

Opportunities to Save with Washington's Open Space Taxation Act

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If you are an owner of lands that produce food, fiber, or forest crops, or lands with possible conservation and recreation value, you may be eligible for property tax savings. [Washington's Open Space Taxation Act](#) ("the Act") provides property owners with the possibility of substantial real estate tax savings by allowing certain lands to be valued under their "current use" rather than at their "highest and best use."

Broadly, the Act provides three current use classifications: open space land, farm and agricultural land, and timber land. Open space land is land designated on a comprehensive land use plan, or land that meets various criteria related to conservation, preservation, and enhancement of natural resources, historical sites, or recreational opportunities. Land is eligible for classification as farm and agricultural land if it is devoted primarily to agricultural uses and meets certain requirements as to size and income. Land can be classified as timber land if it meets size requirements and is devoted primarily to the growth and harvest of timber for commercial purposes. Timber land classification may not be available in all counties. To qualify for classification under the Act, the lands must meet specific use requirements found in Chapter 84.34 RCW.

Applications for classification under the Act are made to a "Granting Authority," an entity that varies depending on which classification is being applied for and whether the land is located in an unincorporated or incorporated part of the county. Generally, applications are made to the local taxing authority or county legislative authority. In incorporated areas, the city and county may both need to act on an application for classification. Specific procedure for this may vary depending on the county, so it is essential to check with your local authority.

The effect of classification under the Act is to reduce the current taxable value of the property, and thus, reduce the current tax bill. Before applying for classification, it is important to recognize that there will likely be conditions imposed on future use of the land. Conditions, and the classification itself, are usually set out in a recorded, executed agreement between the land owner and the granting authority. The duration of the agreement is sometimes agreed upon in the document itself, though many agreements are perpetual and fully binding on future owners of the property. Once classified, the use of the property may be changed by following the Act's notification procedure, but the taxing authority can and will impose a "recapture" or penalty equal to the difference between the taxes actually paid and the taxes that would have been paid without the classification, for a period up to seven years (plus interest).

Land that is classified as open space or farm and agricultural cannot be used for non-farm purposes for at least ten years without incurring an additional penalty. If different use occurs within the first 10 years of classification, the taxing authority may charge a 20% penalty.¹ Sellers and purchasers of classified land should be sure to note that the new owner will be liable at sale for the additional tax, interest, and penalty unless the new owner signs a Notice of Continuance attached to the real estate excise tax affidavit. If the classification will not be continued, the purchase agreement should specifically allocate responsibility for payment of the recapture tax.

Ultimately, the Open Space Taxation Act provides an interesting opportunity for property owners and purchasers to reduce their real estate tax bill. However, before applying for classification, it is essential to

¹ RCW 84.34.080.



familiarize yourself with the statute and applicable regulations to ensure you aren't subsequently surprised by the Act's unique tax and land use implications.

For more information on the Act and possible benefits/implications, please contact [Susan Shyne](#).

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