



Larch Occasional Paper #16

June 2012

## Oregon Private Timberland Owners Not Paying Fair Share of County Property Taxes

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### *Abstract*

*The owners of 7.9 million acres of private timberlands in Oregon pay far less than their fair (compared with what others pay) and just (based on wealth) share of county property taxes. Very low taxes on Oregon private timberlands are rationalized as helping to prevent, or at least forestall, development. They do not. County property tax revenues from private timberlands have not kept pace with increasing property values. In 2010, private timberland owners paid \$19.5 million in local property taxes. Had they been taxed in the same proportion as their contribution to the state's total taxable assessed value, they would have paid \$30.6 million. Had they been taxed in the same proportion as their contribution to the state's total taxable real market value, they would have paid \$111 million. For property tax purposes, their holdings are valued at \$1.9 billion; in fact, the real market value of the holdings is \$10 billion. Other property class owners pay higher county property taxes as a result. The current Oregon system of assessment and taxation of property in general—and of private timberlands in particular—is unfair and unjust. As federal logging levels have declined, private timberland values have increased. Part of this windfall received by private timberland owners should be captured by the counties to help pay their fair share of replacing declining federal timber payments to counties.*

### **Introduction**

The Oregon Department of Revenue reports 7,860,974 acres of private timberlands in the state's tax base.<sup>2</sup> Each level of government taxes timber or timberland differently. Counties collect *property* taxes, the State of Oregon collects *timber* taxes,<sup>3</sup> and the federal (and state) government

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<sup>2</sup> Oregon Department of Revenue, *Oregon Property Tax Statistics: Fiscal Year 2010–11*, 150-303-405 (Rev. 8-11), <http://www.oregon.gov/dor/STATS/docs/303-405-11/303-405-11.pdf?ga=t>.

<sup>3</sup> Kerr, Andy. 2012. Oregon Private Timberland Owners Not Paying Fair Share of State Timber Taxes. Larch Occasional Paper #17. The Larch Company, Ashland, OR. Available at [www.andykerr.net/downloads](http://www.andykerr.net/downloads)

collects *income* taxes.<sup>4</sup> This paper focuses on county property taxes. The amounts “collected” are very low in comparison to amounts collected from other county property taxpayers.

According to the National Timber Tax Website, states in the United States employ one or more of four different systems of forest property taxation:

***Ad valorem property tax*** (current use)—*A tax, duty, or fee which varies based on the value of the products, services, or property on which it is levied.*

***Flat property tax***—*Under this system the same amount of money per acre is collected on any acre of timberland regardless of its value.*

***Yield tax***—*A tax on the value of the harvested timber. The tax is collected after the timber is harvested.*

***Severance tax***—*A flat tax on a specific unit of volume harvested (for example, board feet, cubic feet, cords, tonnage). The tax is collected after the timber is harvested.*<sup>5</sup>

Since it began levying county property taxes and state timber taxes on timber and timberland, Oregon has used various combinations of ad valorem, severance, and yield taxes. It does not employ a flat property tax.

Oregon county property tax is an ad valorem tax. In Latin, *ad valorem* literally means “according to the value.” A dictionary definition is “in proportion to the estimated value of the goods or transaction concerned.”<sup>6</sup> In general, land is taxed as an annual percentage of its *real market value* (RMV; “the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm’s-length transaction occurring as of the assessment date for the tax year”<sup>7</sup>). In Oregon, private timberlands are appraised at their “current use” value (the value of the land for the growing and harvesting of timber, even though the RMV may be much higher as it reflects development value). Oregon’s county property tax law is further complicated in that the amount of annual increase in assessed value is limited to 3 percent annually, irrespective of market reality. The taxable assessed value (TAV) of any property is much lower than its RMV.

A county property tax on private timberlands can be *fair* if applied equally to all in the same class of property owners and comparably between different kinds of property holders. However, depending upon how timberland has been assessed, effective tax rates vary greatly between timberland owners in Oregon. A property tax is *just* if the same rate of taxation is applied uniformly to all property classes that are assessed at real market value. However, the Oregon

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<sup>4</sup> Kerr, Andy. 2012. Oregon Private Timberland Owners Not Paying Fair Share of Federal Income Taxes. Larch Occasional Paper #18. The Larch Company, Ashland, OR. Available at [www.andykerr.net/downloads](http://www.andykerr.net/downloads)

<sup>5</sup> Quick Reference: Forest Property Taxation Systems in the United States, National Timber Tax Website, <http://www.timbertax.org/statetaxes/quickreference>.

<sup>6</sup> *New Oxford American Dictionary*, 3rd ed. (Oxford University Press, 2010).

<sup>7</sup> Oregon Revised Statutes 308.205.

property tax system assesses various property classes at different values and taxes at different rates.

The ostensible purpose of favorable county property tax treatment for Oregon private timberland owners is to prevent development of those lands. It doesn't.

### **Measures 5 and 50**

Most local services and many of the functions of county and city governments are funded with property taxes, as are significant fractions of school districts and community college budgets.<sup>8</sup> Taxes are levied based on the value of the property. In a fair and just system of property taxation, all property values—upon which taxes are based—are assessed at real market values (RMV) and all are taxed at the same rates. If the value of your property goes up, you are richer and pay more taxes. Conversely, if the value of your property goes down, you are poorer and pay fewer taxes. Your neighbor is taxed at the same rate because you are all in the same taxing jurisdictions (county, city, library district, or such) and receive the same set of services.

Oregon's property tax system is not fair. In their wisdom, the people of Oregon enacted provisions (known as Measures 5 and 50) in the Oregon Constitution that limit both the rate of taxation and the rate of increase for assessed property values.<sup>9</sup>

*Measure 5 is a tax limitation constitutional amendment approved by Oregon voters in 1990. It restricted taxes on any parcel of property per \$1,000 of real market value: the education category is limited to \$5 and general government to \$10. Tax compression occurs if the tax extended on a property exceeds either of Measure 5 limits. That is, if taxes for an individual property exceed the limits, then the taxes for that property are reduced to the limits. General obligation bonds are not restricted by Measure 5 limits. In May 1997 voters passed a second constitutional amendment to limit property tax.*

*Measure 50 did not replace Measure 5, but rather established a second level of restrictions. Measure 50 gave each district a permanent tax rate which can not be increased without a constitutional amendment. However, voters can approve local option levies for up to five years for operations, and up to the lesser of ten years or the useful life of capital projects. Those local option levies as well as two other types of levies, GAP1 and urban renewal, are subject to Measure 5 tax limits. Local option levies, as well as general obligation bonds, must be approved by a majority vote at a general election. . . . Measure 50 also defined the concept of Assessed Value (AV). The 1997-98 Maximum Assessed Value (MAV) for each property is 90% of its 1995-96 real market value (RMV). If no new construction occurs on the property, then the growth in assessed value is capped at 3% a year.*

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<sup>8</sup> State of Oregon Legislative Revenue Office, 2012 Oregon Public Finance: Basic Facts (Research Report #1-2, January 2012), D21, [http://www.leg.state.or.us/comm/lro/2012\\_publications\\_reports/Basic\\_Facts\\_2012.pdf](http://www.leg.state.or.us/comm/lro/2012_publications_reports/Basic_Facts_2012.pdf).

<sup>9</sup> Oregon Department of Revenue, A Brief History of Oregon Property Taxation, 150-303-405-1 (Rev. 6-09), <http://www.oregon.gov/DOR/STATS/docs/303-405-1.pdf?ga=t>.

However, assessed value can not exceed real market value. The ratio of MAV to RMV is known as the Changed Property Ratio (CPR).<sup>10</sup>

<b>Table 1</b> <b>Taxable Assessed Value Versus Real Market Value of All Properties in Oregon Counties (ca. 2010)</b>			
<b>County</b>	<b>Taxable Assessed Value (TAV)</b>	<b>Real Market Value (RMV)</b>	<b>TAV as % of RMV</b>
Baker	\$1,177,056,739	\$1,554,939,842	76%
Benton	\$6,610,232,210	\$9,397,695,208	70%
Clackamas	\$37,077,595,791	\$48,837,133,763	76%
Clatsop	\$5,010,818,053	\$8,135,360,065	62%
Columbia	\$4,085,273,311	\$6,299,615,211	65%
Coos	\$4,467,848,598	\$6,420,316,157	70%
Crook	\$1,638,541,593	\$2,046,232,956	80%
Curry	\$2,450,239,569	\$3,352,301,683	73%
Deschutes	\$17,740,724,079	\$23,496,169,372	76%
Douglas	\$7,583,417,900	\$14,759,614,525	51%
Gilliam	\$861,591,541	\$1,392,592,349	62%
Grant	\$450,550,596	\$1,328,189,620	34%
Harney	\$441,945,538	\$1,445,530,198	31%
Hood River	\$1,529,314,874	\$3,403,320,580	45%
Jackson	\$16,251,055,937	\$24,611,610,456	66%
Jefferson	\$1,437,148,710	\$2,583,984,356	56%
Josephine	\$6,086,990,924	\$8,446,479,564	72%
Klamath	\$4,892,808,210	\$8,492,542,339	58%
Lake	\$521,820,685	\$1,304,842,051	40%
Lane	\$26,023,188,026	\$45,224,136,164	58%
Lincoln	\$6,431,725,165	\$11,026,441,334	58%
Linn	\$7,223,110,254	\$10,813,077,910	67%
Malheur	\$1,611,272,289	\$4,622,774,690	35%
Marion	\$19,627,632,200	\$34,978,576,014	56%
Morrow	\$1,332,893,120	\$1,680,530,420	79%
Multnomah	\$61,027,180,083	\$124,710,839,632	49%
Polk	\$4,625,538,871	\$7,379,577,620	63%
Sherman	\$401,486,597	\$2,409,402,239	17%
Tillamook	\$3,897,063,492	\$6,103,214,368	64%
Umatilla	\$5,806,875,414	\$6,171,651,921	94%
Union	\$1,475,297,820	\$3,215,505,280	46%
Wallowa	\$632,512,000	\$2,035,063,000	31%
Wasco	\$1,742,794,525	\$2,631,554,447	66%
Washington	\$46,801,868,237	\$65,313,652,702	72%
Wheeler	\$106,647,987	\$613,015,488	17%
Yamhill	\$6,744,124,819	\$10,206,294,681	66%
<b>Total or Average</b>	<b>\$317,826,185,757</b>	<b>\$516,443,778,205</b>	<b>62%</b>
Source: Oregon Blue Book ( <a href="http://bluebook.state.or.us/local/counties/counties.htm">http://bluebook.state.or.us/local/counties/counties.htm</a> , accessed 3 Nov. 2011)			

<sup>10</sup> State of Oregon Legislative Revenue Office, 2012 Oregon Public Finance: Basic Facts, D1-2.

The result is that the counties levy taxes on the taxable assessed value (TAV) rather than the real market value (RMV) of property. Table 1 summarizes the taxable assessed value (the basis of levying a property tax, whatever the rate) and the real market value (what the property is really worth on the market) of all properties in each of Oregon's counties.

As the Governor's Task Force on Federal Forest Payments and County Services noted:

*Oregon counties are saddled by a property tax system that has tied local tax rates to rates in effect more than a decade ago and fails to capture the full value of economic activity and growth. As a consequence, counties cannot grow their way out of these problems in the way that the state rode the wave of economic recovery to a fiscal comeback between 2003 and 2007.*<sup>11</sup>

*Most of the hard hit counties and local governments face the problem of diminishing revenue returns from economic growth, because the taxable value of real property under Oregon law continues to decline relative to market value.*<sup>12</sup>

### **How Oregon's Property Tax System Favors Private Timberland Owners**

In Oregon, certain property owners effectively pay lower taxes because the RMV of their property has gone up far more than the TAV. Compounding the unfairness and unjustness of the Oregon property tax system is that private timberland owners pay in particular disproportionately lower taxes compared to other commercial and residential property owners because they are taxed at "current use" (growing timber) rather than the TAV applied to other classes of property.

Before we delve into the minutiae (I warned you) of the property taxation of private timberland in Oregon, let's examine how private timberland owners fare relative to other property tax payers. For property tax purposes, private timberland is assessed at "current use assessment value (CUAV), which is far lower than TAV—not to mention RMV. Compare the taxable assessed value (TAV) versus real market value (RMV) for *private timberland* in Table 2 with those values for *all properties* in Table 1. For all properties statewide, the TAV is 62 percent of the RMV. For private timberlands statewide, the TAV is 20 percent of the RMV. In most counties, private timberland owners fare far better than the average property owner.

Oregon private timberland owners receive preferential property tax treatment (which means that the rest of us pay more) in two ways: intentionally and inadvertently.

- Intentionally ("current use" valuation a.k.a. specially assessed values): In 2010–11, private timberland owners paid \$19.5 million in Oregon property taxes on property with a taxable assessed value of \$1.9 billion. The statewide average property tax rate was 1.586 percent, while private timberland owners paid 1.0224 percent, or 36 percent less than the statewide average. The logic of and the documentation for these figures can be found in Appendix A.

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<sup>11</sup> State of Oregon, Governor's Task Force on Federal Forest Payments and County Services, *Governor's Task Force on Federal Forest Payments and County Services Final Report*, January 2009, 10.

<sup>12</sup> *Ibid.*, 38.



• Inadvertently (Measures 5 and 50): Private timberland owners receive an even larger benefit due to a combination of the inherent inequities embedded in the Oregon Constitution (Measures 5 and 50). Oregon private timberlands account for 2.19 percent (\$10 billion) and 0.60 percent (\$1.9 billion) respectively of the real market value and taxable assessed value of taxable property in Oregon, yet contribute only 0.40 percent of Oregon's total property taxes. The logic of and the documentation for these figures can be found in Appendix B.

<b>County</b>	<b>Number of Accounts</b>	<b>Number of Acres</b>	<b>Assessed Value (CUAV)(\$000)</b>	<b>Real Market Value (RMV)(\$000)</b>	<b>CUAV as % of RMV</b>	<b>\$/Acre AV</b>	<b>\$/Acre RMV</b>
Baker	370	39,443	\$1,761	\$39,586	4%	\$45	\$1,004
Benton	3,056	158,392	\$58,118	\$457,737	13%	\$367	\$2,890
Clackamas	8,308	237,217	\$75,584	\$1,239,308	6%	\$319	\$5,224
Clatsop	2,172	293,189	\$117,360	\$324,183	36%	\$400	\$1,106
Columbia	5,362	300,292	\$117,971	\$634,293	19%	\$393	\$2,112
Coos	5,240	540,475	\$184,028	\$291,480	63%	\$340	\$539
Crook	170	273,870	71,997	270,842	27%	\$263	\$989
Curry	5,554	262,868	\$69,887	\$294,780	24%	\$266	\$1,121
Deschutes	552	77,424	\$4,601	\$124,975	4%	\$59	\$1,614
Douglas	9,793	1,067,725	\$298,787	\$622,184	48%	\$280	\$583
Gilliam	0	0	\$0	\$0	--	--	--
Grant	567	139,345	\$7,939	\$123,566	6%	\$57	\$887
Harney	38	5,479	\$248	\$5,916	4%	\$45	\$1,080
Hood River	960	48,456	\$8,128	\$76,939	11%	\$168	\$1,588
Jackson	5,250	452,194	\$67,812	\$391,028	17%	\$150	\$865
Jefferson	101	79,309	\$4,903	\$84,849	6%	\$62	\$1,070
Josephine	6,598	173,105	\$15,675	\$309,469	5%	\$91	\$1,788
Klamath	1,754	732,425	\$48,856	\$60,761	80%	\$67	\$83
Lake	512	281,015	\$17,236	\$71,726	24%	\$61	\$255
Lane	11,078	820,753	\$256,517	\$1,313,248	20%	\$313	\$1,600
Lincoln	4,273	331,996	\$145,453	\$470,614	31%	\$438	\$1,418
Linn	4649	451,113	\$141,834	\$250,548	57%	\$314	\$555
Malheur	0	0	\$0	\$0	--	--	--
Marion	3,255	106,553	\$32,937	\$265,439	12%	\$309	\$2,491
Morrow	118	16,896	\$930	\$21,317	4%	\$55	\$1,262
Multnomah	1,512	30,916	\$9,386	\$223,872	4%	\$304	\$7,241
Polk	3,108	213,141	\$69,981	\$364,321	19%	\$328	\$1,709
Sherman	0	0	\$0	\$0	--	--	--
Tillamook	1,845	185,071	\$69,914	\$161,398	43%	\$378	\$872
Umatilla	573	69,417	\$4,347	\$11,076	39%	\$63	\$160
Union	744	145,496	\$8,926	\$97,744	9%	\$61	\$672
Wallowa	N/A	135,184	\$8,586	\$63,631	13%	\$64	\$471
Wasco	840	58,482	\$3,188	N/A	--	\$55	--
Washington	5,957	164,325	\$56,277	\$760,349	7%	\$342	\$4,627
Wheeler	345	322,576	\$17,970	\$138,703	13%	\$56	\$430
Yamhill	327	119,446	\$47,059	\$461,726	10%	\$394	\$3,866
<b>Total or Average</b>	<b>94,981</b>	<b>8,333,588</b>	<b>\$2,044,196</b>	<b>\$10,027,608</b>	<b>20%</b>	<b>\$245</b>	<b>\$1,203</b>
<i>Source:</i> Oregon Department of Revenue ( <a href="http://www.oregon.gov/dor/STATS/docs/303-405-12/property-tax-stats_303-405_2011-12.pdf?ga=t">http://www.oregon.gov/dor/STATS/docs/303-405-12/property-tax-stats_303-405_2011-12.pdf?ga=t</a> ). Totals ignore the few missing data points.							

## How Oregon Private Timberlands are Assessed

As noted previously, Oregon's property tax system is inherently unfair. It is based on constitutionally restrained valuations rather than the fair and just real market value (RMV) and compounded by the additional legislative policies that grant most favorable assessment values ("current use" taxes) to private timberlands—and therefore most unfavorable to other classes of property owners. If a private timberland owner agrees "to manage the property primarily for the growing and harvesting of timber,"<sup>13</sup> the lands are eligible for either the "forestland" or the "small tract forestland" (STF) program.

• **Forestland program.** Most private timberland owners are in the forestland program. They must have a minimum of 2 contiguous acres of forested lands. The property is assessed for tax purposes based on a special assessment value (SAV) "that represents the price a knowledgeable purchaser would pay for land that is primarily used to grow and harvest timber."<sup>14</sup> As the Oregon Department of Revenue drily notes, "This specially assessed value is typically much lower than the real market value."<sup>15</sup> To qualify for this program, private timberlands must have been determined in the 1900s by county assessors to be "highest and best use" (HBU) forestlands, or they must be "designated" with the approval of the county assessor.<sup>16</sup> Approximately 58 percent of private lands in the forestland program are HBU, while about 42 percent are designated. The forestland program does not tax timber, but only the land beneath any timber that might be growing on it. Private timberlands in the forestland program are not subject to any severance tax when the lands are logged.

Only designated forestland program lands are subject to back taxes if the use changes from timber. HBU-classified lands suffer no such penalty.<sup>17</sup>

County property taxes range from \$0.40 to \$6.75 per acre per year depending upon location (east or west of the Cascade Crest) and the property's timber-growing ability.<sup>18</sup>

• **Small tract forestland program.** The Oregon Legislative Assembly instituted the small tract forestland (STF) program in 2004. "This program allows the landowner to delay paying part of their annual county property taxes until after the landowner harvests timber."<sup>19</sup> While nominally STF program participants pay a severance tax to the state on timber, they are in fact just paying county property back taxes on the "bare forestland" that they owed all along. "The tax rates are intended to recover the unpaid property tax projected over a typical rotation length for an

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<sup>13</sup> Oregon Department of Revenue, How forestland is taxed in Oregon, <http://www.oregon.gov/DOR/TIMBER/how-forestland.shtml>.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Oregon Department of Revenue, Forestland program, <http://www.oregon.gov/dor/TIMBER/Pages/forestland.aspx>

<sup>17</sup> Oregon Department of Revenue, *Forestland Manual*, 150-303-424 (Rev. 12-06), <http://www.oregon.gov/DOR/TIMBER/docs/303-424.pdf>.

<sup>18</sup> Oregon (Summary), National Timber Tax Website, <http://www.timbertax.org/statetaxes/states/summary/oregon/>.

<sup>19</sup> Oregon Department of Revenue, Small tract forestland program, [http://www.oregon.gov/DOR/TIMBER/STF\\_option.shtml](http://www.oregon.gov/DOR/TIMBER/STF_option.shtml)

average productivity class.”<sup>20</sup> “A landowner pays annual property tax on 20 percent of the forestland’s special assessment value. The STF Severance Tax is designed to recover the remaining 80 percent over the life of the property when timber is harvested.”<sup>21</sup>

To qualify for the STF program, one must own at least 10 but less than 5,000 acres within the state. Once the lands are in the STF program, they cannot be removed until the lands are transferred to a new owner. Stocking requirements are similar to the forestlands program. Logs scaled at “utility” grade or lower are exempt from the STF severance tax.

## How Oregon Forestlands are Valued for Assessment Purposes

To determine CUAV, forestlands in either taxation program are first classified by their timber productivity. The Oregon Department of Revenue (ODOR) classifies private timberlands in western Oregon using eight productivity classes while foresters in western Oregon expresses growing potential using five classes of site ranking. Table 3 shows how the ODOR classes relate to the forestry’s classes for Douglas-fir, the dominant tree species in western Oregon.<sup>22</sup> Private timberlands in eastern Oregon are not classified in a similar manner, but only that at least 80 percent of forestland must meet minimum stocking requirements.<sup>23</sup>

<b>Table 3</b> <b><i>Oregon Department of Revenue Private Timberland Productivity Classes for Western Oregon</i></b>	
<b>Timberland Productivity Class</b>	<b>Douglas-Fir Site Class</b>
FA	I+, I, I-
FB	II+, II
FC	II-, III+
FD	III
FE	III-, IV+
FF	IV, IV-
FG	V+, V
FX	Below Site V
<i>Source:</i> Oregon Department of Revenue ( <a href="http://www.oregon.gov/DOR/TIMBER/productivity.shtml">http://www.oregon.gov/DOR/TIMBER/productivity.shtml</a> )	

Each year, the ODOR issues updated “bare forestland” values (the value of the land for growing trees that does not include the value of any trees that may be on such lands) to calculate property taxes for the coming year. Table 4 shows the ODOR bare forestland values for July 1, 2011, to June 30, 2012.<sup>24</sup> The specially assessed value (SAV; identical to CUAV)) shown there is “the Department of Revenue’s determination of the real market value of land in Oregon that has as its highest and best use the growing and harvesting of marketable trees.”<sup>25</sup> Do not confuse this with

<sup>20</sup> Ibid.

<sup>21</sup> Oregon Department of Revenue, *Special Assessment Programs for Forestland*, 150-441-649 (Rev. 01-10), <http://www.oregon.gov/DOR/TIMBER/docs/441-649.pdf>.

<sup>22</sup> If you want to go deep, see Oregon Department of Revenue, *Forestland Manual*.

<sup>23</sup> Oregon Department of Revenue, Western Oregon Forestland Productivity Classes, <http://www.oregon.gov/DOR/TIMBER/productivity.shtml>.

<sup>24</sup> Bram Ekstrand, Oregon Department of Revenue, “Oregon Forestland Values for July 1, 2011–June 30, 2012,” [http://www.oregon.gov/DOR/TIMBER/docs/forestland-values\\_2011-12.pdf](http://www.oregon.gov/DOR/TIMBER/docs/forestland-values_2011-12.pdf).

<sup>25</sup> Ibid.



*real* real market value (RMV; see Tables 1 and 2). The real RMV is what the private timberland is actually worth if sold in the real estate market. The “real market value” referred to by the ODOR in their SAV definition refers to the market value of the land if its only value were the growing and logging of timber—which is unreal. Furthermore, because Measure 50 allows only a 3-percent increase in assessment value from the previous year’s values regardless of market reality, the maximum specially assessed value (MSAV; CUAV after applying the constraints of Measures 5 and 50), if it is lower than the SAV, is the basis of taxation. If the private timberlands are in the STF program, the basis of assessment for taxation is 20 percent of MSAV or SAV, whichever is lower.

<b>Table 4</b> <b><i>Oregon Department of Revenue Oregon Forestland Values for July 1, 2011, to June 30, 2012</i></b>				
Forestland Class	Forestland Program		Small Tract Forestland Program	
	MSAV/Acre	SAV/Acre	20% MSAV/Acre	20% SAV/Acre
Western Oregon				
FA	\$570.01	\$903.00	\$113.11	\$180.60
FB	\$452.21	\$715.00	\$89.75	\$143.00
FC	\$378.72	\$600.00	\$74.99	\$120.00
FD	\$321.72	\$511.00	\$63.92	\$102.20
FE	\$214.04	\$339.00	\$41.79	\$67.80
FF	\$154.50	\$245.00	\$30.71	\$49.00
FG	\$64.58	\$104.00	\$12.25	\$20.80
FX	\$7.57	\$10.44	\$1.21	\$2.08
Eastern Oregon				
Eastern Oregon	\$64.58	\$124.00	\$12.25	\$24.80
Specially Assessed Value (SAV) is identical to Current Use Assessed Value (CUAV). Maximum SAV (MSAV) is CUAV after applying the constraints of Measures 5 and 50.				
Source: Oregon Department of Revenue ( <a href="http://www.oregon.gov/DOR/TIMBER/docs/forestland-values_2011-12.pdf">http://www.oregon.gov/DOR/TIMBER/docs/forestland-values_2011-12.pdf</a> )				

## How Oregon Private Timberlands are Taxed and Where the Revenue Goes

“Small” Oregon private timberland owners (those with at least 10 and less than 5,000 acres) can enroll in either the forestland program or the small tract forestland program. The best program for minimizing taxes depends on the combination of the volume of logging and the timing of logging. If a private timberland owner plans to log “little” rather than “lots” and “later” rather than “soon,” the STF option is best. If just the opposite, the forestland program is the most tax advantageous. Variants of these two extremes require speculation and calculation to arrive at a best guess.

- For landowners in the forestland program,<sup>26</sup> the amount of taxation depends upon where the specially assessed private timberlands are located. Counties assess taxes based on the approved rate of taxation for all of the taxing districts (schools, county, special districts, and so forth) that include the private timberlands in question. For 2010, *on average*, the county property tax on lands in the forestlands program was \$3.10/acre and \$0.61/acre for western and eastern Oregon respectively.<sup>27</sup> All funds are distributed by the county assessor to the taxing districts in which the private timberlands in the forestlands program are included.

<sup>26</sup> Oregon Department of Revenue, Forestland program.

<sup>27</sup> Oregon Department of Revenue, *Special Assessment Programs for Forestland*.

## Tax “Expenditures” Equals Tax Breaks or Tax Giveaways

The 1995 Oregon Budget Accountability Act requires that the costs of tax expenditures be disclosed for every biennium and accompany the Governor’s budget. A tax expenditure is “any law of the Federal Government or of this state that exempts, in whole or in part, certain persons, income, goods, services, or property from the impact of established taxes, including, but not limited to tax deductions, tax exclusions, tax subtractions, tax exemptions, tax deferrals, preferential tax rates, and tax credits.”<sup>28</sup> Of course, one person’s unfair tax break is another’s fair and just incentive to do or reward for doing good.

Oregon’s direct expenditures for the 2009–2011 biennium were \$60.6 billion (\$30.3 billion annually).<sup>29</sup> The revenue impact (money not taken in as taxes) to the state coffers was \$27.9 billion for the same biennium (\$14 billion annually).<sup>30</sup>

Whether the government gives you a tax credit or a larger than normal tax deduction, it’s the same as if they send you a check (if they send you a check, they might try to tax that income you received). As Oregon tax expenditures go, some of the biggest benefit private timberland owners. Here are two:

**Private standing timber.** Privately owned standing timber on approximately 8 million acres is exempt from property taxes. It was taxed before 1977 in western Oregon and 1961 in eastern Oregon. To discourage premature logging, the ad valorem tax was replaced by a severance (privilege) tax that has since been eliminated so there is no significant tax on timber. The 2009–10 assessed property value exempted from taxation was \$15.3 billion, resulting in a loss of \$430.7 million in tax revenue for the 2011–13 biennium (\$215.4 million annually).<sup>31</sup>

**Private forestland.** Oregon private forestlands total approximately 8 million acres and are either classified as “highest and best use” (HBU; approximately 4.6 million acres or 58 percent) or “designated” (approximately 3.4 million acres or 42 percent) forestlands. The *State of Oregon Tax Expenditure Report* considers only “designated” forestlands to be a tax expenditure. The 2009–10 assessed property value exempted from taxation for such lands was \$3.9 billion, resulting in a loss of \$77.7 million in tax revenue for the 2011–13 biennium (\$38.9 million annually).<sup>32</sup>

The reasoning—rather specious in my view—is that as a matter of statutory law, HBU is not a special assessment; rather, it is a classification based on an appraisal decision.<sup>33</sup> The *State of Oregon Tax Expenditure Report* doesn’t consider the HBU classification to be a tax expenditure, even though the result is a huge tax break for HBU private timberland owners. As a matter of market fact, HBU lands have real market values far in excess of their value for growing timber. If this fact were recognized, the 2009–10 assessed property value exempted from taxation for all private timberlands (HBU and designated) would have been \$9.2 billion, resulting in a loss of revenue of \$182.8 million for the 2011–13 biennium (\$91.4 million annually).

<sup>28</sup> State of Oregon Budget and Management Division, Department of Administrative Services and Research Section, Department of Revenue, *State of Oregon 2011–2013 Tax Expenditure Report*, <http://oregon.gov/dor/STATS/docs/ExpR11-13/tax-expenditure-report-2011-2013.pdf>.

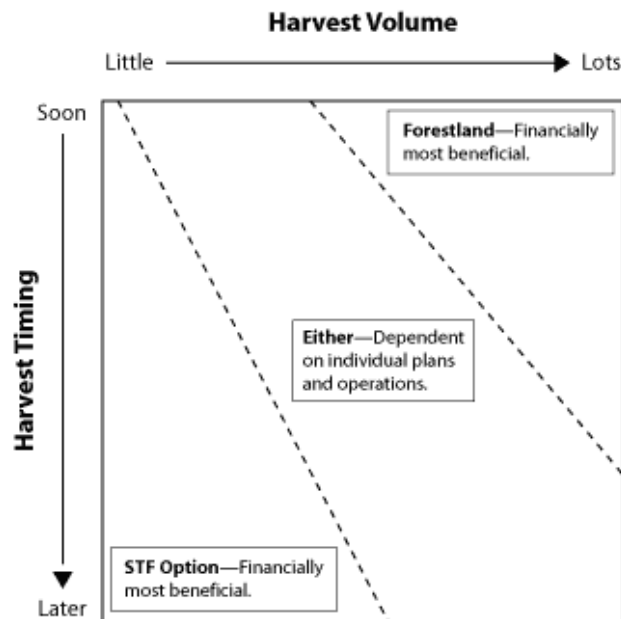
<sup>29</sup> Oregon Blue Book, Government Finance: State Government, <http://bluebook.state.or.us/state/govtfinance/govtfinance01.htm>.

<sup>30</sup> State of Oregon Budget and Management Division, *State of Oregon 2011–2013 Tax Expenditure Report*.

<sup>31</sup> Western Oregon: \$14 billion in 2009–10 assessed value exempted with \$394.9 million in lost revenue for the 2011–13 biennium affecting approximately 6 million acres. Eastern Oregon: \$1.3 billion, \$35.8 million, and approximately 2 million acres respectively.

<sup>32</sup> Western Oregon: \$3.7 billion in 2009–10 assessed value exempted with \$73.3 million in lost revenue for the 2011–13 biennium affecting approximately 2.3 million acres. Eastern Oregon: \$180 million, \$4.4 million, and approximately 1.1 million acres respectively.

<sup>33</sup> Oregon Department of Revenue. 2006. Forestland Manual. Property Tax Division, Salem, OR. 150-303-424 (Rev. 12-06). <http://www.oregon.gov/DOR/TIMBER/docs/303-424.pdf>



**Figure 1.** Whether the forestland program or the small tract forestland (STF) program is best for Oregon private timberland owners in terms of minimizing taxes depends on the combination of the volume of logging and the timing of logging. *Source:* Oregon Department of Revenue ([http://www.oregon.gov/DOR/TIMBER/2004\\_choosing.shtml](http://www.oregon.gov/DOR/TIMBER/2004_choosing.shtml))

<b>Table 5</b> <b><i>Small Tract Forestland (STF) Severance Tax</i></b>		
Year	Tax Rate (\$/MBF)	
	Western Oregon	Eastern Oregon
2004	\$3.89	\$3.03
2005	\$4.00	\$3.12
2006	\$4.11	\$3.21
2007	\$4.23	\$3.30
2008	\$4.35	\$3.40
2009	\$4.48	\$3.50
2010	\$4.61	\$3.60
2011	\$4.74	\$3.70
<i>Source:</i> Oregon Department of Revenue ( <a href="http://www.oregon.gov/DOR/TIMBER/STF_severance.shtml">http://www.oregon.gov/DOR/TIMBER/STF_severance.shtml</a> )		

• Participants in the small tract forestland (STF) program<sup>34</sup> pay only 20 percent of the annual property tax actually due. For 2010, *on average*, the tax was \$0.62/acre and \$0.12/acre for western and eastern Oregon respectively.<sup>35</sup> When these landowners log their land, the STF “severance” tax is collected (see Table 5).<sup>36</sup> Just like monies received from landowners in the forestland program, these funds are distributed by the county assessor. Of the collected receipts, 60.5 percent goes to the State School Fund, 4.5 percent to the Community College Support Fund, and 35 percent to the County Fund. The share to each county in either the western or eastern

<sup>34</sup> Oregon Department of Revenue, Small tract forestland program.

<sup>35</sup> Oregon Department of Revenue, *Special Assessment Programs for Forestland*.

<sup>36</sup> It’s not a true “severance” tax, is in fact the collection of unpaid property taxes collected on the sale of timber rather than the value of land.

Oregon groups of counties is proportional to the amount of STF forestland value that contributed to the STF Severance Tax Fund.<sup>37</sup>

### **Preferential Tax Rates on Private Timberlands Do Not Forestall Development**

The ostensible purpose of a lower rate of taxation for private timberlands is to discourage development of forestland. The Oregon Department of Revenues says:

*As urban areas encroach on lands capable of growing valuable timber, the value of that timberland increases. This raises property taxes on the timberland, making it more expensive to hold while the timber is growing. Recognizing this, the Oregon Legislature has established several special assessment programs that reduce taxes for forestland owners who manage their property for the primary purpose of growing and harvesting timber.*<sup>38</sup>

It sounds reasonable, that if taxes are kept low, land will remain in timber production and not developed. This is a cherished myth, but a myth nonetheless. Lower taxes on private timberland do not result in the land remaining in timberland production, where development potential exists.

The major limiting factors preventing the conversion of private timberland to urban and suburban use are (1) lack of economic demand, (2) Oregon's land use planning law (though it has loopholes large enough to allow bulldozers to pass through), and (3) landowner preference. When development pressure/opportunities/values entice a timberland owner, the prospect of *possibly* paying five to ten years of penalty back taxes (only "designated" forestland is subject to back taxes) pales in comparison to the profits to be made by such conversion. Let's examine a hypothetical example.

Say a private timberland owner who is paying \$3.10/acre in property taxes (the average for private timberland in western Oregon in 2010) has an opportunity to develop the property in some way (anything from rural residential housing to a mall next to a freeway). Let's assume it was assessed at \$600/acre, which is approximately in the middle of specially assessed values (SAV) for western Oregon private timberland, based *solely* on the ability of the land to produce timber (see Table 4). Let's further assume the development value (real market value) of this acre is \$50,000 (the approximate value of rural residential land in Jackson County) and that the tax rate is the statewide maximum of 1.5 percent.

The penalty for removing land from either the forestland (if "designated" but not if "HBU") or the small tract forestland program is five or ten years (it varies based on certain conditions and is waived in certain circumstances) of back taxes on property that is then reassessed with non-preferential values.<sup>39</sup> Ten years of back taxes in our example equals \$7,500 (\$50,000/acre × 10 years × 1.5 percent). Wow! That's 242 times more than the \$3.10/acre/decade the landowner is paying now! Of course, another (and more financially rational) way to look at it is amortizing the one-time tax penalty bill of \$7,500 over the life of a long-term investment of the \$50,000 made

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<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Oregon Revised Statutes 308A.703 and 707.

by selling that 1 acre of private timberland. From this perspective, it's worth paying the back taxes.

Conservatively investing the \$50,000 in 30-year US Treasury bonds with an interest rate of 3.1 percent<sup>40</sup> would yield \$1,550 annually tax-free (one can deduct the back property tax payment from one's income taxes). Within about five years, one would have earned the same amount of money from the bond as one had paid in back taxes. Of course, land development generally yields far higher returns than a US Treasury bond.

In this scenario, whether the price of the land is \$50,000 or \$500,000 per acre, the ten-year back-tax bill—if indeed it is not five years or even zero years—is 15 percent of the real market value of the land. While the amount of tax goes up as the real market value of the land goes up, so does the amount of projected return on investment from investing the money obtained by selling off that acre of private timberland.

The bottom line is that while preferential property tax treatment for private timberlands is a benefit of keeping land in a “working forest,” it doesn't materially prevent development—if development potential exists, land use laws allow it, and the landowner prefers it. If the option exists, the value of the land for development far outweighs the value of the land for growing and harvesting timber.

In 2004, Ralph J. Alig and Andrew J. Plantinga writing in the *Journal of Forestry* reported that for 38 counties in the Pacific Northwest Westside, the weighted average land value was \$1,483 per acre in forest (“current use”) use compared to a value of \$165,947 per acre in urban use.<sup>41</sup> The greatest limiting factors are a lack of demand for development (most of the private timberlands that benefit from the preferential tax treatment have little or no development value) and landowner preferences (the current owner isn't interested in developing). Landowners can change their preferences, and as landowners change (through sale or inheritance), preferences are more likely to change.

It is illuminating to excerpt a long passage from a paper entitled “Property Taxes and the Loss of Private Forests,” prepared by a USDA Forest Service expert:

*As previously noted, one objective that was part of the rationale for enactment of virtually all current use assessment laws was that they would help to slow the rate at which forest, farm, and other open space lands were being lost to development – or that they would at least prevent forced sales and conversions. This being the case, the obvious question becomes: have they succeeded? The consensus opinion seems to be that to a large degree they haven't. The following quotations are illustrative:*

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<sup>40</sup> This is the interest rate 30-year U.S. Treasury bonds were paying on April 4, 2012, according to Bloomberg (<http://www.bloomberg.com/markets/rates-bonds/government-bonds/us/>).

<sup>41</sup> Ralph J. Alig and Andrew J. Plantinga, “Future Forestland Area: Impacts from Population Growth and Other Factors that Affect Land Values,” *Journal of Forestry* 102 (December 2004): 23.



*At best, preferential assessment may slow the transition from rural to developed uses, but it is not a permanent solution (Heimlich and Anderson, 2001).*

*Once urban development becomes economically feasible as a result of improved access or other factors, land rents for development are often notably higher than the returns to other land uses. . . . This raises the question of whether efforts to restrain urban sprawl are likely to have long-term effectiveness. Potential increases in forestry returns will likely not be sufficient. This finding is consistent with others who have suggested that use value assessment and other preferential tax policies are only minimally effective in restraining urban development (Alig et. al., 2003).*

*Current use or preferential tax treatments can moderate the pressure to sell and convert by setting the basis for the tax to the value in current use as opposed to highest and best use, but the literature shows these programs to be ineffective in stopping sprawl and the development of high valued lands. They may be effective in transitional areas, and are still seen as an important tool for reducing the forced sale of lands (Wear and Newman, 2004).*

*Given the dramatic increases in forest and other rural land values now being experienced in many parts of the country, one commentator, quoted below, suggests that use value laws are likely to be even less effective in the future.*

*The tidal wave of exurban sprawl is reaching far into the wildlands in intensities never before seen. . . . Policies such as use value taxation or other aids to private forestry were never designed to cope with today's land prices and real estate demands. They are a 6- inch levee facing a 20-foot storm surge (Irland, 2005).*

*Investigators have identified a number of reasons to explain why current use assessment laws have only been partially effective in arresting the loss of forest and other open space lands, but the most persuasive explanation is also the most obvious—namely that many rural property owners simply cannot resist the large financial gains that are now realizable through lands sales and development in many parts of the country. Figures were cited earlier from a study that looked at comparative land values in the South and Pacific Northwest regions, and which showed land values for development purposes that were 87 to 111 times higher than the values of the same land for continued timber production. [The footnote from the original: Given development pressures of this magnitude, even driving the property tax to zero would in all likelihood not be a sufficient incentive to keep forest and other rural lands in their existing uses.] This is a perfect illustration of the 6-inch levee standing against the 20-foot storm surge. Another explanation that has appeared in the literature pertains to the fact that whenever lands that have been enrolled in a use value program change hands through a*

*sale, one would expect the tax subsidy represented by use valuation to be capitalized into the sales price so that the tax incentive would become irrelevant to the new owner's decision about what to do with the land in the future (Hickman, 1983). Finally, yet another explanation that has been offered is that use valuation only addresses one of many economic, demographic, and sociological factors that can enter into a landowner's decision to sell or develop their property (Hickman, 1983). While this observation is certainly valid, this saw cuts both ways—i.e., just as it may explain why some forest owners will decide to sell their properties even though current use valuation has made continued timber production economically possible, it can also explain why other forest owners may elect to hold their properties beyond the point where economic logic suggests they should sell or develop them.*<sup>42</sup>

## **Conclusions and Recommendations**

Oregon private timberland owners do not pay their fair and just share of county property taxes and have seen their property values rise significantly as logging on federal public forestlands has decreased, while counties have seen their share of federal timber receipts plummet. A portion of this windfall to private timberland owners should be captured by the counties to pay their “fair share” of making up for declines in federal timber receipts to counties.<sup>43</sup>

Current use taxes benefit private timberland owners but result in other taxpayers paying more. The supposed benefit of low property taxes in preventing conversion of private timberland to other uses does not exist.

Oregon should return to a system of county property taxation based on real market value of all taxable properties.

Failing a return to real market value property taxation with the repeal of Measures 5 and 50, “current use” taxes for private timberlands should be scrapped and the lands assessed and taxed as other properties.

## **Acknowledgments**

I greatly thank Mora Fields and Chandra LeGue (Oregon Wild) for their constructive feedback on substance and editing for style. Cameron LaFollette (Oregon Coast Alliance) also provided useful feedback.

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<sup>42</sup> Cliff Hickman, “Property Taxes and the Loss of Private Forests” (USDA Forest Service, 2007), 11–12. Available at: [http://www.timbertax.org/statetaxes/Property\\_Tax\\_Paper\\_PDC.pdf](http://www.timbertax.org/statetaxes/Property_Tax_Paper_PDC.pdf)

<sup>43</sup> Randi Spivak, “Shared Responsibility: The Conservation Community’s Recommendations to Equitably Resolve the O&C County Funding Controversy,” Coast Range Association, Cascadia Wildlands, Geos Institute, Klamath-Siskiyou Wildlands Center, Oregon Wild Sierra Club, and The Larch Company, 2011. Available at [www.andykerr.net/downloads](http://www.andykerr.net/downloads).

## Additional Resources

- Oregon Department of Revenue. *A Brief History of Oregon Property Taxation*. 150-303-405-1 (Rev. 6-09). <http://www.oregon.gov/DOR/STATS/docs/303-405-1.pdf>.
- Oregon Department of Revenue. *2011 Report on the Health of the Oregon Property Tax System*. 150-338-4000 (Rev. 03-11). <http://www.oregon.gov/dor/PTD/docs/338-400.pdf?ga=t>.
- Oregon Department of Revenue Timber Taxes home page:  
<http://www.oregon.gov/DOR/TIMBER/index.shtml>
- State of Oregon Legislative Revenue Office. *History of Timber Taxes* (Research Report Number 6-00, June 22, 2000). <http://www.leg.state.or.us/comm/lro/report 6-00.pdf>.
- State of Oregon Legislative Revenue Office. *2012 Oregon Public Finance: Basic Facts* (Research Report #1-2, January 2012).  
[http://www.leg.state.or.us/comm/lro/2012\\_publications\\_reports/Basic\\_Facts\\_2012.pdf](http://www.leg.state.or.us/comm/lro/2012_publications_reports/Basic_Facts_2012.pdf).

**Appendix A**  
***Acreage Taxed and Property Tax Paid by Oregon Private Timberland Owners, 2010–2011***

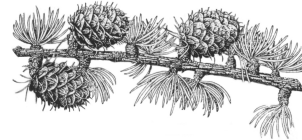
	Western Oregon	Eastern Oregon	
Acres of Private Timberland on Tax Rolls <sup>1</sup>	5,908,803	1,951,891	Timberland acreage is taxed at different rates for Western and Eastern Oregon. (Crook County data not available.)
Average \$/Acre Paid by Forestland Program Participants <sup>2</sup>	\$3.10	\$0.61	All private timberland is specially assessed at values even less than those imposed by Measures 5 and 50. For the forestland program, private timberland is assessed at its value for growing timber rather than for other uses. For taxing purposes, the small tract forestland program assesses private timberland in the program at 20% of the forestland program special assessment value. According to Oregon Department of Revenue: “A landowner pays annual property tax on 20 percent of the forestland’s special assessment value. The STF Severance Tax is designed to recover the remaining 80 percent over the life of the property when timber is harvested.” <sup>2</sup> Therefore, for purposes here and as it is a wash, we assume that all private timberland is in the forestland program and pays all of its taxes as property tax, rather than STF method of an 80% as severance tax. The net results are the average \$/acre paid for westside and eastside private timberland owners.
Total Paid	\$18,317,289	\$1,190,654	The average rate per acre of property tax in western and eastern Oregon times the number of private timberland acres in western and eastern Oregon.
What Private Timberland Owners Are <i>Actually</i> Paying	\$19,507,943		The total amount of taxes paid by Oregon private timberland owners, except for Crook County, for which the data was not available. The absence of Crook County data skews this number downward slightly—but not significantly—as the amount of private timberland in Crook County is relatively low in both acreage and value. The significance is further diminished when the eastern Oregon average \$/acre tax rate is applied.
<sup>1</sup> Oregon Department of Revenue, <i>Oregon Property Tax Statistics: Fiscal Year 2010–2011</i> .			
<sup>2</sup> Oregon Department of Revenue, <i>Special Assessment Programs for Forestland</i> .			

**Appendix B**  
**Values of Oregon Properties and Property Taxes Paid, Compared with Fair and Just Taxes,**  
**2010–2011**

	<b>All Taxable Property in Oregon</b>	<b>Private Timberlands</b>	<b>Private Timberlands Proportion of Entire State (%)</b>	<b>Notes</b>
Real Market Value	\$458,497,000,000	\$10,052,153,000	2.19%	“Real Market Value. Real market value of all property, real and personal, is the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, both acting without compulsion in an arm’s length transaction occurring as of the assessment date for the tax year.” (ODOR)
Taxable Assessed Value*	\$315,449,000,000	\$1,907,973,000	0.60%	“Assessed Value. Value of property subject to taxation. Under the provisions of Measure 50, assessed value for the 1997–98 fiscal year was set at 90 percent of the 1995–96 assessed value for each property in the state. The assessed value for each property is allowed to grow a maximum of 3 percent per year (unless a significant change to the property occurs), but cannot exceed the real market value of the property. Assessed value does not include the exemptions allowed for property.” (ODOR)
Actual Taxes Paid	\$5,052,000,000	\$19,507,943	0.39%	Total of operating, bond, and urban renewal taxes
Taxes, Fair and Just		\$30,556,697		What Oregon private timberland owners would pay if they were paying their share of the state’s property taxes as a proportion of their contribution to taxable assessed value (currently constitutionally permissible, but no favorable special assessment for being timberland)
Taxes, Fair and Just		\$110,760,762		What Oregon private timberland owners would pay if they were paying their share of the state’s property taxes as a proportion of their contribution to real market value (where all property is assessed the same and taxed at the same rates)
• For Oregon private timberland, the value is Maximum Special Assessed Value (MSAV), which is the same as Current Use Assessed Value (CUAV) after applying the constraints of Measures 5 and 50.				
<i>Source:</i> Oregon Department of Revenue, <i>Oregon Property Tax Statistics: Fiscal Year 2010–11</i> , Exhibit 1, page 3, and Table 1-8.				



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