

AN ACT relating to agricultural and horticultural value for property taxes.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

➔Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;

- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
  - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
  - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
  - (c) The value of improvements to existing nonresidential property;
  - (d) The value of new residential improvements to property;
  - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
  - (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
  - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

- (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
- (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;

(9) "Agricultural land" means:

- (a) Any tract of land, including all income-producing improvements, ***but excluding residential units,*** of at least ten (10) contiguous acres in area ***currently*** used for the production of livestock, livestock products, poultry, poultry products and/or the ***current*** growing of tobacco and/or other crops including timber;
- (b) Any tract of land, including all income-producing improvements, ***but excluding residential units,*** of at least five (5) contiguous acres in area ***currently***~~commercially~~ used for ***commercial*** aquaculture; or
- (c) Any tract of land, ***excluding residential units,*** devoted to and ***currently*** meeting the requirements and qualifications for payments pursuant to agriculture programs under ***a currently enforceable***~~an~~ agreement with the state or federal government;

(10) "Horticultural land" means any tract of land, including all income-producing improvements, ***but excluding residential units,*** of at least five (5) contiguous acres in area ***currently***~~commercially~~ used for the ***commercial*** cultivation of a garden, ***or*** orchard, or ***currently used for the commercial***~~the~~ raising of fruits or nuts,

vegetables, flowers, or ornamental plants;

(11) ~~["Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:~~

~~(a) Relative percentages of tillable land, pasture land, and woodland;~~

~~(b) Degree of productivity of the soil;~~

~~(c) Risk of flooding;~~

~~(d) Improvements to and on the land that relate to the production of income;~~

~~(e) Row crop capability including allotted crops other than tobacco;~~

~~(f) Accessibility to all-weather roads and markets; and~~

~~(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;~~

(12) ~~"Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;~~

~~[(13)]~~ ~~—~~ "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;

(12)~~[(14)]~~ "Residential unit" means all or that part of real property occupied as the permanent residence of the owner **and land used in connection with the main dwelling house including but not limited to lawns, drives, flower gardens, swimming pools, and the other areas devoted to family recreation;**

(13)~~[(15)]~~ "Special benefits" are those which are provided by public works not financed

through the general tax levy but through special assessments against the benefited property;

(14)~~(16)~~ "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;

(15)~~(17)~~ "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
- (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
- (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor,

and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

- (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;

~~(16)~~~~(18)~~ "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

~~(17)~~~~(19)~~ "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

~~(18)~~~~(20)~~ "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;

~~(19)~~~~(21)~~ "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:

- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
- (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
- (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
- (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
- (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and

(f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:

1. Direct or indirect familial relationship;
2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
3. Reorganization of a business entity that was potentially liable;

~~(20)~~~~(22)~~ "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;

~~(21)~~~~(23)~~ (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;

(b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and

(c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;

~~(22)~~~~(24)~~ "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;

~~(23)~~~~(25)~~ "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not

specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes; and

~~(24)~~~~(26)~~ (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.

(b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee.

→Section 2. KRS 132.450 is amended to read as follows:

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his or her duty to assess except as provided in paragraph ~~(f)~~~~(e)~~ of subsection (2) of this section. The property of one (1) person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his or her own knowledge, from information in property schedules, and from such other evidence as he or she may be able to obtain, to locate, identify, and assess property.

(2) (a) **Before land can be assessed at agricultural value, the property valuation administrator shall obtain documentation or other credible evidence sufficient to establish that the land, including all income-producing improvements, but excluding residential units:**

**1. Consists of at least ten (10) contiguous acres and is currently being used for the production of livestock, livestock products, poultry, poultry products, or the current growing of tobacco or other crops,**



including timber;

2. Consists of at least five (5) contiguous acres in area and is currently being used for commercial aquaculture; or

3. Is devoted to and currently meets the requirements and qualifications for payments pursuant to agriculture programs under a currently enforceable agreement with the state or federal government.

(b) Before land can be assessed at horticultural value, the property valuation administrator shall obtain documentation or other credible evidence sufficient to establish that the land, including all income-producing improvements, but excluding residential units, consists of at least five (5) contiguous acres in area currently being used for the commercial cultivation of a garden or orchard, or the commercial raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(c) 1. In determining the total area of land devoted to agricultural or horticultural use, there shall be included ~~the area of~~ all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption.

2. ~~but~~ There shall be excluded~~ed~~ land used in connection with a residential unit ~~dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation~~.

(d) Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one (1) county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area of such land and not the area of land which is located in the particular county or taxing district.

~~(e)~~~~(b)~~ **Notwithstanding any other provision of this chapter,** land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification.

~~(f)~~~~(e)~~ When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

~~(g)~~ **After a determination has been made that property qualifies as agricultural or horticultural land, the PVA shall value the property based on the agricultural or horticultural value. In determining the value, the property valuation administrator shall consider the use value of the land based upon its current agricultural or horticultural income-producing capability and comparable sales of land purchased for agricultural or horticultural purposes where the price is indicative of agricultural or horticultural use value, excluding sales representing purchases for expansion, better accessibility, and other factors which inflate the purchase price beyond agricultural or horticultural use value, if any, considering the following factors as they affect a taxable unit:**

- 1. Relative percentages of tillable land, pasture land, and woodland;**
- 2. Degree of productivity of the soil;**

3. *Risk of flooding;*
4. *Improvements to and on the land that relate to the production of income;*
5. *Row crop capability, including allotted crops other than tobacco;*
6. *Accessibility to all-weather roads and markets; and*
7. *Factors which affect the general agricultural or horticultural economy, such as, interest, price of farm or horticultural products, cost of farm or horticultural materials and supplies, labor, or any economic factor which would affect net farm or horticultural income.*

~~(h)~~~~(d)~~ When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

- (3) *Notwithstanding any other provision of this chapter,* when land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.
- (4) If the property valuation administrator assesses any property at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be

given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

- (5) Any taxpayer may designate on the property schedule any property which he ***or she*** does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the department relative to the taxability of such property.

➔Section 3. KRS 132.454 is amended to read as follows:

When land which is valued and taxed as agricultural or horticultural land under paragraph ~~(f)~~~~(e)~~ of subsection (2) of KRS 132.450 is converted to any other use after January 1 of the tax year, that portion of the land upon which the use is changed shall be subject to tax for the succeeding tax year at its fair cash value. The owner of the property at the time the land use change is initiated shall, within ninety (90) days, report the change to the property valuation administrator. The owner shall also provide to the property valuation administrator information concerning the most recent sale or lease of the property, copies of any appraisal or feasibility reports made, and any other information useful in determining the fair cash value of the property.

➔Section 4. KRS 140.300 is amended to read as follows:

As used in KRS 140.310 to 140.360, these words shall have the following meaning:

- (1) "Agricultural land" means that real estate which is defined in KRS 132.010(9).
- (2) "Horticultural land" means that real estate which is defined in KRS 132.010(10).
- (3) "Agricultural or horticultural value" means the ***value assigned to agricultural or horticultural land based on use for those purposes, using the process described in subsection (2)(g) of Section 2 of this Act***~~[value as defined in KRS 132.010(11)]~~.
- (4) "Qualified real estate" means real property which:
  - (a) Is either horticultural or agricultural land;
  - (b) Has been used for agricultural or horticultural purposes for five (5) years prior to the death of the owner of the real estate or a joint owner thereof; and
  - (c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of

decedent for Kentucky inheritance tax purposes.

- (5) "Qualified person" means the spouse of a deceased owner of agricultural or horticultural land; the children, adopted children, and stepchildren of that deceased owner; the spouses and issue of that deceased owner's children, adopted children, and stepchildren, and is a person who proposes to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment.

➔Section 5. The provisions of this Act shall apply for assessments made on and after January 1, 2017.