

CHAPTER 137b. PREFERENTIAL ASSESSMENT OF FARMLAND AND FOREST LAND UNDER THE CLEAN AND GREEN ACT

GENERAL PROVISIONS

Sec.

- 137b.1. [Purpose.](#)
- 137b.2. [Definitions.](#)
- 137b.3. [Responsibilities of the Department.](#)
- 137b.4. [Contacting the Department.](#)

ELIGIBLE LAND

- 137b.11. [General.](#)
- 137b.12. [Agricultural use.](#)
- 137b.13. [Agricultural reserve.](#)
- 137b.14. [Forest reserve.](#)
- 137b.15. [Inclusion of farmstead land.](#)
- 137b.16. [Residence not required.](#)
- 137b.17. [Common ownership required.](#)
- 137b.18. [County-imposed eligibility requirements.](#)
- 137b.19. [Multiple tracts on a single application.](#)
- 137b.20. [Inclusion of all contiguous land described in the deed to the tract with respect to which enrollment is sought.](#)
- 137b.21. [Exclusion of noncontiguous tract described in a single deed.](#)
- 137b.22. [Landowner may include or exclude from the application tracts described in separate deeds.](#)
- 137b.23. [Land adjoining preferentially assessed land with common ownership is eligible.](#)
- 137b.24. [Ineligible land.](#)
- 137b.25. [Multiple land use categories on a single application.](#)
- 137b.26. [Land located in more than one tax district.](#)
- 137b.27. [Assessment of ineligible land.](#)

APPLICATION PROCESS

- 137b.41. [Application forms and procedures.](#)
- 137b.42. [Deadline for submission of applications.](#)
- 137b.43. [Applications where subject land is located in more than one county.](#)
- 137b.44. [County processing of applications.](#)
- 137b.45. [Notice of qualification for preferential assessment.](#)
- 137b.46. [Fees of the county board for assessment appeals; recording fees; processing fees.](#)

PREFERENTIAL ASSESSMENT

- 137b.51. [Assessment procedures.](#)
- 137b.52. [Duration of preferential assessment.](#)
- 137b.53. [Calculation and recalculation of preferential assessment.](#)
- 137b.54. [Calculating the contributory value of farm buildings.](#)

OBLIGATIONS OF THE OWNER OF ENROLLED LAND

- 137b.61. [Transfer of enrolled land.](#)
- 137b.62. [Enrolled “agricultural use” land of less than 10 contiguous acres.](#)
- 137b.63. [Notice of change of application.](#)
- 137b.64. [Agricultural reserve land to be open to the public.](#)

IMPACT OF SPECIFIC EVENTS OR USES ON PREFERENTIAL ASSESSMENT

- 137b.71. [Death of an owner of enrolled land.](#)
- 137b.72. [Direct commercial sales of agriculturally related products and activities; rural enterprises incidental to the operational unit.](#)
- 137b.73. [Wireless or cellular telecommunications facilities.](#)
- 137b.73a. [Gas, oil and coal bed methane.](#)
- 137b.73b. [Temporary leases for pipe storage yards.](#)
- 137b.73c. [Small noncoal surface mining.](#)
- 137b.73d. [Wind power generation systems.](#)
- 137b.74. [Option to accept or forgive roll-back taxes in certain instances.](#)
- 137b.75. [Conveyance of enrolled land for use as a cemetery.](#)
- 137b.76. [Conveyance of enrolled land or conveyance of an easement or right-of-way across enrolled land for use as a trail.](#)
- 137b.77. [Recreational activities on agricultural use or forest reserve land.](#)

LIABILITY FOR ROLL-BACK TAXES

- 137b.81. [General.](#)
- 137b.82. [Split-off tract.](#)
- 137b.83. [Split-off that complies with section 6\(a.1\)\(1\)\(i\) of the act.](#)
- 137b.84. [Split-off that does not comply with section 6\(a.1\)\(1\)\(i\) of the act.](#)
- 137b.85. [Split-off occurring through condemnation.](#)
- 137b.86. [Split-off occurring through voluntary sale in lieu of condemnation.](#)
- 137b.87. [Change in use of separated land occurring within 7 years of separation.](#)
- 137b.88. [Change in use of separated land occurring 7 years or more after separation.](#)
- 137b.89. [Calculation of roll-back taxes.](#)
- 137b.90. [Due date for roll-back taxes.](#)
- 137b.91. [Liens for nonpayment of roll-back taxes.](#)
- 137b.92. [Time period within which roll-back taxes are to be calculated and notice mailed.](#)
- 137b.93. [Disposition of interest on roll-back taxes.](#)

DUTIES OF COUNTY ASSESSOR

- 137b.101. [General.](#)
- 137b.102. [Recordkeeping.](#)
- 137b.103. [Recording approved applications.](#)
- 137b.104. [Determining total use value.](#)
- 137b.105. [Annual update of records.](#)
- 137b.106. [Notification of change in preferential assessment status.](#)
- 137b.107. [Notification of change in factors affecting total assessment.](#)
- 137b.108. [Adjusting records to reflect split-off, separation or transfer.](#)
- 137b.109. [Enforcement and evidence gathering.](#)
- 137b.110. [Assessment of roll-back taxes.](#)
- 137b.111. [Record of tax millage.](#)
- 137b.112. [Submission of information to the Department.](#)

RECORDER OF DEEDS

- 137b.121. [Duty to record.](#)
- 137b.122. [Fees of the recorder of deeds.](#)

MISCELLANEOUS

- 137b.131. [Civil penalties.](#)
- 137b.132. [Distributing taxes and interest.](#)
- 137b.133. [Appealing a decision of the county assessor.](#)

Authority

The provisions of this Chapter 137b issued under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11), unless otherwise noted.

Source

The provisions of this Chapter 137b adopted March 30, 2001, effective March 31, 2001, 31 Pa.B. 1701, unless otherwise noted.

GENERAL PROVISIONS

§ 137b.1. Purpose.

(a) This chapter establishes procedures necessary for the uniform Statewide implementation of the act. The act provides for land devoted to agricultural use, agricultural reserve use or forest reserve use to be assessed at the value it has for that use rather than at fair market value. The intent of the act is to encourage the keeping of land in one of these uses.

(b) The benefit to an owner of enrolled land is an assurance that the enrolled land will not be assessed at the same value for tax assessment purposes as land that is not enrolled land. In almost all cases, an owner of enrolled land will see a reduction in his property assessment compared to land assessed or valued at its fair market value. The difference between assessments of enrolled land and land that is not enrolled land will be most noticeable when a county is reassessed.

§ 137b.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § § 5490.1—5490.13), commonly referred to as the Clean and Green Act.

Agricultural commodity—Any of the following:

- (i) Agricultural, apicultural, aquacultural, horticultural, floricultural, silvicultural, viticultural and dairy products.
- (ii) Pasture.
- (iii) Livestock and the products thereof.
- (iv) Ranch-raised furbearing animals and the products thereof.
- (v) Poultry and the products of poultry.

(vi) Products commonly raised or produced on farms which are intended for human consumption or are transported or intended to be transported in commerce.

(vii) Processed or manufactured products of products commonly raised or produced on farms which are intended for human consumption or are transported or intended to be transported in commerce.

(viii) Compost.

Agricultural reserve—Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for that use, without charge or fee, on a nondiscriminatory basis. The term includes land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.

Agricultural use—Land which is used for the purpose of producing an agricultural commodity or is devoted to and meets the requirements and qualifications for payments or other compensation under a soil conservation program under an agreement with an agency of the Federal government.

(i) The term includes any farmstead land on the tract.

(ii) The term includes a woodlot.

(iii) The term includes land which is rented to another person and used for the purpose of producing an agricultural commodity.

(iv) The term includes land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.

Agritainment—

(i) Farm-related tourism or farm-related entertainment activities which are permitted or authorized by a landowner in return for a fee on agricultural land for recreational or educational purposes.

(ii) The term includes corn mazes, hay mazes, farm tours and hay rides.

(iii) The term does not include activities authorized under section 8(d) of the act (72 P. S. § 5490.8(d)).

Alternative energy system—A facility or energy system that utilizes a Tier I energy source to generate alternative energy. The term includes a facility or system that generates alternative energy for utilization onsite or for delivery of the energy generated to an energy distribution company or to an energy transmission system operated by a regional transmission organization.

Assessment ratio or county's established predetermined ratio—The ratio established by a taxing body that determines on what portion of the assessed value the millage rate is to

be levied, as prescribed by assessment law.

Capitalization rate—The percentage rate used to convert income to value, as determined by the most recent 5-year rolling average of 15-year fixed loan interest rates offered to landowners by the Federal Agricultural Mortgage Corporation or other similar Federal agricultural lending institution, adjusted to include the landowner's risk of investment and the effective tax rate.

Change of use—

(i) The alteration of enrolled land so that it is no longer agricultural use, agricultural reserve or forest reserve land.

(ii) The term does not include:

(A) The act of subdividing enrolled land if the subdivided land is not conveyed.

(B) The act of conveying subdivided enrolled land to the same landowner who owned it immediately prior to subdivision.

Class A beneficiaries for inheritance tax purposes—The following relations to a decedent: grandfather, grandmother, father, mother, husband, wife, lineal descendants, wife, widow, husband or widower of a child. Lineal descendants include all children of the natural parents and their descendants, whether or not they have been adopted by others, adopted descendants and their descendants and step descendants.

Compost—Material resulting from the biological digestion of dead animals, animal waste or other biodegradable materials, at least 50% by volume of which is comprised of products commonly produced on farms.

Contiguous tract—

(i) All portions of one operational unit as described in the deed or deeds, whether or not the portions are divided by streams, public roads or bridges and whether or not the portions are described as multiple tax parcels, tracts, purparts or other property identifiers.

(ii) The term includes supportive lands, such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

Contributory value of farm building—The value of the farm building as an allocated portion of the total fair market value assigned to the tract, irrespective of replacement cost of the building.

County—The county assessor, the county board of assessment or other county entity responsible to perform or administer a specific function under the act.

County commissioners—The board of county commissioners or other similar body in home rule charter counties.

Curtilage—The land surrounding a residential structure and farm building used for a yard, driveway, onlot sewage system or access to any building on the tract.

Department—The Department of Agriculture of the Commonwealth.

Direct commercial sales—Retail or wholesale sales of agriculturally related commodities to customers who are physically present onsite to make purchases.

Division by conveyance or other action of the owner—

(i) When used in the context of a separation or a split-off, the term refers to either:

(A) A conveyance, a subdivision, a land development plan or comparable plan required by a local government unit.

(B) An owner-initiated process that produces a metes and bounds description of the separated or split-off land and a calculation of the acreage of that separated or split-off land.

(ii) The term does not include:

(A) The act of subdividing enrolled land if the subdivided land is not conveyed.

(B) The act of conveying subdivided enrolled land to the same landowner who owned it immediately prior to subdivision.

Enrolled land—Land eligible for preferential assessment under an approved application for preferential assessment filed in accordance with the act.

Fair market value—The price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is under no obligation to buy would pay for the property.

Farm building—A structure utilized to store, maintain or house farm implements, agricultural commodities or crops, livestock and livestock products, as defined in the Agricultural Area Security Law (3 P. S. §§ 901—915).

Farmstead land—Any curtilage and land situated under a residence, farm building or other building which supports a residence, including a residential garage or workshop.

Forest reserve—Land, 10 acres or more, stocked by forest trees of any size and capable of producing timber or other wood products. The term includes land devoted to the development and operation of an alternative energy system if a majority of the energy annually generated is utilized on the tract.

Income approach—The method of valuation which uses a capitalization rate to convert annual net income to an estimate of present value. Present value is equal to the net annual return to land divided by the capitalization rate.

Ineligible land—Land which is not used for any of the three eligible uses (agricultural use, agricultural reserve or forest reserve) and therefore cannot receive use value assessment.

Land use category—Agricultural use, agricultural reserve or forest reserve.

Land use subcategory—A category of land in agricultural use, agricultural reserve or forest reserve established by the Department and assigned a particular use value in accordance with sections 3 and 4.1 of the act (72 P. S. § § 5490.3 and 5490.4a). A land use subcategory of agricultural use or agricultural reserve land may be based upon soil type, soil group or any other recognized subcategorization of agricultural land. A land use subcategory of forest reserve land may be based upon forest type or other recognized subcategorization of forest land, and may be a county-specific average timber value.

Net return to land—Annual net income per acre after operating expenses are subtracted from gross income. The calculation of operating expenses does not include interest or principal payments.

Noncoal Surface Mining Conservation and Reclamation Act—52 P. S. § § 3301—3326.

Normal assessment—The total fair market value of buildings and ineligible land, as of the base year of assessment, on a tract multiplied by the assessment ratio.

Oil and Gas Act—58 Pa.C.S. § § 3201—3274 (relating to development).

Outdoor recreation—

(i) Passive recreational use of land that does not entail the erection of permanent structures or any change to the land which would render it incapable of being immediately converted to agricultural use. Examples include picnicking, hiking, wildlife watching and hunting, subject to the restrictions in § 137b.64 (relating to agricultural reserve land to be open to the public).

(ii) The term does not include the operation of motor vehicles other than under either of the following circumstances:

(A) When necessary to remove an animal which has been hunted.

(B) When the motor vehicle is operated over an existing lane and is incidental to hunting, fishing, swimming, access for boating, animal riding, camping, picnicking, hiking, agritainment activities or the operation of nonmotorized vehicles.

Pasture—Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes for consumption by livestock.

Person—A corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Preferential assessment—The total use value of land qualifying for assessment under the act.

Recreational activity—The term includes, but is not limited to:

- (i) Hunting.
- (ii) Fishing.
- (iii) Swimming.
- (iv) Access for boating.
- (v) Animal riding.
- (vi) Camping.
- (vii) Picnicking.
- (viii) Hiking.
- (ix) Agritainment activities.
- (x) Operation of nonmotorized vehicles.
- (xi) Viewing or exploring a site for aesthetic or historical benefit or for entertainment.
- (xii) Operation of motorized vehicles if the operation is either of the following:
 - (A) Over an existing lane and incidental to an activity in subparagraphs (i)—(x).
 - (B) Necessary to remove an animal which has been hunted under subparagraph (i).

Roll-back tax—The amount equal to the difference between the taxes paid or payable on the basis of the valuation and the assessment authorized under the act and the taxes that would have been paid or payable had that land not been valued, assessed and taxed as other land in the taxing district in the current tax year, the year of change, and in 6 of the previous tax years or the number of years of preferential assessment up to 7.

Rural enterprise incidental to the operational unit—A commercial enterprise or venture that is all of the following:

- (i) Owned and operated by the landowner or by the landowner's beneficiaries who are Class A beneficiaries for inheritance tax purposes.
- (ii) Conducted within 2 acres or less of enrolled land.
- (iii) When conducted, does not permanently impede or otherwise interfere with the production of an agricultural commodity on that portion of the enrolled land that is not subject to roll-back taxes under section 8(d) of the act as a result of that commercial

enterprise or venture.

Separation—A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the act, into two or more tracts of land, the use of which continues to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements of section 3 of the act.

Silvicultural products—

(i) Trees and tree products produced from Christmas tree farms, tree nurseries, tree greenhouses, orchards and similar actively-cultivated tree or tree product production operations.

(ii) The term does not include trees and tree-derived products produced from forest land regardless of whether the trees or tree-derived products are harvested from forest land in accordance with a timber management plan.

Split-off—A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the act, into two or more tracts of land, the use of which on one or more of the tracts does not meet the requirements of section 3 of the act.

Tier I energy source—A Tier I alternative energy source as defined in section 2 of the Alternative Energy Portfolio Standards Act (73 P. S. § 1648.2).

Tract—

(i) A lot, piece or parcel of land.

(ii) The term does not refer to any precise dimension of land.

Transfer—A conveyance of all of the enrolled land described in a single application for preferential assessment under the act.

USDA—The United States Department of Agriculture.

USDA-ERS—The United States Department of Agriculture—Economic Research Service.

USDA-NRCS—The United States Department of Agriculture—Natural Resources Conservation Service.

Woodlot—An area of less than 10 acres, stocked by trees of any size and contiguous to or part of land in agricultural use or agricultural reserve.

Authority

The provisions of this § 137b.2 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.2 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276908) to (276911).

§ 137b.3. Responsibilities of the Department.

(a) *General.* The Department's responsibilities are to provide the use values described in section 4.1 of the act (72 P. S. § 5490.4a) by May 1 of each year and to provide the forms and regulations necessary to promote the efficient, uniform Statewide administration of the act.

(b) *Information gathering.* The Department will collect information from county assessors for each calendar year to ensure that the act and this chapter are being implemented fairly and uniformly throughout this Commonwealth. This information will be collected through a survey form to be provided to county assessors by the Department no later than December 15 each year, and which county assessors shall complete and submit to the Department by January 31 of the following year.

(c) *Educational outreach.* The Department will conduct an educational outreach effort on matters related to the administration and interpretation of the act and this chapter.

Authority

The provisions of this § 137b.3 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.3 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276911).

Cross References

This section cited in 7 Pa. Code § 137b.112 (relating to submission of information to the Department).

§ 137b.4. Contacting the Department.

For purposes of this chapter, communications to the Department shall be directed to the following address:

Pennsylvania Department of Agriculture
Bureau of Farmland Preservation
2301 North Cameron Street
Harrisburg, PA 17110-9408
Telephone: (717) 783-3167
Facsimile: (717) 772-8798

Authority

The provisions of this § 137b.4 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.4 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276911) to (276912).

Cross References

This section cited in 7 Pa. Code § 137b.93 (relating to disposition of interest on roll-back taxes).

ELIGIBLE LAND

§ 137b.11. General.

Three types of land are eligible for preferential assessment under the act.

- (1) Land in agricultural use.
- (2) Land in agricultural reserve.
- (3) Land in forest reserve.

§ 137b.12. Agricultural use.

Land that is in agricultural use is eligible for preferential assessment under the act if it has been producing an agricultural commodity or has been devoted to a soil conservation program under an agreement with the Federal government for at least 3 years preceding the application for preferential assessment, and is one of the following:

- (1) Comprised of 10 or more contiguous acres (including any farmstead land and woodlot).
- (2) Has an anticipated yearly gross income of at least \$2,000 from the production of an agricultural commodity.
- (3) Devoted to the development and operation of an alternative energy system, if a majority of the energy generated annually is utilized on the tract.

Example 1: Landowner owns 50 acres of pasture upon which horses are kept. The horses are pastured, bred and sold. The land is in agricultural use.

Example 2: Same facts as Example 1, except 20 acres are pasture land and 30 acres are wooded. Twenty acres of land are in agricultural use and 30 acres are in forest reserve.

Example 3: Landowner owns 7 acres of pasture land upon which there is a small horse breeding operation from which there is at least \$2,000 of anticipated yearly gross income. The land is in agricultural use.

Example 4: Same facts as Example 3, except that horses are neither bred nor sold and there is at least \$2,000 of anticipated yearly gross income from a horse boarding operation. The land is in agricultural use, since it is being used for the purpose of producing an agricultural commodity.

Example 5: Landowner owns 10 acres of land that is a combination of wooded and open space land from which tomatoes and sweet corn are produced for sale. The land is in agricultural use.

Example 6: Landowner owns 10 acres of land that is a combination of wooded and open space land from which beef cattle are produced and sold. The land is in agricultural use.

Example 7: Landowner owns a parcel of land that is used for the production of agricultural commodities. Landowner erects solar panels (or some other alternative energy system) on the land and a majority of the electricity generated by the alternative energy system is used on the land. The land is in agricultural use.

Example 8: Landowner owns two separate parcels of land, Parcel A and Parcel B. These parcels are used for the production of agricultural commodities. They are enrolled under a single application for preferential assessment. Landowner erects solar panels (or some other alternative energy system) on Parcel A. The majority of the electricity generated by the alternative energy system on Parcel A is used by a large dairy operation on Parcel B. Both Parcel A and Parcel B are in agricultural use.

Authority

The provisions of this § 137b.12 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.12 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276912).

Cross References

This section cited in 7 Pa. Code § 137b.73d (relating to wind power generation systems).

§ 137b.13. Agricultural reserve.

Land that is in agricultural reserve is eligible for preferential assessment under the act if the land is comprised of 10 or more contiguous acres (including any farmstead land and any woodlot). This includes land devoted to the development and operation of an alternative energy system if a majority of the energy annually generated is utilized on the tract.

Example 1: Landowner owns 30 acres of land. The land is cleared land that was farmed at one time but that is no longer farmed. The land is open to the public for outdoor recreation or the enjoyment of scenic or natural beauty, without charge or fee, on a nondiscriminatory basis. The land qualifies to be enrolled as agricultural reserve land.

Example 2: Same facts as Example 1, except the landowner charges a fee for allowing public access for hunting and recreation. This land is not eligible to be enrolled as agricultural reserve land.

Example 3: Same facts as Example 1, except the landowner places reasonable restrictions on public access to the enrolled land that are acceptable to the county assessor in accordance with § 137b.64 (relating to agricultural reserve land to be open to the public). The land qualifies to be enrolled as agricultural reserve land.

Example 4: Landowner owns 9 acres of land. The land is cleared land that was farmed at one time but that is no longer farmed. The land is not eligible to be enrolled as agricultural reserve land because it is less than 10 contiguous acres in area.

Example 5: Landowner owns a parcel of enrolled agricultural reserve land. Landowner erects solar panels (or some other alternative energy system) on the land and a majority of the electricity generated by the alternative energy system is used on the land. The land remains in agricultural reserve.

Example 6: Landowner owns two separate parcels of enrolled land, at least one of which is agricultural reserve land. The parcels are enrolled under a single application for preferential assessment. Landowner erects solar panels (or some other alternative energy system) on an agricultural reserve parcel. The majority of the electricity generated by the alternative energy system is used on the other enrolled parcel. The parcel upon which the alternative energy system is located remains agricultural reserve land.

Authority

The provisions of this § 137b.13 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.13 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276912).

Cross References

This section cited in 7 Pa. Code § 137b.73d (relating to wind power generation systems).

§ 137b.14. Forest reserve.

Land that is in forest reserve is eligible for preferential assessment under the act if presently stocked with trees and the land is comprised of 10 or more contiguous acres (including any farmstead land). Forest reserve land includes land that is rented to another

person for the purpose of producing timber or other wood products. This includes land devoted to the development and operation of an alternative energy system if a majority of the energy annually generated is utilized on the tract.

Example 1: Landowner owns 60 acres of forested land with trees of all sizes. The landowner intends to harvest timber periodically. The land qualifies to be enrolled as forest reserve land.

Example 2: Landowner owns 100 acres of land that was recently cleared and replanted with seedlings. The land qualifies to be enrolled as forest reserve land.

Example 3: Landowner owns 100 acres of land that was recently harvested for timber and seedlings remain. The land was not replanted. The land qualifies to be enrolled as forest reserve land.

Example 4: Landowner owns 50 acres of land that was cleared and not replanted. There are no trees of any size remaining on this property and no intention of planting. The land does not qualify to be enrolled as forest reserve land.

Example 5: Landowner owns an 8-acre woodlot and wants to enroll. The land is not eligible to be enrolled as forest reserve land because it is less than 10 contiguous acres in area.

Example 6: Landowner owns a parcel of enrolled forest reserve land. Landowner erects solar panels (or some other alternative energy system) on the land and a majority of the electricity generated by the alternative energy system is used on the land. The land remains in forest reserve.

Example 7: Landowner owns two separate parcels of enrolled land, at least one of which is forest reserve land. The parcels are enrolled under a single application for preferential assessment. Landowner erects solar panels (or some other alternative energy system) on a forest reserve parcel. The majority of the electricity generated by the alternative energy system is used on the other enrolled parcel. The parcel upon which the alternative energy system is located remains forest reserve land.

Authority

The provisions of this § 137b.14 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.14 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276912).

Cross References

This section cited in 7 Pa. Code § 137b.73d (relating to wind power generation systems).

§ 137b.15. Inclusion of farmstead land.

(a) Farmstead land is an integral part of land in agricultural use, agricultural reserve or forest reserve. In considering whether land is in agricultural use, agricultural reserve or forest reserve, a county shall include any portion of that land that is farmstead land regardless of whether the farmstead land is entitled to preferential assessment under the act or this chapter.

Example 1: A landowner seeks to enroll a 10-acre tract of land as agricultural use land. One acre of the 10-acre tract is comprised of farmstead land. All 10 acres of land shall be considered in determining whether the tract meets the 10 contiguous acres minimum acreage requirement for agricultural use land established in section 3(a)(1) of the act (72 P. S. § 5490.3(a)(1)).

Example 2: A landowner seeks to enroll a 10-acre tract of land as agricultural reserve land. One acre of the 10-acre tract is comprised of farmstead land. All 10 acres of land shall be considered in determining whether the tract meets the minimum acreage requirement for agricultural reserve land established in section 3(a)(2) of the act.

Example 3: A landowner seeks to enroll a 10-acre tract of land as forest reserve land. One acre of the 10-acre tract is comprised of farmstead land. All 10 acres of land shall be considered in determining whether the tract meets the minimum acreage requirement for “forest reserve” land established in section 3(a)(3) of the act.

(b) Farmstead land on agricultural use land shall be considered to be land that qualifies for preferential assessment under the act and this chapter.

(c) Farmstead land on agricultural reserve land shall only be considered to be land that qualifies for preferential assessment under the act and this chapter if at least one of the qualifications for preferential assessment in § 137b.51(g)(2)(i)—(iii) (relating to assessment procedures) has been met.

(d) Farmstead land on forest reserve land shall only be considered to be land that qualifies for preferential assessment under the act and this chapter if at least one of the qualifications for preferential assessment in § 137b.51(g)(3)(i)—(iii) has been met.

Authority

The provisions of this § 137b.15 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.15 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276912) to (276913).

§ 137b.16. Residence not required.

A county may not require that an applicant for preferential assessment under the act be a resident of the county or reside on the land with respect to which preferential assessment is sought.

§ 137b.17. Common ownership required.

A landowner seeking preferential assessment under the act shall be the owner of every tract of land listed on the application.

Example 1: Husband and wife are joint owners of two contiguous 100-acre tracts of farmland. They have common ownership of both tracts and may include these tracts in a single application for preferential assessment.

Example 2: Husband and wife are joint owners of a 100-acre tract of farmland. Husband and son are joint owners of a contiguous 100-acre tract of farmland. These two tracts may not be combined in a single application for preferential assessment.

§ 137b.18. County-imposed eligibility requirements.

A county assessor may not impose eligibility requirements or conditions other than those prescribed in section 3 of the act (72 P. S. § 5490.3).

Example: A county may not require an owner of contiguous—but separately deeded—tracts of land to consolidate the tracts in a single deed or require any alteration of existing deeds as a condition of eligibility for preferential assessment.

§ 137b.19. Multiple tracts on a single application.

A landowner seeking preferential assessment under the act may include more than one tract in a single application for preferential assessment, regardless of whether the tracts on the application have separate deeds, are identified by separate tax parcel numbers or are otherwise distinct from each other.

(1) Contiguous tracts.

(i) A landowner seeking preferential assessment under the act may include in the application individual contiguous tracts that would not—if considered individually—qualify for preferential assessment.

(ii) If two or more tracts on a single application for preferential assessment are contiguous, the entire contiguous area shall meet the use and minimum size requirements for eligibility.

(2) *Noncontiguous tracts.* If any tract on a single application for preferential assessment is not contiguous to another tract described on that application, that individual tract shall—by itself—meet the use and minimum size requirements for eligibility.

§ 137b.20. Inclusion of all contiguous land described in the deed to the tract with respect to which enrollment is sought.

A landowner may not apply for preferential assessment for less than the entire contiguous portion of land described in the deed applicable to a tract with respect to which preferential assessment is sought.

Example 1: A landowner owns a single, 100-acre tract of farmland described in a single deed, and wishes to apply for preferential assessment under the act. The application may not be for less than the entire 100 acres.

Example 2: A landowner owns 150 acres of farmland described in a single deed, and wishes to apply for preferential assessment under the act. The deed to this land describes three separate tracts: two contiguous 50-acre tracts and a noncontiguous 50-acre tract. The landowner's options are as follows:

- (1) Enroll the contiguous 50-acre tract.
- (2) Enroll the noncontiguous 50-acre tract.
- (3) Enroll both the contiguous 50-acre tract and the noncontiguous 50-acre tract.

The landowner does not have the option to enroll only one of the contiguous 50-acre tracts.

§ 137b.21. Exclusion of noncontiguous tract described in a single deed.

If two or more tracts of land are described in a single deed, a landowner seeking preferential assessment under the act may exclude from the application for preferential assessment any separately-described tract that is not contiguous to the tracts for which preferential assessment is sought.

Example: A landowner owns 150 acres of farmland described in a single deed, and wishes to apply for preferential assessment under the act. The deed to this land describes three separate tracts: two contiguous 50-acre tracts and a noncontiguous 50-acre tract. The landowner has the option to seek to enroll the noncontiguous 50-acre tract.

§ 137b.22. Landowner may include or exclude from the application tracts described in separate deeds.

If the landowner seeking preferential assessment under the act owns contiguous tracts that are described in separate deeds, the landowner may include or exclude any of the contiguous tracts from the application for preferential assessment.

§ 137b.23. Land adjoining preferentially assessed land with common ownership is eligible.

(a) *General.* A tract of land in agricultural use, agricultural reserve or forest reserve shall receive a preferential assessment under the act regardless of whether the tract meets the 10-contiguous-acres minimum acreage requirement or the \$2,000-per-year minimum anticipated gross income requirement, or both, established in section 3 of the act (72 P. S. § 5490.3) if the following occur:

(1) The landowner owns both the tract for which preferential assessment is sought and a contiguous tract of enrolled land.

(2) The landowner files an amended application for preferential assessment, describing both the tract for which preferential assessment is sought and the contiguous tract of enrolled land. The amended application shall be in accordance with the act and this chapter.

(b) *Roll-back taxes.* A violation of the provisions of preferential assessment on a tract added under subsection (a) shall trigger liability for roll-back taxes, plus interest, on that tract and all other contiguous tracts identified in the amended application.

§ 137b.24. Ineligible land.

A landowner seeking preferential assessment under the act shall include ineligible land on the application if the ineligible land is part of a larger contiguous tract of eligible land, and the use of the land which causes it to be ineligible exists at the time the application is filed. Although this ineligible land may not receive preferential assessment, the applicant shall specify the boundaries and acreage of the ineligible land, and may not expand the boundaries beyond those identified in the initial application. A landowner will not be required, as a condition of county acceptance or approval of the application, to survey or redivide the tract so as to exclude the ineligible land.

Example: A landowner owns a 100-acre tract of land, 90 acres of which is productive farmland and 10 acres of which is occupied by an auto salvage yard. If the landowner seeks preferential assessment of the 90 acres of farmland, the application shall describe the entire 100-acre tract. If preferential assessment is granted, it will apply to the 90 acres of farmland. The 10-acre tract would continue to be assigned its fair market value and assessed accordingly.

Source

The provisions of this § 137b.24 corrected August 21, 2015, effective March 31, 2001, 45 Pa.B. 4904. Immediately preceding text appears at serial page (377095).

§ 137b.25. Multiple land use categories on a single application.

An applicant for preferential assessment under the act may include land in more than one land use category in the application. A county assessor shall allow the applicant to submit an application that designates those portions of the tract to be assessed under each of the different land use categories.

Example: A landowner owns 100 acres of land. The landowner may submit an application that designates 75 acres in agricultural use, 13 acres in agricultural reserve and 12 acres in forest reserve, if the acreage identified by the landowner for the particular land use category meets the minimum criteria in section 3 of the act (72 P. S. § 5490.3) for that land use category.

§ 137b.26. Land located in more than one tax district.

If land for which preferential assessment is sought lies in more than one taxing district, the county's determination as to whether the land meets applicable minimum acreage requirements for eligible land shall be made on the basis of the total contiguous acreage—without regard to the boundaries of the taxing districts in which the land is located.

Example 1: A landowner has a 100-acre tract of farmland—94 acres of which lie in Township A and 6 acres of which lie in Township B. The landowner files an application seeking preferential assessment of this land. The fact that the tract lies in two separate townships shall be immaterial to the determination of whether the 100-acre tract meets the requirements for preferential assessment under the act.

Example 2: A landowner has a 100-acre tract of farmland—94 acres of which lie in County A and 6 acres of which lie in County B. The landowner files an application seeking preferential assessment. The fact that the tract lies in two separate counties shall be immaterial to the determination of whether the land described in the application meets the requirements for preferential assessment under the act.

§ 137b.27. Assessment of ineligible land.

Land that is included in an application for preferential assessment under the act but is ineligible for preferential assessment shall be appraised at fair market value and shall be assessed accordingly.

APPLICATION PROCESS

§ 137b.41. Application forms and procedures.

(a) *Standardized application form required.* A county shall require a landowner seeking to apply for preferential assessment under the act to make that application on a current “Clean and Green Valuation Application” Form—a uniform preferential assessment application form developed by the Department. The Department will provide an initial supply of these forms to a county upon request. The county assessor shall maintain an adequate supply of these forms. The following shall be required of an applicant on the Clean and Green Valuation Application Form:

- (1) The name, address and telephone number of each landowner.

(2) A statement as to the form of ownership of the land (whether by an individual partnership, corporation, and the like. . .).

(3) A statement of whether the land is currently subject to a covenant for preservation of “open space” land in accordance with the act of January 13, 1966 (1965 P. L. 1292, No. 515) (16 P. S. § § 11941—11947).

(4) A description of the location of the land, including the school district in which it is located.

(5) A designation of the land use category or categories (agricultural use, agricultural reserve and forest reserve) with respect to which preferential assessment is sought, and information that might reasonably be required to confirm that the land falls within the land use category with respect to which preferential assessment is sought.

(6) Other information that might be reasonably required on the application form to confirm the location and ownership of the land, the land use category or categories of the land and whether the land is, in fact, eligible for preferential assessment.

(7) The signation of all of the owners of the land.

(b) *Application form and worksheets.* A landowner seeking to apply for preferential assessment under the act shall complete a Clean and Green Valuation Application. The county assessor shall complete the appropriate sections of the current “Clean and Green Valuation Worksheet” form for each category of eligible land described in the application. The Department will provide an initial supply of these forms to a county upon request.

(c) *Obtaining an application and reviewing this chapter.* A landowner seeking preferential assessment under the act may obtain an application form and required worksheets from the county board of assessment office. A county assessor shall retain a copy of this chapter at the county board of assessment office, and shall make this copy available for inspection by any applicant or prospective applicant.

(d) *Required language.* An application for preferential assessment shall contain the following statement:

The applicant for preferential assessment hereby agrees, if the application is approved for preferential assessment, to submit 30 days notice to the county assessor of a proposed change in use of the land, a change in ownership of a portion of the land or of any type of division or conveyance of the land. The applicant for preferential assessment hereby acknowledges that, if the application is approved for preferential assessment, roll-back taxes and interest under the act in 72 P. S. § 5490.5a may be due for a change in use of the land, a change in ownership of a portion of the land, or any type of division or conveyance of the land.

(e) *Additional information.* A county assessor may require an applicant to provide additional information or documentation necessary to substantiate that the land is eligible for preferential assessment. A county assessor requiring additional information shall notify the applicant in writing and shall clearly state in the notice the reasons why the

application or other information or documentation submitted by the applicant is insufficient to substantiate eligibility, and shall identify the particular information the county assessor requests to substantiate eligibility.

(f) *Signature of all landowners required.* An application for preferential assessment may not be accepted by a county if it does not bear the notarized signature of all of the owners of the land described in the application.

Cross References

This section cited in 7 Pa. Code § 137b.63 (relating to notice of change of application).

§ 137b.42. Deadline for submission of applications.

(a) *General.* A landowner seeking preferential assessment under the act shall apply to the county by June 1. If the application is approved by the county assessor, preferential assessment shall be effective as of the commencement of the tax year of each taxing body commencing in the calendar year immediately following the application deadline.

Example 1: A landowner applies for preferential assessment on or before June 1, 2001. The application is subsequently approved. Preferential assessment shall be effective as of the commencement of the tax year for each taxing body in calendar year 2002.

Example 2: A landowner applies for preferential assessment on or after June 2, 2001, but not later than June 1, 2002. The application is subsequently approved. The application deadline is June 1, 2002. Preferential assessment shall be effective as of the commencement of the tax year for each taxing body in calendar year 2003.

(b) *Exception: years in which a county implements countywide reassessment.* In those years when a county implements a countywide reassessment, or a countywide reassessment of enrolled land, the application deadline shall be extended to either a date 30 days after the final order of the county board for assessment appeals or by October 15 of the same year, whichever date is sooner. This deadline is applicable regardless of whether judicial review of the order is sought.

Authority

The provisions of this § 137b.42 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.42 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276918).

§ 137b.43. Applications where subject land is located in more than one county.

If a landowner seeks to enroll a tract of land for preferential assessment under the act, and the tract is located in more than one county, the landowner shall file the application with the county assessor in the county to which the landowner pays property taxes.

§ 137b.44. County processing of applications.

A county shall accept and process in a timely manner all complete and accurate applications for preferential assessment so that, if the application is accepted, preferential assessment is effective as of the tax year of each taxing body commencing in the calendar year immediately following the application deadline.

Example 1: An application for preferential assessment is filed on or before June 1, 2001. The county must review and process the application so that—if the application is approved—preferential assessment can take effect as of the commencement of the tax year of each taxing body commencing in 2002 (the calendar year immediately following the application deadline).

Example 2: An application for preferential assessment is filed at some point from June 2, 2001, through June 1, 2002. The county must review and process the application so that—if the application is approved—preferential assessment can take effect as of the commencement of the tax year of each taxing body commencing in 2003 (the calendar year immediately following the application deadline).

§ 137b.45. Notice of qualification for preferential assessment.

A county assessor shall provide an applicant for preferential assessment under the act with written notification of whether the land described in that application qualifies for that preferential assessment or fails to meet the qualifications for preferential assessment.

§ 137b.46. Fees of the county board for assessment appeals; recording fees; processing fees.

(a) *Application processing fee.* A county board for assessment appeals may impose a fee of no more than \$50 for processing an application for preferential assessment under the act. This fee may be charged regardless of whether the application is ultimately approved or rejected. This fee is exclusive of any fee which may be charged by the recorder of deeds for recording the application.

(b) *Circumstances under which initial application shall be amended without charge.* A county board for assessment appeals may not charge a fee for amending an initial application for preferential assessment.

(c) *Recording fees.* A recording fee may not be assessed if an applicaiton for preferential assessment is not approved.

§ 137b.51. Assessment procedures.

(a) *Use values and land use subcategories to be provided by the Department.* The Department will determine the land use subcategories and provide county assessors use values for each land use subcategory. The Department will provide these land use subcategories and use values to each county assessor by May 1 of each year.

(b) *Determining use values and land use subcategories.*

(1) *Agricultural use and agricultural reserve.* In calculating appropriate county-specific agricultural use values and agricultural reserve use values, and land use subcategories, the Department will consult with the Department of Agricultural Economics and Rural Sociology of the College of Agricultural Sciences at the Pennsylvania State University, the Pennsylvania Agricultural Statistics Service, USDA-ERS, USDA-NRCS and other sources the Department deems appropriate. In determining county-specific agricultural use and agricultural reserve use values, the Department will use the income approach for asset valuation.

(2) *Forest reserve.* In calculating appropriate county-specific forest reserve use values and land use subcategories, the Department will consult with the Bureau of Forestry of the Department of Conservation and Natural Resources.

(c) *County assessor to determine total use value.*

(1) For each application for preferential assessment, the county assessor shall establish a total use value for land in agricultural use, including farmstead land, and for land in agricultural reserve, by considering available evidence of the capability of the land for its particular use utilizing the USDA-NRCS Agricultural Land Capability Classification system and other information available from USDA-ERS, the Pennsylvania State University and the Pennsylvania Agricultural Statistics Service. Contributory value of farm buildings, as calculated in accordance with § 137b.54 (relating to calculating the contributory value of farm buildings), shall be used. With respect to agricultural reserve land, the total use value includes farmstead land if at least one of the qualifications for preferential assessment in subsection (g)(2) has been met.

(2) For each application for preferential assessment, the county assessor shall establish a total use value for land in forest reserve by considering available evidence of the capability of the land for its particular use. Contributory value of farm buildings, as calculated in accordance with § 137b.54 shall be used. The total use value includes farmstead land if at least one of the qualifications for preferential assessment in subsection (g)(3) has been met.

(d) *Determining preferential assessment.* The preferential assessment of land is determined by multiplying the number of acres in each land use subcategory by the use value for that particular land use subcategory, adding these products and multiplying the total by the county's established predetermined ratio. The Department will establish land use subcategories as part of the procedure to establish use values.

(e) *Option of county assessors to establish and use lower use values.* A county assessor may establish use values for land use subcategories that are less than the use values established by the Department for those same land use subcategories. A county assessor may use these lower use values in determining preferential assessments under the act. Regardless of whether the county assessor applies use values established by the Department or lower use values established by the county assessor, the county assessor shall apply the use values uniformly when calculating or recalculating preferential assessments, and shall apply these use values to the same land use subcategories as established by the Department. Calculation and recalculation of preferential assessments

shall be made in accordance with § 137b.53 (relating to calculation and recalculation of preferential assessment). A county assessor may not, under any circumstances, establish or apply use values that are higher than those use values established by the Department.

(f) *Option of county assessors to select between county-established use values and use values provided by the Department.* When a county assessor has established use values for land use subcategories, and the use values for some—but not all—of these land use subcategories are lower than those provided by the Department, the county assessor has the option to apply the lower use value with respect to each individual land use subcategory, without regard to whether it was provided by the Department or established by the county assessor.

(g) *Valuation of farmstead land.*

(1) *Farmstead land on agricultural use land.* Farmstead land that is located on land enrolled as agricultural use land shall be assessed at agricultural use value.

Example: Landowner has a 100-acre contiguous property that is enrolled for preferential assessment. Some of this land is enrolled as agricultural use land and the remainder is enrolled as forest reserve land. The farmstead land is located on the agricultural use land. The farmstead land shall be assessed at agricultural use value.

(2) *Farmstead land on agricultural reserve land.* Farmstead land that is located on land enrolled as agricultural reserve land shall receive normal (fair market value) assessment, rather than assessment at agricultural use value, unless one of the following is true:

(i) The county commissioners have adopted an ordinance to include farmstead land in the total use value for land in agricultural reserve, as permitted in section 3(g)(1) of the act (72 P. S. § 5490.3).

(ii) A majority of the land in the application for preferential assessment applicable to that farmstead land is agricultural use land.

(iii) Noncontiguous tracts of land are included in the application for preferential assessment applicable to that farmstead land and a majority of the land on the contiguous tract where the farmstead land is located is enrolled as agricultural use land.

(3) *Farmstead land on forest reserve land.* Farmstead land that is located on land enrolled as forest reserve land shall receive normal (fair market value) assessment, rather than assessment at forest reserve use value, unless one of the following is true:

(i) The county commissioners have adopted an ordinance to include farmstead land in the total use value for land in forest reserve, as permitted in section 3(g)(2) of the act.

(ii) A majority of the land in the application for preferential assessment applicable to that farmstead land is agricultural use land.

(iii) Noncontiguous tracts of land are included in the application for preferential assessment applicable to that farmstead land and a majority of the land on the contiguous tract where the farmstead land is located is enrolled as agricultural use land.

(4) *Examples.*

Example 1: Landowner has a 100-acre contiguous property that is enrolled for preferential assessment. Fifty-one acres (a majority of the land in the application for preferential assessment) are enrolled as agricultural use land. Forty-nine acres are enrolled as agricultural reserve land or forest reserve land, or a combination of the two. The farmstead land is located on the agricultural use land. The farmstead shall be assessed at agricultural use value.

Example 2: Same facts as Example 1, except that the farmstead land is located on agricultural reserve land or forest reserve land. The farmstead shall be assessed at agricultural use value.

Example 3: Landowner has a 100-acre contiguous property that is enrolled for preferential assessment. Fifty-one acres (a majority of the land in the application for preferential assessment) are enrolled as agricultural reserve land or forest reserve land, or a combination of the two. Forty-nine acres are enrolled as agricultural use land. The farmstead land is located on the agricultural use land. The farmstead shall be assessed at agricultural use value.

Example 4: Same facts as Example 3, except that the farmstead land is located on agricultural reserve land or forest reserve land. The farmstead land may not receive preferential (agricultural use value) assessment.

Example 5: Landowner has 100 acres enrolled for preferential assessment. The acreage consists of two noncontiguous parcels of 50 acres each. One 50-acre tract is enrolled as forest reserve land, agricultural use land, agricultural reserve land or a combination of the three. The other 50-acre tract contains farmstead land and consists of 26 acres of enrolled agricultural use land and 24 acres of enrolled agricultural reserve land, forest reserve land or a combination of the two. Since the majority of the land on the tract where the farmstead tract is located is enrolled as agricultural use, the farmstead shall be assessed at agricultural use value, regardless of whether it is located on the agricultural use land, agricultural reserve land or forest reserve land.

Example 6: Same facts as Example 5, except the 50-acre tract that contains the farmstead land consists of 24 acres of enrolled agricultural use land and 26 acres of agricultural reserve land, forest reserve land or a combination of the two. If the farmstead land is located on that portion of the 50-acre tract that is enrolled as agricultural use land, the farmstead shall be assessed at agricultural use value. If the farmstead land is located on that portion of the 50-acre tract that is enrolled as agricultural reserve land or forest reserve land, the farmstead may not receive preferential (agricultural use value) assessment.

Example 7: One of the six fact situations described in Examples 1—6 except that the county commissioners have adopted an ordinance to include farmstead land in the total use value for land in agricultural reserve or forest reserve in accordance with section 3(g) (1) of the act. The farmstead shall be assessed at agricultural use value.

Authority

The provisions of this § 137b.51 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.51 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276919) to (276921).

Cross References

This section cited in 7 Pa. Code § 137b.15 (relating to inclusion of farmstead land).

PREFERENTIAL ASSESSMENT

§ 137b.52. Duration of preferential assessment.

(a) *General.* Enrolled land shall remain under preferential assessment for as long as it continues to meet the minimum qualifications for preferential assessment or until removed from preferential assessment in accordance with the procedure in subsection (b). Land that is in agricultural use, agricultural reserve or forest reserve shall remain under preferential assessment even if its use changes to either of the other two land use categories.

Example: A landowner owns a 100-acre tract of enrolled land, consisting of 85 acres in agricultural use and 15 acres in forest reserve. If the landowner later amends his application to one in which 60 acres are in agricultural use, 30 acres are in agricultural reserve and 10 acres are in forest reserve, the entire 100-acre tract continues to receive preferential assessment (although different use values and land use subcategories may apply in recalculating the preferential assessment).

(b) *Removal of land from preferential assessment.*

(1) A landowner receiving preferential assessment under the act may remove land from preferential assessment if:

(i) The landowner provides the county assessor written notice of this removal by June 1 of the year immediately preceding the tax year for which the removal is sought.

(ii) The entire tract or tracts enrolled on a single application for preferential assessment is removed from preferential assessment.

(iii) The landowner pays rollback taxes on the entire tract or tracts as provided for in section 5.1 of the act (72 P. S. § 5490.5a).

(2) Land removed from preferential assessment under this subsection or under section 8.1 of the act (72 P. S. § 5490.8a) is not eligible to be subsequently re-enrolled in preferential assessment by the same landowner.

(3) Nothing in this subsection or section 8.1 of the act prohibits a landowner whose land was terminated from preferential assessment under authority other than this subsection or section 8.1 of the act from re-enrolling the land in preferential assessment.

(c) *Split-offs, separations, transfers and other events.* Split-offs that meet the size, use and aggregate acreage requirements in section 6(a.1)(1)(i) of the act (72 P. S. § 5490.6 (a.1)(1)(i)), separations and transfers under the act or this chapter will not result in termination of preferential assessment on the land which is retained by the landowner and which continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3). In addition, the following events will not result in termination of preferential assessment on that portion of enrolled land which continues to meet the requirements of section 3 of the act:

(1) The lease of a portion of the enrolled land to be used for a wireless or cellular communication tower in accordance with section 6(b.1) of the act (72 P. S. § 5490.6 (b.1)) and § 137b.73 (relating to wireless or cellular telecommunications facilities).

(2) The change of use of a portion of the enrolled land to another land use category (agricultural use, agricultural reserve or forest reserve).

(3) Condemnation of a portion of the land.

(4) The sale or donation of a portion of the enrolled land to any of the entities described in section 8(b)(1)—(7) of the act (72 P. S. § 5490.8(b)(1)—(7)), for the purposes described in that section, and § 137b.74 (relating to option to accept or forgive roll-back taxes in certain instances).

(5) The use of up to 2 acres of the enrolled land for direct commercial sales of agriculturally related products or for a rural enterprise incidental to the operational unit, in accordance with section 8(d) of the act and § 137b.72 (relating to direct commercial sales of agriculturally related products and activities; rural enterprises incidental to the operational unit).

(6) The conveyance of a portion of the enrolled land to a nonprofit corporation for use as a cemetery, in accordance with section 8(e) of the act and § 137b.75 (relating to conveyance of enrolled land for use as a cemetery).

(7) The conveyance of a portion of the enrolled land to a nonprofit corporation for use as a trail, in accordance with section 8(e) of the act and § 137b.76 (relating to conveyance of enrolled land or conveyance of an easement or right-of-way across enrolled land for use as a trail).

(8) The distribution, upon the death of the owner of the enrolled land, of the enrolled land among the beneficiaries designated as Class A for inheritance tax purposes, in accordance with section 6(d) of the act and § 137b.71 (relating to death of an owner of enrolled land).

(d) *Payment of roll-back taxes does not affect preferential assessment of remaining land.* The payment of roll-back taxes and interest under the act and this chapter may not result in termination of preferential assessment on the remainder of the land covered by

preferential assessment. The landowner may terminate preferential assessment on enrolled land subject to roll-back taxes by submitting written notice under section 3(d) of the act (72 P. S. § 5490.3(d)).

Example 1: A landowner owns a 100-acre tract of enrolled land, which is in agricultural use. The landowner splits off a tract of no more than 2 acres and that 2-acre tract is used for a residential dwelling as described in section 6(a.1)(1)(i) of the act and meets the other criteria in that paragraph. Although the 2-acre tract is no longer entitled to receive preferential assessment, the 98-acre tract shall continue to receive preferential assessment. Also, roll-back taxes and interest would be due with respect to the 2-acre tract.

Example 2: Landowner A owns a 100-acre tract of enrolled land, which is in agricultural use. Landowner A splits off a 2-acre tract and sells it to Landowner B, with the understanding that Landowner B will use the land for a residential dwelling permitted under section 6(a.1)(1)(i) of the act. Roll-back taxes and interest are due with respect to the 2-acre tract. Landowner B does not erect the permitted residential dwelling, but converts the 2-acre tract to commercial use. Landowner B owes roll-back taxes and interest with respect to the entire 100-acre tract (under section 6(a.1) of the act). Landowner A has no liability for any of the roll-back taxes and interest which were triggered and are owed by Landowner B as a result of the conversion of the 2-acre tract to commercial use. If the 98-acre tract owned by Landowner A continues in agricultural use, agricultural reserve or forest reserve, and continues to meet the requirements of section 3 of the act, it shall continue to receive preferential assessment.

Example 3: Landowner A owns a 100-acre tract of enrolled land, which is in agricultural use. Landowner A separates the land into a 50-acre tract and two 25-acre tracts, and sells a 25-acre tract to Landowner B. All 100 acres continue in agricultural use and continue to meet the requirements of section 3 of the act. No roll-back taxes are due. The entire 100-acre tract shall continue to receive preferential assessment.

Example 4: Same facts as Example 3, except that within 7 years of the separation, Landowner B changes the use of his 25-acre tract to something other than agricultural use, agricultural reserve or forest reserve. Landowner B shall pay roll-back taxes and interest with respect to the entire 100-acre tract (under section 6(a.2) of the act). If the 75 acres owned by Landowner A continues in agricultural use, agricultural reserve or forest reserve, and continues to meet the requirements of section 3 of the act, it shall continue to receive preferential assessment under the act.

Example 5: Same facts as Example 3, except that more than 7 years after the date of separation, Landowner B changes the use of his 25-acre tract to something other than agricultural use, agricultural reserve or forest reserve. Landowner B shall pay roll-back taxes on his 25-acre tract (under section 6(a.2) of the act). If the 75 acres owned by Landowner A continues in agricultural use, agricultural reserve or forest reserve, and continues to meet the requirements of section 3 of the act, it shall continue to receive preferential assessment under the act.

(e) *Termination of preferential assessment by county.* The maximum area with respect to which a county may terminate preferential assessment may not exceed:

(1) In the case of a split-off that is not a condemnation and that meets the maximum size, use and aggregate acreage requirements in section 6(a.1)(1)(i) of the act, the land so split-off.

(2) In the case of a split-off that is not a condemnation and that does not meet the maximum size, use and aggregate acreage requirements in section 6(a.1)(1)(i) of the act, all land enrolled under the application for preferential assessment.

(3) In the case when the owner of enrolled land changes the use of the land so that it no longer meets the requirements in section 3 of the act, all land enrolled under the application for preferential assessment.

(4) In the case when the owner of enrolled land leases a portion of that land for wireless or cellular telecommunications in accordance with section 6(b.1) of the act and § 137b.73 the land so leased.

(5) In the case of condemnation, the land so condemned.

(6) In the case when enrolled land is sold or donated to an entity described in section 8(b)(1)—(7) of the act in accordance with the requirements in those paragraphs, the land so sold or conveyed.

(7) In the case when not more than 2 acres of enrolled land is used for direct commercial sales of agriculturally related products and activities or for a rural enterprise incidental to the operational unit, in accordance with section 8(d) of the act and § 137b.72 the land so used for those purposes.

(8) In the case when a portion of enrolled land is conveyed to a nonprofit corporation for use as a cemetery in accordance with section 8(e) of the act and § 137b.75 the land so transferred.

(9) In the case when a portion of the enrolled land is conveyed to a nonprofit corporation for use as a trail in accordance with section 8(e) of the act and § 137b.76, the land so transferred.

(10) In the case when enrolled land is distributed upon the death of the landowner among the beneficiaries designated as Class A for inheritance tax purposes in accordance with section 6(d) of the act and § 137b.71 the portion that fails to meet the requirements for preferential assessment in section 3 of the act.

(f) *Termination of preferential assessment on erroneously-enrolled land.* If a county assessor erroneously allowed the enrollment of land that did not, at the time of enrollment, meet the minimum qualifications for preferential assessment, the county assessor shall, in accordance with section 3(d)(2) of the act provide the landowner written notice that preferential assessment is to be terminated. The notice shall state the reasons for termination and afford the landowner the opportunity for a hearing. If the use of the land was not an eligible use at the time it was enrolled, and preferential assessment is terminated for that reason, no roll-back taxes shall be due from the landowner as a result.

(g) *Transfer does not trigger roll-back taxes.* The transfer of all of the enrolled land described in a single application for preferential assessment to a new owner does not trigger the imposition of roll-back taxes.

Authority

The provisions of this § 137b.52 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.52 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276921) to (276924).

Cross Reference

This section cited in 7 Pa. Code § 137b.63 (relating to notice of change of application); 7 Pa. Code § 137b.108 (relating to adjusting records to reflect split-off, separation or transfer).

§ 137b.53. Calculation and recalculation of preferential assessment.

(a) *New values each year.* As described in § 137b.51 (relating to assessment procedures), the Department will determine the land use subcategories and provide to a county use values for each land use subcategory. The Department will provide these land use subcategories and use values to each county assessor by May 1 of each year.

(b) *Option of county assessor in calculation of preferential assessment.* A county assessor shall calculate the preferential assessment of enrolled land using one of the following methods:

(1) Calculate the preferential assessment of all of the enrolled land in the county each year.

(2) Establish a base year for preferential assessment of enrolled land in the county, and use this base year in calculating the preferential assessment of enrolled land in the county, unless recalculation is required under subsection (c), (d), (e) or (f).

(c) *Required recalculation of preferential assessment if current assessment is based upon use values higher than those provided by the Department.* A county assessor shall calculate the preferential assessment of all enrolled land in the county using either the current use values and land use subcategories provided by the Department or lower use values established by the county assessor.

Example 1: All of the enrolled land in a particular county receives a preferential assessment under the act that is calculated with use values that are lower than the use values provided by the Department. The county has the option of either continuing to assess all enrolled land using its lower use values or recalculating the preferential assessment of all enrolled land using the use values provided by the Department.

Example 2: All of the enrolled land in a particular county receives a preferential assessment under the act that is calculated with use values that are higher than the use values provided by the Department. The county shall recalculate the preferential assessment of all enrolled land using either the use values provided by the Department or lower use values determined by the county assessor.

(d) *Required recalculation of preferential assessment if farmstead land has not been preferentially assessed as agricultural use, agricultural reserve or forest reserve.* A county assessor shall recalculate the preferential assessment on any tract of enrolled land which contains farmstead land if the farmstead land has not been assessed as required under § 137b.51.

(e) *Required recalculation of preferential assessment if contributory value of farm buildings has not been used in determining preferential assessment of land in agricultural use, agricultural reserve or forest reserve.* A county assessor shall recalculate the preferential assessment on any tract of enrolled land if the earlier calculation did not consider the contributory value of any farm buildings on that land. This recalculation shall be accomplished in accordance with § 137b.51.

(f) *Required recalculation of preferential assessment in countywide reassessment.* If a county undertakes a countywide reassessment, or a countywide reassessment of enrolled land, the county assessor shall recalculate the preferential assessment of all of the enrolled land in the county, using either the current use values and land use subcategories provided by the Department, or lower use values established by the county assessor and land use subcategories provided by the Department.

(g) *Required recalculation of preferential assessment of forest reserve land when initial assessment was calculated using county-specific average timber value.* A county assessor shall recalculate the preferential assessment of any tract of enrolled forest reserve land if the current assessment was calculated using a county-specific average timber value provided by the Department and the landowner provides documentation to the county assessor verifying that the value of the timber on the enrolled tract is lower than the timber value that was estimated using that county-specific average timber value.

Authority

The provisions of this § 137b.53 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.53 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276925) to (276926).

Cross References

This section cited in 7 Pa. Code § 137b.51 (relating to assessment procedures).

§ 137b.54. Calculating the contributory value of farm buildings.

A county assessor shall be responsible to calculate the contributory value of farm buildings on enrolled land. The method of calculating the contributory value of a farm building shall be a method based upon the fair market comparison and the extraction of the value of the farm building from the total fair market value of the parcel.

Cross References

This section cited in 7 Pa. Code § 137b.51 (relating to assessment procedures).

OBLIGATIONS OF THE OWNER OF ENROLLED LAND

§ 137b.61. Transfer of enrolled land.

When enrolled land is transferred to a new owner, the new owner shall file an amendment to the original application for the purposes of providing the county assessor with current information and to sign the acknowledgments required under section 4(c) of the act (72 P. S. § 5490.4(c)).

§ 137b.62. Enrolled “agricultural use” land of less than 10 contiguous acres.

(a) *Demonstration of anticipated yearly gross income from agricultural production.* If a landowner has a contiguous tract of less than 10 acres of enrolled agricultural use land, the county assessor may require the landowner to demonstrate each year that the anticipated yearly gross income from the production of agricultural commodities on the enrolled land is at least \$2,000. A landowner may not be required to demonstrate more than once per year that the enrolled land has sufficient anticipated yearly gross income from the production of agricultural commodities to continue to receive preferential assessment. A county assessor requiring additional information shall notify the landowner in writing and shall clearly state in the notice the reasons why the information or documentation submitted by the landowner fails to demonstrate sufficiency of income, and shall identify the particular information the county assessor requests to demonstrate sufficiency of income.

(b) *Annual requirement; circumstances beyond the landowner’s control.* The \$2,000 anticipated annual gross income requirement referenced in this section shall be met each year, unless circumstances beyond the landowner’s control are the cause of the requirement not being met.

(c) *Examples.*

Example 1: A landowner owns 9 acres of enrolled land. The land contains a 9-acre orchard, and is enrolled as agricultural use land. Although the landowner reasonably anticipated production well above the \$2,000 minimum production requirement in a particular year, and represented that to the county assessor, a drought, hailstorm or blight

causes the orchard's production to drop below \$2,000 that year. Preferential assessment of the orchard shall continue.

Example 2: A landowner owns 9 acres of enrolled land. The land contains a 9-acre orchard, and is enrolled as agricultural use land. A plant disease destroys the fruit trees. Although the landowner replants the orchard, it will take several years for gross income from agricultural production from that orchard to meet the \$2,000 requirement. Preferential assessment of the orchard shall continue.

Example 3: A landowner owns 8 acres of enrolled land. The tract generates over \$2,000 in gross annual income from production of an agricultural commodity. The landowner ceases the production of that particular agricultural commodity and does not begin producing another agricultural commodity on the land. The land is no longer in agricultural use. The landowner's failure to continue the land in an agricultural use capable of producing income constitutes a change to an ineligible use. The landowner is liable for roll-back taxes and interest, and preferential assessment shall terminate.

§ 137b.63. Notice of change of application.

(a) *Landowner's responsibility to provide advance notice of changes.* An owner of enrolled land shall provide the county assessor of the county in which the land is preferentially assessed at least 30 days' advance written notice of any of the following:

- (1) A change in use of the enrolled land to some use other than agricultural use, agricultural reserve or forest reserve.
- (2) A change in ownership with respect to the enrolled land or any portion of the land.
- (3) Any type of division, conveyance, transfer, separation or split-off of the enrolled land.

(b) *Contents of notice.* The notice described in subsection (a) shall include the following information:

- (1) The name and address of any person to whom the land is being conveyed, granted or donated.
- (2) The date of the proposed transfer, separation or split-off.
- (3) The amount of land to be transferred, separated or split-off.
- (4) The present use of the land to be transferred, separated or split-off.
- (5) The date of the original application for preferential assessment under the act.
- (6) The tax parcel number.

(c) *Landowner's responsibility to provide notice of termination of preferential assessment.* An owner of enrolled land shall provide the county assessor of the county in which the land is preferentially assessed with advance written notice of termination of

preferential assessment, under § 137b.52(d) (relating to duration of preferential assessment) or § 137b.84 (relating to split-off that does not comply with section 6(a.1)(1) (i) of the act). The notice shall include the following information:

(1) The name and address of the landowner.

(2) Information sufficient to identify the property with respect to which preferential assessment is to be terminated. This may include tax parcel numbers, deed descriptions, references to the place of recording of the initial application for preferential assessment or similar information.

(3) The date upon which preferential assessment is to be terminated.

(d) *Landowner's duty to notify.* As stated in § 137b.41(d) (relating to application forms and procedures), a person applying for preferential assessment of land under the act shall acknowledge on the application form the obligation described in subsection (a).

Notes of Decisions

Notice by Landowner

Where a regulation mandates that a landowner provide notice of split-off from enrolled lands, the failure to do so relieves the chief assessor from its obligation to give notice within 5 days of deed recordation, and leaves the assessor free to assess roll-back taxes. The landowner's notice requirement must be strictly construed to prevent the unreasonable result of avoiding roll-back taxes simply by not giving the required notice. *Moyer v. Berks County Board of Assessment Appeals*, 803 A.2d 833 (Pa. Cmwlth. 2002), appeal denied 812 A.2d 1232 (Pa. 2002).

Cross References

This section cited in 7 Pa. Code § 137b.82 (relating to split-off tract).

§ 137b.64. Agricultural reserve land to be open to the public.

(a) *General.* An owner of enrolled land that is enrolled as agricultural reserve land shall allow the land to be open to the public for outdoor recreation or the enjoyment of scenic or natural beauty without charge or fee, on a nondiscriminatory basis. Enrolled land that is in agricultural use or forest reserve is excluded from this requirement.

(b) *Actual use by public not required.* Enrolled land that is enrolled as agricultural reserve land need not actually be used by the public for the purposes described in subsection (a) to continue to receive a preferential assessment. It shall, however, be available for use for those purposes.

(c) *Reasonable restrictions on use allowed.* A landowner may place reasonable restrictions on public access to enrolled land that is enrolled as agricultural reserve land. These restrictions might include limiting access to the land to pedestrians only, prohibiting hunting or the carrying or discharge of firearms on the land, prohibiting entry

where damage to the land might result or where hazardous conditions exist, or other reasonable restrictions.

(d) *Entry upon the agricultural reserve land.* A person shall, whenever possible, notify the landowner before entering upon enrolled land that is enrolled as agricultural reserve land. The landowner may deny entry when damage to the property might result. The landowner can prohibit entry to areas of the agricultural reserve land upon prior notification to the county assessor of the existence of a hazardous condition on that land. The landowner's reasons to deny entry to the land shall be based upon fact and be acceptable to the county assessor.

(e) *County assessor's discretion.* A county assessor may establish reasonable guidelines by which an owner of enrolled agricultural reserve land may identify the conditions under which the land shall be open to the public for outdoor recreation or the enjoyment of scenic or natural beauty, and by which the county assessor may maintain an up-to-date summary of the locations of agricultural reserve land within the county and the public uses to which these agricultural reserve lands may be put. A county assessor may disseminate this information to the public.

Cross References

This section cited in 7 Pa. Code § 137b.2 (relating to definitions); and 7 Pa. Code § 137b.13 (relating to agricultural reserve).

IMPACT OF SPECIFIC EVENTS OR USES ON PREFERENTIAL ASSESSMENT

§ 137b.71. Death of an owner of enrolled land.

(a) *Inheriting a tract that does not meet minimum requirements for preferential assessment.* Upon the death of an owner of enrolled land, if any of the enrolled land that is divided among the beneficiaries designated as Class A for inheritance tax purposes no longer meets the minimum qualifications for preferential assessment, preferential assessment shall terminate with respect to the portion of the enrolled land that no longer meets the minimum requirements for preferential assessment, and no roll-back tax may be charged on any of the land that no longer meets the requirements for preferential assessment.

Example: Landowner A owns 100 acres of enrolled land, which is in agricultural use. Landowner A dies, and the land is divided among several Class A beneficiaries, as follows: Landowner B—75 acres. Landowner C—2 acres. Landowner D—23 acres. The tracts owned by Landowners B and D continue in agricultural use. The 2-acre tract owned by Landowner C no longer meets the size or income requirements in section 3 of the act (72 P. S. § 5490.3). Under these facts, preferential assessment of the 2-acre tract ends. Landowner C does not owe roll-back taxes with respect to this tract. Landowners B and D continue to receive preferential assessment. Landowners B and D must file amended applications.

(b) *Inheriting a tract that meets the minimum requirements for preferential assessment.* If a person designated a Class A beneficiary inherits a tract that meets the minimum requirements for preferential assessment, and the tract continues in agricultural use, agricultural reserve or forest reserve, preferential assessment shall continue. If a person designated a Class A beneficiary inherits a tract that meets the minimum requirements for preferential assessment, and subsequently changes the use of that tract so that it does not qualify for preferential assessment, that beneficiary shall owe roll-back taxes and interest with respect to the portion of the enrolled land he inherited, but no roll-back taxes are due with respect to any other portion of the enrolled land inherited by another beneficiary.

Example 1: Landowner A owns 100 acres of enrolled land, which is in agricultural use. Landowner A dies, and Landowners B and C each inherit a 50-acre tract, as Class A beneficiaries. The tracts owned by Landowners B and C continue in agricultural use. Preferential assessment continues on each tract, and the landowners must file amended applications.

Example 2: Same facts as Example 1, except Landowner B converts the 50-acre tract of agricultural land to industrial use. Landowner B owes roll-back taxes and interest with respect to the 50-acre tract. Landowner A does not owe roll-back taxes. Preferential assessment continues with respect to Landowner A's tract.

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.72. Direct commercial sales of agriculturally related products and activities; rural enterprises incidental to the operational unit.

(a) *General.* An owner of enrolled land may apply up to 2 acres of enrolled land toward direct commercial sales of agriculturally related products and activities, or toward a rural enterprise incidental to the operational unit, without subjecting the entirety of the enrolled land to roll-back taxes and interest, if both of the following apply to the commercial activity or rural enterprise:

(1) The commercial activity or rural enterprise does not permanently impede or otherwise interfere with the production of an agricultural commodity on the remainder of the enrolled land.

(2) The commercial activity or rural enterprise is owned and operated by the landowner or persons who are Class A beneficiaries of the landowner for inheritance tax purposes, or by a legal entity owned or controlled by the landowner or persons who are Class A beneficiaries of the landowner for inheritance tax purposes.

(b) *Roll-back taxes and status of preferential assessment.*

(1) If a tract of 2 acres or less of enrolled land is used for direct commercial sales of agriculturally related products and activities, or toward a rural enterprise incidental to the operational unit, and paragraph (2) is not applicable, the 2 acre or less tract shall be subject to roll-back taxes and interest, and preferential assessment of that 2 acre or less

tract shall end. The remainder of the enrolled land shall continue under preferential assessment as long as that remainder continues to meet the requirements for eligibility in section 3 of the act (72 P. S. § 5490.3).

(2) If a tract of 1/2 acre or less of enrolled land is used for direct commercial sales of agriculturally related products, roll-back taxes or interest are not due and breach of preferential assessment will not be deemed to have occurred on that tract if:

(i) At least 50% of the agriculturally related products are produced on the enrolled land.

(ii) The direct commercial sales of agriculturally related products do not require new utilities or buildings.

(3) Enrolled land that is used for ingress, egress and parking with respect to the direct commercial sales and agriculturally related activities described in paragraphs (1) and (2) shall be counted toward the acreage totals referenced in those paragraphs.

(c) *Inventory by county assessor to determine ownership of goods.* A county assessor may inventory the goods sold at the business to ensure that they are owned by the landowner or persons who are Class A beneficiaries of the landowner for inheritance tax purposes, or by a legal entity owned or controlled by the landowner or persons who are Class A beneficiaries of the landowner for inheritance tax purposes, and that the goods meet the requirements of this section.

Authority

The provisions of this § 137b.72 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.72 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276930) to (276931).

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.73. Wireless or cellular telecommunications facilities.

(a) *Permitted use.* A landowner may lease a tract of enrolled land to be used for wireless or cellular telecommunications, if the following conditions are satisfied:

(1) The tract so leased does not exceed 1/2 acre.

(2) The tract does not have more than one communication tower located upon it.

(3) The tract is accessible.

(4) The tract is neither conveyed nor subdivided. A lease is not considered a subdivision.

(b) *Roll-back taxes imposed with respect to leased land.* A county assessor shall assess and impose roll-back taxes and interest upon the tract of land leased by an owner of enrolled land for wireless or cellular telecommunications purposes.

(c) *Preferential assessment ends and fair market value assessment commences with respect to leased land.* A county assessor shall assess land leased in accordance with subsection (a) based upon its fair market value.

(d) *Preferential assessment continues on unleased land.* The lease of enrolled land in accordance with subsection (a) does not invalidate the preferential assessment of the remaining enrolled land that is not so leased, and that enrolled land shall continue to receive a preferential assessment, if it continues to meet the minimum requirements for eligibility in section 3 of the act (72 P. S. § 5490.3).

(e) *Wireless services other than wireless telecommunications.* Wireless services other than wireless telecommunications may be conducted on land leased in accordance with subsection (a) if the wireless services share a tower with a wireless telecommunications provider.

(f) *Responsibility for obtaining required permits.* The wireless or cellular telecommunications provider shall be solely responsible for obtaining required permits in connection with any construction on a tract of land which it leases for telecommunications purposes under subsection (a).

(g) *Responsibility of municipality for issuing required permits.* A municipality may not deny a permit necessary for wireless or cellular telecommunications use for any reason other than the applicant's failure to strictly comply with permit application procedures.

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.73a. Gas, oil and coal bed methane.

(a) *General.*

(1) Land subject to preferential assessment may be leased or otherwise devoted to both of the following:

(i) The exploration for and removal of gas and oil, including the extraction of coal bed methane.

(ii) The development of appurtenant facilities, including new roads and bridges, pipelines and other buildings or structures, related to exploration for and removal of gas and oil and the extraction of coal bed methane.

(2) Portions of land subject to preferential assessment may be used for both of the following:

(i) The exploration for and removal of gas and oil, including the extraction of coal bed methane.

(ii) The development of appurtenant facilities, including new roads and bridges, pipelines and other buildings or structures, related to those activities.

(b) *Roll-back tax liability.*

(1) Roll-back taxes shall be imposed upon those portions of land actually devoted to activities in subsection (a)(2), except for the following:

(i) Land devoted to subsurface transmission or gathering lines is not subject to roll-back tax.

(ii) Notwithstanding any other provision in this section, a roll-back tax may not be imposed upon a landowner for activities related to the exploration for or removal of oil or gas, including the extraction of coal bed methane, conducted by parties other than the landowner that hold the rights to conduct these activities pursuant to an instrument, conveyance or other vesting of the rights if the transfer of the rights occurred before:

(A) The land was enrolled for preferential assessment under this act.

(B) December 26, 2010.

Example 1: Landowner sold coal bed methane exploration and extraction rights with respect to a tract to another person in 2008 and enrolled that tract for preferential assessment under the act in 2009. The other person erects a well, a pond used to support hydrofracturing and other appurtenant facilities related to the removal of coal bed methane on the enrolled land. Roll-back taxes may not be imposed with respect to the enrolled land on which these appurtenant facilities are located.

Example 2: Same facts as Example 1, except the landowner sold coal bed methane rights with respect to the tract to another person after the tract was enrolled for preferential assessment under the act. Roll-back taxes are due with respect to the enrolled land on which the appurtenant facilities are located.

Example 3: Same facts as Example 1, except the landowner sold something less than a 100% interest in coal bed methane exploration and extraction rights to another person. Roll-back taxes may not be imposed with respect to the enrolled land on which these appurtenant facilities are located.

Example 4: Same facts as Example 2, except the landowner sold something less than a 100% interest in coal bed methane exploration and extraction rights to another person. Roll-back taxes are due with respect to the enrolled land on which the appurtenant facilities are located.

(2) The portion of land that is subject to roll-back tax is the well site and land which is incapable of being immediately used for the agricultural use, agricultural reserve or forest

reserve activities required under section 3 of the act (72 P. S. § 5490.3). The portion of land that is subject to roll-back tax under this paragraph shall be determined as follows:

(i) If a well production report is required to be submitted to the Department of Environmental Protection in accordance with section 3222 of the Oil and Gas Act (relating to well reporting requirements) and 25 Pa. Code § 78.121 (relating to production reporting), the determination shall be made when that well production report is first due to the Department of Environmental Protection. Section 6(c.1)(3) of the act (72 P. S. § 5490.6(c.1)(3)) requires the Department of Environmental Protection to provide the county assessor a copy of the well production report within 10 days of its submission by the well operator.

(ii) If a well production report as described in subparagraph (i) is not required to be submitted to the Department of Environmental Protection, the landowner shall, in writing, report the circumstances (activities and structures) that render a portion of the land incapable of being immediately used for the agricultural use, agricultural reserve or forest reserve activities required under section 3 of the act, and the area of the affected land, to the county assessor within 10 days of the occurrence of those circumstances. The county assessor shall determine the portion of the land that is subject to roll-back taxes under this subsection.

Example: A tract of enrolled land does not contain a well site and is not required to submit the well production report described in subparagraph (i) but contains one or more appurtenant facilities related to exploration for and removal of gas and oil (including the extraction of coal bed methane) on other land. These appurtenant facilities include a pond used to support hydrofracturing, a compressor station, aboveground pipeline facilities, or other structures or facilities. The landowner shall report these appurtenant facilities and the acreage to the county assessor who will determine the portion of the land that is subject to roll-back taxes.

(c) *Retroactive application.* The fair market value of the well site and land which is incapable of being immediately used for the agricultural use, agricultural reserve or forest reserve activities required under section 3 of the act shall be adjusted retroactively to the date a permit was approved under section 3211 of the Oil and Gas Act (relating to well permits).

(d) *Due date.* The tax calculated based on the adjusted fair market value shall be due and payable in the tax year immediately following the year in which a production report is provided to the county assessor. Roll-back taxes shall become due upon the receipt of a well production report by the county assessor.

(e) *Continued preferential assessment.* The utilization of a portion of land for activities in subsection (a)(2) does not invalidate the preferential assessment of the land which is not so utilized and the land shall continue to receive preferential assessment if it continues to meet the requirements of section 3 of the act.

(f) *Land use category of land used for subsurface transmission or gathering lines.* The land use category of a portion of enrolled land beneath which subsurface transmission or gathering lines as described in subsection (b)(1)(i) are installed does not have to change.

Example: Subsurface transmission or gathering lines are installed beneath enrolled land that is enrolled as forest reserve land. Trees are cleared from the surface of the land along the route of the subsurface line. It is not necessary for that cleared portion of the land to be reclassified as agricultural reserve land rather than forest reserve land.

Source

The provisions of this § 137b.73a adopted June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311.

§ 137b.73b. Temporary leases for pipe storage yards.

The owner of enrolled land may temporarily lease a portion of the land for pipe storage yards provided that roll-back taxes shall be imposed upon those portions of land subject to preferential assessment that are temporarily leased or otherwise devoted for pipe storage yards and the fair market value of those portions of land shall be adjusted accordingly. The imposition of roll-back taxes on portions of land temporarily leased or devoted for pipe storage yards does not invalidate the preferential assessment of land which is not so leased or devoted and that land shall continue to be eligible for preferential assessment if it continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3). Only one lease under this section is permitted to a landowner and a copy of the lease shall be provided to the county assessor within 10 days of its signing by the landowner. The lease may not exceed 2 years and may not be extended or renewed. Following the expiration of the lease, the land shall be restored to the original use which qualified it for preferential assessment, and preferential assessment shall resume unless the county assessor determines upon inspection that this restoration requirement has not been met.

Source

The provisions of this § 137b.73b adopted June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311.

§ 137b.73c. Small noncoal surface mining.

(a) The owner of property subject to preferential assessment may lease or otherwise devote land subject to preferential assessment to small noncoal surface mining as provided for under the Noncoal Surface Mining Conservation and Reclamation Act.

(b) Roll-back taxes shall be imposed upon those portions of land leased or otherwise devoted to small noncoal surface mining and the fair market value of those portions of the land shall be adjusted accordingly. Roll-back taxes on those portions of the land do not invalidate the preferential assessment of the land which is not leased or devoted to small noncoal surface mining and the land shall continue to be eligible for preferential assessment if it continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3).

(c) Only one small noncoal surface mining permit may be active at any time on land subject to a single application for preferential assessment.

(d) Land that is no longer actively mined may be re-enrolled if the land is reclaimed and it continues to meet the requirements of section 3 of the act.

Source

The provisions of this § 137b.73c adopted June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311.

§ 137b.73d. Wind power generation systems.

(a) Portions of land subject to preferential assessment may be leased or otherwise devoted to a wind power generation system.

(b) Roll-back taxes shall be imposed upon those portions of the land actually devoted by the landowner for wind power generation system purposes and the fair market value of those portions of the land shall be adjusted accordingly. The wind power generation system must include the foundation of the wind turbine and the area of the surface covered by the appurtenant structures including new roads and bridges, transmission lines, substations and other buildings or structures related to the wind power generation system. The utilization of a portion of the land for a wind power generation system does not invalidate the preferential assessment of land which is not utilized and the land shall continue to receive preferential assessment if it continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3). An owner who is subject to roll-back taxes under this subsection shall submit a notice of installation of a wind power generation system to the county assessor within 30 days following the beginning of electricity generation at the wind power generation system. Roll-back taxes shall become due on the date the notice of installation of a wind power generation system is received by the county assessor.

(c) This section does not apply to land devoted to the development and operation of an alternative energy system when a majority of the energy annually generated from that system is used on the tract. The impact of this type of alternative energy system is addressed in § § 137b.12—137b.14 (relating to agricultural use; agricultural reserve; and forest reserve).

Source

The provisions of this § 137b.73d adopted June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311.

§ 137b.74. Option to accept or forgive roll-back taxes in certain instances.

(a) *Option to accept or forgive principal on roll-back taxes.* The taxing body of the taxing district within which a tract of enrolled land is located may accept or forgive roll-back taxes that are otherwise due and payable if the use of some portion of the land is changed for the purpose of granting or donating some portion of the land to one of the following:

- (1) A school district.

(2) A municipality.

(3) A county.

(4) A volunteer fire company.

(5) A volunteer ambulance service.

(6) A nonprofit corporation that qualifies as tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. § 501(c)(3)), if prior to accepting ownership of the land, the corporation enters into an agreement with the municipality wherein the subject land is located guaranteeing that the land will be used exclusively for recreational purposes, all of which shall be available to the general public free of charge. If the corporation changes the use of all or a portion of the land or charges admission or any other fee for the use or enjoyment of the facilities, the corporation shall immediately become liable for all roll-back taxes and accrued interest previously forgiven.

(7) A religious organization, if the religious organization uses the land only for construction or regular use as a church, synagogue or other place of worship, including meeting facilities, parking facilities, housing facilities and other facilities which further the religious purposes of the organization.

(b) *No option to forgive interest on roll-back taxes.* The taxing body of the taxing district within which a tract of enrolled land is located may not forgive interest due on roll-back taxes with respect to that portion of the enrolled land that is granted or donated to any one of the entities or for any of the uses described in subsection (a)(1)—(7). That interest shall be distributed in accordance with section 8(b.1) of the act (72 P. S. § 5490.8(b.1)).

Authority

The provisions of this § 137b.74 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.74 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276932).

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.75. Conveyance of enrolled land for use as a cemetery.

(a) *Conveyances.* If an owner of enrolled land sells, donates or otherwise conveys any portion of the enrolled land to a nonprofit corporation for use as a cemetery, and at least 10 acres of the remainder of the enrolled land remain in agricultural use, agricultural reserve or forest reserve after the conveyance, no violation of preferential assessment will

be deemed to have occurred and roll-back taxes may not be assessed with respect to either the conveyed portion of the enrolled land or the remainder of the enrolled land.

Example: A landowner owns 50 acres of enrolled land. The land is in agricultural use. The landowner sells 20 acres of the enrolled land to a nonprofit corporation for use as a cemetery. The remaining 30-acre tract continues in agricultural use. Under these facts, no roll-back taxes are due with respect to either tract. The 30-acre tract continues to receive preferential assessment. The 20-acre tract receives an assessment based on fair market value.

(b) *Exception.* If a nonprofit corporation acquires enrolled land as described in subsection (a), and subsequently changes the use of the land to some use other than as a cemetery or conveys the land for use other than as a cemetery, the nonprofit corporation shall be required to pay roll-back taxes and interest on that land.

Example: Same facts as the example under subsection (a), but 2 years after it acquired the 20-acre tract, the nonprofit corporation changes the use to something other than cemetery use. The nonprofit corporation owes roll-back taxes and interest with respect to the 20-acre tract. The owner of the 30-acre tract is not liable for the payment of any roll-back taxes triggered by the nonprofit corporation's change of use.

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.76. Conveyance of enrolled land or conveyance of an easement or right-of-way across enrolled land for use as a trail.

(a) *Conveyances.* If an owner of enrolled land sells, donates or otherwise conveys any portion of the enrolled land, or conveys an easement or right-of-way with respect to any portion of the enrolled land, no violation of preferential assessment will be deemed to have occurred and roll-back taxes will not be assessed with respect to either the conveyed portion of the enrolled land or the remainder of the enrolled land if all of the following occur:

- (1) The land, or an easement or right-of-way in the land, is conveyed to a nonprofit corporation.
- (2) The conveyed land is used as a trail for nonmotorized passive recreational use.
- (3) The conveyed land does not exceed 20 feet in width.
- (4) The conveyed land is available to the public for use without charge.
- (5) At least 10 acres of the remainder of the enrolled land remain in agricultural use, agricultural reserve or forest reserve.

Example: A landowner owns 50 acres of enrolled land. The land is in agricultural use. The landowner conveys a 20-foot-wide pathway across the land to a nonprofit

corporation for use as a trail, and otherwise complies with paragraphs (1)—(5) and section 8(e) of the act (72 P. S. § 5490.8(e)). Under these facts, no roll-back taxes are due with respect to either tract. The trail receives an assessment based upon fair market value. The remainder of the landowner's 50-acre tract continues to receive a preferential assessment.

(b) *Exception.* If a nonprofit corporation acquires enrolled land or an easement or right of way with respect to enrolled land as described in subsection (a), and the use of the land is subsequently changed to a use other than the use described in subsection (a)(1)—(4) or section 8(e) of the act (72 P. S. § 5490.8(e)), the nonprofit corporation shall be required to pay roll-back taxes and interest on that land.

Example: A landowner owns 50 acres of enrolled land. The land is in agricultural use. The landowner conveys a 15-foot-wide pathway across the land to a nonprofit corporation for use as a trail. The conveyance is for a use described in subsection (a)(1)—(4) or section 8(e) of the act. The nonprofit corporation subsequently changes the use of the trail to a motorcycle trail, a snowmobile trail or some other use not allowed under subsection (a)(1)—(4) or section 8(e) of the act. Under these facts, roll-back taxes and interest are due with respect to the 15-foot-wide tract. The remainder of the 50-acre tract continues to receive preferential assessment. The owner of the remainder continuing to receive preferential assessment is not liable for any roll-back taxes triggered by the nonprofit corporation's change of use.

Cross References

This section cited in 7 Pa. Code § 137b.52 (relating to duration of preferential assessment).

§ 137b.77. Recreational activities on agricultural use or forest reserve land.

(a) *Agricultural use land.* An owner of enrolled agricultural use land who performs recreational activities on that land, or who permits or authorizes others to perform these activities, does not violate the requirements for preferential assessment and is not responsible to pay roll-back taxes if the recreational activity does not render the land incapable of being immediately converted to agricultural use.

(b) *Forest reserve land.* An owner of enrolled forest reserve land who performs recreational activities on that land, or who permits or authorizes others to perform these activities, does not violate the requirements for preferential assessment and is not responsible to pay roll-back taxes if the recreational activity does not render the land incapable of producing timber or other wood products.

(c) *Assessment of fees or charges by a landowner.* Subsections (a) and (b) apply regardless of whether the landowner assesses fees or charges with respect to the recreational activity or allows another to assess these fees or charges.

(d) *Recreational leases.* Subsections (a) and (b) apply regardless of whether the landowner leases enrolled land to another person for hunting or other recreational activities and receives fees or charges in return.

Source

The provisions of this § 137b.77 adopted June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311.

LIABILITY FOR ROLL-BACK TAXES

§ 137b.81. General.

If an owner of enrolled land changes the use of the land to something other than agricultural use, agricultural reserve or forest reserve, or changes the use of the enrolled land so that it otherwise fails to meet the requirements of section 3 of the act (72 P. S. § 5490.3), that landowner shall be responsible for the payment of roll-back taxes and interest, and preferential assessment shall end on that portion of the enrolled land which fails to meet the requirements of section 3 of the act. The owner of enrolled land will not be liable for any roll-back tax triggered as a result of a change to an ineligible use by the owner of a split-off tract. A transfer of enrolled land under a single application will not trigger liability for roll-back taxes unless there is a subsequent change of use so that it fails to meet the requirements of section 3 of the act, in which case the landowner changing the use shall be liable for payment of roll-back taxes on the enrolled land under that single application.

Authority

The provisions of this § 137b.81 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.81 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276934).

§ 137b.82. Split-off tract.

(a) *Criteria.* When a split-off tract meets the following criteria, which are set forth in section 6(a.1)(1) of the act (72 P. S. § 5490.6(a.1)(1)), roll-back taxes and interest are only due with respect to the split-off tract and are not due with respect to the remainder:

(1) The tract split off does not exceed 2 acres annually, except that a maximum of the minimum residential lot size requirement annually may be split off if the property is situated in a local government unit which requires a minimum residential lot size of 2 acres to 3 acres.

(2) The tract is used for agricultural use, agricultural reserve or forest reserve or for the construction of a residential dwelling to be occupied by the person to whom the land is conveyed.

(3) The total tract split off does not exceed the lesser of 10 acres or 10% of the entire tract of enrolled land. In calculating the total tract split off, the total includes the acreage of the tract that was split-off from the enrolled tract since enrollment.

Example: A landowner owns a 60-acre tract of land that is enrolled and receiving preferential assessment. The landowner splits-off 2 acres for one or more of the uses described in paragraph (2) and the split-off otherwise meets the requirements of this subsection. Roll-back taxes are due with respect to the 2-acre split-off tract, but not with respect to the remaining 58 acres. The owner of the 60-acre tract who split-off the 2-acre tract is responsible to pay these roll-back taxes.

(b) *Responsibility of landowner.* The criteria in subsection (a) shall be applied to the entire tract that was the subject of the application for preferential assessment. For this reason, a landowner should engage with the county assessor in advance of a planned split-off to determine the extent to which the criteria in subsection (a) apply, or whether the planned split-off would trigger liability for payment of roll-back taxes and interest with respect to the entire enrolled tract. In addition, § 137b.63 (relating to notice of change of application) requires a landowner to provide the county assessor at least 30 days' advance written notice of a planned split-off.

Authority

The provisions of this § 137b.82 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.82 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276935).

§ 137b.83. Split-off that complies with section 6(a.1)(1)(i) of the act.

If enrolled land undergoes split-off and the tract that is split-off meets the size, use and aggregate acreage requirements in section 6(a.1)(1)(i) of the act (72 P. S. § 5490.6(a.1)(1)(i)), the landowner who conducted the split-off shall owe roll-back taxes and interest with respect to the split-off tract. The preferential assessment of that split-off tract shall be terminated. If the remainder of the enrolled land is in agricultural use, agricultural reserve or forest reserve, and continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3), no roll-back taxes are due with respect to that remainder, and preferential assessment shall continue with respect to that tract.

Example: Landowner owns 50 acres of enrolled land. Landowner splits off 2 acres for a residential dwelling, in compliance with section 6(a.1)(1)(i) of the act. The landowner owes roll-back taxes and interest on the 2-acre tract, and the preferential assessment of that tract shall be terminated. The remaining 48-acre tract would continue to receive preferential assessment, assuming it remains in agricultural use, agricultural reserve or forest reserve and otherwise continues to meet the requirements of section 3 of the act (72 P. S. § 5490.3).

§ 137b.84. Split-off that does not comply with section 6(a.1)(1)(i) of the act.

If enrolled land undergoes split off and the tract that is split-off does not meet the size, use and aggregate acreage requirements in section 6(a.1)(1)(i) of the act (72 P. S. § 5490.6(a.1)(1)(i)), the landowner who conducted the split-off shall owe roll-back taxes and interest with respect to all of the enrolled land.

Example 1: Landowner owns 50 acres of enrolled land. Landowner splits off 4 acres in a single year. This split-off would not meet the size requirements in section 6(a.1)(1)(i) of the act. The landowner owes roll-back taxes and interest on the entire 50-acre tract. The 4-acre tract no longer receives preferential assessment. If the 46-acre tract remains in agricultural use, agricultural reserve or forest reserve and continues to meet the requirements of section 3 of the act, preferential assessment would continue with respect to that tract, unless the landowner terminates preferential assessment under section 3(d) of the act (72 P. S. § 5490.3(d)).

Example 2: Landowner owns 50 acres of enrolled land. Landowner splits off 2-acre tracts in 3 different years. The aggregate amount of land split-off (6 acres) exceeds the 10% cap in section 6(c.1)(1)(i) of the act. Under these facts, the aggregate total of split-off land could not exceed 5 acres. The landowner owes roll-back taxes and interest on the remaining 44-acre tract. The three 2-acre tracts no longer receive preferential assessment. If the remaining 44-acre tract remains in agricultural use, agricultural reserve or forest reserve and continues to meet the requirements of section 3 of the act, preferential assessment would continue with respect to that 44-acre tract, unless the landowner terminates preferential assessment under section 3(d) of the act.

Cross References

This section cited in 7 Pa. Code § 137b.63 (relating to notice of change of application).

§ 137b.85. Split-off occurring through condemnation.

If any portion of a tract of enrolled land is condemned, the condemnation will not trigger liability for roll-back taxes on either the condemned portion of the enrolled land or the remainder. If the condemned portion or the remainder of the enrolled land remains in agricultural use, agricultural reserve or forest reserve, and meets the criteria in section 3 of the act (72 P. S. § 5490.3), preferential assessment shall continue with respect to that condemned portion or remainder.

§ 137b.86. Split-off occurring through voluntary sale in lieu of condemnation.

If any portion of a tract of enrolled land is—in lieu of requiring the condemnation process to proceed—voluntarily conveyed by a landowner to an entity that possesses the lawful authority to acquire that portion through condemnation, the conveyance will not trigger liability for roll-back taxes on either the split-off portion of the enrolled land or the remainder. If the split-off portion or the remainder of the enrolled land remains in agricultural use, agricultural reserve or forest reserve, and meets the criteria in section 3

of the act (72 P. S. § 5490.3), preferential assessment shall continue with respect to that split-off portion or remainder.

§ 137b.87. Change in use of separated land occurring within 7 years of separation.

If enrolled land undergoes separation, and one of the tracts created through separation is converted to a use other than agricultural use, agricultural reserve or forest reserve within 7 years of the date of the separation, or is converted so that it no longer meets the requirements of section 3 of the act (72 P. S. § 5490.3), the owner of the ineligible tract owes roll-back taxes and interest with respect to all of the enrolled land. The ineligible tract may no longer receive preferential assessment under the act. The remaining enrolled land shall continue to receive a preferential assessment.

Example: Landowner A owns 100 acres of enrolled land, which is in agricultural use. Landowner A sells Landowner B a 50-acre portion of this enrolled land. Both 50-acre tracts continue in agricultural use, and preferential assessment continues with respect to both tracts. Six years after the original 100-acre tract of enrolled land was separated, Landowner B converts his 50-acre tract to industrial use. Landowner B owes roll-back taxes and interest with respect to the entire 100-acre tract. Landowner A's 50-acre tract continues to receive preferential assessment, and preferential assessment of Landowner B's 50-acre tract ends.

§ 137b.88. Change in use of separated land occurring 7 years or more after separation.

If enrolled land undergoes separation, and one of the tracts created through separation is converted to other than agricultural use, agricultural reserve or forest reserve 7 years or more after the date of the separation, the owner of the separated tract owes roll-back taxes and interest with respect to that separated tract, but does not owe roll-back taxes with respect to the remainder of the enrolled land. The separated tract may no longer receive preferential assessment under the act. The remaining enrolled land shall continue to receive a preferential assessment.

Example: Landowner A owns 100 acres of enrolled land, which is in agricultural use. Landowner A sells Landowner B a 50-acre portion of this enrolled land. Both 50-acre tracts continue in agricultural use, and preferential assessment continues with respect to both tracts. Eight years after the original 100-acre tract of enrolled land was separated, Landowner B converts his 50-acre tract to industrial use. Landowner B owes roll-back taxes and interest with respect to the 50-acre tract which he has converted to ineligible use. Landowner A's 50-acre tract continues to receive preferential assessment, and preferential assessment of Landowner B's 50-acre tract ends.

§ 137b.89. Calculation of roll-back taxes.

A county assessor shall calculate roll-back taxes using the following formula:

(1) If preferential assessment has been in effect for 7 tax years or more, calculate the difference between preferential assessment and normal assessment in the current tax year,

and in each of the 6 tax years immediately preceding the current tax year. If preferential assessment has been in effect for less than 7 tax years, calculate the difference between preferential assessment and normal assessment in the current tax year, and in each of the tax years in which the enrolled land was preferentially assessed.

(2) With respect to each of these sums, multiply the tax difference determined under Step (1) by the corresponding factor, which reflects simple interest at the rate of 6% per annum from that particular tax year to the present:

<i>Year</i>	<i>Factor</i>
Current Tax Year	1.00
1 Tax Year Prior	1.06
2 Tax Years Prior	1.12
3 Tax Years Prior	1.18
4 Tax Years Prior	1.24
5 Tax Years Prior	1.30
6 Tax Years Prior	1.36

(3) Add the individual products obtained under Step (2). The sum equals total roll-back taxes, including simple interest at 6% per annum on each year's roll-back taxes.

Example 1: Landowner's liability for roll-back taxes is triggered on July 1, 7 or more tax years after preferential assessment began. The county assessor calculates the difference between the preferential assessment and normal assessment in the current tax year and in each of the 6 tax years preceding the current tax year, in accordance with this section. The county assessor determines the appropriate sum to be \$2,000 in each full year.

<i>Year</i>	<i>Amount Multiplied by Factor</i>
Current Tax Year	\$1,000 x 1.00 = \$1,000
1 Tax Year Prior	\$2,000 x 1.06 = \$2,120
2 Tax Years Prior	\$2,000 x 1.12 = \$2,240
3 Tax Years Prior	\$2,000 x 1.18 = \$2,360
4 Tax Years Prior	\$2,000 x 1.24 = \$2,480
5 Tax Years Prior	\$2,000 x 1.30 = \$2,600
6 Tax Years Prior	\$2,000 x 1.36 = \$2,720
TOTAL ROLL-BACK	
TAXES, WITH INTEREST:	\$15,520

Example 2: Landowner's liability for roll-back taxes is triggered on July 1, less than 7 tax years after preferential assessment began. The county assessor calculates the difference between the preferential assessment and normal assessment in the current tax year and each of the tax years since preferential assessment began, in accordance with this section. The county assessor determines the appropriate sum to be \$2,000 in each of these years. The county assessor would calculate roll-back taxes and interest in

accordance with the chart set forth in Example 1, calculating for only those tax years in which preferential assessment occurred.

Authority

The provisions of this § 137b.89 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.89 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276937) to (276939).

§ 137b.90. Due date for roll-back taxes.

If roll-back taxes and interest are owed, they are due on the day of the change in use or other event triggering liability for those roll-back taxes.

§ 137b.91. Liens for nonpayment of roll-back taxes.

The county can refer a claim for unpaid roll-back taxes and interest to the county's tax claim bureau, and take other actions necessary to cause a lien to be placed on the land for the value of the roll-back taxes and interest and other administrative and local court costs. The lien can be collected in the same manner as other lien-debts on real estate.

§ 137b.92. Time period within which roll-back taxes are to be calculated and notice mailed.

(a) *General.* A county assessor shall calculate the roll-back taxes and interest, and mail notice of these roll-back taxes to the affected landowner, within 5 days of learning of a change in status triggering liability for roll-back taxes. The county assessor shall also mail a copy of the notice to the other taxing bodies of the district in which the land is located.

(b) *Notice of change of application.* If a county assessor receives a "notice of change of application" described in § 137b.63 (relating to notice of change of application), and that notice triggers liability for roll-back taxes, the 5-day period described in subsection (a) shall commence as of receipt of that notice.

§ 137b.93. Disposition of interest on roll-back taxes.

(a) *"Eligible county" explained.* A county is an "eligible county" under the Agricultural Area Security Law (3 P. S. § 901—915), and for purposes of this chapter, if it has an agricultural conservation easement purchase program that has been approved by the State Agricultural Land Preservation Board in accordance with that statute.

(b) *Disposition in an eligible county.*

(1) *County treasurer.* If a county is an eligible county, the county treasurer shall make proper distribution of the interest portion of the roll-back taxes it collects to the county commissioners or the county comptroller, as the case may be. The county commissioners or comptroller shall designate all of this interest for use by the county agricultural land preservation board. This interest shall be in addition to other local money appropriated by the eligible county for the purchase of agricultural conservation easements under section 14.1(h) of the Agricultural Area Security Law (3 P. S. § 914.1(h)).

(2) *County agricultural land preservation board.* A county agricultural land preservation board that receives interest on roll-back taxes in accordance with paragraph (1) shall segregate that money in a special roll-back account. Notwithstanding any other provisions of the Agricultural Area Security Law, the eligible county board under the Agricultural Area Security Law shall, at its discretion and in accordance with its approved county agricultural conservation easement purchase program, give priority to the purchase of agricultural conservation easements from agricultural security areas located within the municipality in which the land subject to the roll-back tax is located, when using the funding from the special roll-back account.

(c) *Disposition in a county that is not an eligible county.* If a county is not an eligible county, the county treasurer shall forward the interest portion of the roll-back taxes it collects to the Agricultural Conservation Easement Purchase Fund. The county treasurer shall coordinate with the Department's Bureau of Farmland Preservation at the address in § 137b.4 (relating to contacting the Department) to accomplish this transfer.

Authority

The provisions of this § 137b.93 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.93 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial pages (276939) to (276940).

Cross References

This section cited in 7 Pa. Code § 137b.132 (relating to distributing taxes and interest).

DUTIES OF COUNTY ASSESSOR

§ 137b.101. General.

A county assessor shall perform all the duties prescribed by the act and this chapter. The county assessor has the major responsibility for administration of the act.

§ 137b.102. Recordkeeping.

A county assessor shall indicate on property record cards, assessment rolls and any other appropriate records the base year fair market value, the use value, the normal assessment and the preferential assessment of all tracts of enrolled land.

§ 137b.103. Recording approved applications.

A county assessor shall record any approved application in the office of the recorder of deeds in the county where the land is preferentially assessed.

§ 137b.104. Determining total use value.

A county assessor shall determine the total use value for all enrolled land. The contributory value of farm buildings shall be used in determining the total use value.

§ 137b.105. Annual update of records.

A county assessor shall, at least on an annual basis, update property record cards, assessment rolls and any other appropriate records to reflect all changes in the fair market value, the use value, the normal assessment and the preferential assessment of all tracts of enrolled land. This subsection does not require that a county assessor recalculate the preferential assessment of all enrolled land each year, but instead requires the county assessor to maintain reasonably current records reflecting any changes in preferential assessment.

§ 137b.106. Notification of change in preferential assessment status.

A county assessor shall provide the owner of enrolled land and the taxing bodies of the district in which the land is situated with written notice of an approval, termination or change with respect to preferential assessment status. This written notice shall apprise the land-owner and the taxing body of the right to appeal the action in accordance with section 9 of the act (72 P. S. § 5490.9). The written notice shall be mailed within 5 days of the change of status. If the written notice terminates or changes preferential assessment status it shall set forth the reasons for the change or termination.

§ 137b.107. Notification of change in factors affecting total assessment.

A county assessor shall provide the owner of enrolled land and the taxing bodies of the district in which the land is situated with written notice of any change in the base year fair market value, the normal assessment, the use value or the preferential assessment. This written notice shall apprise the landowner and the taxing body of the right to appeal the action in accordance with section 9 of the act (72 P. S. § 5490.9). The written notice shall be mailed within 5 days of the change.

§ 137b.108. Adjusting records to reflect split-off, separation or transfer.

(a) A county assessor shall adjust an approved and recorded application for preferential assessment under the act to reflect a change when an owner of enrolled land changes enrollment status as a result of a split-off, separation, transfer or change of ownership. These changes may include those actions described in § 137b.52 (relating to duration of preferential assessment).

(b) A county assessor may require the preparation, execution and filing of a new application for preferential assessment (without charging the landowner an application fee) to accomplish such an adjustment.

§ 137b.109. Enforcement and evidence gathering.

The evidentiary burden shall be on a county assessor to produce evidence demonstrating that a split-off tract is actively being used in a manner which is inconsistent with residential use, agricultural use, agricultural reserve or forest reserve.

§ 137b.110. Assessment of roll-back taxes.

A county assessor shall calculate, assess and file claims with the county's tax claim bureau for roll-back taxes and interest owed under the act.

§ 137b.111. Record of tax millage.

A county assessor shall maintain a permanent record of the tax millage levied by each of the taxing authorities in the county for each tax year.

§ 137b.112. Submission of information to the Department.

A county assessor shall, by January 31 of each year, compile and submit the information required by the Department under § 137b.3(b) (relating to responsibilities of the Department). This includes the following information:

- (1) The cumulative number of acres of enrolled land in the county, by land use category, at the end of the previous year.
- (2) The number of acres enrolled in each land use category during the previous year.
- (3) The number of acres of land, by land use category, with respect to which preferential assessment was terminated within the previous year.
- (4) The dollar amount received as roll-back taxes within the previous year.
- (5) The dollar amount received as interest on roll-back taxes within the previous year.

Authority

The provisions of this § 137b.112 amended under section 11 of the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P. S. § 5490.11).

Source

The provisions of this § 137b.112 amended June 26, 2015, effective June 27, 2015, 45 Pa.B. 3311. Immediately preceding text appears at serial page (276942).

RECORDER OF DEEDS

§ 137b.121. Duty to record.

A recorder of deeds shall record approved applications for preferential assessment in a preferential assessment docket, and record changes of land use triggering the imposition of roll-back taxes.

Cross References

This section cited in 7 Pa. Code § 137b.73a (relating to gas, oil and coal bed methane).

§ 137b.122. Fees of the recorder of deeds.

A recorder of deeds may charge a landowner whose application for preferential assessment is approved a fee for filing the approved application in a preferential assessment docket. This fee may also be charged with respect to the filing of an amendment to a previously-approved application. A recording fee may not be charged unless the application or amendment has been approved by the county board for assessment appeals. The maximum fee for recording approved preferential assessment applications and amendments thereto shall be in accordance with laws relating to the imposition of fees by recorders of deeds.

MISCELLANEOUS

§ 137b.131. Civil penalties.

(a) *General.* A county board for assessment appeals may assess a civil penalty of not more than \$100 against a person for each violation of the act or this chapter. An action that triggers liability for roll-back taxes and interest does not, by itself, constitute a violation of the act or this chapter.

(b) *Written notice of civil penalty.* A county board for assessment appeals shall assess a civil penalty against a person by providing that person written notice of the penalty. This notice shall be served by certified mail or personal service. The notice shall set forth the following:

- (1) A description of the nature of the violation and of the amount of the civil penalty.

(2) A statement that the person against whom the civil penalty is being assessed may appeal the penalty by delivering written notice of the appeal to the county board for assessment appeals within 10 calendar days of receipt of the written notice of penalty.

(c) *Appeal hearing.* If notification of the intent to contest the civil penalty is given within the time frame described in subsection (b)(2), the person contesting the civil penalty shall be provided with a hearing in accordance with 2 Pa.C.S. Chapter 5, Subchapter B and Chapter 7, Subchapter B (relating to local agency law).

(d) *Final civil penalty.* If, within 10 calendar days from the receipt of the notification described in subsection (b), the person against whom the civil penalty is assessed fails to notify the county board for assessment appeals of intent to contest the assessed penalty, the civil penalty shall become final.

§ 137b.132. Distributing taxes and interest.

The county treasurer or tax claim bureau shall be responsible for the proper distribution of the taxes to the proper taxing authority (that is, political subdivision) and the proper distribution of interest in accordance with § 137b.93 (relating to disposition of interest on roll-back taxes).

§ 137b.133. Appealing a decision of the county assessor.

A landowner whose land is the subject of an application for preferential assessment under the act, or a political subdivision affected by the preferential assessment of that land may appeal a decision of the county assessor regarding the application and the method used to determine preferential assessments under the act. The landowner shall first appeal to the county board of assessment. After this board has made a decision, the landowner then has a right to appeal to the court of common pleas.

No part of the information on this site may be reproduced for profit or sold for profit.

This material has been drawn directly from the official Pennsylvania Code full text database. Due to the limitations of HTML or differences in display capabilities of different browsers, this version may differ slightly from the official printed version.