

# Enrolled Senate Bill 594

Sponsored by Senator MONROE; Representative WINGARD

CHAPTER .....

AN ACT

Relating to exemption from property taxation; creating new provisions; amending ORS 307.150, 307.162 and 308.290; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 307.150 is amended to read:

307.150. (1) **Notwithstanding ORS 307.022**, upon compliance with ORS 307.162, the following property *[shall be]* **is** exempt from taxation:

(a) *[All]* Burial grounds, tombs and rights of burial, and *[all]* lands and *[the]* buildings *[thereon]* **on the land**, not exceeding 30 acres, *[owned and actually occupied by any crematory association incorporated under the laws of this state,]* used for the sole purpose of a crematory and burial place to incinerate remains.

(b) *[All]* Lands used or held exclusively for cemetery purposes, not exceeding 600 acres, *[owned and actually occupied by any cemetery association incorporated under the laws of this state].*

(c) *[Any]* Burial lots or space for burial of incinerate remains in buildings or grounds *[sold by a cemetery or crematory association which lots or space are]* used or held exclusively for burial purposes.

(d) *[Any]* Buildings on land described in paragraph (a) or (b) of this subsection that are used to store machinery or equipment used exclusively for maintenance of burial grounds.

(e) *[Any]* Personal property *[owned by a cemetery or crematory association incorporated under the laws of this state and]* used exclusively for cemetery or crematory *[association]* purposes.

(2) The statement required under ORS 307.162 shall be filed by the *[cemetery or crematory association that owns or sells]* **owner of** the property described in subsection (1) of this section.

(3) Any property exclusively occupied and used as a family burial ground is exempt from ad valorem taxation.

**SECTION 2.** ORS 308.290 is amended to read:

308.290. (1)(a) **Except as provided in paragraph (b) of this subsection**, every person and the managing agent or officer of any business, firm, corporation or association owning, or having in possession or under control taxable personal property shall make a return of the property for ad valorem tax purposes to the assessor of the county in which the property has its situs for taxation. As between a mortgagor and mortgagee or a lessor and lessee, however, the actual owner and the person in possession may agree between them as to who shall make the return and pay the tax, and the election shall be followed by the person in possession of the roll who has notice of the election. Upon the failure of either party to file a personal property tax return on or before March 1 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.296.

**(b) Paragraph (a) of this subsection does not apply to personal property exempt from taxation under ORS 307.162.**

~~[(b)]~~ **(2)** Every person and the managing agent or officer of any business, firm, corporation or association owning or in possession of taxable real property shall make a return of the property for ad valorem tax purposes when so requested by the assessor of the county in which the property is situated.

~~[(2)(a)]~~ **(3)(a)** Each return of personal property shall contain a full listing of the property and a statement of its real market value, including a separate listing of those items claimed to be exempt as imports or exports. Each statement shall contain a listing of the additions or retirements made since the prior January 1, indicating the book cost and the date of acquisition or retirement. Each return shall contain the name, assumed business name, if any, and address of the owner of the personal property and, if it is a partnership, the name and address of each general partner or, if it is a corporation, the name and address of its registered agent.

(b) Each return of real property shall contain a full listing of the several items or parts of the property specified by the county assessor and a statement exhibiting their real market value. Each return shall contain a listing of the additions and retirements made during the year indicating the book cost, book value of the additions and retirements or the appraised real market value of retirements as specified in the return by the assessor.

(c) There shall be annexed to each return the affidavit or affirmation of the person making the return that the statements contained in the return are true. All returns shall be in a form that the county assessor, with the approval of the Department of Revenue, may prescribe. Prior to December 31 preceding the assessment year, the department or assessor shall cause blank forms for the returns to be prepared and distributed by mail, but failure to receive or secure the form does not relieve the person, managing agent or officer from the obligation of making any return required by this section.

~~[(3)]~~ **(4)** All returns shall be filed on or before March 1 of each year, but the county assessor or the Department of Revenue may grant an extension of time to April 15 within which to file the return as provided by subsection ~~[(5), (6) or (7)]~~ **(6), (7) or (8)** of this section.

~~[(4)(a)]~~ **(5)(a)** In lieu of the returns required under subsection (1)(a) or ~~[(b)]~~ **(2)** of this section, every person and the managing agent or officer of any business, firm, corporation or association owning or having in possession or under control taxable real and personal property that is either principal industrial property or secondary industrial property as defined ~~[by]~~ **in** ORS 306.126 (1) and is appraised by the Department of Revenue shall file a combined return of the real and personal property with the department.

(b) The contents and form of the return shall be as prescribed by rule of the department. Any form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that is a part of an industrial property shall be included in a combined return.

(c) In order that the county assessor may comply with ORS 308.295, the department shall provide a list to the assessor of all combined returns that are required to be filed with the department under this subsection but that were not filed on or before the due date or within the time allowed by an extension.

(d) If the department has delegated appraisal of the property to the county assessor under ORS 306.126 (3), the department shall notify the person otherwise required to file the combined return under this subsection as soon as practicable after the delegation that the combined return is required to be filed with the assessor.

(e) Notwithstanding subsection ~~[(1)]~~ **(2)** of this section, a combined return of real and personal property that is industrial property appraised by the department shall be filed with the department on or before March 1 of the year.

~~[(5)(a)]~~ **(6)(a)** Any person required to file a return under subsection ~~[(4)]~~ **(5)** of this section may apply to the Department of Revenue for an extension of time to April 15, within which to file the return.

(b) Extensions granted under this subsection may be based on a finding by the department that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.

(c) An extension granted under this subsection shall apply to returns required to be filed under subsection [(4)] (5) of this section with either the county assessor or the department.

(d) The department shall notify assessors in affected counties when the department grants extensions under this subsection.

[(6)(a)] (7)(a) Except as provided in subsection [(5)] (6) of this section, any person required to file a return with the county assessor under this section may apply to the assessor for an extension of time to April 15 within which to file the return.

(b) Extensions granted under this subsection may be based on a finding by the assessor that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the assessor revokes the extension.

[(7)(a)] (8)(a) Any person required to file returns in more than one county may apply to the Department of Revenue for an extension of time to April 15 within which to file the returns. The department may grant extensions to a person required to file returns in more than one county.

(b) Extensions granted under this subsection may be based on a finding by the department that:

(A) Good or sufficient cause exists for granting an extension for the property tax year of the return; or

(B) Granting an extension enhances the accuracy of the filing by the taxpayer and long-term voluntary compliance. An extension granted under this subparagraph shall continue in effect for each subsequent property tax year until the taxpayer cancels the extension or the department revokes the extension.

(c) Whenever the department grants an extension to a person required to file returns in more than one county, the department shall notify the assessors in the counties affected by the extensions.

[(8)] (9) The Department of Revenue shall, by rule, establish procedures and criteria for granting, denying or revoking extensions under this section after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.

[(9)] (10) A return is not in any respect controlling on the county assessor or on the Department of Revenue in the assessment of any property. On any failure to file the required return, the property shall be listed and assessed from the best information obtainable from other sources.

[(10)(a)] (11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

(b) The assessor or the department may forward any return received in error to the department or the county official responsible for appraising the property described in the return.

(c) Notwithstanding paragraph (a) of this subsection, a return described in paragraph (a) of this subsection may be disclosed to:

(A) The Department of Revenue or its representative;

(B) The representatives of the Secretary of State or to an accountant engaged by a county under ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment roll (including adjustments to returns made by the Department of Revenue);

(C) The county assessor, the county tax collector, the assessor's representative or the tax collector's representative for the purpose of:

(i) Collecting delinquent real or personal property taxes; or  
(ii) Correctly reflecting on the tax roll information reported on returns filed by a business operating in more than one county or transferring property between counties in this state during the tax year;

(D) Any reviewing authority to the extent the return being disclosed relates to an appeal brought by a taxpayer;

(E) The Division of Child Support of the Department of Justice or a district attorney to the extent the return being disclosed relates to a case for which the Division of Child Support or the district attorney is providing support enforcement services under ORS 25.080; or

(F) The Legislative Revenue Officer for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850.

(d) Notwithstanding paragraph (a) of this subsection:

(A) The Department of Revenue may exchange property tax information with the authorized agents of the federal government and the several states on a reciprocal basis, or with county assessors, county tax collectors or authorized representatives of assessors or tax collectors.

(B) Information regarding the valuation of leased property reported on a property return filed by a lessor under this section may be disclosed to the lessee or other person in possession of the property. Information regarding the valuation of leased property reported on a property return filed by a lessee under this section may be disclosed to the lessor of the property.

~~[(11)]~~ **(12)** If the assessed value of any personal property in possession of a lessee is less than the maximum amount of the assessed value of taxable personal property for which ad valorem property taxes may be canceled under ORS 308.250, the person in possession of the roll may disregard an election made under subsection (1)(a) of this section and assess the owner or lessor of the property.

**SECTION 3.** ORS 307.162 is amended to read:

307.162. (1)(a) Before any real or personal property may be exempted from taxation under ORS 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the institution or organization claiming the exemption shall file with the county assessor, on or before April 1 of the assessment year, a statement, verified by the oath or affirmation of the president or other proper officer of the institution or organization, ~~[(listing)]~~ **that:**

(A) **Lists** all real ~~[(or personal)]~~ property claimed to be exempt and ~~[(showing)]~~ **shows** the purpose for which ~~[(such)]~~ **the real** property is used~~[(. However:)]~~; **and**

(B) **Cites the statutes under which exemption for personal property is claimed.**

~~[(a)]~~ (b) If the ownership of all property included in the statement filed with the county assessor for a prior year remains unchanged, a new statement shall not be required.

~~[(b)]~~ (c) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days from the date of acquisition of the property.

~~[(c)]~~ (d) ~~[(As used in)]~~ **For purposes of** this subsection, "ownership" means legal and equitable title.

(2) Notwithstanding subsection (1) of this section, a statement may be filed under this section on or before December 31 of the assessment year for which exemption is first desired. However, any statement filed after the time for filing the statement specified in subsection (1) of this section must be accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the real market value of the property to which the statement pertains, as determined for the assessment year by the assessor for this purpose. If the statement is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, no exemption shall be allowed for the tax year based upon a statement filed pursuant to this subsection. A statement may be filed under this section notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475. The value of the property used to determine the late filing fee under this section is appealable in the same manner as other acts of the county assessor. Any filing fee collected under this section shall be deposited to the county general fund.

(3)(a) Notwithstanding subsection (1) of this section, if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to make a timely application for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.

(b) The organization must file an application with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The application shall:

- (A) Describe the additions or improvements to the exempt property;
- (B) Describe the current use of the property that is the subject of the application;
- (C) Identify the tax year and any preceding tax years for which the exemption is sought;
- (D) Contain any other information required by the Department of Revenue; and

(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value, as of the most recent assessment date, of the property that is the subject of the application.

(c) Upon the county assessor's receipt of a completed application and late filing fee, the assessor shall determine if the property that is the subject of the application, for each tax year for which exemption is sought, would have qualified for exemption had a timely statement been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely statement under subsection (1) of this section been filed shall be exempt from taxation for each tax year for which the property would have so qualified.

(d) An application for exemption under this subsection may be filed only for tax years for which the time for filing a statement under subsections (1) and (2) of this section has expired. An application filed under this subsection, however, may serve as the statement required under subsection (1) of this section for the current assessment year.

(e) For each tax year for which an exemption granted pursuant to this subsection applies:

(A) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation, shall be refunded. Refunds shall be made from the unsegregated tax collections account established under ORS 311.385.

(B) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption is granted, shall be abated.

(f) A late filing fee collected under this subsection shall be deposited in the county general fund.

(4) If an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and changes the use of the property to a use that would not entitle the property to exemption from taxation, the institution or organization shall notify the county assessor of the change to a taxable use within 30 days of the change in use.

**SECTION 4. (1)(a) Notwithstanding the time periods set forth in ORS 307.162, a claim for exemption under ORS 307.150 for the tax year beginning July 1, 2008, may be filed in writing with the county assessor, on forms supplied by the assessor, within 90 days after the effective date of this 2009 Act.**

**(b) The claim for exemption must:**

**(A) Contain the information and verification required for filing the claim for exemption; and**

**(B) Be accompanied by a late filing fee of \$200.**

**(2) If tax on the exempt value has not been paid, the tax and any interest are abated.**

**(3) If tax on the exempt value has been paid, the tax collector shall notify the governing body of the county of the refund required under ORS 307.150. Upon receipt of notice from the tax collector, the governing body shall cause a refund of the tax and any fee and interest paid to be made from the refund reserve account, if the county has established a refund reserve account under ORS 311.807, or from the unsegregated tax collections account described in ORS 311.385. The refund under this subsection shall be made without interest. The county**

assessor and tax collector shall make the necessary corrections in the records of their offices.

**SECTION 5.** (1) Notwithstanding the deadlines for filing personal property returns under ORS 308.290, a return is not required for personal property described in ORS 308.290 (1)(b) for tax years beginning on or after July 1, 2009.

(2)(a) No penalty may be imposed under ORS 308.295 for failure to file a return of personal property under subsection (1) of this section.

(b) If a penalty under ORS 308.295 has been paid, the person in charge of the roll shall cancel the penalty on the roll for the tax year for which the exemption was granted and the penalty shall be refunded without interest under ORS 311.806.

**SECTION 6.** (1) Section 4 of this 2009 Act and the amendments to ORS 307.150 by section 1 of this 2009 Act apply to property tax years beginning on or after July 1, 2008.

(2) The amendments to ORS 307.162 and 308.290 by sections 2 and 3 of this 2009 Act apply to property tax years beginning on or after July 1, 2009.

**SECTION 7.** This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

Passed by Senate April 2, 2009

Received by Governor:

Repassed by Senate June 1, 2009

.....M.,....., 2009

Approved:

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Secretary of Senate

.....M.,....., 2009

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President of Senate

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Governor

Passed by House May 28, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

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Speaker of House

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Secretary of State