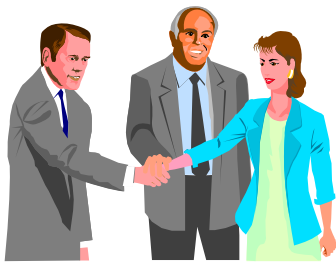


OPEN SPACE TAXATION ACT



The Open Space Taxation Act, enacted in 1970 allows property owners to have their open space, farm, and agricultural, and timber lands valued at their current use rather than their highest and best use. The Act states that it is in the best interest of the State to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the State and its citizens.

Chapter 84.34 RCW and Chapter 458-30 WAC

WHAT LANDS QUALIFY

The law provides three classifications:

- **Farm & agriculture land**
- **Open Space Land, and**
- **Timber Land**

Farm & agricultural land is defined as either:

(1) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

- (a) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes *prior to and subsequent to application*,
- (b) Enrolled in a cropland retirement program administered by the United States Department of Agriculture,

(2) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural use which has produced a gross income of, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification;

(3) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income of fifteen hundred dollars (gross income) or more per year for three of the five calendar years preceding the date of application for classification.

(4) "Farm and agricultural land" also includes:

- (a) Incidental uses compatible with agricultural purposes provided such use does not exceed twenty percent of the classified land;

- (b) Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the land producing such products;
- (c) Any non-contiguous parcel one to five acres, that is an integral part of the farming operations;
- (d) Land on which housing for employees and principal place of residence of the farm operation or residence is integral to the use of the classified land for agricultural purposes and provided that the classified land is twenty or more acres.
- (e)

WHO MAY APPLY

An owner or contract purchaser may apply for the open space classification. However, all owners or contract purchasers must sign the application for classification, and any resulting agreement. Application forms are available from the San Juan County Assessor's Office.

APPLICATION PERIOD

Applications may be made for classification at any time during the year from January 1 through December 31. Current use valuation assessment begins on January 1 in the year following the year the application was filed for taxes the following year. *(Example: The application is turned in this year; assessment at current use value begins next year to affect the following tax year.)*

WHERE TO APPLY

Farm and agricultural land classification is filed with your county assessor.

APPLICATION FEE

The county legislative authority may, at their discretion, require a processing fee to accompany each application. Such fee shall be in an amount that reasonably covers the processing costs of the application. ***San Juan County charges a \$250.00 application fee for farm & agriculture classification.***

OPEN SPACE FARM & AGRICULTURE LAND

PROPERTY TAX RELIEF PROGRAM



Prepared by Charles Zalmanek
San Juan County Assessor

APPROVAL OF APPLICATION

The assessor shall act on each application for farm and agriculture classification with due regard to all relevant evidence, and may approve the application in whole or part.

Upon application for classification, the assessor may require applicants to provide data regarding the use of such land, including the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data and any other information relevant to the application.

The assessor shall record an approval of classification with the county auditor for public recording of the tax lien on real property.

APPEALING DENIAL OF FARM AND AGRICULTURAL APPLICATION

The owner may appeal the assessor's denial to the San Juan County Board of Equalization. The appeal must be filed with the Board within thirty days after the mailing of the notice of denial.

DETERMINATION OF VALUE

The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the "fair market value." The second is the current use land value based its present use as classified by the granting authority. The process for determining the value of open space lands is called out in statute. The assessor shall consider only the use to which such property is currently applied and shall not consider potential uses of such property.

In determining the current use value of farm and agricultural land the assessor shall consider the earning or productive capacity of comparable lands from crops grown, most typically in the area, averaged over not less than five years. This earning or productive capacity shall be the "net cash rental" and shall be capitalized by a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

POTENTIAL TAX LIABILITY – LENGTH OF TIME IN CLASSIFICATION

When land is classified as farm and agricultural land, it shall not be applied to any other use for a period of not less than ten years unless transferred or reclassified into another current use classification or an early withdrawal penalty will

apply. The land continues in current use classification after the ten year period until a request for withdrawal is made by the owner, the use of the land no longer complies, or the ownership has changed and the new owner has not signed the Notice of Continuance. The notice of classification is recorded with the county auditor in the same manner as the recording of state tax liens on real property.

SALE OF CLASSIFIED LAND

When classified land is sold, the seller or transferor becomes liable at the time of sale for the additional tax, interest and penalty unless the new owner(s) signs the Notice of Continuance which is shown or attached to the excise tax affidavit. The county auditor shall not accept an instrument of conveyance on any classified land unless the Notice of Continuance is signed, the assessor's determination of qualified continuance signed or the additional tax had been paid.

OWNER MAY REQUEST WITHDRAWAL

If the owner intends to withdraw all or a portion of the land from classification after ten years, two years prior notice must be given to the county assessor. This notice can be filed after the eighth assessment year of the initial ten year classification period. If a portion of the parcel is removed from classification, the remaining portion must meet the requirements of the original classification unless the remaining parcel has different income criteria.

ACTION ON WITHDRAWAL

Upon receipt of a request for withdrawal, and when two years have elapsed, the assessor shall withdraw the land from classification. The land which is withdrawn from classification shall be subject to an additional tax equal to the difference between the amount of tax paid under the classification and tax at the true and fair value for the last seven years, plus interest at the statutory rate charged on delinquent property taxes.

OWNER TO NOTIFY ASSESSOR OF CHANGE OF USE

An owner changing the use of land from a classified use must notify the county assessor within sixty days of this action. The assessor shall remove the land from classified status and impose an additional tax equal to the difference between the tax paid on current use value and the tax that would have been paid on that land had it not been so classified, payable for the last seven years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of twenty percent of the total amount.

CRITERIA FOR CONTINUANCE AFTER CLASSIFICATION HAS BEEN GRANTED

Owner of classified land must continue to meet the criteria established for classification or the assessor may remove the land from the current use classification.

After giving the owner written notice and an opportunity to be heard, the assessor may determine that all or a portion of the land no longer meets the criteria for classification.

APPEAL OF LAND REMOVED FROM CLASSIFICATION BY THE ASSESSOR

Within thirty days after the removal from classification, the assessor shall notify the owner in writing explaining the reasons for removal. The owner has thirty days following the date the notice was mailed by the assessor to file an appeal of the removal of classification to the County Board of Equalization.

ADDITIONAL TAX DUE

At the time land is removed from classification it becomes subject to any additional tax, applicable interest, and a penalty which shall be due and payable to the county treasurer within thirty days after the owner is notified. The penalty is not imposed if the removal satisfies the ten year requirement.

LEIN OF TAXES

Any additional tax, applicable interest, and penalty, becomes a lien on the land at the time the land is removed from classification. This lien shall have priority over any other encumbrance on the land. Such lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes.

ASSESSOR MAY REQUIRE DATA

The assessor may require the owner of classification land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

ADDITIONAL INFORMATION

Complete information concerning the requirements for making application for current us assessments is available at the San Juan County Assessor Call (360) 378- 2172