

ORDER OF THE DEPARTMENT OF REVENUE REPEALING AND RECREATING RULES

The Wisconsin Department of Revenue adopts an order to: repeal and recreate Tax 18.05 (1) (d) and (e); relating to assessment of agricultural property.

The scope statement for this rule, SS 084-13, was approved by the Governor on July 15, 2013, published in Register No. 691B on July 31, 2013, and approved by the Secretary of Revenue on August 12, 2013.

Analysis by the Department of Revenue

Statutes interpreted: s. 70.32 (2) (c) 1i., Stats.

Statutory authority: s. 70.32 (2) (c) 1i., Stats.

Explanation of agency authority: Section 70.32 (2) (c) 1i. Stats., provides that agricultural use "means agricultural use as defined by the department of revenue by rule..." This rule changes the definition of agricultural use as it applies to agricultural conservation programs.

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: The rule revises s. Tax 18.05 (1) to provide further clarity regarding what land in federal and state pollution control and soil erosion programs should be classified as agricultural property that qualifies for use-value assessment.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states:

Iowa: Iowa state law requires the assessment of agricultural land based upon a Corn Suitability Rating (CSR). The valuation standard is similar to Wisconsin's use-value assessment of agricultural land. Also similar to Wisconsin, land in Iowa that is enrolled in the federal Conservation Reserve Program (CRP) is

considered agricultural land for property assessment. Iowa law provides exemptions and credits for other conservation lands that include woodlands, open and native prairies, wildlife habitat and stream areas.

Illinois: Illinois state law requires the assessment of agricultural land based upon a Productivity Index (PI). The valuation standard is similar to Wisconsin's use-value assessment of agricultural land. Land enrolled in the federal Conservation Reserve Program (CRP) is eligible for agricultural assessment if it has been in CRP or a qualifying agricultural use for the prior two years. Other conservation land is valued at 1/6th of the PI value.

Michigan: Michigan state law requires the assessment of agricultural land at market value. However, qualifying agricultural land receives an exemption from local school taxes. The same property tax exemption applies to lands in the federal Conservation Reserve Program (CRP), land in the federal Wetlands Reserve Program (WRP), and land in other federal acreage set-aside programs. Land under other conservation programs does not qualify unless agricultural use is a permissible use.

Minnesota: Minnesota state law requires the assessment of agricultural land at market value. However, qualifying agricultural land receives a tax deferral through the Green Acres program. Land enrolled in certain federal and Minnesota state conservation programs that include the Conservation Reserve Program (CRP), the Conservation Reserve Enhancement Program (CREP), the Reinvest in Minnesota (RIM) Program, and lands in other similar programs can qualify for the Green Acres program as well. Green Acres requires agricultural use before enrollment in the program. Land enrolled in a conservation program after May 23, 2013 is not eligible unless the land is used as a riparian buffer.

Summary of factual data and analytical methodologies: Section Tax 18.05 (1) currently defines what land in specific federal and state pollution control and soil erosion programs qualifies for agricultural use. This listing has not been updated since 2000.

The rule will address changes in the listed programs that have occurred since the rule was enacted and will also identify general criteria for determining what land that is in federal and state pollution control and soil erosion programs qualifies for agricultural use under the subchapter. This will provide consistency and clear standards for property owners and assessors.

Analysis and supporting documents used to determine effect on small business: This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector: This rule order does not have a fiscal effect on the private sector.

Effect on small business: This rule order does not affect small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this rule order.

Place where comments are to be submitted and deadline for submission: The deadline for comments concerning this rule order was January 14, 2014.

SECTION 1. Tax 18.05 (1) (d) and (e) are repealed and recreated to read:

Tax 18.05 (1) (d) Land without improvements subject to a federal or state easement or enrolled in a federal or state program if all of the following apply:

1. The land was in agricultural use under par. (a), (b), or (c) when it was entered into the qualifying easement or program, and
2. Qualifying easements and programs shall adhere to standards and practices provided under the January 31, 2014 No. 697 version of s. ATCP 50.04, 50.06, 50.71, 50.72, 50.83, 50.88, 50.91, 50.96, or 50.98. The Wisconsin Property Assessment Manual, authorized under s. 73.03 (2a), Stats., shall list the qualifying easements and programs according to the ATCP provisions, and
3. a. The terms of the temporary easement or program do not restrict the return of the land to agricultural use under par. (a), (b), or (c) after the easement or program is satisfactorily completed, or
b. The terms of an easement, contract, compatible use agreement, or conservation plan for that specific parcel authorized an agricultural use, as defined in par. (a), (b), or (c), for that parcel in the prior year.

SECTION 2. Effective date. This rule shall take effect on January 1, 2015 or the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats, whichever is later.
