

NOT EVERYTHING IS EXEMPT.

DISTINGUISHING BETWEEN FARMING EXEMPT AND NON-EXEMPT ASSETS FOR PERSONAL PROPERTY REPORTING

WHAT IS PERSONAL PROPERTY

Taxable personal property includes machinery, equipment, furniture, etc., used previously or presently in a business including any property not currently being used, placed in storage, or held for sale. This also includes freight costs!

A characteristic that distinguishes **Business Personal Property** from real property machinery and equipment is mobility. **Business Personal Property** is property that is not affixed to, or part of, real estate.

All businesses have some form of personal property, but some businesses may have equipment that is exempt from ad valorem taxation.

THE LINE IN THE SOIL; UNDERSTANDING WHERE FARMING BEGINS AND ENDS

- ✘ ORS 307.394
- ✘ (1) The following tangible personal property is exempt from ad valorem property taxation:
 - ✘ (a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops;
 - ✘ (b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products;
 - ✘ (c) Machinery and equipment used primarily to implement a remediation plan as defined in ORS 308A.053 (Definitions for ORS 308A.050 to 308A.128) for the period of time for which the remediation plan is certified; or
 - ✘ (d) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination of these activities.
- ✘ (2)(a) Items of tangible personal property, including but not limited to tools, machinery and equipment that are used predominantly in the construction, reconstruction, maintenance, repair, support or operation of farm machinery, and equipment and other real or personal farm improvements that are used primarily in animal husbandry, agricultural or horticultural activities, or any combination of these activities, are exempt from ad valorem property taxation.
 - ✘ (b) An item of tangible personal property described in paragraph (a) of this subsection is exempt from ad valorem property taxation only if the person that owns, possesses or controls the item also:
 - ✘ (A) Owns, possesses or controls the farm machinery, equipment and other real and personal farm improvements for which the item is used; and
 - ✘ (B) Carries on the animal husbandry, agricultural or horticultural activity, or combination of activities, in which the farm machinery, equipment or other real and personal farm improvements are used. [2001 c.753 §15; 2009 c.776 §8]

SO WHAT DOES THIS MEAN?

It means that when you have equipment in which the primary purpose is related to a farming practice, (preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops), OR equipment used for feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products, OR equipment used in remediation, OR equipment for any other horticultural or animal husbandry use- it is exempt from ad valorem taxation!

Also, tools or equipment that are used to construct or maintain or support farming practices or machinery and equipment are also exempt from taxation.

STILL CONFUSED?

For clarification, lets look at two different categories.

- ✘ Farming (Exempt)
- ✘ Processing (Assessable)

THINK OF FARMING AS THE ACTIVITIES THAT HAPPEN IN THE FIELD.

- ✘ Plowing
- ✘ Fertilizing
- ✘ Seeding
- ✘ Watering
- ✘ Maintaining
- ✘ Harvesting
- ✘ Placing into storage
- ✘ Tractors, moldboards, chisels, disks, subsoilers, tillers, etc.
- ✘ Tractors, sprayers, tanks, nozzles, etc.
- ✘ Variable rate equipment, air drill, fluted meter equipment, etc.
- ✘ Drip irrigation, flood irrigation, sprinkler irrigation, and micro irrigation.
- ✘ Tractors, tools, pruners, etc.
- ✘ Crop, grain, root crop, and vegetable, harvesting machines, threshers, and other machines used to harvest from the field.
- ✘ Bins, containers, or other holding devices specifically for storage. Coolers, that prevent the product from rot.

EXEMPT

- ✘ These activities are part of farming, therefore the machinery and equipment used in these practices are exempt. They do not need to be reported on a personal property tax return, nor a real property tax return in the machinery and equipment section for county tax reporting purposes.

THINK OF PROCESSING AS THE ACTIVITIES THAT HAPPEN OUT OF THE FIELD.

Post-harvest is a defining moment for the courts and all agricultural businesses.

Oregon Supreme Court case King Estate Winery v. Oregon Department of Revenue held that only farm machinery and equipment used for activities that “*pertain to cultivating crops on land****” were meant to be included under the exemption and the court found “*no legislative intent to include machinery and equipment used in fruit processing and fruit-product selling as part of the definition of ‘farm machinery and equipment.’*”

In other words, this was the court stating that activities in the field are exempt, but once brought out of the field or storage, **processing begins**. Equipment used for processing is not exempt.

FURTHER CLARIFICATION.

- ✘ OAR 150-307.391(1)(b) defines both “processing” and “storage of farm crops,” and provides rules and examples to distinguish between the two.
- ✘ “(1) Definitions:
 - “(a) ‘Storage of farm crops’ refers to the holding area in which a product is placed before processing begins.
 - “(b) ‘Processing’ is altering the crop in any way such as: washing, icing, sorting, grading, waxing, boxing, slicing, or cutting.
 - “(c) ‘Primary’ is the leading use or the use involving the highest percentage of time relative to all the various uses.
- ✘ “(2) Machinery and equipment used to place a farm crop in storage are exempt from taxation. However, once processing of the crop is begun, it is no longer a crop, but a product. When the same machinery and equipment are used for both placing in storage and processing the primary use is what determines its assessment status.
- ✘ “Example: If an unlicensed farm vehicle is used 45 percent of the time to move cleaned, sorted, washed and bagged carrots ready for market (PRODUCT); 30 percent of the time to move freshly-picked carrots from the field to the warehouse or cold storage facility; and 25 percent of the time sitting idle, then the vehicle is used primarily in a nonexempt status and is fully assessable, even though that use is not 50 percent or more of the time available.
- ✘ Example: Apples are picked and go directly into cold storage. This would be considered ‘placing in storage of farm crops.’ When these same apples are sorted, washed, or boxed it becomes a product and placing back into cold storage until sold is not considered ‘placing in storage of a farm crop.’ At this point apples change from a crop to a product.

PERCENTAGE OF USE

- ✘ When you have a piece of machinery or equipment that is used both in the field (farming) and out of the field for processing, it is important to note the percentage of use. If the equipment is used more for processing than farming, you would need to report it, but if it was used **primarily* for farming, then the equipment becomes exempt.

“OAR 150-307.391(1)(c) ‘Primary’ is the leading use or the use involving the highest percentage of time relative to all the various uses.

Yes, it is possible to have farming equipment that is taxable.

FARM OR PROCESSING?

Farming, exempt.



Farming, exempt.



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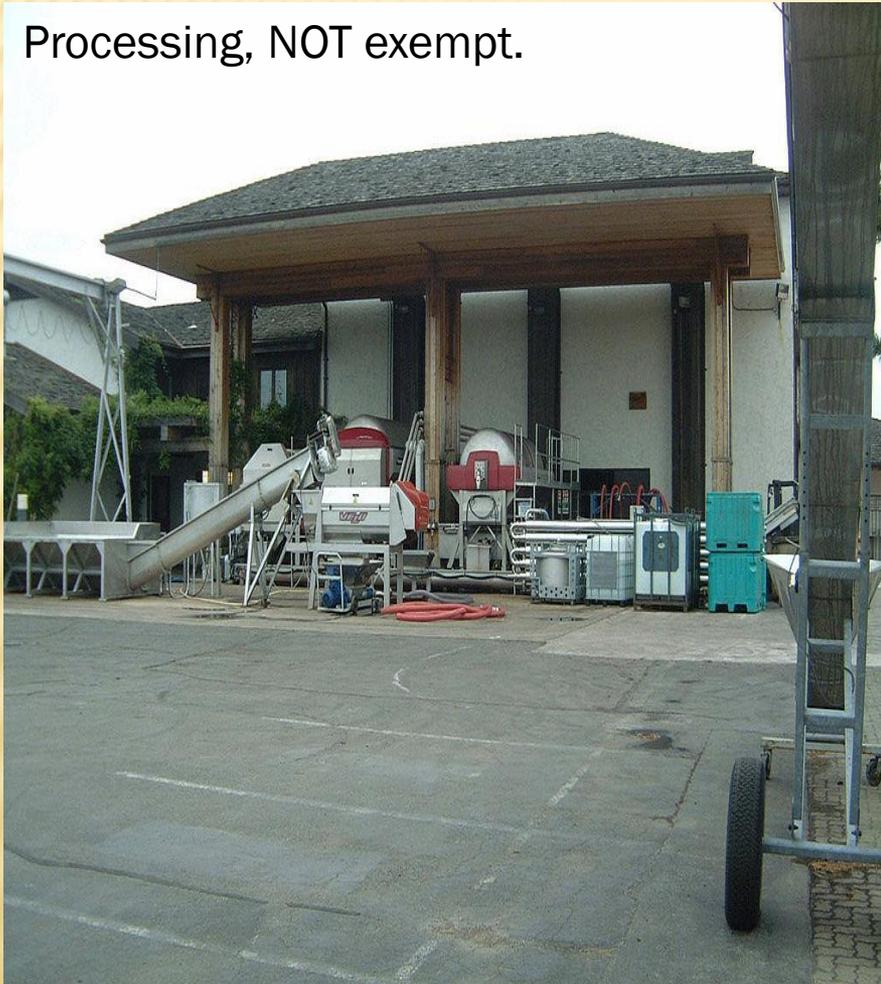


Farming, exempt.



FARM OR PROCESSING?

Processing, NOT exempt.



Processing,
NOT
exempt.

Farming, exempt.



FARM OR PROCESSING?

Depends on use,
generally exempt when
used as picking bins or
storage. Becomes
assessable when used
during processing; check
your percentage of use!



Processing, NOT exempt.



FARM OR PROCESSING?

Farming, exempt.



Processing, NOT exempt.



Forklifts may be used in many different ways. Some are used only in the field, while others are only used in processing. Some run double duty, check your use and percentage of use.

FARM OR PROCESSING?

Processing, NOT exempt.



Processing, NOT exempt.



Generally farming, exempt, but what is your use?



OTHER COURT CASES.

- ✘ King Estate Winery v. Department of Revenue
- ✘ Peter Dinsdale v. Marion County Assessor
- ✘ Zerba v. Umatilla County Assessor

AGRITAINMENT

Lakeview Farms v. State of Oregon Department of Revenue and Washington County Assessor

Many farms have opted to partake in one form of agritainment or another often taking advantage of the great weather days in each season. These activities are not exempt from taxation. There may be equipment that is strictly only for agritainment use which would be fully assessable, while other equipment may be exempt due to its 'primary' use in the field. Keeping records of the percentage of use for questionable equipment is vital and explained in Lakeview Farms v. State of Oregon Department of Revenue and Washington County Assessor.



BEYOND AGRITAINMENT.

Many vineyards have decided to expand by using part of their land to open up a winery (processing), a tasting room (business), or offer weekend getaways (business). Regardless of the farming practices that take place in the field, the winery equipment, tasting room equipment, and all equipment associated with the rentals are totally assessable.

✘ ORS 308.232

All real or personal property within each county not exempt from ad valorem property taxation or subject to special assessment shall be valued at 100 percent of its real market value. Unless the property is subject to maximum assessed value adjustment under ORS 308.149

KEY THINGS TO REMEMBER

- ✘ Farming generally starts and stops in the field or storage.
- ✘ Once the crop undergoes processing, it becomes a product and all machinery and equipment from that point forward is generally assessable.
- ✘ Agritainment is fun! But it is also assessable, make sure you keep good records and report what is necessary.

ONE LAST THING

- ✦ You probably noticed that in the ORS on the first slide, it mentioned animal husbandry. To recap, activities that use machinery and equipment that are primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products are exempt.

When looking at a typical farm business with animals, all the equipment used to care for the animals will be exempt.

WHEN IN DOUBT, REACH OUT!

We are here for you! If you are unsure whether or not you should be reporting your business assets as personal property or machinery & equipment, contact us.

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Thank you Yamhill County!

This presentation was originally designed by Yamhill County's Assessment and Taxation's Personal Property Department. With their permission, Clatsop County has used their templates and updated the information to suit our unique area. We would like to thank Yamhill County for allowing us to use their templates and information; which saved us valuable time and costs.

