Tennessee Comptroller of the Treasury

GREENBELT MANUAL

State Board of Equalization

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Purpose of Greenbelt Manual

The purpose of this manual is to provide information about the Agricultural, Forest and Open Space Land Act of 1976 (the "Act")—the law is commonly known as "greenbelt." The Act is codified in Tennessee Code Annotated §§ 67-5-1001 through 1050. This manual will discuss the agricultural, forest and open space classifications, the process of applying for a classification, assessment of rollback taxes and the process of appealing the denial of a classification, the assessment of rollback taxes or the established use value. It is anticipated that the manual can be useful to taxpayers, county and city officials, and persons with a general interest in greenbelt.

The State Board of Equalization is responsible for approving the forms used to apply for agricultural, forest or open space classification. In addition, the State Board of Equalization hears appeals of denials of timely filed greenbelt applications, appeals concerning liability for rollback taxes and appeals of use value.

Purpose of Greenbelt

The purpose of the Agricultural, Forest and Open Space Land Act of 1976 ("greenbelt") is to help preserve agricultural, forest, and open space land. This is accomplished by valuing these lands based upon their present use rather than at their highest and best use. Tenn. Code Ann. § 67-5-1004(11) defines present use value as "the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose."

Important Dates of the Year Related to Greenbelt

March 1st - Deadline for filing of first-time greenbelt applications
[Tenn. Code Ann. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1)]

January 1st - Point-of reference date for determining the assessment status for ownership, value, and use **[Tenn. Code Ann. § 67-5-502 and § 67-5-504]**

Application Requirements

Filing [Tenn. Code Ann. §§ 67-5-1005(a)(1), (b), 1006(a)(1), (c), & 1007(b)(1), (b)(3)]

In order to have land classified as agricultural, forest, or open space, an owner must file an application with the assessor of property. In 2018, the State Board of Equalization approved revised forms. These forms (see Appendix "A" for samples) may be found on the Board's website. The Board also authorized assessors to use their own application forms. Any such forms must first be approved by the Board. County specific forms may also be found on the Board's website.

Any owner of land can file an application with the assessor to have land classified as agricultural, forest, or open space. Tenn. Code Ann. § 67-5-1004(8) defines an *owner* as "the person holding title to the land." A *person* is defined in Tenn. Code Ann. § 67-5-1004(9) as "any individual, partnership, corporation, organization, association, or other legal entity." Application for classification of land as agricultural, forest, or open space land shall be made using a form

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prescribed by the Board, in consultation with the state forester for forest land classification. It should set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor (or state forester) may require to aid the assessor in determining whether the land qualifies for classification as agricultural, forest, or open space land, including aerial photographs if available for forest land classification.

The application does not require the signature of all the owners. But the person signing must be an owner. It is recommended, however, that the names of all owners appear on the application. This will help the assessor's office keep track of the acreage limit for each person. For artificial entities, such as partnerships, corporations, LLCs, trusts, other legal entities, an owner of the entity would need to sign and the names of all owners of the entity should appear on the application.

Pursuant to Tenn. Code Ann. § 67-5-1008(b)(1), an assessor may record an approved application with the register of deeds. If the assessor does not record the application, then the property owner shall record it. The applicant must pay the recording fee.

Filing Deadline [Tenn. Code Ann. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1)]

The law provides that an application must be filed with the assessor by March 1. This has been interpreted to mean on or before March 1. But if March 1 falls on a Saturday or Sunday, then an application filed on the following Monday will be deemed to have been timely filed. Additionally, applications sent through the U.S. mail are deemed to be timely filed if postmarked on or before the deadline date. Tenn. Code Ann. § 67-1-107(a)(1).

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Timely Filed Application (by March 1)

Taxpayer files application for Greenbelt Classification
(Agricultural, Forest Land or Open Space)

Assessor Reviews Application

Assessor Denies

Assessor Approves

Applicant/Taxpayer Appeals

Assessor or Applicant/Taxpayer
Records Approved Application
with Register of Deeds

Level 1 - County Board of Equalization

Level 2 - SBOE - ALJ

Level 3 - SBOE - AAC

Level 4 - Chancery Court

Applicant/Taxpayer pays
Recording Fee

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Continuing previous use – late filed application [Tenn. Code Ann. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1)]

If an owner is applying to continue the previous classification—agricultural, forest, or open space—and fails to file by March 1, then the assessor can accept a late application. But this late application must be filed within 30 days from the date the assessor sends notice (See Appendix "C" for sample notice) that the property has been disqualified. A late application fee of $50.00—payable to the county trustee—must accompany the application. If the 30 days have expired, however, the property will be disqualified and assessed at market value and rollback taxes will be assessed.

Continuing previous use - calculation of 30-day period for acceptance of late filed application [Tenn. Code Ann. § 1-3-102]

The 30-day period only applies to those owners who want to continue the previous greenbelt use but miss the March 1 deadline. If an owner misses the deadline, the assessor needs to send notice that the property has been disqualified. Once the notice is sent, the 30-day period begins. To compute the 30-day period, the day the notice is sent is excluded but the last day is included, unless the last day is a Saturday, a Sunday, or a legal holiday. Please review the following examples:

Example – Calculation - 30-day period

> A notice of disqualification is sent by the assessor on Monday, March 7, 2016.
>
> The first day to be counted is Tuesday, March 8. The last day counted (the thirtieth day) is Wednesday, April 6. This is the last day a property owner would have to file a late application with the $50.00 late fee to continue the previous classification.

Example – Calculation - Day 30 falls on weekend

> A notice of disqualification is sent by the assessor on Thursday, March 3, 2016.
> The first day to be counted is Friday, March 4. The last day counted (the thirtieth day) is Saturday, April 2. Because the thirtieth day falls on a Saturday, however, the last day for a property owner to file a late application with the $50.00 late fee is Monday, April 4. If the property owner fails to submit an application and pay the $50.00 late fee within 30 days of the assessor's notice, the property will be disqualified and rollback taxes will be assessed. Tenn. Code Ann. § 67-5-1008(d)(1)(D).

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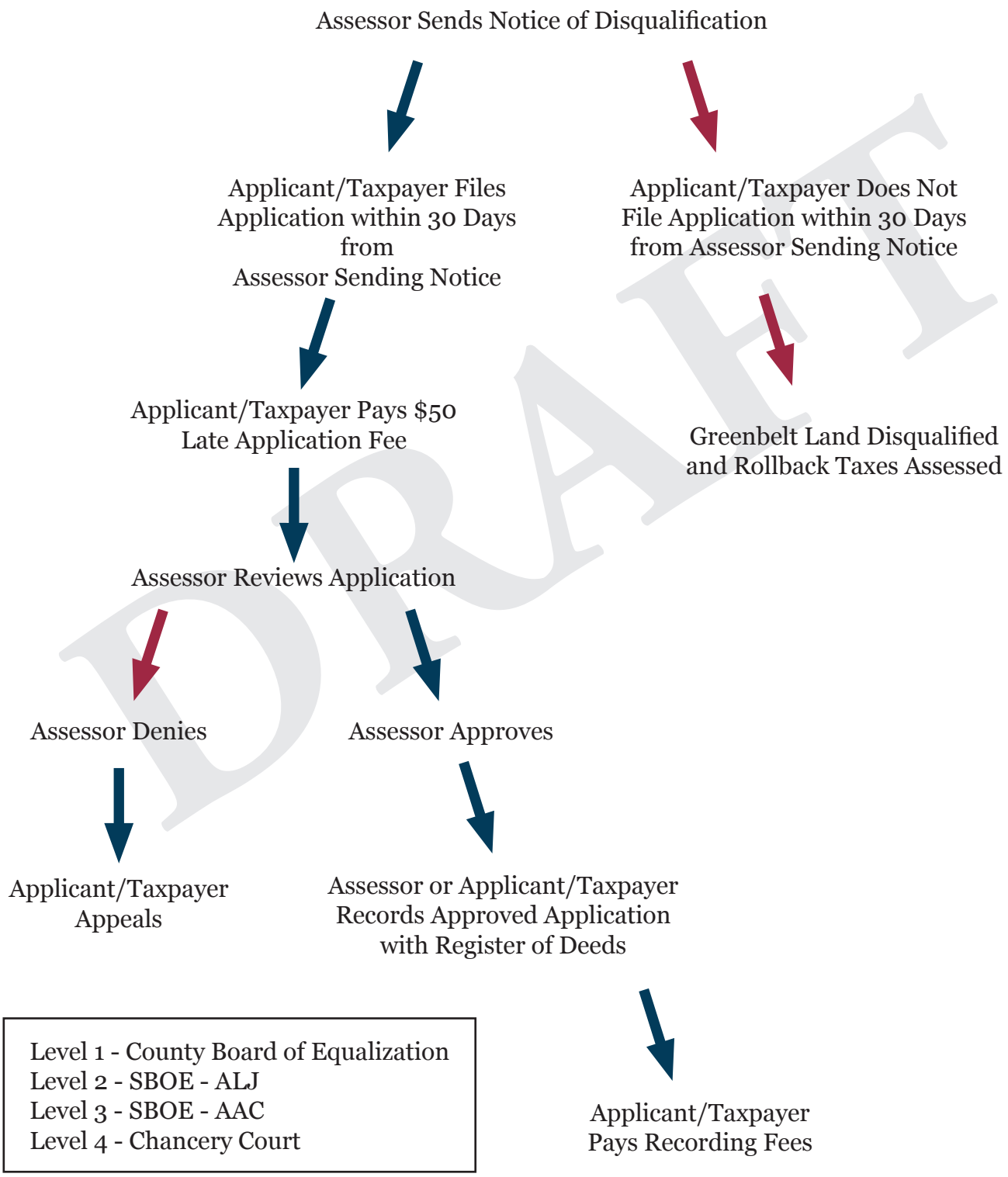
Continuing Previous Use - Late Filed Application (after March 1)



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Life estate owner can file

A life estate owner has the present right to possess property, whereas a remainderman's interest does not vest until some future date. Sherrill v. Bd. of Equalization, 452 S.W.2d 857, 858 (Tenn. 1970). Because of this present right, the life estate owner is legally responsible to pay the property taxes. Sherrill at 858, see also Hoover v. Bd. of Equalization, 579 S.W.2d 192, 196 (Tenn. Ct. App. 1978) cert. denied April 2, 1979. Therefore, a life estate owner is the only one who can file an application for greenbelt.

Example – Filing must be made by life estate owner, not remainderman

> John Smith has a life estate on 50 acres and Jane Doe has the remainder. John has the present right to possess the property. Jane cannot legally possess the property until John's life estate is terminated. Furthermore, John is the one who is legally responsible to pay the property taxes. Therefore, the only person who can file an application is John. But, once John's life estate terminates, Jane will have to file an application in order to continue the previous use.

Also, there may be situations where property has been subdivided and then conveyed to different persons but the grantor retains a life estate. If a life estate owner has an interest in several contiguous tracts but each tract has a different remainderman, the property can still be combined and qualify for greenbelt. Please review the following examples:

Example – Combining subdivided tracts to meet acreage minimum – grantor retained life estate

> John Smith owns a 40-acre tract. For estate planning purposes, he subdivides the land into four 10-acre tracts. He then conveys a tract to each of his four children while retaining a life estate in each tract. Because of this, John is still the owner—for property taxation purposes—of the 40-acre tract. He can qualify these acres for greenbelt even though each tract has a different remainderman. But once John's life estate terminates, the land will no longer qualify as each tract will be under the 15-acre minimum. Rollback taxes will then be assessed.

Example – Change of ownership – termination of life estate

> John Smith owns a 100-acre tract that is currently classified as agricultural. For estate-planning purposes, John subdivides the land into four 25-acre tracts. He then conveys a tract to each of his four children while retaining a life estate in each tract. No new application would need to be filed as John—the life-estate owner—is the only one with the present right to possess the 100-acre tract (i.e., he is still the owner for property taxation purposes). But once John's life estate terminates, each child will then need to file an application for his or her own 25-acre tract because the ownership as of the assessment date will have changed.

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Fees [Tenn. Code Ann. §§ 67-5-1005(a)(1), 1006(a)(1), 1007(b)(1) & 1008(b)(1)]

The only fee that the applicant is required to pay is the recording fee (payable to the register of deeds) so the application can be recorded with the register of deeds. Also, those owners who are continuing the previous classification and whose application is filed after the March 1 deadline must pay a $50.00 late fee to the county trustee.

Reapplication – change in ownership [Tenn. Code Ann. §§ 67-5-1005(a)(1), 1006(a)(1), & 1007(b)(1)]

Reapplication under greenbelt is not required unless the ownership as of the assessment date (January 1) changes. Tenn. Code Ann. § 67-5-1008(a) states that "[i]t is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property that might affect its eligibility…" When ownership does change, a new application must be filed. If a new application is not filed, however, then the property will be disqualified and rollback taxes will be assessed pursuant to Tenn. Code Ann. § 67-5-1008(d)(1)(D). Please review the following examples:

Example – Change in ownership – conveyance of entire tract

> As of January 1, 2009, John Smith owns 20 acres classified as agricultural. On May 1, 2009, John sells his 20 acres to Jane Doe. Jane must file an application with the assessor by March 1, 2010, because the ownership as of the assessment date (January 1, 2010) changed.

Example – Change in ownership – conveyance of partial interest in tract

> As of January 1, 2009, John Smith and Jane Doe own 20 acres classified as agricultural. On May 1, 2009, John Smith and Jane Doe sell a one-third interest to William Bonny. They each now own a one-third interest in the land. A new application is required to be filed by March 1, 2010, with the assessor because the ownership as of the assessment date (January 1, 2010) changed.

Example – Change in ownership – owner of one-half interest becomes sole owner

> As of January 1, 2009, John Smith and Jane Doe own 20 acres classified as agricultural. On May 1, 2009, Jane sells her one-half interest to John. John is now the sole owner of the 20 acres. A new application is required to be filed with the assessor by March 1, 2010 because the ownership changed as of the assessment date (January 1, 2010).

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Example – Change in ownership – conveyance of property to artificial entity

> As of January 1, 2009, John Smith, Jane Doe, and William Bonny own 1,500 acres classified as agricultural. On May 1, 2009, John, Jane, and William create Farm Properties, LLC. Each has a one-third interest in the company. On June 1, 2009, John, Jane, and William convey the 1,500 acres to Farm Properties. A new application is required to be filed by March 1, 2010, with the assessor because the ownership as of the assessment date (January 1, 2010) changed. Farm Properties—an artificial entity—now owns the land.

Although some of the owners in the examples remain the same, a new application is required because, in every example, ownership changed.

Example – Change in ownership - grantor retains life estate

> As of January 1, 2009, John Smith owns 500 acres classified as agricultural. On April 1, 2009, John Smith conveys all 500 acres to Jane Doe and William Bonny. But John retains a life estate. A new application would not be required because John—the life-estate owner—is the only one who has a present right to possess the property. This means he is the only one who can apply for greenbelt. Therefore, a new application is not required so long as John Smith's life estate is valid. Once John's life estate terminates, however, a new application will be required from Jane and William, the remaindermen.

Also, a new application is not required when one spouse has died and the qualified property was owned by the husband and wife as tenancy by the entirety. However, a new application is required when one spouse has died and the qualified property was owned by the husband and wife as tenants in common or joint tenancy with right of survivorship.

Moreover, when property is conveyed into a revocable trust, it does not result in a change of ownership requiring a new application. The reason for this is that a revocable trust can be revoked at any time by the person who created it. It is not until a revocable trust becomes irrevocable that a new application will be required. A revocable trust will become irrevocable upon the death of the grantor.

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Appealing the denial of an application [Tenn. Code Ann. §§ 67-5-1005(d), 1006(d), & 1007(c)]

Any owner of property may appeal the denial of a timely filed greenbelt application. Appeal is made to the county board of equalization and then to the State Board of Equalization.

Appealing rollback taxes [Tenn. Code Ann. § 67-5-1008(d)(3)]

The liability for rollback taxes can only be appealed directly to the State Board of Equalization. An appeal must be made by March 1 of the year following the date the assessor sends notice that the property has been disqualified and rollback taxes are due.

Appealing property values used to determine amount of rollback taxes [Tenn. Code Ann. §§ 67-5-1008(d)(3), 1401]

Property values that are used to calculate the amount of rollback taxes can only be appealed as specifically provided by law.

Example – Appealing property values used to determine amount of rollback taxes

> John Smith owns property that has been classified as agricultural land since 1990. On October 1, 2009, the property is disqualified and rollback taxes are assessed. John would owe rollback taxes for tax years 2009, 2008, and 2007. But he wants to dispute the amount of rollback taxes because he believes the market value—as determined by the assessor—is excessive. In order for John to have challenged the market value in those tax years, he needed to have appealed to the county board for each of those tax years. Because John failed to appeal, those values are deemed final and conclusive. Technically, John could appeal the market value for tax year 2009 to the State Board of Equalization, but the threshold issue would be jurisdiction. John would have to establish "reasonable cause" under Tenn. Code Ann. § 67-5-1412(e) for not having appealed the 2009 appraisal to the county board of equalization.

Appealing use value [Tenn. Code Ann. § 67-5-1008(c)(4)]

A property's use value cannot be appealed to the county boards of equalization. To challenge the use value, a petition of at least 10 owners of greenbelt property, or a petition of any organization representing 10 or more owners of greenbelt property, must be filed with the State Board of Equalization. The petition must be filed "on or before twenty (20) days after the date the division of property assessments publishes notice of the availability of the proposed use value schedule in a newspaper of general circulation within the county." (See Appendix "B" for sample notice) Once petitioned, the State Board will hold a hearing "to determine whether the capitalization rate has been properly determined by the division of property . . . assessments, whether the agricultural income estimates determined by the division of property . . . assessments are fair and reasonable, or if the farm land values have been determined in accordance with [§ 67-5-1008]."

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Definition of Agricultural Land [Tenn. Code Ann. § 67-5-1004]

For land to qualify as agricultural, it must be at least 15 acres, including woodlands and wastelands, and either:

(1) constitute a farm unit engaged in the production or growing of agricultural products; or
(2) have been farmed by the owner or the owner's parent or spouse for at least 25 years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

First, land containing at least 15 acres and engaged in farming will qualify as agricultural. To be engaged in farming means the land must be actively farmed in the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products. Land cannot qualify just because an owner intends to farm. In other words, the land cannot simply be held for use. It must be actively engaged in farming. For example, land not being farmed as of the assessment date (January 1)—or land that will be farmed after the assessment date—cannot qualify for the current tax year.

Below is a general, but not exhaustive, list of the most common farming activities:

- Crops: corn, wheat, cotton, tobacco, soybeans, hay, potatoes.
- Plants: herbs, bushes, grasses, vines, ferns, mosses.
- Animals: cattle, poultry, pigs, sheep, goats.
- Aquaculture: fish, shrimp, oysters.
- Nursery: places where plants are grown.
- Floral products: roses, poppies, irises, lilies, daisies.

Second, land can also qualify, or continue to qualify, as agricultural if it:

(1) contains at least 15 fifteen acres,
(2) has been farmed for 25 twenty-five years,
(3) is used as the owner's residence, and
(4) not used for any purpose inconsistent with an agricultural use.

This is commonly referred to as the family-farm provision. The agricultural use can cease and the land will still qualify. It is not a requirement for the land to have been previously classified as agricultural to meet the 25-year requirement. It only needs to have been farmed for at least

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25 years.

Definition of gross agricultural income [Tenn. Code Ann. § 67-5-1004(4)]

Gross agricultural income is defined as the total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs.

Gross agricultural income - presumption of agricultural use [Tenn. Code Ann. § 67-5-1005(a)(3)]

If land classified as agricultural produces gross agricultural income averaging at least $1,500 per year over any three-year period, then the assessor may presume that a tract of land is agricultural. The assessor may request an owner to provide a Schedule F from the owner's federal income tax return to verify this presumption. However, this presumption is rebuttable. In other words, it is not a requirement that an owner prove this income. It is only an aid for the assessor to use. Even if the land does not produce any income, it can still qualify, as long as the land is being actively farmed.

Example – Gross agricultural income – rebuttal of presumption

> An owner has land containing 100 acres. He provides a Schedule F to the assessor proving a gross agricultural income of $1,500 or more per year. With just this information, the assessor can presume an agricultural use for the 100 acres.
> But after a review of the property, it is discovered that only 12 acres are being farmed. The other 88 acres are used for family activities such as four-wheeling and picnics. Most of these acres are covered with thistles and weeds. No other cultivation has been made of the land. Although the owner is farming a small portion of the property and can prove at least a $1,500 income, the 100-acre tract is not a farm unit engaged in the growing of agricultural products or animals. Here, the presumption is rebutted, even though a portion of the property is used for agricultural purposes and produces at least $1,500 of gross agricultural income per year.

Qualification of two noncontiguous tracts [Tenn. Code Ann. § 67-5-1004(1)(B)]

Two noncontiguous tracts within the same county, including woodlands and wastelands, can qualify as follows:

(1) One tract must contain at least 15 acres and the other tract must contain at least 10 acres; or
(2) Two tracts total at least 15 acres and are separated only by a road, body of water, or public or private easement.[1]

[1]Effective January 1, 2020.

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To qualify, both tracts must constitute a farm unit. The two noncontiguous tracts must be owned by the same person or persons.

While Tenn. Code Ann. § 67-5-1004(1)(B) allows for two noncontiguous tracts within the same county to qualify as agricultural if certain requirements are met, the statutes governing forest and open space classifications do not contain provisions allowing for qualification of noncontiguous tracts.

Example – Noncontiguous tracts - qualify as agricultural

> John Smith owns a 100-acre tract and a 12-acre tract in Greenbelt County. Because both tracts are within the same county and John is the owner of both, these two tracts may qualify as agricultural land. (This assumes, however, that both tracts constitute a farm unit.)

Example – Noncontiguous tracts - not in same county

> John Smith owns a 100-acre tract in Greenbelt County and a 12-acre tract in Urban County. The 12-acre tract cannot qualify with the 100-acre tract because both tracts are not within the same county.

Example – Noncontiguous tracts - different ownership

> John Smith owns a 100-acre tract in Greenbelt County. John Smith and Jane Doe own a 12-acre tract in Greenbelt County. Because the ownership is not the same for the two tracts, the 12-acre tract cannot qualify. To qualify, the 12-acre tract would give Jane a property tax advantage that other owners of land with fewer than 15 acres cannot enjoy.

A taxpayer cannot qualify three noncontiguous tracts even if one has 15 acres and the other two both have at least 10 acres.

Example – Three noncontiguous tracts – only two can be combined

> John Smith owns three noncontiguous tracts in Greenbelt County: a 50-acre tract, a 13-acre tract, and a 12-acre tract. Although all tracts are in the same county, only two tracts can qualify: either the 50 and 13-acre tracts or the 50 and 12-acre tracts. (This assumes, however, that both tracts constitute a farm unit.)

Forest Land

Definition of forest land [Tenn. Code Ann. § 67-5-1004(3)]

For land to qualify as a forest, it must constitute a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least 15 acres and that has tree growth in such quantity and quality and so managed as to constitute a forest.

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Classification of forest land [Tenn. Code Ann. § 67-5-1006(b) & (c)]

The assessor shall 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 applied to the land and the timber on it. The assessor may request the advice of the state forester in determining whether land qualifies as a forest.

Forest management plan required

A forest management plan (see Appendix "A" for sample plan) is required for land to qualify as forest. The State Board of Equalization has approved a forest management plan template. The template may be found on the Board's website. Property owners are not required to use this particular template, but applications must ultimately have a forest management plan summarizing the management practices being applied to the land and the timber on it.

Open Space Land

Definition of open space land [Tenn. Code Ann. § 67-5-1004(7)]

Open space land is defined as land, other than agricultural or forest land, containing at least three acres characterized principally by an open or a natural condition and whose preservation would tend to provide the public with one or more of the following benefits found in Tenn. Code Ann. § 67-5-1002(2)(A)-(E):

- The use, enjoyment, and economic value of surrounding residential, commercial, industrial, or public use lands.
- The conservation of natural resources, water, air, and wildlife.
- The planning and preservation of land in an open condition for the general welfare.
- A relief from the monotony of continued urban sprawl.
- An opportunity for the study and enjoyment of natural areas by urban and suburban residents who might not otherwise have access to such amenities.

Pursuant to Tenn. Code Ann. § 67-5-1004(7), open space land also includes lands primarily devoted to recreational use.

Classification of open space land [Tenn. Code Ann. § 67-5-1007(a)]

For land to qualify as open space, the planning commission for the county or municipality must designate the area for preservation as open space land. Once the planning commission adopts an area, then land within that area may be classified as open space. If the planning commission has not designated an area, then this classification is not available. Pursuant to Tenn. Code Ann. § 67-5-1004(10), planning commission means a commission created under Tenn. Code Ann. § 13-3-101 or § 13-4-101. Tenn. Code Ann. § 13-3-101 provides for creation of a regional planning commission by the Department of Economic and Community Development and Tenn. Code Ann. § 13-4-101 provides for creation of a municipal planning commission by the chief

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legislative body of a municipality.

Definition of open space easement [Tenn. Code Ann. § 67-5-1004(6)(A)-(C)]

An *open space easement* is defined as:

A perpetual right in land of less than fee simple that:

(A) Obligates the grantor and the grantor's heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;
(B) Is restricted to the area defined in the easement deed; and
(C) Grants no right of physical access to the public, except as provided for in the easement.

Open space easements that may qualify [Tenn. Code Ann. § 67-5-1009]

Land encumbered by an open space easement may qualify for greenbelt under T.C.A. § 67-5-1009. Only three types of easements are provided for under the Act:

(1) an easement that has been donated to the state;
(2) an easement for the benefit of a local government; and
(3) an easement for the benefit of a qualified conservation organization.

Pursuant to Tenn. Code Ann. § 11-15-107(c), if an easement has been donated to the state, the Commissioner of Environment & Conservation is required to record the easement and notify the assessor.

Assessing land encumbered by an open space easement [Tenn. Code Ann. § 67-5-1009]

If an open space easement has been executed and recorded for the benefit of a local government, a qualified conservation organization, or the state, the property shall be valued on the basis of:

(1) Farm classification and value in its existing use . . . taking into consideration the limitation on future use as provided for in the easement; and
(2) Such classification and value . . . as if the easement did not exist; but taxes shall be assessed and paid only on the basis of farm classification and fair market value in its existing use, taking into consideration the limitation on future use as provided for in the easement.

However, pursuant to Tenn. Code Ann. § 11-15-105(b)(1), "[t]he value of the easement interest held by the public body shall be exempt from property taxation to the same extent as other public property."

Open space land, as defined in Tenn. Code Ann. § 67-5-1004, that comprises at least 15 contiguous acres may qualify for classification and assessment as an open space easement. Pursuant to Tenn. Code Ann. § 67-5-1009(c)(1), the easement must be conveyed to a qualified conservation

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organization and accepted by the grantee organization in writing.

The definition of a qualified conservation organization [Tenn. Code Ann. § 67-5-1009(c)(5)]

A *qualified conservation organization* is defined as "a nonprofit organization that is approved by the Tennessee heritage conservation trust fund board of trustees and meets the eligibility criteria established by the trustees for recipients of trust fund grants or loans...[It] also includes any department or agency of the United States government which acquires an easement pursuant to law for the purpose of restoring or conserving land for natural resources, water, air and wildlife." An example of a qualified conservation organization is the Land Trust for Tennessee. Please contact the Tennessee Heritage Conservation Trust Fund Board for more information about other organizations that may have been approved.

Assessment of conservation easements [Tenn. Code Ann. § 66-9-308(a)(1)-(2)]

Conservation easements are separate and distinct from open space easements under the greenbelt law. Conservation easements are governed by the Conservation Easement Act of 1981 (the "Conservation Act"). Tenn. Code Ann. §§ 66-9-301 through 309. Conservation easements are assessed "on the basis of the true cash value of the property . . . less such reduction in value as may result from the granting of the conservation easements." "The value of the easement interest held by the public body or exempt organization . . . [is] exempt from property taxation to the same extent as other public property."

The effect of a conservation easement on greenbelt land

To determine whether a conservation easement would disqualify greenbelt land will require a reading of the conservation easement deed.

Example – Effect of conservation easement on agricultural classification

> Currently, land in Greenbelt County is classified as agricultural. A conservation easement deed is recorded and states that farming is a permitted use. Because the conservation easement permits farming, the underlying use of the land has not changed. Therefore, the land would still qualify and be assessed as agricultural.
>
> But if the easement provides that any type of farming is prohibited, then the land would be disqualified. Here, the underlying use of the land has changed. The owner would have to seek a different classification, if possible or permitted. Also, the land will be disqualified and rollback taxes will be assessed.

If the easement's restrictions prohibit the land from being classified as agricultural, forest, or open space, then the land will be assessed as a conservation easement.

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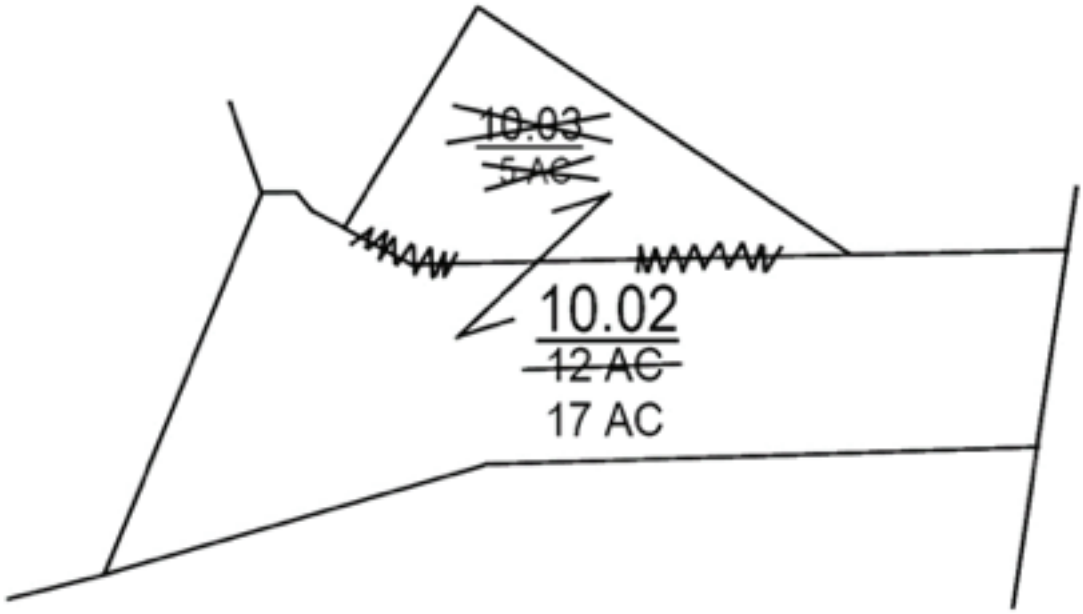
Combining Contiguous Parcels

Sometimes owners do not have a single parcel that meets the minimum acreage requirement (e.g., 15 acres for agricultural). But if the owner has two or more contiguous parcels, those parcels may be combined to meet the acreage minimum. To be contiguous means the parcels must be "touching at a point or along a boundary; adjoining." CONTIGUOUS, Black's Law Dictionary (10th ed. 2014). If they are not touching, then the parcels cannot be combined. Please review the following examples:

Example – Combining contiguous parcels to meet minimum acreage requirement

> John Smith owns two parcels that are contiguous. One parcel has 12 acres; the other has 5. John is actively farming both parcels as a farm unit. He can combine these parcels to have one tract containing 17 acres. These 17 acres can now be classified as agricultural.



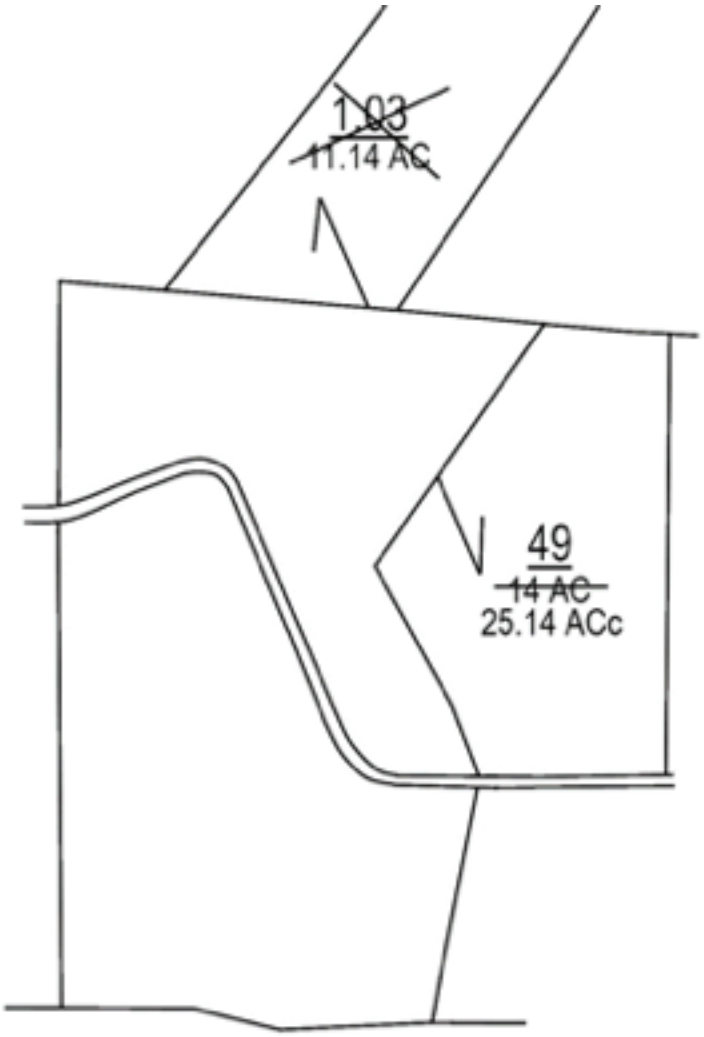
Example – Combining contiguous parcels to meet minimum acreage requirement

> John Smith owns two parcels that are contiguous. One parcel has 50 acres; the other has 2. The 2-acre parcel cannot qualify because it's under the 15-acre minimum. Therefore, the 2 acres must be combined with the 50 acres to create a 52-acre parcel. These 52 acres can now be classified as agricultural.

But parcels that are separated by another parcel cannot be combined.

Example – Parcels separated by parcel with different owner

John Smith owns two parcels: one is 14 acres and the other is approximately 11 acres. But the two parcels are separated by land owned by Jane Doe. In other words, the two parcels are not contiguous. These parcels cannot be combined. The following mapping example is unacceptable:



Parcels that are mapped this way must be removed from greenbelt.

When an assessor combines parcels, there will be one parcel identification number. The discarded number cannot be used again.

The ownership for all parcels to be combined must be the same

To combine parcels that are contiguous to each other, the ownership for each parcel must be the same.

Example – Combining parcels with same ownership

> John Smith owns a 10-acre parcel. John Smith and Jane Doe own a 10-acre parcel that is contiguous with John's 10 acres. Because the ownership between these two parcels is different, they cannot be combined. To combine both parcels would subject Jane to taxes on John's 10 acres—a parcel in which Jane does not have an ownership interest. Also, it would give Jane a benefit on only 10 acres when the minimum acreage for agricultural is 15. Neither parcel can qualify.

In order to combine parcels, they must:

(1) be contiguous,
(2) be owned by the same person or persons, and
(3) constitute a farm unit engaged in the production or growing of agricultural products.

A residential subdivision lot cannot be combined with contiguous greenbelt land [Tenn. Code Ann. § 67-5-1008(d)(1)(C)]

A residential subdivision lot cannot be combined with a greenbelt parcel that is contiguous to it. Property that is being, or has been, developed as a residential subdivision cannot qualify for greenbelt.

Multiple residential subdivision lots generally cannot be combined [Tenn. Code Ann. § 67-5-1008(d)(1)(C)]

Vacant lots in a residential subdivision cannot be combined in order to meet the minimum acreage requirements under greenbelt. But if no part of the plat is being or has been developed and all of the lots are owned by one owner, then all—but not some—of the lots can be combined. But when any portion of the property is being developed or any lot is conveyed, then the entire property would be disqualified with rollback taxes being assessed.

A single lot within a residential subdivision may qualify

A single lot within a subdivision or unrecorded plan of development may qualify under greenbelt if it meets the minimum acreage requirement, no restrictions or covenants prohibit a greenbelt use, and no part of the plat or unrecorded plan of development is being or has been developed.

Acreage Limitations

Acreage limit for owners of greenbelt land [Tenn. Code Ann. § 67-5-1003(3)]

The law provides that no person may place more than 1,500 acres under greenbelt within any one taxing jurisdiction. The 1,500-acre limit does not apply to an agricultural classification that an owner obtained before July 1, 1984. Tenn. Code Ann. § 67-5-1008(g) does remove, however, any forest or open-space land in excess of the 1,500-acre limit obtained before July 1, 1984.

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Attributing acres to individuals [Tenn. Code Ann. § 67-5-1003(3)]

For individuals, the number of acres attributed to each will equal the percentage of the individual's ownership interest in the parcel.

Example – Attributing acres to individuals

> John Smith, Jane Doe, and William Bonny each own a one-third interest in a 1,500-acre tract. The acres would be attributed as follows: 500 acres to John; 500 acres to Jane; and 500 acres to William. But each can still qualify an additional 1,000 acres before reaching the 1,500-acre limit.

Attributing acres to artificial entities and their owners [Tenn. Code Ann. § 67-5-1003(3)]

Artificial entities—such as partnerships, corporations, LLCs, trusts, or other legal entities—are also subject to the 1,500-acre limit.

Example – Attributing acres to artificial entities and their owners

> Farm Properties, Inc. owns a 1,500-acre tract that's currently qualified as agricultural. Because Farm Properties is at its 1,500-acre limit, it cannot qualify any more acres under greenbelt.

Persons having an ownership interest in an artificial entity are attributed a percentage of the total acreage that equals that person's percentage interest in the ownership or net earnings of the entity.

Example – Attributing acres to artificial entities and their owners - percentage of ownership

> John Smith, Jane Doe, and William Bonny each own a one-third interest in Farm Properties, Inc. If Farm Properties owns a 1,500-acre tract that's qualified as agricultural, then acreage would be attributed as follows: Farm Properties would have 1,500 acres; John would have 500 acres; Jane would have 500 acres; and William would have 500 acres. Farm Properties is at its 1,500-acre limit and, therefore, cannot qualify anymore acres. But John, Jane, and William can still qualify—individually—an additional 1,000 acres each.

Aggregating artificial entities with 50% or more common ownership or control between them [Tenn. Code Ann. § 67-5-1003(3)]

Although the 1,500-acre limit applies to each artificial entity, two or more artificial entities having 50% or more common ownership or control between them are aggregated in determining the limit.

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Example – Artificial entities with 50% or more common ownership or control

Farm Properties, Inc. owns a 1,500-acre tract that is classified as agricultural. John Smith, Jane Doe, and William Bonny each own a one-third interest in that entity. Horse Farms, Inc. owns a 1,500-acre tract that it wants to qualify as agricultural. The owners of this entity are John Smith, Jane Doe, and James Davis—each has a one-third interest. The acres for the land owned by Farm Properties and Horse Farms would be aggregated because there is more than a 50% common ownership between them—John and Jane are the common owners with more than 50% ownership. Therefore, Horse Farms cannot qualify any of its 1,500 acres as agricultural.

Example – Artificial entities without 50% or more common ownership or control

Farm Properties, Inc. owns a 1,500-acre tract that is classified as agricultural. John Smith, Jane Doe, and William Bonny each own a one-third interest in that entity. Horse Farms, Inc. owns a 1,500-acre tract that it wants to qualify as agricultural. The owners of this entity are John Smith, Archibald Leach, and James Davis—each has a one-third interest. The acres for Farm Properties and Horse Farms would not be aggregated because there is not more than a 50% common ownership between them. John Smith is the only common owner. And he only has a one-third interest in each company. Therefore, the acreage for the artificial entities and the individuals would be attributed as follows: Farm Properties has 1,500 acres; Horse Farms has 1,500 acres; John has 1,000 acres; Jane has 500 acres; William has 500 acres; Archibald has 500 acres; and James has 500 acres.

Land owned by a person who is at the 1,500-acre limit [Tenn. Code Ann. § 67-5-1003(3)]

Once an owner qualifies 1,500 acres for preferential treatment, that owner cannot qualify any additional acreage for preferential treatment.

Example: Land owned by person at 1,500-acre limit

John Smith and Jane Doe each own 1,000 acres that qualify as agricultural land. William Bonny owns 1,500 acres that qualify as agricultural land. Currently, John and Jane have 1,000 acres each and William has 1,500 acres. John, Jane, and William then acquire a 1,500-acre tract that they desire to qualify as agricultural land. Because William reached his 1,500-acre limit for preferential treatment, only 1,000 acres will qualify for greenbelt. In other words, William's portion of the property (i.e., the 500 acres that is attributed to him) is ineligible because he is at the 1,500-acre limit.

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A husband and wife owning property as tenancy by the entirety are limited to 1,500 acres

A husband and wife owning property as tenancy by the entirety are limited to a maximum of 1,500 acres because they own the property in its entirety. This means that the husband and wife have the right of survivorship and are both deemed to have a 100% ownership interest rather than separate interests in the property. "Neither [the husband or the wife] can separately, or without the assent of the other, dispose of or convey away any part." **Tindell v. Tindell,** 37 S.W. 1105, 1106 (Tenn. Ct. App. 1896). **["Tindell"]** In fact, upon the death of either the husband or wife,

> [t]he survivor . . . has no increase of estate or interest by the deceased having, before the entirety, been previously seised of the whole. The survivor, it is true, enjoys the whole, but not because any new or further estate or interest becomes vested, but because of the original conveyance, and of the same estate and same quantity of estate as at the time the conveyance was perfected. Tindell at 1106.

Upon the death of a spouse, no new application is required to be filed because the property was held as tenancy by the entirety.

If the husband and wife own the property as tenants in common, however, then each can be attributed 1,500 acres. But the deed must explicitly state that the property is held as tenants in common. Otherwise, it is held as tenancy by the entirety.

Rollback Taxes

Calculating the amount [Tenn. Code Ann. §§ 67-5-1004(12), 1008(d)(1)]

Rollback taxes are the amount of taxes saved over a certain period of time that the land qualified as agricultural, forest, or open space. They are calculated by the difference between the use value and market value assessments. These taxes are not a penalty; they are a recapture of the amount of taxes saved. For agricultural and forest land, rollback taxes are calculated each year for the preceding three years. For open space land, they are calculated each year for the preceding five years.

Calculating the amount when current year's tax rate is unknown [Tenn. Code Ann. § 67-5-1008(d)(2)]

If the current year's tax rate is not yet known, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law. This situation arises when property is disqualified early in the tax year (e.g., February 1). The tax rate, and potentially the assessment, may not be known at that time. The amount of rollback taxes due for the current year would be the same amount that is calculated for the previous year (i.e., the last made assessment and rate fixed according to law).

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Amount calculated by assessor [Tenn. Code Ann. § 67-5-1008(d)(1)]

The assessor of property must calculate rollback taxes.

Delinquency date [Tenn. Code Ann. § 67-5-1008(d)(3)]

Rollback taxes are payable from the date written notice is sent by the assessor and become delinquent on March 1 of the following year.

Circumstances that trigger rollback taxes [Tenn. Code Ann. §§ 67-5-1008(d)(1)(A)-(F), § 1009(b)(1)(D), 1009(c)(3)]

Rollback taxes are due if any of the following occur:

(1) Land no longer meets the definition of agricultural, forest, or open space [Tenn. Code Ann. §§ 67-5-1008(d)(1)(A)]

Tenn. Code Ann. § 67-5-1004 provides the definitions of agricultural, forest, and open space land. When land no longer meets these definitions, it must be disqualified and rollback taxes assessed. For example, agricultural land no longer engaged in farming or used as a residence under the family-farm provision should be assessed rollback taxes.

(2) Owner requests to remove land from greenbelt in writing [Tenn. Code Ann. § 67-5-1008(d)(1)(B)]

If an owner is requesting property to be withdrawn, the request must be in writing. It is recommended that the written request specify, at a minimum, the following:

(1) the current owner;
(2) the name of the person making the request;
(3) the parcel identification number; and
(4) a description of the property.

If only a portion of the land is being withdrawn, a description must be provided outlining the portion to be removed.

(3) Land is being developed [Tenn. Code Ann. § 67-5-1008(d)(1)(C)]

The recording of a subdivision plat or other plan of development does not automatically disqualify property from greenbelt. But if any portion contained within the plat or plan is being developed, then the entire property is disqualified. If the plat or plan contains phases or sections, however, then only the phases or sections being developed is disqualified.

It does not matter whether the plat or plan is recorded. It is the development of property in furtherance of the plat or plan that will trigger rollback taxes.

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(4) Application to continue previous greenbelt use is not filed [Tenn. Code Ann. § 67-5-1008(d)(1)(D)]

If a new application is not filed by the appropriate deadline date—March 1 or 30 days after notice of disqualification is sent—or if there is a failure to pay the $50.00 late fee, then greenbelt land will be disqualified and rollback taxes will be assessed.

(5) Land exceeds the 1,500-acre limit [Tenn. Code Ann. § 67-5-1008(d)(1)(E)]

Rollback taxes are due for property that may currently qualify for greenbelt but will be disqualified because an owner exceeds the 1,500-acre limit. This can occur when the ownership interest changes for one or more owners. For example:

> John Doe, David Smith, and William Bonny own 3,000 acres classified as agricultural. Each owner is attributed as owning 1,000 acres. John and David also own 1,000 acres classified as agricultural and are attributed 500 acres each. Both are now at their 1,500-acre limit while William has only 1,000 acres attributed to him. Later, William conveys his one-third interest to John and David. Because of this conveyance, John and David are now each attributed 1,500 acres for this property. But they were already at their 1,500-acre limit. Therefore, 1,000 acres will be disqualified and rollback taxes will be due because John and David have now exceeded the 1,500-acre limit.

(6) Land conveyed or transferred to a governmental entity [Tenn. Code Ann. § 67-5-1008(d)(1)(F)]

Rollback taxes are due when property is transferred or conveyed to a governmental entity.

But, pursuant to Tenn. Code Ann. § 11-4-406(b), property purchased by the government through the State Lands Acquisition Fund (Tenn. Code Ann. § 67-4-409(j)(5)) is not subject to rollback taxes. That section of the statute specifically states that acquisition of greenbelt property under the U.A. Moore Wetlands Acquisition Act (Tenn. Code Ann. §§ 11-14-401-407) "shall not constitute a change in the use of the property, and no rollback taxes shall become due solely as a result of [the] acquisition."

Also, property purchased under the Tennessee Heritage Conservation Trust Fund Act of 2005 (T.C.A. §§ 11-7-101–110) is not subject to rollback taxes. Pursuant to Tenn. Code Ann. § 11-7-109(b), property acquired under the Act does not constitute a change in the use of the property.

(7) Open space easement is cancelled [Tenn. Code Ann. § 67-5-1009(b)(1)(D)]

If an open space easement for the benefit of a local government is cancelled, rollback taxes will be due for the previous 10 years. The amount of rollback taxes will be based on the difference between the taxes actually paid and the taxes that would have been due if the property had been assessed at market value and classified as if the easement had not existed.

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(8)Non-open space use begins [Tenn. Code Ann. § 67-5-1009(c)(3)]

Portions of land that are reserved for future development, construction of improvements for private use, or any other non-open space use will be disqualified when those uses begin. Rollback taxes will be due plus an additional amount equal to 10% of the taxes saved.

Determining personal liability for rollback taxes [Tenn. Code Ann. § 67-5-1008(d)(3), (e)(1), (f)]

Determining who is personally liable to pay rollback taxes will depend on the facts of each particular situation. Generally, whoever changes the use of the property is personally liable. When a sale results in the land being disqualified, then the seller is liable for rollback taxes, unless otherwise provided by written contract or statute.

Unlike most other taxes, the personal liability for rollback taxes can be shifted to another person by written contract. If a buyer declares in writing at the time of sale an intention to continue the greenbelt use but fails to file an application within 90 days from the sale date, rollback taxes will become solely the responsibility of the buyer. Also, if a deed states that the grantee agrees to assume the liability for rollback taxes, then the personal liability is shifted from the grantor (seller) to the grantee (buyer).

Liability for rollback taxes – government taking [Tenn. Code Ann. § 67-5-1008(e)(1)]

When greenbelt land—or a portion of it—is taken by eminent domain or other involuntary proceeding, the agency or body doing the taking is responsible for the rollback taxes. Land that is transferred and converted to an exempt or non-greenbelt use is considered to have been converted involuntarily if the transferee or an agent for the transferee (1) sought the transfer and (2) had power of eminent domain.

Rollback taxes are a first lien on the disqualified land [Tenn. Code Ann. § 67-5-1008(d)(3)]

Rollback taxes are a first lien on the disqualified land and are collected in the same manner as other property taxes. Therefore, even if the personal liability of the rollback taxes is with the seller, the disqualified land is still subject to any unpaid rollback taxes.

Notice must be sent by the assessor [Tenn. Code Ann. § 67-5-1008(d)(3)]

Written notice (see Appendix "D" for sample notice) that greenbelt property has been disqualified and rollback taxes are due must be sent to the collecting official. Simply having the rollback taxes added to the current tax bill is not sufficient. T.C.A. § 67-5-1008(d)(3) requires the notice for rollback taxes to include at least:

(1) the amount of rollback taxes due;
(2) the reason why the property was disqualified; and
(3) the person the assessor finds to be personally liable for the rollback taxes.

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Assessing rollback taxes when only a portion of land is disqualified [Tenn. Code Ann. § 67-5-1008(d)(4)(A)]

When only a portion of land is disqualified, the assessor must still send a notice for rollback taxes. The assessment of the parcel must be apportioned on the first tax roll prepared after the rollback taxes become payable. This apportioned amount must be entered on the tax roll as a separately assessed parcel.

Determining the tax years that are subject to rollback taxes

The tax years subject to rollback taxes depend on whether the property qualifies for greenbelt as of January 1, the assessment date. Please review the following examples:

Example – Tax years subject to rollback – use changed after January 1

> Fifty acres have been classified as agricultural land since 1990. As of January 1, 2016 the property still qualifies. On April 1, 2016, the owner requests, in writing, for the property to be removed as agricultural land. The use of this property did not change until after January 1, 2016. Therefore, rollback taxes would be due for 2016, 2015, and 2014. The property will be assessed at market value beginning January 1, 2017.

Example – tax years subject to rollback – use changed before January 1

> Fifty acres have been classified as agricultural land since 1990. On December 15, 2015, the owner requests, in writing, for the property to be removed from this classification. As of January 1, 2016, the property no longer qualifies. Therefore, rollback taxes would be due for 2015, 2014, and 2013. The property will be assessed at market value beginning January 1, 2016.

An assessment change notice must be sent when property is assessed at market value as of January 1 [Tenn. Code Ann. § 67-5-508(a)(3)]

The first year the disqualified property is assessed at market value is when an assessment change notice must be sent. Please review the following examples:

Example – Assessment change notice – use changed after January 1

> Fifty acres have been classified as agricultural land since 1990. As of January 1, 2016, the property still qualifies. On April 1, 2016, the owner requests, in writing, for the property to be removed as agricultural land. Because the use of the property did not change until after January 1, 2016, it still qualifies for greenbelt for tax year 2016. For tax year 2017, an assessment change notice must be sent because the value and classification as of January 1, 2017, changed.

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Example – Assessment change notice – use changed before January 1

> Fifty acres have been classified as agricultural land since 1990. On December 15, 2015, the owner requests, in writing, for the property to be removed from this classification. On January 1, 2016, the property is no longer being used as agricultural land. Therefore, an assessment change notice must be sent for the 2016 tax year.

Circumstances when rollback taxes are not assessed

(1) Property passes to a lineal descendant and the property is disqualified solely because the 1,500-acre limit is exceeded. [Tenn. Code Ann. § 67-5-1008(h)]

Rollback taxes are not due if property passes to a lineal descendant and the property is disqualified solely because the total greenbelt acreage of the new owner exceeds the 1,500-acre limit. A lineal descendant is a "blood relative in the direct line of descent. Children, grandchildren, and great-grandchildren are lineal descendants." DESCENDANT, Black's Law Dictionary (10th ed. 2014). This is an exception to T.C.A. § 67-5-1008(d)(1)(E) which provides that rollback taxes are due if the "land exceeds the acreage limitations....." Property exceeding the limit is disqualified from greenbelt classification but is not assessable for rollback unless other disqualifying events occur before the property has been assessed at market value for three years.

(2) Property taken by eminent domain [Tenn. Code Ann. § 67-5-1008(e)(2)]

When a portion of property is taken by eminent domain and the taking results in the property being under the minimum acreage requirements, the remaining acres will continue to qualify for greenbelt. The property will continue to qualify so long as the landowner continues to own and use the remaining portion of the property and for so long as the landowner's lineal descendants collectively own at least 50% of the remaining portion. However, once those lineal descendants no longer own at least 50% of the remaining portion, rollback taxes will be due because the property will not meet the minimum acreage requirement.

(3) Property purchased by the government through the State Land Acquisition Fund Act [Tenn. Code § 11-14-406(b)]

Property purchased by the government through the State Land Acquisition Fund (Tenn. Code Ann. § 67-4-409(j)(5)) is not subject to rollback taxes. The fund is used to acquire property under the U.A. Moore Wetlands Acquisition Act (Tenn. Code Ann. § 11-14-406(b)). The purchase of property under this act does not constitute a change in use of the property.

(4) Property purchased under the Tennessee Heritage Conservation Trust Fund Act of 2005. [Tenn. Code Ann. § 11-7-109(b)]

Rollback taxes are not due for property purchased under the Tennessee Heritage Conservation Trust Fund Act of 2005 (Tenn. Code Ann. § 11-7-101-110). The purchase of property under this act does not constitute a change in use of the property.

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(5) Property is disqualified and disqualification is due to a change in law or as a result of an assessor's correction of a prior error of fact or law. [Tenn. Code Ann. § 67-5-1008(e)(4)(A)]

Rollback taxes are not assessed when property is disqualified as agricultural, forest, or open space land if the disqualification is due to a change in law or as a result of an assessor's correction of a prior error of fact or law. However, the property owner shall be liable for rollback taxes under these circumstances if the erroneous classification resulted from any fraud, deception, intentional misrepresentation, misstatement, or omission of any full statement by the property owner or the property owner's designee. Pursuant to Tenn. Code Ann. § 67-5-1008(e)(4)(B), a property owner will not be relieved of liability for rollback taxes if other disqualifying circumstances occur before the property has been assessed at market value for three years.

(6) Property is acquired by a lender in satisfaction of a debt [Tenn. Code Ann. § 67-5-1008(e)(3)]

Rollback taxes are not to be assessed when property is acquired by a lender in satisfaction or partial satisfaction of a debt. Rollback taxes will only be assessed against a lender if the property is used for a non-greenbelt purpose. This also applies to property that is transferred to a bankruptcy trustee. No application is required during the time the lender or trustee has the property. But when the property is sold, rollback taxes may be due for the reasons listed in Tenn. Code Ann. § 67-5-1008(d)(1)(A)-(F).

Rollback taxes imposed in error may be voided [Tenn. Code Ann. § 67-5-1008(d)(3)]

An assessor may void rollback taxes if it's determined that the taxes were imposed in error. But there shall be no refund when the taxes have been collected at the request of a buyer or seller at the time of sale. The statute does not provide a time limitation for when an assessor can no longer void rollback taxes. But, pursuant to Tenn. Code Ann. § 67-5-509(d), if a delinquent tax lawsuit has been filed, then the assessor can no longer void the taxes.

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Application for Greenbelt Assessment Agricultural Land, Forest and Open Space Land and Open Space Easements (Examples) Forest Management Plan (Example)

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APPLICATION FOR GREENBELT ASSESSMENT
Agricultural Land

The Agricultural, Forest and Open Space Land Act of 1976 (commonly referred to as the "Greenbelt Law") permits qualifying land to be assessed for property taxes at its current use value rather than at its fair market value which might be based on a more intensive use. YOU MAY BE LIABLE FOR ROLLBACK TAXES later if the land, or any portion, approved for greenbelt is converted to other uses or disqualified due to a sale or otherwise. Rollback taxes are based upon the amount of taxes saved during the last three (3) years the land was classified as agricultural land.

For land to qualify for the agricultural land classification, it must be at least fifteen (15) acres, including woodlands and wastelands, and either:

(1) constitute a farm unit engaged in the production or growing of agricultural products; or

(2) have been farmed by the owner or the owner's parent or spouse for at least twenty-five (25) years and be used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

The assessor may presume that property is used as agricultural land if it produces gross agricultural income averaging at least $1,500 per year over any three (3) year period. However, the assessor will also consider other available evidence indicating how the property is actually used. The assessor may ask for information concerning property income, ownership, and other information needed to determine how the property is used and how it should be valued.

Applications must be filed by March 1 to be considered for the current tax year. Applications filed after March 1 will be processed for the following tax year.

STATE OF TENNESSEE COUNTY OF: _____ _____

Control Map	Group	Parcel	Special Interest	Acres

1. **Name:** _____
2. **Mailing Address:** _____
3. **Address of Property:** _____
4. **Total Acreage:** _____
5. **Approximate acreage in crop, pasture or other active farm use:** _____
6. **Current crop(s) or other agricultural product(s) and expected yield or volume which will be sold:**

Product	Expected Yield or Sales

7. **Do you own or have an ownership interest in other property in this county which has been approved for greenbelt? If so, please identify the parcel(s) using the assessor's description(s). Attach additional pages if necessary.**

Control Map	Group	Parcel	Special Interest	Acres

8. **Source of Title:** ☐ Deed Book: _____ Page: _____ ☐ Other: _____

I certify that I am an owner of the property described above, that the information I have supplied is true and correct to the best of my knowledge and belief, and that I am presently using said property as agricultural land as described in the above instructions. I have read and understand the requirements for greenbelt eligibility and agree to notify the assessor of any change in the use or ownership of the property which might affect its continued eligibility.

Dated: _____ **Property Owner:** _____

On this ____ day of _____, 20____, before me personally appeared the above-named property owner, to me known to be the person described in and who executed the foregoing certification and acknowledged its execution as (his) (her) free act and deed.

_____ _____

Notary Public **My commission expires:**

THIS APPLICATION MUST BE ACCOMPANIED BY THE CURRENT RECORDATION FEE, OR OTHER ARRANGEMENTS MADE FOR PAYMENT OF SUCH FEE.

This instrument was prepared by: Name _____
Address _____

ASSESSOR'S USE

☐ **Approved** ☐ **Denied**

_____ _____

Assessor of Property **Date**

Form approved by the Tennessee State Board of Equalization: 10/2018

APPLICATION FOR GREENBELT ASSESSMENT
Forest Land

The Agricultural, Forest and Open Space Land Act of 1976 (commonly referred to as the "Greenbelt Law") permits qualifying land to be assessed for property taxes at its current use value rather than at its fair market value which might be based on a more intensive use. YOU MAY BE LIABLE FOR ROLLBACK TAXES later if the land, or any portion, approved for greenbelt is converted to other uses or disqualified due to a sale or otherwise. Rollback taxes are based upon the amount of taxes saved during the last three (3) years the land was classified as forest land.

"Forest Land" means land "constituting 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." The assessor may consult the State Forester in determining whether your land qualifies.

Applications must be filed by March 1 to be considered for the current tax year. Applications filed after March 1 will be processed for the following tax year.

ATTACH A MAP AND A COPY OF YOUR CURRENT FOREST MANAGEMENT PLAN. ALSO, ATTACH AERIAL PHOTOS, IF AVAILABLE.

STATE OF TENNESSEE COUNTY OF: _____

Control Map	Group	Parcel	Special Interest	Acres

1. **Name:** _____
2. **Mailing Address:** _____
3. **Address of Property:** _____
4. **Total Acreage:** _____
5. **Description of Timber:** _____

   Type: _____ **Current Amount:** _____

   Projected Harvest Date and Yield: _____
6. **Do you own or have an ownership interest in other property in this county which has been approved for greenbelt? If so, please identify the parcel(s) using the assessor's descriptions(s). Attach additional pages if necessary.**

Control Map	Group	Parcel	Special Interest	Acres

7. **Source of Title:** ☐ Deed Book: _____ Page: _____ ☐ Other: _____

I certify that I am an owner of the property described above, that the information I have supplied is true and correct to the best of my knowledge and belief, and that I am presently using said property as forest land as described in the above instructions. I have read and understand the requirements for greenbelt eligibility and agree to notify the assessor of any change in the use or ownership of the property which might affect its continued eligibility.

Dated: _____ **Property Owner:** _____

On this _____ day of _____, 20_____, before me personally appeared the above-named property owner, to me known to be the person described in and who executed the foregoing certification and acknowledged its execution as (his) (her) free act and deed.

_____ **My commission expires:** _____

Notary Public

THIS APPLICATION MUST BE ACCOMPANIED BY THE CURRENT RECORDATION FEE, OR OTHER ARRANGEMENTS MADE FOR PAYMENT OF SUCH FEE.

This instrument was prepared by: _____

ASSESSOR'S USE

☐ **Approved** ☐ **Denied**

_____ _____

Assessor of Property **Date**

Form approved by the Tennessee State Board of Equalization: 10/2018

APPLICATION FOR GREENBELT ASSESSMENT
Open Space Land & Open Space Easements

The Agricultural, Forest and Open Space Land Act of 1976 (commonly referred to as the "Greenbelt Law") permits qualifying land to be assessed for property taxes at its current use value rather than at its fair market value which might be based on a more intensive use. YOU MAY BE LIABLE FOR ROLLBACK TAXES later if the land, or any portion, approved for greenbelt is converted to other uses or disqualified due to a sale or otherwise. The rollback period is five (5) years for open space land and ten (10) years for land under an open space easement.

"Open Space Land" is land of three (3) acres or more (other than agricultural or forest land) in an open or natural condition, whose preservation would further goals specified in the Greenbelt Law. Qualifying properties must be designated for open space preservation by local or state planning authorities, or the state commissioner of environment and conservation must have accepted a perpetual open easement from the owner of the property under terms specified in the law. Open space easements executed for the benefit of a local government or a qualified conservation organization can also qualify under the greenbelt law.

Applications must be filed by March 1 to be considered for the current tax year. Applications filed after March 1 will be processed for the following tax year.

Indicate whether you are applying under a planning authority designation or easement. (Check one.)

☐ Planning authority designation (Attach a letter from planning authority.)

☐ Open space easement (Attach copy of easement.)

STATE OF TENNESSEE COUNTY OF: _____

Control Map	Group	Parcel	Special Interest	Acres

1. **Name:** _____
2. **Mailing Address:** _____
3. **Preparer if other than Owner:** _____
4. **Address of Property:** _____
5. **Total acreage and description of land and land uses, if any:** _____

_____

_____

_____

6. **Do you own or have an ownership interest in other property in this county which has been approved for greenbelt? If so, please identify the parcel(s) using the assessor's description(s). Attach additional pages if necessary.**

Control Map	Group	Parcel	Special Interest	Acres

7. **Source of Title:** ☐ Deed Book: _____ Page: _____ ☐ Other: _____

I certify that I am an owner of the property described above, that the information I have supplied is true and correct to the best of my knowledge and belief, and that I am presently using said property as open space land as described in the above instructions. I have read and understand the requirements for greenbelt eligibility and agree to notify the assessor of any change in the use or ownership of the property which might affect its continued eligibility.

Dated: _____ **Property Owner:** _____

On this _____ day of _____, 20_____, before me personally appeared the above-named property owner, to me known to be the person described in and who executed the foregoing certification and acknowledged its execution as (his) (her) free act and deed.

_____ **My commission expires:** _____

Notary Public

THIS APPLICATION MUST BE ACCOMPANIED BY THE CURRENT RECORDATION FEE, OR OTHER ARRANGEMENTS MADE FOR PAYMENT OF SUCH FEE.

This instrument was prepared by: _____

ASSESSOR'S USE

☐ **Approved** ☐ **Denied**

_____ _____

Assessor of Property **Date**

Form approved by the Tennessee State Board of Equalization: 10/2018

Tennessee Greenbelt Forest Management Plan

Property Owner Contact Information:

_____
Name

_____
Mailing Address

_____
City

_____
State/Zip

_____
Phone

_____
Email

For the 10-Year Report Period: 20____ to 20____

DRAFT

Active forest management by provate landowners leads to healthy forests and ensures Tennessee's forests remain intact and productive for a wide array of benefits including timber, wildlife habitat, and water quality. Forest property will serve the landowner's needs and interests best if it is managed according to a clear plan to meet both short and long-term objectives. The forest management plan is designed to assist woodland owners in identifying management objectives for their forest and guide them towards achievingthose objectives. Due to the complexity of the planning process, it is highly advised to enlist the assistance of a professional forester in the development of a forest management plan.

Property Description

The following information will define the overall forest tract(s) of land. Aerial or survey maps of the parcel(s) have been included in the appendix of this document. The maps denote the boundaries of the tracts(s).

Property Address:

_____

City, State, Zip, County:

_____

The overall tract (s) of land is described as (Attach additional pages as necessary):

_____

_____

	Tract 1	Tract 2	Tract 3
Parcel ID(s):			
Total Acreage:			
Forested Acreage:			

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Management History of the Forest Tract(s)

_____

_____

_____

_____

_____

_____

_____

Are boundaries of property clearly marked? □ Yes: □ No:

If yes, what method is used: □ Paint □ Signs □ Fencing □ Other:

Note: Although recommended, having clearly marked boundary lines is not a requirement for greenbelt eligibility.

Forest Management Goals & Objectives

Select all that apply and provide overall description of management objectives and goals:
□ Timber Production: _____
□ Wildlife Habitat Management: _____
□ Recreation andAesthetics: _____
□ Water and Soil Protection: _____
□ Other: _____
Overall Description of Objectives:

_____

_____

_____

_____

_____

_____

_____

DRAFT

Instructions for Describing Individual Forest Management Unit(s)

Name and/or Reference Number of Unit: Assign aunique identifier toseparate management units and identify each one on the maps. A management unit may be a single unit and should be managed as such. For example, Management Unit #1.

Acres: Determine the acreage of each management unit and enter that number to the closest 1/10 acre.

Site Quality for Existing Forest Types: Enter one of the following as it applies:

- Extremely low/sensitive
- Low forest productivity
- Medium forest productivity
- High forest productivity
- Very high forest productivity

Existing Forest Types: Enter one of the following for the existing forest type:

- Upland Hardwoods
- Bottom Hardwoods
- Hardwood-Pine
- Pine- Hardwood
- Southern Pine
- White Pine
- Hardwood- White Pine
- Bald cypress
- Cedar

Species Composition: Enter the principal species present.

Age Structure: Enter one of the following forest age structures:

- Even-aged – Little difference in age exists among the majority of trees.
- Two-aged – Has two distinct age classes, each having originated from separate events or disturbances.
- Uneven-aged – Significant differences in tree age, usually three or more age classes, and can be either uniformly mixed or clustered in small groups.

Spacing: Enter one of the following horizontal arrangements of trees:

- Variable density (spacing) without canopy openings - indicates a natural stand without disturbance.
- Variable density (spacing) with canopy openings - indicates a natural stand with harvesting or disturbance.
- Evenly spaced without canopy openings - indicates a planted stand without disturbance.
- Evenly spaced with canopy openings - indicates a planted stand with harvesting or disturbance.

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Timber Size Class: Enter one of the following for timber size classes:

- Large sawtimber- Most of the dominant and codominant trees in the forest are greater than 16.6” DBH (diameter at breast height)
- Small sawtimber- Most of the dominant and codominant trees in the forest are between 11.6” and 16.5” DBH (diameter at breast height)
- Pole timber- Most of the dominant and codominant trees in the forest are between 6.6” and 11.5” DBH (diameter at breast height)
- Seedlings/saplings- Most of the forest is composed of seedlings and sapling size trees below 6.5” DBH (diameter at breast height)

Harvesting/Management History: If it can be determined, indicate when harvesting last occurred in the forest and document any other history of management.

Present Conditions: Indicate the present condition of the stand as it relates to timber growth and quality, pest or fire occurrence/damage, erosion, etc.

Recommendations for Management for Next 10 Years

Recommended Management Type: Enter the foresttypefor which the stand will be managed. Use the same types utilized for indicating existing forest types. If the prescription is to artificially regenerate, indicate the species to be planted.

Prescription: Indicateoneormore ofthefollowingtreatmentsneededthatwill assure productivity of the forest during the next 10 year period:

- No treatment- let itgrow
- Commercial harvest (indicate products expected)
- Commercial thinning (indicate products expected)
- Salvage cutting (indicate type of damage)
- Site preparation for natural regeneration
- Artificial regeneration (indicate species to be planted)
- Pre-commercial thinning
- Timber stand improvement (specify needs)
- Prescribed burn
- Forest health management (insect and diseasecontrol)

(Provide management unit description and recommendations for management for each separate management unit identified including any open fields designated for reforestation/afforestation)

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Additional Recommendations for Forest Management

- Always consult a professional forester before selling your timber or when considering other forest management activities.
- Always insist that best management practices (BMPs) are used when forestry practices are conducted.
- Always maintain property boundaries and property corners. Marking of property boundaries and property corners can be a helpful tool to avoid future conflicts, encroachment, or theft.

Glossary of Forestry Terms

- Forest Management - The application of scientific, economic and social principles to managing a forest for accomplishing specific desired outcomes.
- Management Unit - A recognizable area of a forest that is relatively similar in species composition or physical characteristics and can be managed as a single unit.
- Site Quality - A designation of an area's capacity to grow a given forest type. Evaluation should be based on biological, climatic, and soil factors.
- Timber Size Class - A designation of trees based on their DBH (diameter at breast height).
- Age Structure - The proportion of various age classes of a forest or management unit.
- Spacing - The horizontal distribution of trees within a forest or management unit.
- Prescription - A planned series of treatments designed to change the current stand structure and composition of a management unit to one that meets management goals.

Description of Forest Management Unit(s)

Note: The information provided will not affect the methodology for determining the present use value of property qualified as forest land under the Greenbelt law.

Name and/or Reference Number of Unit: _____

Size of Unit in Acres: _____

Date Examined: _____

Site Quality for Existing Forest Types: _____

Existing Forest Type: _____

Species Composition: _____

Age Structure: _____

Spacing: _____

Timber Size Class: _____

DRAFT

Harvesting/Management History: _____

_____

_____

Present Conditions: _____

_____

_____

Recommendations for Management for Next 10 Years:

Recommended Management Type: _____

Prescription: _____

_____

_____

Additional Recommendations for Forest Management:

1. _____

_____

_____

2. _____

_____

_____

3. _____

_____

_____

4. _____

_____

_____

DRAFT

5. _____

_____

_____

6. _____

_____

_____

Name and/or Reference Number of Unit: _____

Size of Unit in Acres: _____

Date Examined: _____

Site Quality for Existing Forest Types: _____

Existing Forest Type: _____

Species Composition: _____

Age Structure: _____

Spacing: _____

Timber Size Class: _____

Harvesting/Management History: _____

_____

_____

Present Conditions: _____

_____

_____

Recommendations for Management for Next 10 Years:

Recommended Management Type: _____

DRAFT

Prescription: _____

_____

_____

Additional Recommendations for Forest Management:

1. _____

_____

_____

2. _____

_____

_____

3. _____

_____

_____

4. _____

_____

_____

5. _____

_____

_____

6. _____

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_____

DRAFT

Name and/or Reference Number of Unit: _____

Size of Unit in Acres: _____

Date Examined: _____

Site Quality for Existing Forest Types: _____

Existing Forest Type: _____

Species Composition: _____

Age Structure: _____

Spacing: _____

Timber Size Class: _____

Harvesting/Management History: _____

_____

_____

Present Conditions: _____

_____

_____

Recommendations for Management for Next 10 Years:

Recommended Management Type: _____

Prescription: _____

_____

_____

DRAFT

Additional Recommendations for Forest Management:

1. _____

_____

_____

2. _____

_____

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3. _____

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4. _____

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5. _____

_____

_____

6. _____

_____

_____

DRAFT

Management Activity Schedule

Note: This chart can be used to assist property owners in tracking forest management activities.

Unit Identifier	Unit Acres	Prescription	Dates	
			Planned	Completed

Plan Certification

The undersigned certify that the information provided by this plan is true and correct to the best of their knowledge. Further, it is affirmed that the tract(s) specified herein 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. For newly regenerated areas, minimum stocking requirement to constitute aforestisapproximately 150 well-spaced seedlingsper acre. Anyseedlingspacing pattern representing 290 square feet per seedling equals approximately 150 seedlings per acre (17' X 17', 14' X 20', 12' X 25', etc.).

The undersigned understand that this plan should be reviewed for potential updates in 10 years with the local property assessor's office, either by a new management plan if practices need to be fundamentally changed or an update addendum if the same plan is being followed.

Signature of Owner(s) *(Attach additional pages as necessary)*

_____ _____
Signature Date

_____
Print Name

_____ _____
Signature Date

_____
Print Name

_____ _____
Signature Date

_____
Print Name

DRAFT

If this plan has been prepared by a third party on behalf of the land owner(s), the following certification must be signed:

The undersigned certifies that the information provided by this plan is true and correct to the best of his/her knowledge.

Signature of Preparer

_____ _____

Signature Date

_____

Print Name

_____

Title

_____

Name of Firm or Agency

Attachments

There are _____ pages of attachments such as maps and surveys, and other necessary documents included with this plan. Below is a general list of those attachments:

_____

_____

_____

_____

_____

_____

_____

DRAFT

Notice of Availability of Proposed Use Value Schedule (Example)

LEGAL NOTICE

Pursuant to Section 67-5-1008 Tennessee Code Annotated, the proposed 2019 "greenbelt" use value schedule for _____ County will be available for public inspection at the _____ County Assessor of Property's Office during normal business hours. Any person desiring to inspect these records may do so at the appointed time and place.

DRAFT

Notice of Disqualification Letter (Example)

Greenbelt County Assessor of Property
123 Main Street, Courthouse
Hometown, TN 37777
615-555-5555

4 April 2016

John Smith
123 Rural Road
Hometown, TN 37777

Re: Application for Greenbelt and Rollback Taxes

Dear Mr. Smith:

The property located at 123 Rural Road, Hometown, TN 37777 (Parcel ID# 011-001.01) was previously classified as agricultural land under the greenbelt program. To have continued this classification, an application was required to have been filed by March 1, 2016. As of the date of this letter, no application has been filed. Therefore, this property has been disqualified from this classification and will be assessed at market value for tax year 2016. Also, rollback taxes are now due in the amount of $1,000 and will become delinquent on March 1, 2017.

But the rollback taxes can be voided and the property can continue to be classified as agricultural land if you (1) file an application and (2) pay the statutory late fee of $50.00 (payable to the Greenbelt County Trustee) within 30 days of this letter. The last day to do this is May 4, 2016.

Please call us at 615-555-5555 if you have any questions.

Sincerely,

David R. Sealy

c: Jack R. Marley, Greenbelt County Trustee

DRAFT

Notice of Rollback Taxes Letter (Example)

Greenbelt County Assessor of Property
123 Main Street, Courthouse
Hometown, TN 37777
615-555-5555

4 April 2016

Jack R. Marley
Greenbelt County Trustee
123 Main Street
Hometown, TN 37777

Re: Rollback Taxes for 123 Rural Road, Hometown, TN 37777
Parcel ID# 011-001.01

Dear Mr. Marley:

It has been determined by our office that the property located at 123 Rural Road, Hometown, TN 37777 (Parcel ID# 011-001.01) no longer qualifies as agricultural land. The property is currently being developed as a residential subdivision. Therefore, rollback taxes are assessed to John Smith in the amount of $1,000.00.

These taxes are payable from the date of this notice and become delinquent on March 1, 2017. Also, the taxes are a first lien on the land and if not paid, can subject the property to a delinquent tax lawsuit.

The liability for these rollback taxes may be appealed to the State Board of Equalization by March 1, 2017.

Sincerely,

David K. Sealy

c: John Smith

DRAFT

Appendix E

Specific Statutes

DRAFT

§ 67-5-1002. Findings; agricultural, open space and forest lands preservation

Current through 2018 Regular Session

The general assembly finds that:

(1) The existence of much agricultural, forest and open space land is threatened by pressure from urbanization, scattered residential and commercial development, and the system of property taxation. This pressure is the result of urban sprawl around urban and metropolitan areas, which also brings about land use conflicts, creates high costs for public services, contributes to increased energy usage, and stimulates land speculation;

(2) The preservation of open space in or near urban areas contributes to:

(A) The use, enjoyment and economic value of surrounding residential, commercial, industrial or public use lands;

(B) The conservation of natural resources, water, air, and wildlife;

(C) The planning and preservation of land in an open condition for the general welfare;

(D) A relief from the monotony of continued urban sprawl; and

(E) An opportunity for the study and enjoyment of natural areas by urban and suburban residents who might not otherwise have access to such amenities;

(3) Many prime agricultural and forest lands in Tennessee, valuable for producing food and fiber for a hungry world, are being permanently lost for any agricultural purposes and that these lands constitute important economic, physical, social, and esthetic assets to the surrounding lands and to the people of Tennessee;

(4) Many landowners are being forced by economic pressures to sell such agricultural, forest, or open space land for premature development by the imposition of taxes based, not on the value of the land in its current use, but on its potential for conversion to another use; and

(5) The findings of subdivisions (1)-(4) must be tempered by the fact that in rural counties an over-abundance of land held by a single landowner that is classified on the tax rolls by this part could have an adverse effect upon the ad valorem tax base of the county, and thereby disrupt needed services provided by the county. To this end, a limit must be placed upon the number of acres that any one (1) owner within a tax jurisdiction can bring within this part.

History

1976 Pub.Acts, c. 782, § 2; 1984 Pub.Acts, c. 685, § 1.

DRAFT

§ 67-5-1003. Preservation of open space; state policy

Current through 2018 Regular Session

The general assembly declares that it is the policy of this state that:

(1) The owners of existing open space should have the opportunity for themselves, their heirs and assigns to preserve such land in its existing open condition, if it is their desire to do so, and if any or all of the benefits enumerated in § 67-5-1002 would accrue to the public thereby, and that the taxing or zoning powers of governmental entities in Tennessee should not be used to force unwise, unplanned or premature development of such land;

(2) The preservation of open space is a public purpose necessary for sound, healthful, and well-planned urban development, that the economic development of urban and suburban areas can be enhanced by the preservation of such open space, and that public funds may be expended by the state or any municipality or county in the state for the purpose of preserving existing open space for one (1) or more of the reasons enumerated in this section; and

(3) No person may place more than one thousand five hundred (1,500) acres of land within any one (1) taxing jurisdiction under this part. For purposes of this maximum limit, ownership shall be attributed among multiple owners as follows: a person shall be deemed to have placed under the provisions of this part that percentage of the total acreage of any parcel classified under this part that equals the percentage of such person's ownership interest in such parcel. If a parcel classified under this part is owned by a trust, partnership, corporation or other artificial entity, a person shall be deemed to have placed under this part that percentage of the total acreage of the parcel that equals the person's percentage interest in the ownership or net earnings of the entity. Further, a parcel owned by an artificial entity shall be aggregated with parcels owned by other artificial entities having fifty percent (50%) or more common ownership or control, and together the parcels may not exceed the maximum acreage provided in this section. To the extent that a parcel of property is owned by a person who is disqualified under this subdivision (3), such property or portion thereof in which such person owns an interest shall be ineligible for classification under this part. If property is disqualified for use value classification solely as the result of these ownership attribution provisions, any rollback assessment due shall be limited to tax savings accruing after April 14, 1992. This subdivision (3) shall not operate to apply the maximum acreage limitation to an agricultural classification that the owner obtained prior to July 1, 1984.

History

1976 Pub.Acts, c. 782, § 3; 1984 Pub.Acts, c. 685, § 2; 1992 Pub.Acts, c. 661, § 1; 2008 Pub.Acts, c. 1161, § 1, eff. June 13, 2008.

DRAFT

§ 67-5-1004. Definitions

Current through 2019 Regular Session

As used in §§ 11-14-201, 11-15-107, 11-15-108, and this part, unless the context otherwise requires:

(1)(A) "Agricultural land" means land that meets the minimum size requirements specified in subdivision (1)(B) and that either:

(i) Constitutes a farm unit engaged in the production or growing of agricultural products; or

(ii) Has been farmed by the owner or the owner's parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

(B) To be eligible as agricultural land, property must meet one (1) of the following minimum size requirements by consisting of:

(i) A single tract of at least fifteen (15) acres, including woodlands and wastelands;

(ii) Two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit; or

(iii)Two (2) noncontiguous tracts within the same county totaling at least fifteen (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;

(2) "Commissioner" means the commissioner of agriculture or the commissioner's designee;

(3) "Forest land" means land constituting 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) "Gross agricultural income" means total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs;

(5) "Local government advisory committee," "Tennessee local government advisory committee," or "Tennessee local government planning advisory committee" means the local government planning advisory committee created by § 4-3-727;

DRAFT

(6) "Open space easement" means a perpetual right in land of less than fee simple that:

(A) Obligates the grantor and the grantor's heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;

(B) Is restricted to the area defined in the easement deed; and

(C) Grants no right of physical access to the public, except as provided for in the easement;

(7) "Open space land" means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one (1) or more of the benefits enumerated in § 67-5-1002, and that is not currently in agricultural land or forest land use. "Open space land" includes greenbelt lands or lands primarily devoted to recreational use;

(8) "Owner" means the person holding title to the land;

(9) "Person" means any individual, partnership, corporation, organization, association, or other legal entity;

(10) "Planning commission" means a commission created under § 13-3-101 or § 13-4-101;

(11) "Present use value" means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose;

(12) "Rollback taxes" means the amount of back tax differential payable under § 67-5-1008; and

(13) "State forester" means the director of the division of forestry.

History

1976 Pub.Acts, c. 782, § 4; 1977 Pub.Acts, c. 256, § 1; 1978 Pub.Acts, c. 613, §§ 1, 2; 1984 Pub. Acts, c. 685, § 3; 1992 Pub.Acts, c. 661, §§ 2 to 5; 1992 Pub.Acts, c. 693, § 18; 1998 Pub.Acts, c. 1066, § 8, eff. May 19, 1998; 1999 Pub.Acts, c. 141, § 1, eff. May 12, 1999; 2002 Pub.Acts, c. 632, § 1, eff. Jan. 1, 2003; 2017 Pub.Acts, c. 297, § 2, eff. May 5, 2017; 2019 Pub.Acts, c. 436, § 1, eff. Jan. 1, 2020.

DRAFT

§ 67-5-1005. Classification as agricultural land

Current through the 2018 Regular Session

(a)(1) Any owner of land may apply for its classification as agricultural by filing a written application with the assessor of property. The application must be filed by March 1. 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 shall send a notice of disqualification to these owners, but shall accept a late application if filed within thirty (30) days of the notice of disqualification and accompanied by a late application fee of fifty dollars ($50.00).

(2) The assessor shall determine whether such land is agricultural land, and, if such a determination is made, the assessor shall classify and include it as such on the county tax roll.

(3) In determining whether any land is agricultural land, the assessor of property shall take into account, among other things, the acreage of such land, the productivity of such 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 one thousand five hundred dollars ($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 this part.

(b) An application for classification of land as agricultural land shall be made upon a form prescribed by the state board of equalization and shall set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor may require to aid the assessor in determining whether the land qualifies for classification as agricultural land.

(c) The assessor shall verify actual agricultural uses claimed for the property during the on-site review provided under § 67-5-1601. The assessor may at any time require other proof of use or ownership necessary to verify compliance with this part.

(d) 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.

History

1976 Pub.Acts, c. 782, § 5; 1989 Pub.Acts, c. 56, § 1; 1992 Pub.Acts, c. 661, §§ 6, 7; 1994 Pub.Acts, c. 838, § 1, eff. April 18, 1994; 1996 Pub.Acts, c. 707, § 1, eff. April 3, 1996; 1999 Pub.Acts, c. 141, §§ 2, 3, eff. May 12, 1999; 2001 Pub.Acts, c. 152, § 1, eff. Jan. 1, 2002; 2008 Pub.Acts, c. 1161, § 2, eff. June 13, 2008.

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§ 67-5-1006. Classification as forest land

Current through the 2018 Regular Session

(a)(1) 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 1. 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 shall send a notice of disqualification to these owners, but shall accept a late application if filed within thirty (30) days of the notice of disqualification and accompanied by a late application fee of fifty dollars ($50.00).

(2) The assessor shall determine whether such 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.

(b)(1) In determining whether any land is forest land, the assessor of property shall take into account, among other things, the acreage of such 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.

(2) The assessor of property may request the advice of the state forester in determining whether any land should be classified as forest land, and the state forester shall make such advice available.

(c) 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.

(d) 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.

(e) Deleted by 2017 Pub.Acts, c. 297, § 3, eff. May 5, 2017.

History

1976 Pub.Acts, c. 782, § 6; 1989 Pub.Acts, c. 56, § 2; 1999 Pub.Acts, c. 141, § 4, eff. May 12, 1999; 2000 Pub.Acts, c. 599, § 1, eff. March 21, 2000; 2001 Pub.Acts, c. 152, § 2, eff. Jan. 1, 2002; 2008 Pub.Acts, c. 1161, § 3, eff. June 13, 2008; 2017 Pub.Acts, c. 297, § 3, eff. May 5, 2017.

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§ 67-5-1007. Designation as areas of open space

Current through the 2018 Regular Session

(a)(1) The planning commission, in preparing a land use or comprehensive plan for the municipality or county, may designate upon such plan areas that it recommends for preservation as areas of open space land, other than lands currently in agricultural and forestry uses.

(2) Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation, if there has been no change in the use of such area that has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

(b)(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 1. 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 shall send a notice of disqualification to these owners, but shall accept a late application if filed within thirty (30) days of the notice of disqualification and accompanied by a late application fee of fifty dollars ($50.00).

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

(3) An application for classification of land as open space land shall be made upon a form prescribed by the state board of equalization and shall set forth a description of the land, a general description of the use to which it is being put, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) 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.

History

1976 Pub.Acts, c. 782, § 7; 1989 Pub.Acts, c. 56, § 3; 1999 Pub.Acts, c. 141, § 5, eff. May 12, 1999; 2000 Pub.Acts, c. 599, § 2, eff. March 21, 2000; 2001 Pub.Acts, c. 152, § 3, eff. Jan. 1, 2002; 2008 Pub.Acts, c. 1161, § 4, eff. June 13, 2008.

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§ 67-5-1008. Value based on current use; separate recordation; converted land

Current through the 2019 Regular Session

(a) When a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, it shall be subsequently considered that its current use for agricultural or timber purposes or as open space used for neither of these purposes 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 part 6 of this chapter. It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property that might affect its eligibility under this part.

(b)(1) After a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under this part, the assessor of property shall record it on a separate list for the 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 that may be required shall be paid by the property owner.

(2) Henceforth, the assessor shall appraise the land and compute the taxes each year based upon both:

(A) The twenty-five percent (25%) of appraised value applicable to property in the farm classification and present use value; and

(B) Farm classification and value as determined under part 6 of this chapter, but taxes shall be assessed and paid only on the basis of farm classification and present use value under this part.

(3) The taxes computed under part 6 of this chapter shall be used to compute the rollback taxes, as defined in § 67-5-1004 and as provided for in subsection (d).

(4) The general assembly finds that value as determined under subdivision (b)(2)(B) should not be deemed the value of property for any purpose other than a future assessment of rollback taxes, because it does not determine the actual tax liability of a qualifying owner at the time of valuation. Accordingly, value as determined under subdivision (b)(2)(B) shall not be deemed determinative of fair market value for any purpose other than the administration of property taxes under this title.

(c)(1) A parcel of land classified by the assessor as agricultural, forest or open space land under this part shall be valued by dividing three (3) into the sum of two (2) times the use value as defined in this subsection (c), plus the farm land value as defined in this subsection (c). The rate of increase in per acre present use values as determined under this subsection (c) shall not exceed a factor measured by the number of years since the last general reappraisal or updating of values in the county, times six percent (6%).

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(2)(A) Use value shall be determined by dividing:

(i) The annual agricultural income estimate for such parcel as determined by the division of property tax assessment by;

(ii) The capitalization rate as determined in subdivision (c)(2)(C).

(B) For purposes of this part, "agricultural income estimate" means anticipated net return to land utilizing sound farming or forestry practices. In determining anticipated net return to land that is used for agricultural and forestry purposes, the division of property tax assessments shall consider farm income, or forestry income, soil productivity, topography, susceptibility to flooding, rental value and other factors that may serve to determine anticipated agricultural or forestry income. The annual agricultural income estimate for a parcel of open space land shall be the same as that for the least productive type of agricultural land.

(C) The capitalization rate shall be the maximum allowable rate on loans for terms in excess of five (5) years guaranteed by the federal Farm Service Agency or its successor, as of the assessment date for the year in which the use value schedule is being developed. The rate may be adjusted by no more than one hundred (100) basis points to reflect differences in land classes within a jurisdiction.

(3) Farm land value shall be determined by the division of property assessments based solely on farm-to-farm sales least influenced by commercial, industrial, residential, recreational or urban development, the potential for such development, or any other speculative factors.

(4) The state board of equalization, upon petition by at least ten (10) owners of agricultural, forest or open space land, or upon petition of any organization representing ten (10) or more owners of agricultural, forest or open space land, shall convene a hearing to determine whether the capitalization rate has been properly determined by the division of property tax assessments, whether the agricultural income estimates determined by the division of property tax assessments are fair and reasonable, or if the farm land values have been determined in accordance with this section. Such hearing shall be held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The petition shall be filed at the office of the state board of equalization on or before twenty (20) days after the date the division of property assessments publishes notice of the availability of the proposed use value schedule in a newspaper of general circulation within the county.

(d)(1) The appropriate assessor shall compute the amount of taxes saved by the difference in present use value assessment and value assessment under part 6 of this chapter, for each of the preceding three (3) years for agricultural and forest land, and for the preceding five (5) years for open space land, and the assessor shall notify the trustee that such amount is payable, if:

(A) Such land ceases to qualify as agricultural land, forest land, or open space land as defined in § 67-5-1004;

(B) The owner of such land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn;

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(C) 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;

(D) An owner fails to file an application as required by this part;

(E) The land exceeds the acreage limitations of § 67-5-1003(3); or

(F) The land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.

(2) When the tax rate for the most recent year of rollback taxes is not yet available, the assessor shall calculate the amount of taxes saved for the most recent year by using the last made assessment and rate fixed according to law, and the trustee shall accept tender of the amount determined to be owing.

(3) The amount of tax savings calculated under this subsection (d) shall be the rollback taxes due as the result of disqualification or withdrawal of the land from classification under this part. 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 is determined that the assessment was imposed in error, except there shall be no refund of rollback taxes that have been collected at the request of a buyer or seller at the time of sale. 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. However, property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.

(4)(A) If, under subdivision (d)(1), only a portion of a parcel is subject to rollback taxes, the assessor of property shall apportion the assessment of such parcel on the first tax roll prepared after such taxes become payable, and enter the apportioned amount attributable to such portion as a separately assessed parcel on the tax roll.

(B) Such apportionment shall be made for each of the years to which the rollback taxes apply.

(e)(1) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is converted to a use other than those stipulated herein by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, such land or any portion thereof involuntarily converted to such other use shall not be subject to rollback taxes by the landowner, and the agency or body doing the taking shall be liable for the rollback taxes.

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Property transferred and converted to an exempt or nonqualifying 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.

(2) In the event the land involuntarily converted to such other use constitutes only a portion of a parcel so classified on the assessment rolls, the assessor shall apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll. 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 fifty percent (50%) of the remaining portion of such parcel, the remaining portion so owned shall not be disqualified from use value classification under this part solely because it is made too small to qualify as the result of the involuntary proceeding.

(3) In the event that any land classified under this part as agricultural, forest, or open space land or any portion thereof is acquired by a bank, as defined in § 45-2-107(a)(1)(A), by a savings and loan association, as defined in § 45-3-104(a)(1), or by a holder of a deed of trust or mortgage in satisfaction or partial satisfaction of a debt previously contracted in good faith, such land or any portion thereof so acquired shall not be subject to rollback taxes assessed against or payable by the bank or savings and loan association, and shall be subject to rollback taxes, only if the land is used for a non-green belt purpose or after such land is sold by the bank, savings and loan association or a holder of a deed of trust or mortgage and then only as provided in subsection (d). This subdivision (e)(3) shall likewise apply to the temporary transfer of property classified under this part to a trustee in bankruptcy.

(4)(A) If any property or any portion of the property classified under this part as agricultural, forest, or open space land is disqualified by a change in the law or as a result of an assessor's correction of a prior error of law or fact, then the property or any portion of the property that is disqualified shall not be assessable for rollback taxes. The property owner shall be liable for rollback taxes under these circumstances if the erroneous classification resulted from any fraud, deception, or intentional misrepresentation, misstatement, or omission of full statement by the property owner or the property owner's designee.

(B) Nothing in this subdivision (e)(4) shall relieve a property owner of liability for rollback taxes if other disqualifying circumstances occur before the property has been assessed at market value for three (3) years.

(f) If the sale of agricultural, forest or open space land will result in such property being disqualified as agricultural, forest or open space land due to conversion to an ineligible use or otherwise, the seller shall be liable for rollback taxes, unless otherwise provided by 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 ninety (90) days from the sale date, the rollback taxes shall become solely the responsibility of the buyer.

(g) For purposes of valuation pursuant to this section, the maximum acreage available for any one (1) owner classified as forest or open space land under this part shall be one thousand five hundred (1,500) acres. This subsection (g) shall operate to change the classification of any such land in excess of one thousand five hundred (1,500) acres that has been so classified under this

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part prior to July 1, 1984.

(h) Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, shall not be subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances shall be disqualified from greenbelt classification, but shall not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three (3) years.

History

1976 Pub.Acts, c. 782, § 8; 1979 Pub.Acts, c. 149, §§ 1, 2; 1982 Pub.Acts, c. 818, § 1; 1983 Pub. Acts, c. 267, § 1; 1987 Pub.Acts, c. 279, §§ 1, 2, 4; 1992 Pub.Acts, c. 661, §§ 8 to 12; 1995 Pub.Acts, c. 459, §§ 1, 2, eff. June 12, 1995; 1997 Pub.Acts, c. 160, § 1, eff. May 2, 1997; 1998 Pub.Acts, c. 683, § 1, eff. March 30, 1998; 1999 Pub.Acts, c. 141, § 6, eff. May 12, 1999; 2001 Pub.Acts, c. 152, §§ 4 to 7, eff. May 3, 2001.; 2002 Pub.Acts, c. 632, §§ 2 to 5, eff. Jan. 1, 2003; 2006 Pub.Acts, c. 861, § 2, eff. June 5, 2006; 2008 Pub.Acts, c. 1161, §§ 5, 6, eff. June 13, 2008; 2010 Pub.Acts, c. 928, § 1, eff. July 1, 2010; 2014 Pub.Acts, c. 589, § 1, eff. Jan. 1, 2015; 2016 Pub.Acts, c. 685, § 1, eff. March 24, 2016; 2019 Pub.Acts, c. 322, § 1, eff. May 8, 2019.

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§ 67-5-1009. Open space easements; cancellation; conditions

Current through the 2018 Regular Session

(a) Where an open space easement as defined in § 67-5-1004 has been executed and recorded for the benefit of a local government or a qualified conservation organization as provided in this section or as provided in § 11-15-107, the assessor of property shall henceforth assess the value and classification of such land, and taxes shall be computed and recorded each year both on the basis of:

(1) Farm classification and value in its existing use under this part, taking into consideration the limitation on future use as provided for in the easement; and

(2) Such classification and value, under part 6 of this chapter, as if the easement did not exist; but taxes shall be assessed and paid only on the basis of farm classification and fair market value in its existing use, taking into consideration the limitation on future use as provided for in the easement.

(b)(1) To serve as the basis of a classification as open space land pursuant to this part, an open space easement executed for the benefit of a local government shall be preceded by a consultation with a local planning commission and shall be subject to cancellation by the local governing body, only if all of the following conditions are met:

(A) The easement has been in effect for a period of at least ten (10) years;

(B) The local governing body determines that the open space is not needed in that location and that the public interest would be better served by cancellation of the easement;

(C) The local planning commission finds that the open space is not needed in that location and that the public interest would be better served by the cancellation of the easement; and

(D) The owner has paid to the county and municipality in which the land is situated an amount equal to the difference between the taxes actually paid during the ten (10 preceding years and the taxes computed during the ten (10) preceding years on the basis of fair market value and classification of the land as if the easement had not existed, as provided for in this section.

(2) Nothing in this subsection (b) shall be deemed to prohibit the owner and the local government from agreeing to additional conditions that must be met before cancellation is allowed.

(c)(1) Open space land, as defined in § 67-5-1004, that comprises at least fifteen (15) contiguous acres may also qualify for classification and assessment under this part, if the owner grants an open space easement to a qualified conservation organization and the grantee organization accepts the easement in writing.

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(2) Any portion of the land that is in actual use as a home site or any other non-open space use shall not qualify as open space land for purposes of this section.

(3) If the owner of the land reserves a portion of the land for future development, construction of improvements for private use, or any other non-open space use, then that portion shall lose eligibility as open space land upon commencement of the non-open space use and the owner shall pay to the affected county and city the property taxes saved as a result of the open space classification of that portion of the land and an additional amount equal to ten percent (10%) of the taxes saved.

(4) Any written agreement for easement entered into after July 1, 2007, shall contain a disclosure that rollback taxes may be due if the easement is cancelled.

(5) A qualified conservation organization is a nonprofit organization that is approved by the Tennessee heritage conservation trust fund board of trustees and meets the eligibility criteria established by the trustees for recipients of trust fund grants or loans. For purposes of this section, a qualified conservation organization also includes any department or agency of the United States government which acquires an easement pursuant to law for the purpose of restoring or conserving land for natural resources, water, air and wildlife.

(d) Any owner of open space easement land who seeks to have the land classified for assessment pursuant to this part shall apply to the assessor as provided in § 67-5-1007(b) and record a copy of the easement and the grantee's written acceptance with the register of deeds.

History

1976 Pub.Acts, c. 782, § 10; 1996 Pub.Acts, c. 809, §§ 1, 2, eff. June 1, 1996; 2007 Pub.Acts, c. 514, §§ 1, 2, eff. July 1, 2007; 2014 Pub.Acts, c. 846, § 1, eff. April 28, 2014.

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