



**OREGON**  
ASSOCIATION OF  
NURSERIES

**Testimony before House Revenue Committee**

**House Bill 4111** - Removes the requirement that farm machinery and equipment be tangible personal property for the purposes of exemption from ad valorem property taxation

By Jeff Stone, Executive Director, Oregon Association of Nurseries  
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Chair Nathanson, Vice-Chairs Walters and Reschke, members of the committee, my name is Jeff Stone and I serve as the Executive Director of the Oregon Association of Nurseries. It is my hope that my comments are construed as constructive related to the complex issue of property tax on farm equipment.

**Background on the Nursery and Greenhouse Industry**

The nursery and greenhouse industry is the state’s largest agricultural sector, with over \$1.37 billion in sales across the nation and the globe. Nationally, Oregon ranks third in nursery production. Nearly 80% of the nursery stock grown in our state leaves our borders – with over 50% reaching markets east of the Mississippi River. **By the numbers:** #1 in US: sales of conifers, shade trees, Christmas trees, and flowering trees. \$443.2 million in annual payroll - \$44,108 average annual pay. We send ecologically friendly, carbon sequestering, green products out of the state, and we bring traded sector dollars back to Oregon. Nursery association members represent wholesale plant growers, Christmas tree growers, retailers, and greenhouse operators. Our members are located throughout the state, with our largest nursery growing operations found in Clackamas, Marion, Washington, Yamhill, and Multnomah Counties.

**The issue:** Oregon has a property tax exemption for farm equipment that is “tangible personal” property. The “tangible personal” language found in the exemption statute is undefined and has led to different treatment from county to county. This leaves both production agriculture and county assessors guessing when attempting to ascertain what equipment is exempt from taxation. Over the last year, Oregon Association of Nurseries and the Oregon Farm Bureau have been working together on **HB 4111**, which would resolve conflicting interpretations about whether farm equipment is taxable. It’s not uncommon to get different answers from different assessors and sometimes even different answers in the same county. This bill would solve confusion among assessors and farmers, letting them move forward with predictable treatment.

**The Problem:** Since 1973 when the Oregon Legislature first approved its property tax exemption for tangible personal property used for agriculture, things have changed. County assessors have encountered difficulties determining which pieces of agricultural equipment are exempt under ORS 307.394, causing unequal application of the law and inequitable tax treatment among farm operations. Current law exempts tangible personal property from the property tax rolls. It does not exempt real property, which is defined as “... machinery, equipment or fixtures erected upon, above or affixed to the land.” The problem is, sometimes farm machinery is “affixed” to a building, and sometimes it’s not. A lot has changed since 1973, with significant innovations in agricultural equipment used on farm operations. This leads to varying degrees of that equipment being “affixed” – many times being done so for health and safety of employees.

**The Statute in Question is ORS 307.394**

In any statute there are ambiguities and ORS 307-394 is not immune. While we believe a plain reading of the statute demonstrates the Legislature’s intent on farm equipment, we acknowledge that unless you are a tax expert – it would be difficult to obtain consistent interpretation of the law.

Below is the ORS for your convenience

**307.394 Farm machinery and equipment; personal property used in farm operations; limitation.** (1) The following tangible personal property is exempt from ad valorem property taxation:

(a) Farm machinery and equipment used primarily in the preparation of land, planting, raising, cultivating, irrigating, harvesting or placing in storage of farm crops;

(b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying and the sale of dairy products;

(c) Machinery and equipment used primarily to implement a remediation plan as defined in ORS 308A.053 for the period of time for which the remediation plan is certified; or

(d) Farm machinery and equipment used primarily in any other agricultural or horticultural use or animal husbandry or any combination of these activities.

(2)(a) Items of tangible personal property, including but not limited to tools, machinery and equipment that are used predominantly in the construction, reconstruction, maintenance, repair, support or operation of farm machinery, and equipment and other real or personal farm improvements that are used primarily in animal husbandry, agricultural or horticultural activities, or any combination of these activities, are exempt from ad valorem property taxation.

(b) An item of tangible personal property described in paragraph (a) of this subsection is exempt from ad valorem property taxation only if the person that owns, possesses or controls the item also:

(A) Owns, possesses or controls the farm machinery, equipment and other real and personal farm improvements for which the item is used; and

(B) Carries on the animal husbandry, agricultural or horticultural activity, or combination of activities, in which the farm machinery, equipment or other real and personal farm improvements are used. [2001 c.753 §15; 2009 c.776 §8]

**Case Law is conflicted, and rules don't reflect modern farming practices**

The OAN is gathering all the relevant information on case law on taxation of farm equipment and admits it is at best muddled, and at worst inconsistent. We are aware of court decisions that draw a bright line between what is real property and tangible personal property under ORS 307.394. For this reason, we are hoping that HB 4111 provides clarity for our growers and the assessors moving forward.

In 1973, real property was pretty simple. In a lot of cases it was the barn. Fast forward to 2024 – production agriculture has been at the forefront of technology, and I see many examples of mobile equipment that is one of a kind, not only in Oregon but in the entire United States. For this reason we need clarity. Investment choices amidst a severe labor crisis are further complicated by uncertainty of taxation of equipment.

Over the past several weeks, I have asked our members for examples of types of equipment, and it is as varied as you might imagine. The intent of HB 4111 meets the forward thinking of the legislative body in 1973 – farming is different, and the farmers need tools to produce green goods. Three things OAN members invest in: Its people, equipment and the ground.

**Good work was started in 2019**

I would be remiss if I did not thank the hard work by State Representative Pam Marsh in 2019. She visited nursery operations, looked at the myriad of production methods and the tools needed to bring plants to the people. Unfortunately the pandemic interrupted the progress of providing clarity on farm equipment taxation.

You have before you a product that is the result of a lot of hours of deliberation and discussion and HB 4111 has the opportunity to provide clarity to our county assessors and growers. Thank you for your time and consideration.