

ORDER OF THE DEPARTMENT OF REVENUE

The Wisconsin Department of Revenue hereby adopts an order to create Tax 18.07(1) (b) 6. and 7. and 18.07(1) (c) 7. relating to the 2005 agricultural use value.

ANALYSIS PREPARED BY THE DEPARTMENT OF REVENUE

Statute interpreted: s. 70.32 (2r) (c), Stats.

Statutory Authority: s. 227.11(2), Stats.

Explanation of agency authority:

Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related Statute or rule: s. 70.32 (2r) (c), Stats.

Plain Language analysis:

Pursuant to s. 70.32(2r) (c), agricultural land is assessed according to the income that could be generated from its rental for agricultural use. Wisconsin Chapter Tax 18 specifies the formula that is used to estimate the net rental income per acre. The formula estimates the net income per acre of land in corn production based on a 5-year average corn price per bushel, cost of corn production per bushel and corn yield per acre. The net income is divided by a capitalization rate that is based on a 5-year average interest rate for a medium-sized, 1-year adjustable rate mortgage and net tax rate for the property tax levy two years prior to the assessment year.

For reasons of data availability, there is a three-year lag in determining the 5-year average. Thus, the 2003 use value is based on the 5-year average corn price, cost and yield for the 1996-2000 period, and the capitalization rate is based on the 5-year average interest rate for the 1998-2002 period. The 2005 use value is to be based on the 5-year average corn price, cost and yield for the 1998-2002 period, and the capitalization rate is to be based on the 2000-2004 period.

The data for the 1998-2002 period yields negative net income per acre due to declining corn prices and increasing costs of corn production. As a result, reliance on data for the 1998-2002 period will result in negative use values.

Under the rule order, the 2005 average net income per acre of agricultural land is to be based on corn yield, production and price data for the 1996-2000 period and interest and tax rate data for the 1998-2002 period as detailed in the summary of factual data section below.

Summary of, and comparison with, existing or proposed federal regulations: 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:

The valuation of agricultural land in Illinois, Michigan and Minnesota are specified by statute; therefore, there are no administrative rules related to agricultural valuation in these states. The Iowa administrative rule related to agricultural valuation provides no detail regarding the formula used to calculate agricultural land value; reference is made to the Iowa real property appraisal manual.

Summary of factual data and analytical methodologies:

Under the proposed rule order, the 2005 average net income per acre of agricultural land is to be based on the following:

- the 5-year average corn yield per acre from 1996-2000
- the 5 year average market corn price per bushel from 1996-2000, and
- the 5- year average cost of corn production per bushel from 1996-2000

The rule also specifies that the 2005 use values will be based on a capitalization rate that is the sum of the following:

- the 5- year average interest rate for a medium sized 1-year adjustable rate mortgage for farm loans for the period from 1998 to 2002, and
- the net property tax rate for each municipality for the 2001 taxes, payable 2002.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The department has prepared a fiscal estimate regarding this proposed rule order. It was determined that there is not a significant fiscal effect on small business.

Effect on small business:

This rule order does not have a significant fiscal effect on small business.

Fiscal Estimate:

The rule amending Chapter Tax 18 would have the effect of freezing the 2005 assessment of agricultural land at 2003 levels. The proposed permanent rule is identical to the emergency rule promulgated December 29, 2004.

Under the current rule, the 2005 use value of agricultural land would be based on the 5-year average corn price, cost and yield for the 1998-2002 period, and the capitalization rate is based on the 5-year average interest rate for the 2000-2004 period.

Using the data for these periods, it is estimated that agricultural land values would be negative. It is unclear how property with negative values would be taxed.

Under the rule, the 2005 use values are to be based on the same data used to calculate the 2003 use values. As a result, statewide agricultural land values will approximately equal the estimated 2005 value of \$1.95 billion.

Under the rule, local assessors will apply 2003 unit values to calculate 2005 values; however, parcel records and land values will require updates due to new assessment ratios and possible changes in land use.

Under the rule, there will be no loss of state forestry tax revenue. To the extent that the current rule would result in an exemption of agricultural land and therefore a loss of state forestry tax revenue, the proposed rule would result in an increase in \$390,000 in state forestry tax revenues ($\$1.95 \text{ billion} \times .0002$) relative to current law.

Agency contact person:

Please contact Frank Humphrey at (608) 261-5364 or fhumphre@dor.state.wi.us with any questions regarding this rule order.

Text of Rule:

Section 1: Tax 18.07(1)(b)6. and 7. and (1)(c)7. are created to read:

18.07(1)(b)6. To avoid negative use values in 2005, the 2005 average gross income per acre for each category of agricultural land shall be calculated as described in subd. 2, except that each category's 5-year average yield per acre shall be based on yield data from 1996 to 2000, and the 5-year average market price per unit of output shall be based on market price data from 1996 to 2000.

7. To avoid negative use values in 2005, the 2005 average total cost of production per acre for each category of agricultural land shall be calculated as described in subd. 3, except that the 5-year average cost of production per acre shall be based on cost data from 1996 to 2000.

18.07(1)(c)7. To avoid negative use values in 2005, the 2005 capitalization rate for each municipality shall be calculated as described in subd. 5, except the statewide moving average rate, as described in subd. 4, shall be based on data from 1998 to 2002, and the net tax rate for each municipality shall be based on 2001 taxes, payable 2002.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The rule will have no adverse impact on small businesses.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro), Stats.

DEPARTMENT OF REVENUE

DATE: _____

By: _____
Michael L. Morgan
Secretary of Revenue

MLM:FAH