officer can consider only those factors, which can within reason be said to affect the price in negotiations between a willing purchaser and willing seller.
<b>U</b>	
Uniformity	<p>All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only. (Article VII, Section 1, State Constitution.)</p> <p>The county commissioners are the authority that levies the tax (not individual taxing districts) in the county, and all property that comes within their jurisdiction must be uniformly valued and assessed. This rule firmly prohibits the use of varying assessment ratios within the confines of the county borders. The assessor must value all real and personal property at its fair market value and then apply the same or a uniform assessment ratio thereto. (Carroll Barlow, Snohomish County Assessor v. Washington State Tax Commission (1967).)</p>
<b>V</b>	
Value/valuation ( <i>Black's Law Dictionary</i> )	Relationship between a thing desired and a potential purchaser. Volume of goods, commodities, service a thing will command in exchange. It exists in the minds of men (people create value).

	Value is related to and influenced by need, utility, scarcity, and purchasing power.
<b>W</b>	
<b>X</b>	
<b>Y</b>	
<b>Z</b>	

## Appendix E Forms and Publications

This section lists all the forms and publications that relate to the Current Use Program. Each one has a link that will take you directly to latest version of each form or publication.

### E.1 Forms

[Application for Classification or Reclassification - Open Space Land](#)  
[Application - Farm & Ag Land \(Parcels With Same Ownership\)](#)  
[Application - Farm & Ag Land \(Parcels With Different Ownerships\)](#)  
[Application - Timber Land \(Parcels with Multiple Ownerships\)](#)  
[Application - Timber Land \(Parcels With Same Ownership\)](#)  
[Certification of Contiguous Parcels with Different Ownerships](#)  
[Change of Classification](#)  
[Notice of Approval or Denial of Application \(Farm & Ag\)](#)  
[Notice of Approval or Denial of Application \(Open Space or Timber Land\)](#)  
[Notice of Continuance - Land Classified as Current Use or Forest Land](#)  
[Notice of Intent to Remove - Current Use Assessment Classification](#)  
[Notice of Removal of Current Use Classification & Additional Tax Calculations](#)  
[Notice of Request to Remove Current Use Assessment Classification](#)  
[Notice of Request to Withdraw Current Use Assessment Calculation](#)  
[Notice of Withdrawal from Current Use](#)  
[Open Space Taxation Agreement](#)  
[Property Tax on Cessation of Use](#)  
[Request for Information - Intent to Continue Farm & Ag Classification](#)  
[Request for Information - Intent to Continue Current Use or DFL](#)

### E.2 Publications

[Designated Forest Land](#)  
[Open Space Taxation Act](#)  
[SSB 5359: Contiguous Parcels FAQ's](#)  
[Q&A – 2 Year Death Benefit Window \(Page 3\)](#)  
[Current Use Parcels in Foreclosure \(Page 2\)](#)



## Appendix F Incidental Use and Appurtenance Guidance

### Issue

What are some examples of secondary uses, including tourism type activities, that may be compatible with the Current Use Farm and Agricultural land classification?

### Statutes and rules

- [RCW 84.34.020\(2\)\(e\)](#).
- [WAC 458-30-200\(2\)\(bb\)](#).
- [WAC 458-30-200\(2\)\(h\)](#) & [458-30-258\(2\)\(w\)\(v\)\(B-C\)](#).
- [RCW 84.34.080](#).
- [Property Tax Advisory 4.3.2012](#).

### Analysis

Primary and incidental uses may be applicable to tourism type activities. Each activity must be evaluated on a case-by-case basis. The determination is based on:

- Whether the activities are related to and compatible with the primary agricultural use of land.
- The percentage of the parcel's total land or acreage allocated for the activity.
- The appurtenance (if any) used for the activity.

Activities which are incompatible with the primary agricultural use of the land, even when the acreage allocated to the activity is less than 20% of the parcel, or parcels if contiguous, are not an incidental use of classified land and may not retain the Current Use Farm and Agriculture classification.

### Definitions

“Primary agricultural use” is when, upon inspection of classified land, the amount of one use is greater than any other use on the parcel, or parcels if contiguous, is insignificant and not considered the main farming activity (WAC 458-30-200(2)(ll)).

“Incidental use” includes activities secondary to the primary use. They are very limited **and** utilize less than 20% of the total classified land area for the parcel, or parcels if contiguous, to retain the Current Use Farm and Agriculture classification.

An "appurtenance" is a structure that is integral to the agricultural use of the land it is associated with for Current Use Farm and Agriculture classification purposes. These structures must be widely and routinely used in commercial agricultural activities. If a

structure ceases to be used primarily for its agricultural purpose, it forfeits its appurtenance status, which makes the land it sits upon ineligible for the Current Use Farm and Agriculture classification. It's important to note that an "integral homesite" is distinct from an appurtenance.

The table below outlines how secondary use activities affect classification evaluations.

Secondary use is:	
Related and compatible	Does not impact primary use; No limit on area of land used - retains classification.
Compatible (but not related)	<u>If 20% of parcel or less</u> Incidental Use ("very limited") - Retains classification
	<u>If more than 20% of parcel</u> Not an incidental use - Create separate parcels, add additional land codes at market value or loses classification

Secondary use is:	Related	Not related	
Nonconflicting/compatible	No impact to primary use - No limit	<u>20% or less</u> Incidental use	More than 20% Not incidental use
Conflicting/incompatible	Not an incidental use - Excluded, loses classification	Not an incidental use - Excluded, loses classification	

### Reporting requirements

Owners must notify their county assessor within 60 days after any change is made to the use of their classified land (RCW 84.34.080). It is essential that any change in use of enrolled property, regardless of whether the owner believes it will impact program eligibility, are communicated and discussed. This ensures compliance and helps prevent unanticipated removal from the program.

Following notification, non-qualifying land will then be subject to additional tax, interest, and penalty. Exceptions are specified in RCW 84.34.070 and 84.34.108(6).

### Conclusion

County staff should evaluate parcels in the Current Use Farm and Agriculture classification with secondary use to ascertain whether the use remains related and compatible with the primary use of the land. Consider the following examples.

## Example 1

### Issue

Are structures (appurtenances) with a change in use, or alterations, still eligible for Current Use Farm and Agriculture classification?

**Authority:** WAC 458-30-200(2)(h)(i).

### Analysis

Alterations to existing farm and agricultural structures, or the construction of new ones, for non-agricultural purposes that conflict with or are incompatible with the primary agricultural use, can jeopardize the land's classification. Once a structure ceases to be primarily used for agricultural purposes, it loses its identity as an agricultural appurtenance and the land beneath it no longer qualifies for the Current Use Farm and Agriculture classification. However, if the structure continues to primarily support the land's ongoing farm and agricultural activities, it qualifies as an incidental use, regardless of any alternative uses.

In this situation, these key questions must be answered:

- Is the appurtenance or structure integral and crucial to the primary agricultural use of the land?
- Does it serve a necessary role in carrying out the purposes for which the land was classified?

Here are some examples:

- A restaurant or brewery does not produce ingredients on the farm, or all products sold are from a third party. This appurtenance would not be considered an incidental use.
- A permanent track was created for motorcross biking or other recreational sport vehicles. Farm ground has been altered so that crops are longer grown, this would not be considered an incidental use.
- An appurtenance structure that primarily stores equipment or agricultural product is periodically used for non-agriculture related events. The structure does not have alterations or remodeling to accommodate other events and does not exceed 20% of the total classified land area for the parcel, or parcels if contiguous, would qualify as an incidental use.
- A house or structure that has been altered or converted for use by non-agriculture related events, such as a wedding venue or meeting center, or if it is no longer used as a residence for the owner or farm employees, would not qualify as an incidental use.

- An area of land, formerly used as pasture or hay ground, is now a parking lot. The grass remains, but is mowed, or has been graveled or paved and not used for an agricultural purpose. The land does not qualify as an incidental use.

### **Conclusion**

Determining incidental use of classified land requires evaluating how the secondary activity interacts with the primary agricultural use or purpose of the land. If the secondary activities are deemed compatible with the primary commercial agricultural activity for which the land was originally classified **and** if the total land area used for these activities does not exceed 20% (including areas under appurtenances), it qualifies as an incidental use and the entire parcel may remain in the Current Use Farm and Agriculture classification.

However, if the activity is deemed no longer related to, or incompatible with, the primary commercial agricultural activity **or** if the total land area used for the activity exceeds 20% (including areas under appurtenances), the land being used for non-agricultural activities and the land under the associated appurtenance structure(s) is ineligible to continue in classification.

Activities that involve modifying existing structures, constructing new ones, or changing their use to purposes that conflict with or are incompatible with the primary agricultural use, do not meet the statutory requirements for Current Use Farm and Agriculture classification. Consequently, the land would lose its agricultural classification and be ineligible for the 20% incidental use allowance.

Landowners must inform the assessor of changes to the use of their property within 60 days of such changes to allow the assessor to evaluate if the new activity impacts the classification.

## **Example 2**

### **Issue**

Are pick your-own-pumpkin patches, corn mazes, and on-site pick and purchase experiences eligible for the Current Use Farm and Agriculture classification?

**Authority:** RCW 84.34.020(e).

### **Analysis**

Pick-your-own pumpkin patches, corn mazes, and on-site pick-and-purchase (U-pick) experiences generally operate in conjunction with the production, preparation, or sale of agricultural products produced on the same land.

Corn mazes qualify as raising an agricultural commodity **when** harvested for silage or utilized for livestock grazing once the maze season concludes. If the maze is annually plowed under and used for the same purpose, consider removing that area from classification, or re-classifying it under the Current Use Conservation program, depending on the local PBRs qualification criteria.

### **Conclusion**

Activities that align with the production, preparation, or sale of agricultural products from that same land, continue to qualify for Current Use Farm and Agriculture classification.

## **Example 3**

### **Issue**

If land, including areas under appurtenances, no longer qualifies for Current Use Farm and Agriculture classification, how much land should be removed from classification?

### **Authority**

- [RCW 84.34.020\(2\)\(e\)](#).
- [RCW 84.34.080](#).
- [WAC 458-30-200\(2\)\(h\)](#).
- [Property Tax](#) Advisory 4.3.2012.

### **Analysis**

Property Tax Advisory 4.3.2012 specifically pertains to one-acre homesite locations and does not encompass other appurtenances.

If an appurtenance no longer qualifies for Farm and Agriculture classification and is located within the one-acre homesite, no additional land needs to be removed from classification.

If an appurtenance no longer qualifies for Farm and Agriculture classification and is *not* located within the one-acre homesite, the land beneath the appurtenance should be removed from classification. Once a structure or improvement no longer qualifies for classification as an appurtenance, the footprint of the structure or improvement should be removed from classification. This applies to purpose-built structures determined to be incompatible or non-essential to the agricultural activity. For example, when a barn is altered (e.g., patios and concrete paths added for use as an event venue), it no longer qualifies for classification as an appurtenance and the footprint of the barn and surrounding concrete areas would be removed.

Landowners must inform the assessor of changes to the use of structures on classified land when the new use is unrelated to the primary use of the land.

Segregation, or creation of new parcels, based on zoning regulations, may permit the continued classification of qualifying land. In such instances, land utilized for the primary agricultural activity is separated from land used for non-qualifying activities. Additional taxes, interest, and penalties are imposed on removed parcels, which are then assessed at market value.

### **Conclusion**

The removal of one acre applies to homesite locations and generally not to appurtenances. If the removed appurtenance is located within the one-acre homesite, no additional land needs to be removed from classification. However, when the appurtenance is *not* located within the one-acre homesite, the ineligible structure or improvement footprint is removed from classification.

### **Statutes and rules**

#### **RCW 84.34.020(2)(a)(i)**

(2) "Farm and agricultural land" means:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes

#### **WAC 458-30-200(2)(n)**

Means the use of farm and agricultural land on a continuous and regular basis, prior to and subsequent to application for classification or reclassification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income by producing an agricultural product.

An owner or lessee must engage in commercial agricultural activities on the land to demonstrate a commercial agricultural purpose.

#### **RCW 84.34.020(2)(e)**

"Farm and agricultural land" is defined as:

**Any lands *including incidental uses* as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use *does not exceed twenty percent* of the classified land and the land on which *appurtenances necessary to the production, preparation, or sale of the agricultural products* exist in conjunction with the lands producing such products.** Agricultural lands also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an

integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands"

WAC 458-30-200(2)(bb)

Definitions.

(bb) "Incidental use" means a *use of land* classified as farm and agricultural land or timber land *that is compatible with commercial agricultural purposes*... Incidental use for land classified as farm and agricultural land cannot exceed 20 percent of the total classified land... An incidental use *may include, but is not limited to*, wetland preservation, a gravel pit, a farm woodlot, or a produce stand.

WAC 458-30-200(2)(h) and 458-30-258(2)(w)(v)(B-C)

Definitions.

(h) "Appurtenance" refers to something used with and related to or dependent upon another thing; that is, something that belongs to something else, an adjunct. **The thing appurtenant is strictly necessary and essential to the proper use and enjoyment of the land, as well as useful or necessary for carrying out the purposes for which the land was classified under chapter 84.34 RCW.**

**(i) In terms of farm and agricultural land, an appurtenance is something used for a particular sort of farm and is widely and routinely used in the operation of the commercial agricultural enterprise.**

**(ii) For example, an appurtenance may be an outhouse, barn, or tool shed or it may be equipment used for a particular purpose or task, such as tools, instruments, or machinery.**

(w) "Farm and agricultural land" means:

(v) Farm and agricultural land also includes:

**(B) Land on which appurtenances necessary for the production, preparation, or sale of the agricultural products are situated when the appurtenances are used in conjunction with the land(s) producing agricultural products, such as a machinery maintenance shed, or a shipping facility located on farm and agricultural land that produces the products to be shipped;**

**(C) Land incidentally used for an activity or enterprise that is compatible with commercial agricultural purposes as long as the incidental use does not exceed 20 percent of the classified land. An incidental use of classified farm and agricultural land may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand;**

RCW 84.34.080 (Originally enacted in 1970)

Change in use.

When land which has been classified under this chapter as open space land, farm and agricultural land, or timberland is applied to some other use, except through compliance with RCW 84.34.070, or except as a result solely from any one of the conditions listed in RCW 84.34.108(6), the owner shall within sixty days notify the county assessor of such change in use and additional real property tax shall be imposed upon such land in an amount equal to the sum of the following:

- (1) The total amount of the additional tax and applicable interest due under RCW 84.34.108; plus
- (2) A penalty amounting to twenty percent of the amount determined in subsection (1) of this section.

**WAC 458.30.200(2)(II)**

(II) "Primary use" means the existing use of a parcel or parcels of land so prevalent that when the characteristic use of the land is evaluated a conflicting or nonrelated use appears to be very limited or excluded. The primary use of a parcel does not represent a specific percentage of the total classified land.