



Division of Tax Equalization
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To: All County Auditors

From: Joseph W. Testa, Tax Commissioner

A handwritten signature in black ink, appearing to read 'J. Testa', is written over the name of the Tax Commissioner.

Date: September 28, 2017

RE: Revision and Issuance of Current Agricultural Use Value (CAUV) Forms Pursuant to Am. Sub. H.B. 49 of the 132nd General Assembly, effective September 29, 2017, and Implementation of Changes to the CAUV Program pursuant to Am. Sub. H.B. 49 of the 132nd General Assembly

As Tax Commissioner, I hereby revise forms DTE 109, *Initial Application for the Valuation of Land at Its Current Agricultural Use* and DTE 109A, *Current Agricultural Use Valuation Renewal Application*, following changes to R.C. 5713.31, R.C. 5713.34, and R.C. 5715.01 concerning valuation of conservation land.

Copies of the revised forms are on file in the Division of Tax Equalization, Ohio Department of Taxation, and are hereby incorporated by reference to this memorandum. Copies of these forms are also available on the Department of Taxation's website at www.tax.ohio.gov/forms.

Implementing Changes to the CAUV Program

Conservation Land

Amended Sub. H.B. 49 of the 132nd General Assembly, prescribes that the lowest CAUV value in the table of values must be applied to farmland used for certain conservation practices or enrolled in a federal land retirement or conservation program under an agreement with an agency of the federal government (R.C. 5713.31). The lowest value for 2017 is \$230. If the land is qualifying based on participation in a federal program, it must be enrolled in the program on the first day of January of the tax year for which the lower value is sought. If the farmland ceases to be used for conservation and is returned to farm use sooner than 36 months after the initial certification for taxation at the minimum value, the county auditor must recoup an amount equal to the extra tax savings based on the difference between the minimum value as conservation land and the use value as cropland or woodland (R.C. 5713.34). If the land ceases to be used for conservation and is converted to non-farm use the county auditor must recoup an amount equal to the extra tax savings plus normal recoupment.

Under continuing law, farmland devoted to and qualified for payments or other compensation under a federal land retirement or conservation program is eligible for CAUV. Additionally, land used for conservation practices necessary to abate soil erosion in the management of the farm is eligible if it comprises 25% or less of the landowner's total CAUV land. (The 25% designation applies to the total qualifying land on a farm and is not limited to 25% of each parcel.) As defined by R.C. 5713.30(E), eligible conservation practices are practices used to abate soil erosion as required in the management of the farming operation, including the installation, construction, development, planting, or use of grass

waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose. A conservation practice used for wildlife habitat does not meet the statutory requirement to abate soil erosion for management of the farm and will not result in that land being taxed at the minimum value.

Counties must be undergoing reappraisal or update to implement the valuation changes for conservation land. Those undergoing reappraisal or update in 2017 will be the initial counties to apply the minimum value to eligible conservation land. All other counties continue to value eligible conservation land at the cropland or woodland value for that soil type until undergoing reappraisal or update in 2018 and 2019.

Application Procedures

Counties undergoing reappraisal or update in 2017 may accept a late initial or renewal application from landowners with conservation land (R.C. 5713.38). A late initial or renewal application is considered a timely application for counties that have not completed and advertised the reappraisal or update values before the deadline to apply for CAUV (March 6, 2017) and the appraised value of the property has increased. The adjusted filing deadline is the first Monday in March of the following calendar year (March 5, 2018). Landowners who are currently enrolled in the CAUV program and who have already filed initial or renewal applications for tax year 2017 may amend those applications if the extension criteria apply to their property. This will allow the county auditor to determine whether the designated acreage meets the criteria for valuation at the minimum value and to apply the lower values for tax year 2017 accordingly.

Any refunds that result from the revised revaluations should be handled in the same manner as refunds resulting from board of revision decisions (R.C. 5715.22). In making this determination the auditor must be mindful that the land has to be used for conservation practices used to abate soil erosion as required in the management of the farm or enrolled in a federal land retirement or conservation program under an agreement with an agency of the federal government that is effective January 1, 2017, if it is to be listed at the minimum value in the table for 2017.

Owners of property in counties undergoing reappraisal or update for 2017 who do not file an amended initial or renewal application by March 5, 2018, may file a complaint with the board of revision requesting a change in classification of the land from cropland or woodland to conservation property (R.C. 5715.19(A)(1)) The filing deadline is on or before April 2, 2018. Again, the land must be used for conservation practices to abate soil erosion as required in the management of the farm or enrolled in a federal land retirement or conservation program under an agreement with an agency of the federal government that is effective January 1, 2017, if it is to be listed at the minimum value in the table for 2017.

Owners of property in counties scheduled for revaluation in 2018 and 2019 may not receive the minimum value for their eligible conservation property by filing a complaint with the board of revision for tax year 2017. Minimum values for conservation land will be available in those counties at the next revaluation.

County Auditor Duties

Generally, conservation programs that are CAUV eligible are administered by the United States Department of Agriculture (USDA), Farm Service Agency (FSA), or Natural Resources Conservation Service (NRCS). Under these agencies, USDA has a written agreement or contract with the landowner for program development. The landowner must attach a copy of the agreement or contract to the Initial Application (DTE 109), including the start and end dates of the agreement, the acreage amount of each parcel in conservation, and a map detailing the boundaries of the land in the program.

If there are contract changes over the duration of the agreement, a revised contract and map must be attached to the CAUV Renewal DTE 109(A). If the renewal application includes a new contract, the landowner must attach copies of the contract, acreage by parcel, and a map. The landowner should also attach a map showing boundaries and acreage by parcel for conservation practices used to abate soil erosion (up to 25% of the total acreage of the farm) and provide a description of how that use controls soil erosion. The county auditors must maintain copies of the applications and contracts for the duration of the contract or agreement period to document compliance with CAUV program requirements. However, it is not the county auditors' responsibility to ensure the producer is meeting the terms of his contract with USDA.

The county auditor must inspect all parcels by the first Monday in August to determine if the property qualifies for that year. This field check includes both renewal and initial applications to verify CAUV eligibility (R.C. 5713.31). If the farmland ceases to be used for conservation for fewer than three tax years and is returned to commercial farming, the county auditor must recoup an amount equal to the extra tax savings for the most recent one or two preceding years that the land was valued at the minimum value. If the farmland ceases to be used for conservation and is no longer eligible for CAUV, the county auditor must recoup an amount equal to the extra tax savings for the most recent one or two preceding years plus recoupment for three years. Therefore, the county auditor must now track two categories of recoupment for conservation land:

1. Regular recoupment based upon the tax savings for the three prior years with the savings equal to the difference between the tax levied based upon its fair market value, and the tax levied on the land based upon its use value as actually taxed for those years. This could be use value as cropland, woodland, or conservation property.
2. Conservation recoupment based upon the extra tax savings for up to the two prior years the land was valued at the minimum value with the savings equal to the difference between the tax levied on the CAUV cropland or woodland value, and the tax levied on the minimum value. The conservation recoupment is only charged if the landowner fails to keep the land in conservation for 36 months (three tax years) after the initial certification of the land as eligible for the application of the minimum value.

Note that the three-year commitment to maintaining the eligible conservation practice is a finite, one-time requirement for each owner of property. That is, after an owner has satisfied the three-year commitment, he may cease the conservation practice in year four or thereafter without penalty. A new owner of property seeking taxation as conservation property must satisfy his own three-year commitment period even if the land was previously qualified as conservation property under a prior owner.

If the land is removed from conservation eligibility during the 36-month period and the land remains eligible for CAUV, the county auditor must recoup an amount equal to the extra tax savings for those years as follows:

	PY 1	PY2
FMV	\$6,000	\$6,000
CAUV	\$2,700	\$2,700
Conservation Value	\$ 230	\$ 230
Value Subject to Recoupment	\$2,470	\$2,470

If the land is removed from the CAUV program during the 36-month commitment period, the county auditor will still recoup the full amount of taxes saved during the preceding three years as follows:

	PY 1	PY 2	PY3
FMV	\$6,000	\$6,000	\$6,000
CAUV	\$2,700	\$2,700	\$2,700
Conservation Value	\$ 0	\$ 230	\$ 230
Value Subject to Recoupment	\$3,300	\$5,770	\$5,770

Due diligence on the part of the county auditor will be required to track the conservation program status for these parcels to ensure that the tax exemption is warranted and that recoupment is assessed when necessary.

Reporting – Abstract of Real Property (DTE 93)

Value changes due to “enrollment in or removal” from the CAUV program are reported on line 8. Changes in CAUV value itself, such as when new tables are issued or when the use value is changed due to a change in classification as conservation land are reported on line 12. For instance, if a current CAUV parcel is valued at the lower conservation value, the change to value is reflected on line 12 in the appropriate column of the abstract.

If you have questions regarding the revised procedures, please contact Shelley Wilson by email at Shelley.Wilson@tax.state.oh.us or Gloria Gardner at Gloria.Gardner@tax.state.oh.us, or by phone at (614) 466-5744.

SW/GG/cmz