

Practically Speaking

Real Estate Questions Answered

By Kerri Lewis and Avis Wukasch

- Q.** Where can my clients find out what is required to get an agricultural exemption?
- A.** Information on ag exemptions for property taxes can be obtained from the Central Appraisal District (CAD) in the county where the property is located or from the Texas Comptroller of Public Accounts. License holders should not opine as to what qualifies for an ag exemption.
- Q.** I have a buyer for some acreage in the country. What do I tell my client about rollback taxes?
- A.** Change in Use of Land taxes, popularly referred to as rollback taxes, are triggered when land classified as open space agricultural use is sold or is no longer used for agricultural purposes. If the land is no longer used for agricultural purposes, a one-time rollback tax will be assessed, and the land will be assessed at market value for property taxes going forward. License holders should not attempt to calculate the amount of rollback taxes. The local CAD is the best resource for this information.

What the Law Says

Actually, an ag exemption is not an exemption at all. It is a different method of valuation that results in lower property taxes for qualified land. These alternate appraisal methods are provided for by the Texas Constitution, Article VIII, Sections 1-d and 1-d-1, and are addressed by Subchapters C and D of the Texas Tax Code. In addition, the comptroller promulgates rules pursuant to those statutes. They are found in Title 34, Chapter 9 of the Texas Administrative Code. However, the Degree of Intensity Standards for the number of livestock or

amount of crops required per acre varies by county. Land used for qualified agricultural purposes is appraised at its value based on the land's capacity to produce agricultural products (productivity value) instead of its market value (Tex. Tax Code §23.41). For rollback taxes, the lookback period for a change in use out of agricultural production is three years, and the annual interest rate charged on the difference in taxes between the market value and agricultural use value is 5 percent (Tex. Tax Code §§23.55[a] and 23.76[a]).

For Example

Rick Stephens took a listing on a 100-acre tract that had been in agricultural use for many years. A potential buyer contacted Rick and wanted to put an RV park on the property. The buyer asked Rick, "Could you calculate the rollback tax liability if I do this RV park on this property?" Rick, an experienced farm

and ranch broker, replied, "No, sir, I am not able to do that service for you. However, here is the contact information for the central appraisal district for our county. Call and ask for the chief appraiser, and he can give you an estimate of those taxes." Rick did not want the liability for a miscalculation or misinformation.

Best Practice

Always ask about your client's intended use when looking at rural property. Recommend they visit with the local CAD office before entering into a contract or during the option period to find out whether their intended use qualifies for

an agricultural exemption or would trigger rollback taxes. Clients may change their mind about the type of property they want to find or their intended use if they know rollback taxes will be assessed.

Bonus Question

- Q.** My client is purchasing a ranch and will run cattle. Does the property's existing ag exemption transfer to the new owner if there is no change in use?
- A.** No. A new owner must reapply with the local CAD for the special tax valuation commonly known as ag exemption.

Nothing in this publication should be construed as legal advice for a particular situation. For specific advice, consult an attorney.

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