

2000, which plaintiffs completed and returned on April 22, 2000. After reviewing that information the assessor's office determined that plaintiffs' property did not meet the income requirements for farm use special assessment in land not zoned for exclusive farm use. The county sent plaintiffs a notice of intent to disqualify in June and later disqualified the property on July 7, 2000, after not hearing back from the plaintiffs. Pursuant to the disqualification plaintiffs' property was returned to real market value for tax year 2000-01. The assessed value also increased from \$40,095 to \$73,777.

Plaintiffs object to the disqualification and insist that they do meet the income requirements. Removing the one-acre homesite and four acres of trees, plaintiffs contend they need only report gross income of \$1,600.¹ Plaintiffs report income of \$1,763 for 1996, \$2,168 for 1998 and \$1,897 for 1999. Plaintiffs did not file a Schedule F (reporting farm income and expenses) with their federal income tax returns for any of the prior years farming, nor did they otherwise report the income.

COURT'S ANALYSIS

In order for land not located in an exclusive farm use zone to qualify for farm use special assessment the land must be "used * * * exclusively for farm use * * *." ORS 308A.068(1). A property owner must not only meet the income requirements set forth in ORS 308A.071(2), but must satisfy "all of the prerequisites of subsections (2) to (5) of [ORS 308A.071]." ORS 308A.071(1). Subsection (3) of that statute provides:

"Excise or income tax returns are filed with the Department of Revenue * * * by the farmland owner or the operator of the farm unit that include a Schedule F * * * during the years to which the income requirements of this section apply." ORS 308A.071(3) (emphasis added).

¹Based on an estimated 21 acre total, less the five acres devoted to trees and the homesite.

Plaintiffs' income information pertains to 1996, 1998 or 1999. However, plaintiffs did not file Schedule F's in any of those years. Nor did they otherwise report the income on their federal or state tax returns for the years in question. Mrs. Beck explained that she did not file a Schedule F because expenses likely equal or exceed income and the Internal Revenue Service (IRS) would question the ongoing losses. The court has no opinion as to whether the IRS would question plaintiffs' Schedule F if it showed ongoing losses. However, it is clear from the governing statute that a prerequisite to satisfying the statutory requirement of exclusive farm use found in both ORS 308A.068(1) and 308A.071(1) is that taxpayers file a Schedule F each year along with their income tax return. ORS 308A.071(3). This court has previously found the absence of Schedule F's controlling in denying a request for farm use special assessment. See *Sweet v. Washington County Assessor*, OTC-MD No. 991390B, WL 1072468 (May 30, 2000.) Likewise in this case the court finds plaintiffs' failure to file the Schedule F each year presents an insurmountable obstacle barring their claim for relief.

CONCLUSION

Plaintiffs' request for reinstatement of their farm use special assessment must be denied because plaintiffs have not demonstrated that their land is used exclusively for farm use. ORS 308A.068 and 308A.071. The failure to file federal Schedule F's, as required by ORS 308A.071(3), defeats their claim.

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IT IS THE DECISION OF THE COURT that plaintiffs' property does not qualify for

farm use special assessment for the 2000-01 tax year because they did not file federal Schedule F's reporting their claimed farm income. Accordingly, plaintiffs' requested relief is denied and defendant's disqualification is upheld.

Dated this _____ day of May, 2001.

DAN ROBINSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON MAY 18, 2001. THE COURT FILED THIS DOCUMENT ON MAY 18, 2001.