



Current Agricultural Use Valuation and Conservation Programs July 2012

INTRODUCTION

The Ohio General Assembly passed Senate Bill 423 in April, 1974, establishing the Current Agricultural Use Value (CAUV) Program by law. For property tax purposes, farmland devoted exclusively to commercial agriculture may be valued according to its current use rather than at its "highest and best" potential use. This provision of Ohio law is known as the CAUV program. By permitting values to be set well below true market values, the CAUV normally results in a substantially lower tax bill for working farmers.

BACKGROUND & ISSUES

Current state law states three ways in which land can qualify for the CAUV program:

- (1) Land used exclusively for commercial agricultural production that is at least 10 acres
- (2) Land used exclusively for commercial agricultural production that is less than 10 acres but has an annual gross income of at least \$2,500.
- (3) Land enrolled in a conservation or land retirement program under an agreement with the federal government.

The third prong has been used to include lands that are enrolled in programs like conservation reserve program (CRP), wetlands reserve program (WRP), wetland mitigation banks (WMB), and the grassland reserve program (GRP), for CAUV treatment. In 2009, the Ohio Attorney General issued an opinion in response to a county auditor, stating that land enrolled in conservation programs that cannot be later returned to agricultural use should not qualify for CAUV. This opinion is not binding on any legislator, agency, court or public official, but is merely the opinion of the attorney general.

The Ohio Department of Taxation (ODT) has since used departmental policy to limit which federal conservation programs will actually qualify land for CAUV treatment. Most recently, ODT has given guidance to county auditors that only lands enrolled in CRP or the conservation reserve enhancement program (CREP) will be eligible for CAUV enrollment under the third prong.

In response to this guidance, landowners who have placed land into permanent easements through programs like WRP, GRP and others, have now been removed from the CAUV program and charged with large recoupment amounts. In addition, their land will be valued using a comparable sales approach instead of the CAUV calculation for future property tax valuation. This has also brought on litigation from landowners who feel the clear language of the statute does include their property within the CAUV program, and auditors who are following the guidance given to them by the Ohio Department of Tax. Complicating the issue is an uncertain future for the Farm Bill, which will likely result in consolidation of many current conservation programs.

Land which qualifies for CAUV under the first or second prongs will still qualify for CAUV under the Department of Tax's new policy, even if the land is simultaneously enrolled in another conservation program such as the environmental quality incentives program (EQIP). In addition, by law, up to 25% of a parcel can be used for conservation practices without jeopardizing the CAUV status of a farm. The current debate is whether land enrolled in a federal conservation program such as WRP, which places a permanent easement on the land that does not allow for other farming activities to occur, and which comprises more than 25% of the parcel, still qualifies for CAUV. A plain reading of the statute would

indicate that it does still qualify; however the Department of Tax disagrees and says such land does not qualify for CAUV.

OHIO FARM BUREAU FEDERATION POLICY

Current policy regarding CAUV, taxes and conservation programs:

CAUV and Property Tax 482

We encourage OFBF to help protect CAUV in Ohio and to promote the integrity of the program by supporting the enforcement of its standards.

We encourage the inclusion of land using conservation practices (buffer strips, filter strips, grass waterway, permanent cover cops, expiration of federal land retirement or conservation program, etc.) in the CAUV program.

Watershed Management 532

(Whole policy in general)

Conservation and Market Based Incentives 533

(Whole policy in general)

Natural Resources 541

We encourage our members to support and cooperate with the local Soil and Water Conservation District in developing soil conservation, animal waste, water quality, air quality, and composting plans that follow sound conservation management practices on the farm.

QUESTIONS

- Does land enrolled in conservation programs achieve the goals of CAUV similar to farmland? (Preservation of farmland and agricultural industry, reduction in development pressure, etc.)
- Should the Ohio Department of Tax be able to limit which conservation programs qualify for the CAUV program without having direct authority by law to do so? Does this represent the use of agency expertise or mission creep?
- Given the plain language of the statute, should all conservation programs be eligible for inclusion in the CAUV program?
- Should the law be changed? Are there some conservation programs which should qualify for CAUV and others which should not? If so, what are the criteria of conservation programs that should qualify for CAUV?
- If land enrolled in conservation programs is not eligible for CAUV, should conservation lands previously enrolled in CAUV still be charged the three-year recoupment?
- Should lands enrolled in any state conservation programs also be automatically eligible for CAUV treatment, like federal conservation program lands are under the plain language of the statute?
- Should there be a separate program which reduces property taxation for lands used solely for conservation?