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HOUSE BILL 2696

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Morris, DeBolt, Linville, Mielke, Doumit, Koster, Kessler, Gardner, Thompson and Dunn

Read first time 01/19/98. Referred to Committee on Finance.

1 AN ACT Relating to extending exemptions from timber compensating  
2 taxes; amending RCW 84.33.120, 84.33.140, and 84.33.145; adding a new  
3 section to chapter 84.33 RCW; and adding a new section to chapter 82.45  
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 84.33 RCW  
7 to read as follows:

8 Forest land acquired in an eligible exchange shall be classified as  
9 forest land and valued under RCW 84.33.120. For the purposes of this  
10 section, "eligible exchange" means one that qualifies for an exemption  
11 from compensating tax under RCW 84.33.120(9)(a) or 84.33.140(5)(a).

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.45 RCW  
13 to read as follows:

14 A sale of forest land in an eligible exchange, as defined in  
15 section 1 of this act, is exempt from tax under this chapter.

16 **Sec. 3.** RCW 84.33.120 and 1997 c 299 s 1 are each amended to read  
17 as follows:

1 (1) In preparing the assessment rolls as of January 1, 1982, for  
 2 taxes payable in 1983 and each January 1st thereafter, the assessor  
 3 shall list each parcel of forest land at a value with respect to the  
 4 grade and class provided in this subsection and adjusted as provided in  
 5 subsection (2) of this section and shall compute the assessed value of  
 6 the land by using the same assessment ratio he or she applies generally  
 7 in computing the assessed value of other property in his or her county.  
 8 Values for the several grades of bare forest land shall be as follows.

9	LAND	OPERABILITY	VALUES
10	GRADE	CLASS	PER ACRE
11			
12		1	\$141
13	1	2	136
14		3	131
15		4	95
16			
17		1	118
18	2	2	114
19		3	110
20		4	80
21			
22		1	93
23	3	2	90
24		3	87
25		4	66
26			
27		1	70
28	4	2	68
29		3	66
30		4	52
31			
32		1	51
33	5	2	48
34		3	46
35		4	31
36			

1		1	26
2	6	2	25
3		3	25
4		4	23
5	<hr/>		
6		1	12
7	7	2	12
8		3	11
9		4	11
10	<hr/>		
11	8		1
12	<hr/>		

13 (2) On or before December 31, 1981, the department shall adjust, by  
14 rule under chapter 34.05 RCW, the forest land values contained in  
15 subsection (1) of this section in accordance with this subsection, and  
16 shall certify these adjusted values to the county assessor for his or  
17 her use in preparing the assessment rolls as of January 1, 1982. For  
18 the adjustment to be made on or before December 31, 1981, for use in  
19 the 1982 assessment year, the department shall:

20 (a) Divide the aggregate value of all timber harvested within the  
21 state between July 1, 1976, and June 30, 1981, by the aggregate harvest  
22 volume for the same period, as determined from the harvester excise tax  
23 returns filed with the department under RCW 82.04.291 and 84.33.071;  
24 and

25 (b) Divide the aggregate value of all timber harvested within the  
26 state between July 1, 1975, and June 30, 1980, by the aggregate harvest  
27 volume for the same period, as determined from the harvester excise tax  
28 returns filed with the department under RCW 82.04.291 and 84.33.071;  
29 and

30 (c) Adjust the forest land values contained in subsection (1) of  
31 this section by a percentage equal to one-half of the percentage change  
32 in the average values of harvested timber reflected by comparing the  
33 resultant values calculated under (a) and (b) of this subsection.

34 For the adjustments to be made on or before December 31, 1982, and  
35 each succeeding year thereafter, the same procedure shall be followed  
36 as described in this subsection utilizing harvester excise tax returns  
37 filed under RCW 82.04.291 and this chapter except that this adjustment  
38 shall be made to the prior year's adjusted value, and the five-year

1 periods for calculating average harvested timber values shall be  
2 successively one year more recent.

3 (3) In preparing the assessment roll for 1972 and each year  
4 thereafter, the assessor shall enter as the true and fair value of each  
5 parcel of forest land the appropriate grade value certified to him or  
6 her by the department of revenue, and he or she shall compute the  
7 assessed value of such land by using the same assessment ratio he or  
8 she applies generally in computing the assessed value of other property  
9 in his or her county. In preparing the assessment roll for 1975 and  
10 each year thereafter, the assessor shall assess and value as classified  
11 forest land all forest land that is not then designated pursuant to RCW  
12 84.33.120(4) or 84.33.130 and shall make a notation of such  
13 classification upon the assessment and tax rolls. On or before January  
14 15 of the first year in which such notation is made, the assessor shall  
15 mail notice by certified mail to the owner that such land has been  
16 classified as forest land and is subject to the compensating tax  
17 imposed by this section. If the owner desires not to have such land  
18 assessed and valued as classified forest land, he or she shall give the  
19 assessor written notice thereof on or before March 31 of such year and  
20 the assessor shall remove from the assessment and tax rolls the  
21 classification notation entered pursuant to this subsection, and shall  
22 thereafter assess and value such land in the manner provided by law  
23 other than this chapter 84.33 RCW.

24 (4) In any year commencing with 1972, an owner of land which is  
25 assessed and valued by the assessor other than pursuant to the  
26 procedures set forth in RCW 84.33.110 and this section, and which has,  
27 in the immediately preceding year, been assessed and valued by the  
28 assessor as forest land, may appeal to the county board of equalization  
29 by filing an application with the board in the manner prescribed in  
30 subsection (2) of RCW 84.33.130. The county board shall afford the  
31 applicant an opportunity to be heard if the application so requests and  
32 shall act upon the application in the manner prescribed in subsection  
33 (3) of RCW 84.33.130.

34 (5) Land that has been assessed and valued as classified forest  
35 land as of any year commencing with 1975 assessment year or earlier  
36 shall continue to be so assessed and valued until removal of  
37 classification by the assessor only upon the occurrence of one of the  
38 following events:

1 (a) Receipt of notice from the owner to remove such land from  
2 classification as forest land;

3 (b) Sale or transfer to an ownership making such land exempt from  
4 ad valorem taxation;

5 (c) Determination by the assessor, after giving the owner written  
6 notice and an opportunity to be heard, that, because of actions taken  
7 by the owner, such land is no longer primarily devoted to and used for  
8 growing and harvesting timber. However, land shall not be removed from  
9 classification if a governmental agency, organization, or other  
10 recipient identified in subsection (9) (~~(or (10))~~) of this section as  
11 exempt from the payment of compensating tax has manifested its intent  
12 in writing or by other official action to acquire a property interest  
13 in classified forest land by means of a transaction that qualifies for  
14 an exemption under subsection (9) (~~(or (10))~~) of this section. The  
15 governmental agency, organization, or recipient shall annually provide  
16 the assessor of the county in which the land is located reasonable  
17 evidence in writing of the intent to acquire the classified land as  
18 long as the intent continues or within sixty days of a request by the  
19 assessor. The assessor may not request this evidence more than once in  
20 a calendar year;

21 (d) Determination that a higher and better use exists for such land  
22 than growing and harvesting timber after giving the owner written  
23 notice and an opportunity to be heard;

24 (e) Sale or transfer of all or a portion of such land to a new  
25 owner, unless the new owner has signed a notice of forest land  
26 classification continuance, except transfer to an owner who is an heir  
27 or devisee of a deceased owner, shall not, by itself, result in removal  
28 of classification. The signed notice of continuance shall be attached  
29 to the real estate excise tax affidavit provided for in RCW 82.45.150.  
30 The notice of continuance shall be on a form prepared by the department  
31 of revenue. If the notice of continuance is not signed by the new  
32 owner and attached to the real estate excise tax affidavit, all  
33 compensating taxes calculated pursuant to subsection (7) of this  
34 section shall become due and payable by the seller or transferor at  
35 time of sale. The county auditor shall not accept an instrument of  
36 conveyance of classified forest land for filing or recording unless the  
37 new owner has signed the notice of continuance or the compensating tax  
38 has been paid. The seller, transferor, or new owner may appeal the new  
39 assessed valuation calculated under subsection (7) of this section to

1 the county board of equalization. Jurisdiction is hereby conferred on  
2 the county board of equalization to hear these appeals.

3 The assessor shall remove classification pursuant to (c) or (d) of  
4 this subsection prior to September 30 of the year prior to the  
5 assessment year for which termination of classification is to be  
6 effective. Removal of classification as forest land upon occurrence of  
7 (a), (b), (d), or (e) of this subsection shall apply only to the land  
8 affected, and upon occurrence of (c) of this subsection shall apply  
9 only to the actual area of land no longer primarily devoted to and used  
10 for growing and harvesting timber: PROVIDED, That any remaining  
11 classified forest land meets necessary definitions of forest land  
12 pursuant to RCW 84.33.100.

13 (6) Within thirty days after such removal of classification as  
14 forest land, the assessor shall notify the owner in writing setting  
15 forth the reasons for such removal. The owner of such land shall  
16 thereupon have the right to apply for designation of such land as  
17 forest land pursuant to subsection (4) of this section or RCW  
18 84.33.130. The seller, transferor, or owner may appeal such removal to  
19 the county board of equalization.

20 (7) Unless the owner successfully applies for designation of such  
21 land or unless the removal is reversed on appeal, notation of removal  
22 from classification shall immediately be made upon the assessment and  
23 tax rolls, and commencing on January 1 of the year following the year  
24 in which the assessor made such notation, such land shall be assessed  
25 on the same basis as real property is assessed generally in that  
26 county. Except as provided in subsection (5)(e)(~~(7)~~) or (9)(~~(7-  
27 (10)~~)) of this section and unless the assessor shall not have mailed  
28 notice of classification pursuant to subsection (3) of this section, a  
29 compensating tax shall be imposed which shall be due and payable to the  
30 county treasurer thirty days after the owner is notified of the amount  
31 of the compensating tax. As soon as possible, the assessor shall  
32 compute the amount of such compensating tax and mail notice to the  
33 owner of the amount thereof and the date on which payment is due. The  
34 amount of such compensating tax shall be equal to the difference, if  
35 any, between the amount of tax last levied on such land as forest land  
36 and an amount equal to the new assessed valuation of such land  
37 multiplied by the dollar rate of the last levy extended against such  
38 land, multiplied by a number, in no event greater than ten, equal to

1 the number of years, commencing with assessment year 1975, for which  
2 such land was assessed and valued as forest land.

3 (8) Compensating tax, together with applicable interest thereon,  
4 shall become a lien on such land which shall attach at the time such  
5 land is removed from classification as forest land and shall have  
6 priority to and shall be fully paid and satisfied before any  
7 recognizance, mortgage, judgment, debt, obligation or responsibility to  
8 or with which such land may become charged or liable. Such lien may be  
9 foreclosed upon expiration of the same period after delinquency and in  
10 the same manner provided by law for foreclosure of liens for delinquent  
11 real property taxes as provided in RCW 84.64.050. Any compensating tax  
12 unpaid on its due date shall thereupon become delinquent. From the  
13 date of delinquency until paid, interest shall be charged at the same  
14 rate applied by law to delinquent ad valorem property taxes.

15 (9) The compensating tax specified in subsection (7) of this  
16 section shall not be imposed if the removal of classification as forest  
17 land pursuant to subsection (5) of this section resulted solely from:

18 (a) Transfer to a government entity in exchange for other forest  
19 land located within the state of Washington;

20 (b) A taking through the exercise of the power of eminent domain,  
21 or sale or transfer to an entity having the power of eminent domain in  
22 anticipation of the exercise of such power;

23 (c) A donation of fee title, development rights, or the right to  
24 harvest timber, to a government agency or organization qualified under  
25 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
26 sections, or the sale or transfer of fee title to a governmental entity  
27 or a nonprofit nature conservancy corporation, as defined in RCW  
28 64.04.130, exclusively for the protection and conservation of lands  
29 recommended for state natural area preserve purposes by the natural  
30 heritage council and natural heritage plan as defined in chapter 79.70  
31 RCW: PROVIDED, That at such time as the land is not used for the  
32 purposes enumerated, the compensating tax specified in subsection (7)  
33 of this section shall be imposed upon the current owner;

34 (d) The sale or transfer of fee title to the parks and recreation  
35 commission for park and recreation purposes; ((or))

36 (e) Official action by an agency of the state of Washington or by  
37 the county or city within which the land is located that disallows the  
38 present use of such land((-

1       ~~(10) In a county with a population of more than one million~~  
2 ~~inhabitants, the compensating tax specified in subsection (7) of this~~  
3 ~~section shall not be imposed if the removal of classification as forest~~  
4 ~~land pursuant to subsection (5) of this section resulted solely from:~~

5       ~~(a) An action described in subsection (9) of this section; or~~

6       ~~(b))~~; or

7       (f) A transfer of a property interest to a government entity, or to  
8 a nonprofit historic preservation corporation or nonprofit nature  
9 conservancy corporation, as defined in RCW 64.04.130, to protect or  
10 enhance public resources, or to preserve, maintain, improve, restore,  
11 limit the future use of, or otherwise to conserve for public use or  
12 enjoyment, the property interest being transferred. At such time as  
13 the property interest is not used for the purposes enumerated, the  
14 compensating tax shall be imposed upon the current owner.

15       ~~((11))~~ (10) With respect to any land that has been designated  
16 prior to May 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the  
17 assessor may, prior to January 1, 1975, on his or her own motion or  
18 pursuant to petition by the owner, change, without imposition of the  
19 compensating tax provided under RCW 84.33.140, the status of such  
20 designated land to classified forest land.

21       **Sec. 4.** RCW 84.33.140 and 1997 c 299 s 2 are each amended to read  
22 as follows:

23       (1) When land has been designated as forest land pursuant to RCW  
24 84.33.120(4) or 84.33.130, a notation of such designation shall be made  
25 each year upon the assessment and tax rolls, a copy of the notice of  
26 approval together with the legal description or assessor's tax lot  
27 numbers for such land shall, at the expense of the applicant, be filed  
28 by the assessor in the same manner as deeds are recorded, and such land  
29 shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120  
30 until removal of such designation by the assessor upon occurrence of  
31 any of the following:

32       (a) Receipt of notice from the owner to remove such designation;

33       (b) Sale or transfer to an ownership making such land exempt from  
34 ad valorem taxation;

35       (c) Sale or transfer of all or a portion of such land to a new  
36 owner, unless the new owner has signed a notice of forest land  
37 designation continuance, except transfer to an owner who is an heir or  
38 devisee of a deceased owner, shall not, by itself, result in removal of

1 classification. The signed notice of continuance shall be attached to  
2 the real estate excise tax affidavit provided for in RCW 82.45.150.  
3 The notice of continuance shall be on a form prepared by the department  
4 of revenue. If the notice of continuance is not signed by the new  
5 owner and attached to the real estate excise tax affidavit, all  
6 compensating taxes calculated pursuant to subsection (3) of this  
7 section shall become due and payable by the seller or transferor at  
8 time of sale. The county auditor shall not accept an instrument of  
9 conveyance of designated forest land for filing or recording unless the  
10 new owner has signed the notice of continuance or the compensating tax  
11 has been paid. The seller, transferor, or new owner may appeal the new  
12 assessed valuation calculated under subsection (3) of this section to  
13 the county board of equalization. Jurisdiction is hereby conferred on  
14 the county board of equalization to hear these appeals;

15 (d) Determination by the assessor, after giving the owner written  
16 notice and an opportunity to be heard, that:

17 (i) Such land is no longer primarily devoted to and used for  
18 growing and harvesting timber. However, land shall not be removed from  
19 designation if a governmental agency, organization, or other recipient  
20 identified in subsection (5) (~~(or (6))~~) of this section as exempt from  
21 the payment of compensating tax has manifested its intent in writing or  
22 by other official action to acquire a property interest in designated  
23 forest land by means of a transaction that qualifies for an exemption  
24 under subsection (5) (~~(or (6))~~) of this section. The governmental  
25 agency, organization, or recipient shall annually provide the assessor  
26 of the county in which the land is located reasonable evidence in  
27 writing of the intent to acquire the designated land as long as the  
28 intent continues or within sixty days of a request by the assessor.  
29 The assessor may not request this evidence more than once in a calendar  
30 year;

31 (ii) The owner has failed to comply with a final administrative or  
32 judicial order with respect to a violation of the restocking, forest  
33 management, fire protection, insect and disease control and forest  
34 debris provisions of Title 76 RCW or any applicable regulations  
35 thereunder; or

36 (iii) Restocking has not occurred to the extent or within the time  
37 specified in the application for designation of such land.

38 Removal of designation upon occurrence of any of (a) through (c) of  
39 this subsection shall apply only to the land affected, and upon

1 occurrence of (d) of this subsection shall apply only to the actual  
2 area of land no longer primarily devoted to and used for growing and  
3 harvesting timber, without regard to other land that may have been  
4 included in the same application and approval for designation:  
5 PROVIDED, That any remaining designated forest land meets necessary  
6 definitions of forest land pursuant to RCW 84.33.100.

7 (2) Within thirty days after such removal of designation of forest  
8 land, the assessor shall notify the owner in writing, setting forth the  
9 reasons for such removal. The seller, transferor, or owner may appeal  
10 such removal to the county board of equalization.

11 (3) Unless the removal is reversed on appeal a copy of the notice  
12 of removal with notation of the action, if any, upon appeal, together  
13 with the legal description or assessor's tax lot numbers for the land  
14 removed from designation shall, at the expense of the applicant, be  
15 filed by the assessor in the same manner as deeds are recorded, and  
16 commencing on January 1 of the year following the year in which the  
17 assessor mailed such notice, such land shall be assessed on the same  
18 basis as real property is assessed generally in that county. Except as  
19 provided in subsection (1)(c)((~~7~~)) or (5)((~~7~~ or (~~6~~))) of this section,  
20 a compensating tax shall be imposed which shall be due and payable to  
21 the county treasurer thirty days after the owner is notified of the  
22 amount of the compensating tax. As soon as possible, the assessor  
23 shall compute the amount of such compensating tax and mail notice to  
24 the owner of the amount thereof and the date on which payment is due.  
25 The amount of such compensating tax shall be equal to the difference  
26 between the amount of tax last levied on such land as forest land and  
27 an amount equal to the new assessed valuation of such land multiplied  
28 by the dollar rate of the last levy extended against such land,  
29 multiplied by a number, in no event greater than ten, equal to the  
30 number of years for which such land was designated as forest land.

31 (4) Compensating tax, together with applicable interest thereon,  
32 shall become a lien on such land which shall attach at the time such  
33 land is removed from designation as forest land and shall have priority  
34 to and shall be fully paid and satisfied before any recognizance,  
35 mortgage, judgment, debt, obligation or responsibility to or with which  
36 such land may become charged or liable. Such lien may be foreclosed  
37 upon expiration of the same period after delinquency and in the same  
38 manner provided by law for foreclosure of liens for delinquent real  
39 property taxes as provided in RCW 84.64.050. Any compensating tax

1 unpaid on its due date shall thereupon become delinquent. From the  
2 date of delinquency until paid, interest shall be charged at the same  
3 rate applied by law to delinquent ad valorem property taxes.

4 (5) The compensating tax specified in subsection (3) of this  
5 section shall not be imposed if the removal of designation pursuant to  
6 subsection (1) of this section resulted solely from:

7 (a) Transfer to a government entity in exchange for other forest  
8 land located within the state of Washington;

9 (b) A taking through the exercise of the power of eminent domain,  
10 or sale or transfer to an entity having the power of eminent domain in  
11 anticipation of the exercise of such power;

12 (c) A donation of fee title, development rights, or the right to  
13 harvest timber, to a government agency or organization qualified under  
14 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
15 sections, or the sale or transfer of fee title to a governmental entity  
16 or a nonprofit nature conservancy corporation, as defined in RCW  
17 64.04.130, exclusively for the protection and conservation of lands  
18 recommended for state natural area preserve purposes by the natural  
19 heritage council and natural heritage plan as defined in chapter 79.70  
20 RCW: PROVIDED, That at such time as the land is not used for the  
21 purposes enumerated, the compensating tax specified in subsection (3)  
22 of this section shall be imposed upon the current owner;

23 (d) The sale or transfer of fee title to the parks and recreation  
24 commission for park and recreation purposes; ((or))

25 (e) Official action by an agency of the state of Washington or by  
26 the county or city within which the land is located that disallows the  
27 present use of such land((-

28 ~~(6) In a county with a population of more than one million  
29 inhabitants, the compensating tax specified in subsection (3) of this  
30 section shall not be imposed if the removal of classification as forest  
31 land pursuant to subsection (1) of this section resulted solely from:~~

32 ~~(a) An action described in subsection (5) of this section; or~~

33 ~~(b));~~ or

34 (f) A transfer of a property interest to a government entity, or to  
35 a nonprofit historic preservation corporation or nonprofit nature  
36 conservancy corporation, as defined in RCW 64.04.130, to protect or  
37 enhance public resources, or to preserve, maintain, improve, restore,  
38 limit the future use of, or otherwise to conserve for public use or  
39 enjoyment, the property interest being transferred. At such time as

1 the property interest is not used for the purposes enumerated, the  
2 compensating tax shall be imposed upon the current owner.

3 **Sec. 5.** RCW 84.33.145 and 1997 c 299 s 3 are each amended to read  
4 as follows:

5 (1) If no later than thirty days after removal of classification or  
6 designation the owner applies for classification under RCW 84.34.020  
7 (1), (2), or (3), then the classified or designated forest land shall  
8 not be considered removed from classification or designation for  
9 purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until  
10 the application for current use classification under RCW 84.34.030 is  
11 denied or the property is removed from designation under RCW 84.34.108.  
12 Upon removal from designation under RCW 84.34.108, the amount of  
13 compensating tax due under this chapter shall be equal to:

14 (a) The difference, if any, between the amount of tax last levied  
15 on such land as forest land and an amount equal to the new assessed  
16 valuation of such land when removed from designation under RCW  
17 84.34.108 multiplied by the dollar rate of the last levy extended  
18 against such land, multiplied by

19 (b) A number equal to:

20 (i) The number of years the land was classified or designated under  
21 this chapter, if the total number of years the land was classified or  
22 designated under this chapter and classified under chapter 84.34 RCW is  
23 less than ten; or

24 (ii) Ten minus the number of years the land was classified under  
25 chapter 84.34 RCW, if the total number of years the land was classified  
26 or designated under this chapter and classified under chapter 84.34 RCW  
27 is at least ten.

28 (2) Nothing in this section authorizes the continued classification  
29 or designation under this chapter or defers or reduces the compensating  
30 tax imposed upon forest land not transferred to classification under  
31 subsection (1) of this section which does not meet the necessary  
32 definitions of forest land under RCW 84.33.100. Nothing in this  
33 section affects the additional tax imposed under RCW 84.34.108.

34 (3) ~~((In a county with a population of more than one million~~  
35 ~~inhabitants,))~~ No amount of compensating tax is due under this section

1 if the removal from classification under RCW 84.34.108 results from a  
2 transfer of property described in RCW 84.34.108(5).

--- **END** ---