I. Basics of Real Property Taxation.

In Oregon, real market value is a concept designed to reflect what an informed and willing buyer in an arm's length transaction will pay in the open market place. Real market value is defined as "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." It is a statewide standard. While the sale of a given property is important, it will not necessarily determine its real market value. The sale will be considered along with other sales and relevant market data to establish the real market value for the property. If the property is subject to government restrictions, a determination of real market value must take those restrictions into consideration. Oregon's tax year runs from July 1 to June 30. Property is generally taxable and assessed as of the preceding January 1. For example, the value on January 1, 2013 will be used to determine the property taxes for the year beginning July 1, 2013 and ending June 30, 2014.

Oregon's procedures for property tax assessment and taxation were overhauled by a constitutional amendment approved by the voters in 1997, known as "Measure 50." The most important thing to know about Measure 50 is that it placed a limitation on the rate of growth of a property's taxable or assessed value, creating a third value known as the maximum assessed value or MAV. The MAV for each property in existence in the 1997-98 tax year became 90% of the real market value on the roll for the 1995-96 tax year. For subsequent years, increases in MAV are limited to 3% per year, subject to certain exceptions. New construction, major improvement of an existing structure, omitted property added to the tax rolls, and subdivision, partition, or rezoning of property are some examples of exceptions that could increase MAV by more than 3%. The value attributed to these changes is called "exception value." The MAV for exception RMV is computed using a different formula contained in the Oregon Constitution, and involves multiplying the exception RMV of the property by the changed property ratio (CPR). The CPR is determined county-wide by dividing the average MAV by the average RMV for the same area and property class of unchanged property (i.e., property with no exception value).

The most common indicators of value are the income approach, the sales comparison or market approach, and the cost approach. In the absence of reliable sales data, the cost and income approaches often assume greater importance. If a property is owned for the purpose of producing rental income and there is an active rental market for similar facilities, the income approach is generally most appropriate. Court decisions on the valuation of low income housing have precluded use of a sales comparison approach. *See e.g.*, *Wilsonville Heights Assoc., Ltd. v. Dept. of Rev.*, 339 Or. 462 (2005). If there are neither sufficient comparable sales nor rental data for comparable properties, the cost approach becomes more appropriate.

II. Appeal Process.

The typical appeal process starts by filing a petition with the local county Board of Property Tax Appeals (BOPTA) challenging the current year RMV, MAV, SAV, or AV. Only the property owner or other person obligated to pay the taxes on that property can appeal to BOPTA. BOPTA appeals must be filed between October 25 and December 31 of the tax year being appealed. It is strongly advised to file appeals via a method that affords a definitive, competent record of transmittal (*e.g.*, certified mail); if the appeal becomes lost, that record will determine whether the appeal is timely. If a filing deadline falls on a Saturday, Sunday, or legal holiday, the deadline typically moves to the next business day.

BOPTA will notify the taxpayer in writing of its decision. If not satisfied with the decision, the taxpayer can appeal to the Magistrate Division of the Oregon Tax Court within thirty (30) days -- not one month -- from the date of mailing of the BOPTA order. Magistrate decisions can be appealed to the Regular Division within sixty (60) days – not two months – of the date of the Magistrate decision. The defendant will be the Department of Revenue. The Regular Division is a court of record and its decisions can be appealed to the Oregon Supreme Court. An appeal to the Oregon Supreme Court must be filed within thirty (30) days -- not one month -- of the date of the decision of the Regular Division. The scope of review at the Supreme Court is limited to errors, questions of law, and lack of substantial evidence in the record to support the Regular Division decision.

III. New Construction and Exemption from Taxation.

Oregon has a unique provision for tax relief for new construction. The "construction exemption" cancels the assessment on commercial facilities under construction. The property must be new construction or an addition to an existing structure made for the production of income. Modification of an existing property from one use to another (*e.g.*, retail to office) can qualify. Properties constructed for the one time generation of income, such as condominiums, can also qualify for this exemption. Properties centrally assessed by the Department of Revenue are specifically excluded.

To qualify, the property must be in the process of construction on January 1 of the tax year in which exemption is sought, and not in use or occupancy or generated any income prior to that date. Construction must be expected to take more than one year from commencement, which occurs when work has begun or the foundation is partially or wholly laid. Site preparation is not considered part of construction. If there is any doubt as to whether the construction will last twelve months, it is worth filing because if there are delays the taxpayer is protected and there is no downside to filing the application.

To obtain the exemption, a taxpayer must file a construction exemption application by April 1 of each tax year in which the exemption is sought. Oregon courts have allowed the exemption under certain circumstances when no formal application has been filed, *see e.g.*, *Cleveland Care Centers v. Clackamas Cty. Assessor*, 17 OTR-MD 205 (2003), but it is best to follow the proper procedures to ensure the exemption is not denied on a technicality. If successful, the savings can be significant. The exemption is available for up to two consecutive tax years; an application is required for each year.

IV. Comparison of New Construction Between Metro Counties.

Once new construction comes on the roll, the counties typically utilize a cost approach while the property is under construction. Once the project is complete, the counties typically utilize an income approach using market rents, vacancy, expenses, and cap rates. In the first year a property comes fully on the roll, the counties do not take lease-up into account. In other words, the property will be valued as if at stabilized occupancy. As the value determined in this first year will establish the basis for taxation going forward, it is very important to make certain that value is correct.

Below is a comparison between the three Metro counties as to how a newly constructed apartment project might be taxed.

	Washington	Multnomah	Clackamas
Proforma Income	$ 2,345,600	$ 2,345,600	$ 2,345,600
Proforma Expenses	$ (703,680)	$ (703,680)	$ (703,680)
Proforma NOI	$ 1,641,920	$ 1,641,920	$ 1,641,920
Base cap rate	5.50%	5.50%	5.50%
Effective tax rate	1.27%	1.33%	1.56%
Overall cap rate	6.77%	6.83%	7.06%
Real Market Value	$ 24,235,339	$ 24,034,349	$ 23,254,681
x CPR	0.6710	0.5998	0.8670
Max. Assessed Value	$ 16,261,913	$ 14,415,802	$ 20,161,808
Assessed value	$ 16,261,913	$ 14,415,802	$ 20,161,808
x Actual tax rate	1.90%	2.22%	1.80%
Projected taxes	$ 308,976.34	$ 320,030.81	$ 362,912.55

We start with the proforma income and expenses and the resulting net operating income. Expenses are net of property taxes because the value upon which property taxes are based is what we are determining. Consequently, the tax rate is added to the base cap rate, and for new construction in Oregon we use the effective tax rate – the actual tax rate multiplied by the changed property ratio (CPR).

The resulting overall cap rate is applied to the proforma NOI to determine real market value. For the first year new construction comes on the roll, the real market value is then multiplied by the CPR to determine the maximum assessed value. By operation of law, assessed value is then the lower of the real market value or the maximum assessed value; in the first year maximum assessed value will be the lower and therefore the resulting assessed value.

When changed property ratios vary by county, the impact on assessed value can be significant. In the example, Multnomah County has the highest tax rate but the projected taxes are much lower than the same project in Clackamas County which has the lowest tax rate of the three counties. This is due primarily to the much higher CPR in Clackamas County. The higher CPR results in the highest overall cap rate between the three counties which in turn results in the lowest real market value. But because the CPR is multiplied by the RMV to determine the MAV which in turn becomes the assessed value, the resulting MAV/AV is higher and consequently so are the taxes.

V. Low Income Housing Special Assessment.

Qualifying low income housing projects can apply to have their property special assessed. Low income housing projects are by law typically valued using actual income and stabilized actual expenses with a capitalization rate that includes an upwards adjustment for risk. The benefit of this program as opposed to valuation in the regular course is that the first year of special assessment is considered to be an exception year, meaning that once a specially assessed value (SAV) is determined, the changed property ratio (CPR) will be applied to determine a new taxable base going forward. Existing properties that have an RMV and AV that are close together may benefit the most from determination of a new taxable base. The application for special assessment is due by April 1 of the year in which special assessment is sought. An application may be filed late -- after April 1 but by December 31 -- if accompanied by a late filing fee equal to one-tenth of one percent of the project's real market value. For example, if at time of filing the project's RMV is $1,250,000, the late filing fee would be $1,250.

VI. Compression.

In most Oregon counties, in order to obtain property tax relief a taxpayer has to prove a value that is below the assessed value. In some counties, however, there is an opportunity to generate property tax savings with a reduction in real market value even if that reduction is not below the assessed value. This has to do with Measure 5 is commonly known as compression.

Under Measure 5, the amount of property taxes that can be collected from each property tax account cannot exceed $10 per $1,000 of real market value for general government services, and $5 per $1,000 of real market value for education services. If they do, then the property taxes are lowered to these limits and the difference is known as compression. Compression is most prevalent in counties where tax rates are high, such as Multnomah County.

The simplest way to test for compression and to determine the potential for refunds is with the actual property tax statement. A sample tax statement is attached for these calculations.

To determine the actual education tax rate, divide the amount of education taxes by the assessed value.

$19,921,80 / $3,047,280 = 0.0065376

Do the same with the government taxes to determine the actual government rate.

$39,843.60 / $3,047,280 = 0.0130751

These rates should match the actual levy rates provided that the property is not already in partial or full compression. In the event the property is in partial or full compression, these rates will not be the actual levy rates and the next calculation will be incorrect. Most properties are not receiving any compression because actual tax rates are already below the Measure 5 limits. Consult a property tax professional if you have questions.

Next, determine the real market value at which compression would be triggered for each category of taxes by dividing the amount of education or government taxes by the Measure 5 rate of 0.005 for education and 0.01 for government. If you are able to obtain a real market value below either of or both those resulting values, compression will be triggered and a property tax refund will result. In this example, <u>any</u> reduction in real market value will result in a refund.

Education: $19,921,80 / 0.005 = $3,984,360

Government: $39,843.60 / 0.01 = $3,984,360

Once you have a new real market value, determine what, if any, the resulting compression refund will be by multiplying the new RMV by the Measure 5 rates and then comparing the revised tax amounts to the current tax amounts. The difference will be the refund. This example uses a revised RMV of $3,500,000.

$3,500,000 x 0.005 = $17,500.00 - $19,921.80 = $2,421.80

$3,500,000 x 0.01 = $35,000.00 - $39,843.60 = $4,843.60

Total resulting refund = $7,265.40

It helps to have the foregoing calculations set up in a handy spreadsheet like the attached..

7/1/12 TO 6/30/13 REAL PROPERTY TAX STATEMENT

MULTNOMAH COUNTY, OREGON * P.O. BOX 2716 * PORTLAND, OREGON 97208-2716

Phone: (503) 988-3326 WWW.MULTCOTAX.ORG

PROPERTY DESCRIPTION

ACCOUNT NO:

CODE AREA: 001

OCT 17 2012

2012-13 CURRENT TAX BY DISTRICT:	
MULTNOMAH ESD	1,260.05
PORTLAND COMMUNITY COLLEGE	771.57
PORTLAND PUBLIC SCHOOL	14,384.69
PORTLAND PUBLIC SD LOC OPTION	3,505.49
EDUCATION TAXES:	$19,921.80
PORT OF PORTLAND	194.42
CITY OF PORTLAND	12,588.92
METRO	267.25
WEST MULT SOIL & WATER CD	194.72
MULTNOMAH COUNTY	11,941.07
CITY OF PORTLAND CHILD LOC OP	209.29
MULT CO HIST SOCIETY LOC OPT	26.19
MULT CO LIBRARY LOCAL OPT TAX	462.02
PORTLAND FIRE/POLICE PENSION	7,173.91
URBAN RENEWAL - PORTLAND	6,785.81
GENERAL GOVERNMENT TAXES:	$39,843.60
CITY OF PORTLAND BONDS	491.53
CITY OF PORTLAND NEW BONDS	128.90
METRO BONDS	852.02
MULTNOMAH COUNTY BONDS	388.22
PORTLAND COMM COLLEGE BONDS	1,048.57
BONDS AND MISC TAXES:	$2,909.24
2012-13 TAX (Before Discount)	$62,674.64
DELINQUENT TAXES:	$0.00
TOTAL (After Discount):	$60,794.40

VALUES:	LAST YEAR	THIS YEAR
MARKET VALUES:		
LAND	1,202,060	1,202,060
STRUCTURE	2,782,300	2,782,300
TOTAL RMV VALUE	3,984,360	3,984,360
TAXABLE VALUES:		
ASSESSED VALUE	2,958,530	3,047,280
PROPERTY TAXES:	$62,419.78	$62,674.64

Please read the enclosed Tax Statement Guide
To pay online go to www.multcotax.org

TAX PAYMENT OPTIONS

(See back of statement for payment instructions)

	Pay By	Discount	Net Amount Due
In Full	11/15/12	1,880.24	$60,794.40
2/3	11/15/12	835.66	$40,947.44
1/3	11/15/12	NONE	$20,891.55

PLEASE MAKE PAYMENT TO: Multnomah County

PLEASE DETACH STUB AND RETURN WITH PAYMENT. RETAIN TOP PORTION FOR YOUR RECORDS.

OREGON PROPERTY TAX YEAR
July 1, 2012 to June 30, 2013

Multnomah County Property Taxes

Property Address

DO NOT WRITE IN SPACE BELOW

PLEASE MAKE PAYMENTS TO:
Tax Collector, Multnomah County

Payment options:

IN FULL	11-15-2012	
2/3	11-15-2012	$40,947.44
1/3	11-15-2012	$20,891.55

Discount is lost and interest applied after due date

Code Area	Account Number
001	

Net Amount	Amount Paid
$60,794.40	

0001174654 0002089155 0004094744 0006079440 02

WRITE MAILING ADDRESS CHANGES IN AREA BELOW

150-553-008 (Mult Rev.06-12)

COMPRESSION CALCULATOR

Property: ABC Corporation
Account No.: R000000

File No.: 123456
Tax Year: 2012-13

Assessed Value	Sch. Tax	Rate	M 5 Rate	Trigger RMV	Current RMV
$ 3,047,280	$ 19,921.80	0.0065376	0.005	$ 3,984,360	$ 3,984,360

Assessed Value	Govt. Tax	Rate	M 5 Rate	Trigger RMV	Current RMV
$ 3,047,280	$ 39,843.60	0.0130751	0.01	$ 3,984,360	$ 3,984,360

Revised RMV	Rev. Sch.	Rev. Govt.		Total Refund
$ 3,500,000	$ 17,500.00	$ 35,000.00	=	$ 7,265.40

Historical Changed Property Ratios

Clackamas	2012	2011	2010	2009	2008	2007	2006	2005
Residential (1XX)	0.9020	0.8210	0.7370	0.6500	0.5550	0.5440	0.6000	0.6840
Comm/Local Ind (2XX)	0.9030	0.8860	0.8110	0.6120	0.5360	0.5630	0.6470	0.6850
State Industrial (3XX)	1.0000	0.9610	0.8700	0.6880	0.6470	0.6730	0.7000	0.7550
Multifamily (7XX)	0.8670	0.8990	0.8830	0.7210	0.6700	0.6730	0.7780	0.8150

Multnomah	2012	2011	2010	2009	2008	2007	2006	2005
Residential (1XX)	0.7279	0.6931	0.6040	0.5515	0.5046	0.5159	0.5697	0.6150
Comm/Local Ind (2XX)	0.5413	0.4883	0.4549	0.4425	0.4345	0.4660	0.5091	0.5353
State Industrial (3XX)	1.0000	0.8376	0.8750	0.7754	0.7649	1.0000	1.0000	1.0000
Multifamily (7XX)	0.5998	0.5644	0.5420	0.5461	0.5500	0.5639	0.5709	0.5934

Washington	2012	2011	2010	2009	2008	2007	2006	2005
Residential (1XX)	0.8510	0.7870	0.7200	0.6580	0.5770	0.5430	0.5720	0.6970
Comm/Local Ind (2XX)	0.7180	0.6550	0.6070	0.5470	0.5290	0.5750	0.6060	0.6510
State Industrial (3XX)	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000
Multifamily (7XX)	0.6710	0.6850	0.6770	0.6280	0.5900	0.6490	0.6940	0.7540