



SC REVENUE RULING #87-9

SUBJECT: Ad Valorem (Property) Tax Designation of Land as Agricultural Use

EFFECTIVE DATE: November 4, 1987

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-43-220(d) (Supp. 1986)
Regulation 117-114

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

Question:

Should land lying fallow pursuant to the Federal Conservation Reserve Program of the Agricultural Stabilization and Conservation Service be classified as agricultural land by the tax assessor's office?

Facts:

Certain federal programs may appear to conflict with the tax assessor's designation of land as agricultural or nonagricultural. The Agricultural Stabilization and Conservation Service has a federally sponsored program that pays farmers to take their land out of production primarily to prevent soil erosion. Farmers, under the program contract with the USDA for a 10 to 15 year period whereby they agree to take eligible land out of annual crop production and put it into perennial grass, wildlife plantings, windbreaks or trees. Payments to individual producers may not exceed \$50,000 per year, exclusive of other USDA payments. To ease the possible effect on agriculture-related industries or businesses, not more than 25 percent of the land in any county can be bid into the program except where the secretary determines the economic impact would be minimal. During the contract period, farmers may not reap commercial benefits from reserve land through haying, grazing, or seed or tree production.

Discussion:

Section 12-43-220(d) provides a reduced assessment for property which is in agricultural use. If the property is applied to a use other than agricultural, additional taxes known as "rollback taxes" will be assessed.

The definition of agricultural real property is found in Regulation 117-114.

"Agricultural real property ... means a tract of real property which is used for agricultural purposes. Real property is used for agricultural purposes when it is used by the producer to raise, harvest, or store crops, to feed, breed, or manage livestock, or to produce plants, trees, fowl or animals useful to man... Real property is not used for agricultural purposes unless the owner of or lessee thereof has, in good faith, committed the property to that use"

The regulation also lists the following factors to be considered by county assessors in determining whether the tract in question is bona fide agricultural real property:

1. The nature of the terrain.
2. The density of the marketable product on the land.
3. The past usage of the land.
4. The economic merchantability of the agricultural product.
5. The use or not of recognized care, cultivation, harvesting and like practices applicable to the product involved and any implemented plans thereof.
6. The business or occupation of the landowner or lessee, however, the fact that the tract may have been purchased for investment purposes does not disqualify it if actually used for agricultural purposes.

In addition, this regulation states vacant land (land lying dormant) does not qualify as agricultural.

It is obvious that the statute and regulation as a whole are designed to insure that real property accorded the benefit of a lower assessment actually be agricultural property. The Conservation Reserve program requires participating farmers to plant perennial grass, wildlife plantings, windbreaks or trees. Agricultural uses specifically enumerated in Regulation 117-114 are property used for grazing of animals, horticulture, forestry, dairying, and mariculture.

The public purpose served by the Federal Conservation Reserve program is to control the critical soil erosion now occurring on more than a third of America's cropland. Unchecked, soil erosion would reduce the nation's long-term capability to produce food and fiber. Thus, to further this purpose property which has legitimately been removed from production pursuant to the Conservation Reserve program (16 U.S.C., Sections 3831 and 3832) should be designated agricultural property for purposes of the reduced assessment afforded by Section 12-43-220(d). County Assessors should look to the factors specified in Regulation 117-114 as a guide. The regulation states "these factors are not, however, meant to be exclusive and all relevant facts must be considered."

Conclusion:

In promotion of the public policy of preventing soil erosion, Section 12-43-220(d) should be construed to include agricultural property taken out of production pursuant to 16 U.S.C., Sections 3831 and 3832.

SOUTH CAROLINA TAX COMMISSION

s/S. Hunter Howard, Jr.

S. Hunter Howard, Jr., Chairman

s/John M. Rucker

John M. Rucker, Commissioner

s/A. Crawford Clarkson, Jr.

A. Crawford Clarkson, Jr., Commissioner

Columbia, South Carolina
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