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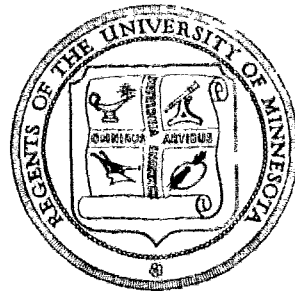
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PROVISIONS FOR USE-VALUE ASSESSMENT OF AGRICULTURAL AND OPEN SPACE LAND IN MINNESOTA

by

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PROVISIONS FOR USE-VALUE ASSESSMENT
OF AGRICULTURAL AND OPEN SPACE
LAND IN MINNESOTA

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Arley D. Waldo and Carole B. Yoho

Two Minnesota laws provide for use-value assessment of qualified agricultural and open space land for property tax purposes. These laws are the Minnesota Agricultural Property Tax Law (often called the "Green Acres" Law) and the Minnesota Open Space Property Tax Law. In general, both laws provide for taxation of eligible real estate on the basis of use-value rather than actual market value and a partial deferral of local property taxes.

The Minnesota Agricultural Property Tax Law

The Minnesota Agricultural Property Tax Law provides for use-value assessment of qualified agricultural real estate, a partial deferral of local property taxes, and deferral of certain special assessments on farmland.¹ Agricultural real estate that qualifies for the program is to be assessed on the basis of its value in agricultural use without regard to nonagricultural factors that may affect the actual market value of the property.

The purpose of the law is to provide property tax relief to eligible owners of farmland. The law is based on the idea that this will reduce

¹M.S. 273.111.

the economic pressure on farmland owners to sell or convert agricultural land to nonfarm uses as property values rise above the level that agricultural use can justify. It is hoped that this will encourage, at least for a time, the maintenance of agricultural "open space" and provide more equitable taxation of farmland owners.

Background

The Minnesota Agricultural Property Tax Law was initially enacted in 1967.² The law originally became effective for property assessments in 1968 for taxes payable in 1969 and for special assessments levied after July 1, 1967. The law was subsequently amended in 1969, 1973, 1976, and 1977.³

Minnesota is one of approximately 40 states that have some type of differential assessment provisions for agricultural land.

Qualifying Real Estate

The Agricultural Property Tax Law applies to farm real estate of 10 acres or more that is "actively and exclusively devoted to agricultural use." Agricultural use is defined as the production for sale of livestock, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit, vegetables, forage, grain, and bees and apiary products. Woodland and wasteland that is

²Ex 1967 c 60 s 1-13.

³1969 c 1039 s 1-9; 1973 c 322 s 25; 1973 c 450 s 1; 1973 c 582 s 3; 1976 c 2 s 94-95; 1976 c 134 s 78; 1977 c 423 art 3 s 4.

a part of real estate devoted to agricultural production is included if it is under the same ownership and management.

Eligibility

To be eligible for use-value assessment, land devoted to agricultural use must meet one of the following conditions:

1. Be the homestead of the owner (or become the homestead of the surviving spouse, child, or sibling of the owner); or
2. Be farmed together with real estate that includes the homestead of the owner; or
3. Be the homestead of the shareholder in a family farm corporation; or
4. Have been in the possession of the applicant (or the applicant's spouse, parents, brothers or sisters, or any combination of these persons) for at least seven years prior to application.

In addition to meeting one of the requirements listed above, one of the following conditions must be met:

1. Farming must account for at least one-third of the total family income of the applicant; or
2. The income from agricultural use of the property must be \$300 plus \$10 per tillable acre.

Income from the rental of real estate for agricultural use is sufficient for meeting this income test. Applicants are not required to conduct any farming operations themselves.

Valuation of Qualifying Farmland

For land that qualifies for use-value assessment and tax deferral, the county assessor is to determine two different values for the property. One valuation is to be based on the value of the land for agricultural use. In determining this value, the assessor is to disregard any nonagricultural factors that may add to the market value of the property. The second valuation is the assessor's estimation of the actual market value of the property taking into account all factors that influence market value. In some areas, the potential use of farmland for nonfarm purposes may add significantly to the market value of the property.

Tax Deferral

Qualified farmland owners are to be taxed on the basis of the agricultural use-value of their property. The assessor is to record both the amount of the tax actually levied against the property and what the tax would have been if the property had been assessed at actual market value. The difference between these two figures is the amount of tax that is deferred. This tax deferral remains in effect as long as the land is used for agricultural purposes and the owner meets the necessary eligibility requirements.

If the property is sold or converted to nonfarm use, or if the owner otherwise becomes ineligible for the program, the amount of taxes that were deferred over the past three years is to be levied against the property. This additional tax becomes due on real estate that is sold even if the property continues to be used for agricultural purposes. There will be no interest or penalties on the additional tax if the additional

tax is paid at the time taxes for the next year are due. If the assessor's estimated market value of the property exceeds the bona fide sale price of the property, the sale price of the property is to be used to calculate the amount of additional tax due rather than the assessor's estimated market value.

Qualified farmland owners are also eligible for deferral of special assessments against agricultural real estate. This deferral applies to all special assessments except those levied by county boards (outside of the seven-county metropolitan area) or district courts for the provision of water or sewer systems in unincorporated areas.⁴ Deferred special assessments, plus interest, are to be paid within 90 days if the property is sold or converted to nonfarm use, or if the owner otherwise becomes ineligible for the program. If the deferred special assessments are not paid within 90 days, the amount of these assessments plus a penalty of 10 percent is to be added to the current tax list by the county auditor.

Application

Applications for agricultural use-value assessment and tax deferral are to be filed with the county assessor by May 1 of the year prior to the year in which the taxes will be payable. Assessors may require proof that the property qualifies for the program. Once an application has been approved, it continues in effect until the property no longer qualifies for the program. It is not necessary to file an application each year.

⁴As authorized by M.S. 116A.

The Minnesota Open Space Property Tax Law

The Minnesota Open Space Property Tax Law provides for use-value assessment of certain recreational and park land and a partial deferral of local property taxes.⁵ In general, private owners of real estate used for golfing or skiing are eligible for use-value assessment and tax deferral. The purpose of the law is to encourage private outdoor recreational establishments, maintain open space, and provide more equitable taxation of the owners of recreational real estate.

Background

The Minnesota Open Space Property Tax Law was initially enacted in 1969.⁶ The law originally became effective for property assessments in 1970 for taxes payable in 1971. The law was subsequently amended in 1973.⁷ The objectives and provisions of the law are similar to those of the Minnesota Agricultural Property Tax Law.

Qualifying Real Estate

The Open Space Property Tax Law applies to real estate of five acres or more that is "actively and exclusively devoted to golf or skiing recreational use or uses and other recreational uses carried out at such golf or skiing establishments."

To be eligible for use-value assessment, golf or skiing establishments must meet one of the following conditions:

⁵M.S. 273.112.

⁶1969 c 1135 s 1.

⁷1973 c 582 s 3.

1. Be privately operated and open to the public; or
2. Be operated by a business firm for the benefit of its employees or guests; or
3. Be operated by a private club with at least 50 members.

Valuation of Qualifying Real Estate

For real estate that qualifies for use-value assessment and tax deferral, the county assessor is to determine two different values for the property. One valuation is to be based on the value of the real estate in its use for recreational purposes. In determining this value, the assessor is to disregard the potential value of the property for residential, commercial, or industrial uses. The second valuation is the assessor's estimation of the actual market value of the property taking into account all factors that influence market value.

Tax Deferral

The property tax paid on qualifying recreational real estate is to be based on the value of the property in recreational use. The assessor is to record both the amount of the tax actually levied against the property and what the tax would have been if the property had been assessed according to its actual market value rather than its value as recreational property. The difference between these two figures is the amount of tax that is deferred. This tax deferral remains in effect as long as the property is used for qualified recreational purposes.

If the property is sold or converted to nonrecreational use, or otherwise becomes ineligible for use-value assessment, the amount of

taxes deferred over the past seven years is to be levied against the property. This additional tax becomes due on real estate that is sold even if the property continues to be used for recreational purposes. If the deferred taxes are paid at the time when taxes for the next year are due, there will be no interest or penalties on the additional tax. If the assessor's estimated market value of the property exceeds the bona fide sale price of the property, the sale price of the property to be used to calculate the amount of additional tax due rather than the assessor's estimated market value.

This law does not provide for the deferral of special assessments on recreational property.

Application

Applications for use-value assessment of recreational property and tax deferral are to be filed with the county assessor at least 60 days before January 2 each year. Applications must be submitted each year. Assessors may require proof that the property qualifies for the program.

APPENDIX A

MINNESOTA AGRICULTURAL PROPERTY TAX LAW
Minnesota Statutes 273.111

The following is the complete text, including amendments through 1977, of the Minnesota Agricultural Property Tax ("Green Acres") Law:

273.111 AGRICULTURAL PROPERTY TAX. Subdivision 1. This section may be cited as the "Minnesota Agricultural Property Tax Law."

Subd. 2. The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain agricultural real property and has resulted in inadequate taxes on some lands and excessive taxes on others. Therefore, it is hereby declared to be the public policy of this state that the public interest would best be served by equalizing tax burdens upon agricultural property within this state through appropriate taxing measures.

Subd. 3. Real estate consisting of ten acres or more shall be entitled to valuation and tax deferment under this section only if it is actively and exclusively devoted to agricultural use as defined in subdivision 6 and either (1) is the homestead or thereafter becomes the homestead of a surviving spouse, child, or sibling of the said owner or is real estate which is farmed with the real estate which contains the homestead property, or (2) has been in possession of the applicant, his spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of Laws 1969, Chapter 1039, or (3) is the homestead of a shareholder in a family farm corporation, notwithstanding the fact that legal title to the real estate may be held in the name of the family farm corporation. "Family farm corporation" for the purpose of this subdivision means a corporation founded for the purpose of farming and owning agricultural land, in which all of the stockholders are members of a family related to each other within the third degree of kindred according to the rules of civil law.

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8 and 273.11. In determining such value for ad valorem tax purposes the assessor shall not consider any added values resulting from nonagricultural factors.

Subd. 5. The assessor shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate mill rate applicable to such property in the taxing district shall be recorded on the property assessment records.

Subd. 6. Real property shall be considered to be in agricultural use provided that annually: (1) at least 33 1/3 percent of the total family income of the owner is derived therefrom, or the total production income including rental from the property is \$300 plus \$10 per tillable acre; and (2) it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees and apiary products by the owner, slough, wasteland, and woodland contiguous to or surrounded by land described in subdivision 3 shall be considered to be in agricultural use if under the same ownership and management.

Subd. 7. [Repealed, 1969 c 1039 s 10]

Subd. 8. Application for deferment of taxes and assessment under this section shall be filed in the year 1969 by July 1 and thereafter by May 1 of the year prior to the year in which said taxes became payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. Such application shall be filed with the assessor of the taxing district in which the real property is located on such form as may be prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivisions 3 and 6.

Subd. 8a. Notwithstanding the provisions contained in this subdivision, applications for agricultural tax assessment and deferment with respect to the assessment of January 2, 1968, may be made prior to July 1, 1969, and payment of any taxes otherwise due on May 31, 1969, shall be deferred without penalty until 30 days after notice or rejection of application or after notice of taxes as determined under the new assessment made in accordance with subdivision 4. Any reduction in taxes resulting from the application of this section shall be processed in accordance with section 270.07. Notwithstanding the time limits contained in section 278.01 and section 271.06, subdivision 1, as the case may be, an appeal may be taken to the district court or the tax court of appeals within 30 days of any order denying applications filed as provided in this subdivision for reduction in the January 2, 1968 valuations or assessments or of any valuations or assessments made after June 7, 1969.

Subd. 9. When real property which is being, or has been valued and assessed under this section is sold or no longer qualifies under subdivisions 3 and 6, the portion sold shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arms length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

Subd. 10. The tax imposed by this section shall be a lien upon the property assessed to the same extent and for the same duration as other taxes imposed upon property within this state. The tax shall be annually extended by the county auditor and if and when payable shall be collected and distributed in the manner provided by law for the collection and distribution of other property taxes.

Subd. 11. The payment of special local assessments levied after the date of Extra Session Laws 1967, Chapter 60, for improvements made to any real property described in subdivision 3 together with the interest thereon shall, on timely application as provided in subdivision 8, be deferred as long as such property meets the conditions contained in subdivisions 3 and 6. When such property is sold or no longer qualifies under subdivisions 3 and 6, all deferred special assessments plus interest shall be payable within 90 days. Penalty shall not be levied on any such special assessments if timely paid. If not paid within such 90 days, the county auditor shall include such deferred special assessments plus a 10 percent penalty on the tax list for the current year.

Subd. 12. This section shall be broadly construed to achieve its purpose. The invalidity of any provision shall be deemed not to affect the validity of other provisions.

Subd. 13. This section shall apply to assessments for tax purposes made in 1968 and thereafter.

Subd. 14. This section shall apply to special local assessments levied after July 1, 1967, and payable in the years thereafter, but shall not apply to any special assessments levied at any time by a county or district court under the provisions of chapter 116A.

[Ex1967 c 60 s 1-13; 1969 c 1039 s 1-9; 1973 c 322 s 25; 1973 c 450 s 1; 1973 c 582 s 3; 1976 c 2 s 94, 95; 1976 c 134 s 78; 1977 c 423 art 3 s 4]

APPENDIX B

MINNESOTA OPEN SPACE PROPERTY TAX LAW
Minnesota Statutes 273.112

The following is the complete text, including amendments through 1977, of the Minnesota Open Space Property Tax Law.

273.112 PRIVATE OUTDOOR RECREATIONAL, OPEN SPACE AND PARK LAND TAX. Subdivision 1. This section may be cited as the "Minnesota Open Space Property Tax Law."

Subd. 2. The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain private outdoor recreational, open space and park land property and has resulted in excessive taxes on some of these lands. Therefore, it is hereby declared that the public policy of this state would be best served by equalizing tax burdens upon private outdoor, recreational, open space and park land within this state through appropriate taxing measures to encourage private development of these lands which would otherwise have to be provided by governmental authority.

Subd. 3. Real estate shall be entitled to valuation and tax deferment under this section only if it is:

- (a) actively and exclusively devoted to golf or skiing recreational use or uses and other recreational uses carried on at such golf or skiing establishment;
- (b) five acres in size or more; and
- (c) (1) operated by private individuals and open to the public; or
(2) operated by firms or corporations for the benefit of employees or guests; or
(3) operated by private clubs having a membership of 50 or more.

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 6, be determined solely with reference to its appropriate private outdoor, recreational, open space and park land classification and value notwithstanding Minnesota Statutes 1967, Sections 272.03, Subdivision 8, and 273.11. In determining such value for ad valorem tax purposes the assessor shall not consider the value such real estate would have if it were converted to commercial, industrial, residential or seasonal residential use.

Subd. 5. The assessor shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate mill rate applicable to such property in the taxing district

shall be recorded on the property assessment records.

Subd. 6. Application for deferment of taxes and assessment under this section shall be made at least 60 days prior to January 2 of each year. Such application shall be filed with the assessor of the taxing district in which the real property is located on such form as may be prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivision 3.

Subd. 7. When real property which is being, or has been, valued and assessed under this section is sold or no longer qualifies under subdivision 3, the portion sold or the portion which no longer qualifies under subdivision 3 shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arms length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last seven years that the said property has been valued and assessed under this section.

Subd. 8. The tax imposed by this section shall be a lien upon the property assessed to the same extent and for the same duration as other taxes imposed upon property within this state. The tax shall be annually extended by the county auditor and shall be collected and distributed in the manner provided by law for the collection and distribution of other property taxes.

Subd. 9. This section shall apply to assessments for tax purposes made beginning in 1970 used to determine taxes payable in 1971.
[1969 c 1135 s 1; 1973 c 582 s 3]