



County Technical Assistance Service

Published on e-Li (<http://eli.ctas.tennessee.edu>)

October 26, 2021

Greenbelt

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Greenbelt

Reference Number: CTAS-1481

Under the Agricultural, Forest, and Open Space Land Act of 1976, also known as the Greenbelt Law, owners of property qualifying as agricultural, forest, or open space property may have it specially valued. The act was promulgated to allow for assessment of the land based on current use, not its potential for conversion to another, higher value use.¹

No person may place more than 1,500 acres of land within any one taxing jurisdiction under the provisions of the Act.² To be eligible as agricultural land, the property must meet minimum size requirements. The property must consist either of a single tract of at least 15 acres, including woodlands and wastelands, or two noncontiguous tracts within the same county, including woodlands and wastelands, one of which is at least 15 acres and the other being at least 10 acres and together constituting a farm unit, or two noncontiguous tracts within the same county totaling at least 15 acres, including woodlands and wastelands, that are separated only by a road, body of water, or public or private easement and together constituting a farm unit.³ To be eligible as forest land, the property must constitute a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest.⁴ Open space land is any area of land, of not less than three acres, characterized principally by open or natural conditions which is not currently in agricultural or forest use. Open space land includes greenbelt lands or lands primarily devoted to recreational use.⁵ The Tennessee Court of Appeals has held that it is constitutionally permissible for the General Assembly to create sub-classes of real property, such as Greenbelt property, provided a constitutional valuation method is used for the sub-class.⁶ The formula for determining the special value is set forth in T.C.A. § 67-5-1008.

¹T.C.A. § 67-5-1001 *et seq.*

²T.C.A. §§ 67-5-1003(3), 67-5-1008(g). *See also* Op. Tenn. Atty. Gen. 88-81 (April 7, 1988).

³T.C.A. § 67-5-1004(1)(B).

⁴T.C.A. § 67-5-1004(3).

⁵T.C.A. § 67-5-1004(7).

⁶*Marion County v. State Bd. of Equalization*, 710 S.W.2d 521 (Tenn.Ct.App. 1986).

Classification of Agricultural Land

Reference Number: CTAS-1482

Any owner of land may apply for its classification as agricultural land by filing a written application with the assessor of property. The application must be filed by March 15. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as agricultural the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee of \$50.¹

The assessor must determine whether the land is agricultural land, and if such a determination is made, the assessor will classify and include it as such on the county tax roll. In determining whether the land is agricultural land, the tax assessor must take into account, among other things, the acreage of the land, the productivity of the land, and the portion thereof in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract of land is used as agricultural land if the land produces gross agricultural income averaging at least \$1,500 per year over any three-year period in which the land is so classified. The presumption may be rebutted, notwithstanding the level of agricultural income by evidence indicating whether the property is used as "agricultural land" as defined in the statute.² The assessor must verify actual agricultural uses claimed for the property during the on-site

review provided under T.C.A. § 67-5-1601. The assessor may at any time require other proof of use or ownership necessary to verify compliance with the statute.³

Any person aggrieved by the denial of any application for the classification of land as agricultural land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization.⁴

¹T.C.A. § 67-5-1005(a)(1).

²T.C.A. § 67-5-1005(a)(2) and (3);

³T.C.A. § 67-5-1005(c).

⁴T.C.A. § 67-5-1005(d).

Classification of Forest Land

Reference Number: CTAS-1483

Any owner of land may apply for its classification as forest land by filing a written application with the assessor of property. The application must be filed by March 15. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as forest land the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee of \$50.¹

The assessor shall determine whether the land is forest land, and if such a determination is made, the assessor shall classify and include it as such on the county tax roll.² In determining whether the land is forest land, the assessor must take into account, among other things, the acreage of the land, the amount and type of timber on the land, the actual and potential growth rate of the timber, and the management practices being applied to the land and to the timber on it. The assessor may request the advice of the state forester in determining whether the land should be classified as forest land.³

An application for classification of land as forest land shall be made upon a form prescribed by the state board of equalization, in consultation with the state forester, and shall include a description of the land, a general description of the uses to which it is being put, aerial photographs, if available, and such other information as the assessor of property or state forester may require to aid the assessor of property in determining whether the land qualifies for designation as forest land..⁴

Any person aggrieved by the denial of an application for the classification of land as forest land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization..⁵

¹T.C.A. § 67-5-1006(a)(1).

²T.C.A. § 67-5-1006(a)(2).

³T.C.A. § 67-5-1006(b)(1) and (2).

⁴T.C.A. § 67-5-1006(c).

⁵T.C.A. § 67-5-1006(d).

Classification of Open Space

Reference Number: CTAS-1484

The planning commission, in preparing a land use or comprehensive plan for the municipality or county, may designate in the plan areas which it recommends for preservation as areas of open space land, other than lands currently in agricultural and forestry uses. Land included in any area so designated in the plan, as finally adopted, may be classified as open space land for purposes of property taxation provided

there has been no change in the use of the area which has adversely affected its essential character as an area of open space land between the date of the adoption of the plan and the date of classification.¹

Any owner of land may apply for its classification as open space land by filing a written application with the assessor of property. The application must be filed by March 15. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as open space land the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee \$50.²

The assessor must determine whether there has been any change in the area designated as an area of open space land in the county (or municipality) plan and, if the assessor determines that there has been no change, the assessor will classify the land as open space land and include it as such upon the tax rolls of the county.³

Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors or boards of equalization.⁴

¹T.C.A. § 67-5-1007(a)(1) and (2).

²T.C.A. § 67-5-1007(b)(1).

³T.C.A. § 67-5-1007(b)(2).

⁴T.C.A. § 67-5-1007(c).

Present Use Valuation

Reference Number: CTAS-1485

When a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under the provisions of T.C.A. § 67-5-1001 *et seq.*, it shall be subsequently considered that its current use for agricultural or timber purposes or as open space is its immediate most suitable economic use, and assessment shall be based upon its value in that current use, rather than on value for some other use as may be determined in accordance with T.C.A. § 67-5-601 *et seq.* It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property which might affect its eligibility under the Greenbelt Law.¹

After a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under the provisions of T.C.A. § 67-5-1001 *et seq.*, the assessor shall record it on a separate list for such classified property. The assessor may record with the register of deeds the application for the classification of the property. However, if the assessor does not record the application, then the property owner shall record with the register of deeds the application for the classification of the property. Any fees which may be required are paid by the property owner.²

The assessor must appraise the land and compute the taxes each year based upon both the 25 percent of appraised value applicable to property in the farm classification and present use value; and farm classification and value as determined pursuant to T.C.A. § 67-5-601 *et seq.*, but taxes shall be assessed and paid only on the basis of farm classification and present use value under the provisions of T.C.A. § 67-5-1001 *et seq.* The taxes computed pursuant to T.C.A. § 67-5-601 *et seq.* shall be used to compute the rollback taxes as defined in T.C.A. § 67-5-1004 and as provided for in T.C.A. § 67-5-1008(d).³

¹T.C.A. § 67-5-1008(a).

²T.C.A. § 67-5-1008(b)(1).

³T.C.A. § 67-5-1008(b)(2) and (3).

Rollback Taxes

Reference Number: CTAS-1486

The assessor of property will compute the amount of taxes saved by the difference in present use value assessment and value assessment pursuant to T.C.A. § 67-5-601 *et seq.*, for each of the preceding three years for agricultural and forest land, and for the preceding five years for open space land, and the assessor shall notify the trustee that such amount is payable, if (1) the land no longer qualifies as agricultural land, forest land, or open space land as defined in T.C.A. § 67-5-1004; (2) the owner of the land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn; (3) the land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified; (4) an owner fails to file an application as required by this part; (5) the land exceeds the acreage limitations of T.C.A. § 67-5-1003(3); or (6) the land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.¹

If, under the provisions of T.C.A. § 67-5-1008(d)(1), only a portion of a parcel is subject to rollback taxes, the assessor must apportion the assessment of the parcel on the first tax roll prepared after the taxes become payable, and enter the apportioned amount attributable to that portion as a separately assessed parcel on the tax roll. Apportionment will be made for each of the years to which the rollback taxes apply.²

The rollback taxes due as the result of disqualification or withdrawal of the land from classification are the tax savings calculated under T.C.A. § 67-5-1008(d). Rollback taxes shall be payable from the date written notice is provided by the assessor, but shall not be delinquent until March 1 of the following year. When the assessor determines there is liability for rollback taxes, the assessor shall give written notice to the tax collecting official identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment, and the assessor shall provide a copy of the notice to the responsible person. Rollback taxes shall be a first lien on the disqualified property in the same manner as other property taxes, and shall also be a personal responsibility of the current owner or seller of the land as provided in this part. The assessor may void the rollback assessment, if it determined that the assessment was imposed in error. Liability for rollback taxes, but not property values, may be appealed to the state board of equalization by March 1 of the year following the notice by the assessor. Property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.³

If land that is classified under the Greenbelt Law as agricultural, forest, or open space land (or any portion thereof) is converted to a use other than those stipulated in the statute by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, the land (or any portion thereof) involuntarily converted to another use is not subject to rollback taxes by the landowner, and the agency or body doing the taking will be liable for the rollback taxes. Property transferred and converted to an exempt or non-qualifying use shall be considered to have been converted involuntarily if the transferee or an agent for the transferee sought the transfer and had power of eminent domain.⁴

In the event that the land involuntarily converted to another use constitutes only a portion of a classified parcel on the assessment rolls, the assessor must apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll. Furthermore, for as long as the landowner continues to own the remaining portion of such parcel and for as long as the landowner's lineal descendants collectively own at least 50 percent of the remaining portion of such parcel, the remaining portion will not be disqualified from use value classification under the Green belt Law solely because it is made too small to qualify as the result of the involuntary proceeding.⁵

If the sale of agricultural, forest or open space land results in the property being disqualified due to conversion to an ineligible use or otherwise, the seller is liable for rollback taxes unless otherwise provided by in a written contract. If the buyer declares in writing at the time of sale an intention to continue the greenbelt classification but fails to file any form necessary to continue the classification within 90 days from the sale date, the rollback taxes become the sole responsibility of the buyer.⁶

Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, are not subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under T.C.A. § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances will be disqualified from greenbelt classification, but

will not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three years.⁷

If an assessor fails to carry out his or her duties in accordance with the provisions of the Greenbelt Law, all compensation to the assessor will be discontinued pursuant to the provisions of T.C.A. § 67-5-305.⁸

¹T.C.A. § 67-5-1008(d)(1).

²T.C.A. § 67-5-1008(d)(4)(A) and (B).

³T.C.A. § 67-5-1008(d)(3). *See also* Op. Tenn. Atty. Gen. 79-517 (December 7, 1979).

⁴T.C.A. § 67-5-1008(e)(1). *See also* Op. Tenn. Atty. Gen. 85-035 (February 13, 1985).

⁵T.C.A. § 67-5-1008(e)(2).

⁶T.C.A. § 67-5-1008(f). *See also* Op. Tenn. Atty. Gen. 87-27 (February 19, 1987); Op. Tenn. Atty. Gen. 86-015 (January 23, 1986).

⁷T.C.A. § 67-5-1008(h).

⁸T.C.A. § 67-5-1010.

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