

# Green Acres Tax Law Q & A

Minnesota Agricultural Property Tax Law --- The Green Acres Program

## **What is “Green Acres”?**

Green Acres is a property tax deferral program established for qualifying agricultural properties pursuant to Minnesota Statute 273.111, the Minnesota Agricultural Property Tax Law. It provides an opportunity for farmers to obtain a deferment from higher valuations and subsequent taxes payable on primarily productive agricultural land that has been increased to reflect market prices paid in excess of productive agricultural land prices. As a result of several major changes to the law in 2008, all or some non-productive land enrolled in Green Acres before May 1, 2008 may either be withdrawn or grandfathered into the program by farmers. If this land remains in Green Acres, it continues to receive the deferment until it no longer qualifies.

## **When was the Minnesota Agricultural Property Tax Law passed?**

The Minnesota Agricultural Property Tax Law was enacted in 1967, resulting in the creation of the Green Acres program. It was passed in an effort to equalize taxes on agricultural properties and to minimize the burden of taxation for farmers who have properties subject to marketplace pressures that reflect non-agricultural influences. Since assessors are required by law to value all property regardless of its use at or near market value, a lower or different taxable value was created for farmers whose valuations have been increased to reflect market prices.

## **Have the Green Acres requirements changed since the program’s inception?**

The guidelines addressing the administration of this property tax deferral program have been developed and modified by the legislature over the past forty years so that it could be utilized in a uniform manner on a statewide basis. Recently, the intent of the Green Acres program was clarified and its rules changed to give preferential tax treatment exclusively to land used for productive agricultural purposes (i.e. tilled, grazed, or mowed for hay). Non-productive land (i.e. sloughs, wetlands, heavy woods, or land not suitable for tillage or pasture) is no longer eligible for the deferment unless the farmer chooses to grandfather all or some of this land into the program. Conservation land (i.e. CRP, RIM, CREP, or some other state or federal conservation program) remains eligible for the program because it is considered productive if the land was: (1) classified as agricultural property prior to it being enrolled in a conservation program, (2) enrolled in a conservation program before May 1, 2008, and (3) enrolled in the Green Acres program for the 2008 assessment. Yet, these acres have certain conditions applied which differ slightly from productive acres that are tilled, grazed, or mowed for hay. If land enrolled in a conservation program does not meet the above conditions, this acreage is classified as 2a agricultural land, but it is not eligible for the Green Acres program.

## **Why does a county administer the Green Acres program?**

The Minnesota Agricultural Property Tax Law must be applied to all eligible properties by all county assessors. Its use is based upon specific requirements and applied by each county assessor according to location, land characteristics, and market conditions. It is administered for many reasons, specifically to preserve equalization for assessment purposes among the different land classifications, address inequities related to the tax burden of agricultural properties, and to help curtail the loss of productive agricultural land due to urban growth.

## **Who is eligible for the Green Acres program?**

Farmers who possess property that is classified as productive agricultural land may qualify for the Green Acres program. On or before January 2, 2009, farmers who also own property that includes non-productive land enrolled in Green Acres prior to May 1, 2008 may be eligible to “grandfather” this acreage into the program. The requirements of the law are:

The parcel must:

- be classified by the assessor as 2a “productive” agricultural land for tax purposes and be primarily devoted to an agricultural use;
- be classified by the assessor as “non-productive” 2b rural vacant land enrolled in Green Acres before May 1, 2008 and grandfathered into the program for the 2009 assessment (i.e. the parcel consisting of this land has not been withdrawn from the program, sold, transferred, or subdivided after May 1, 2008);
- be classified by the assessor as conservation land and categorized as 2a “productive” agricultural land (i.e. the parcel consisting of this land has not been withdrawn from the program, sold, transferred, or subdivided after May 1, 2008);
- be at least ten (10) acres in size or a nursery or greenhouse.

The parcel must also satisfy one of the following ownership requirements:

- be the homestead of the owner, or the owner’s surviving spouse, child, or sibling; or be farmed in conjunction with the homestead property; or
- if it is non-homestead property, be in possession of the applicant, the applicant’s spouse, parent, or sibling (or any combination) for at least seven years, or be farmed in conjunction with property within four townships or cities (or any combination) from property in the possession of the owner, the owner’s spouse, parent, or sibling (or any combination) for at least seven years; or
- be the homestead of a shareholder in a family farm corporation or authorized farm entity under Minnesota Statute 500.24; or
- be the homestead of a member/shareholder of a poultry entity other than a limited liability entity in which the majority of the members, partners, or shareholders are related or at least one of the members, partners, or shareholders, either resides on the land or actively farms the land; or

- be in the possession of a nursery or greenhouse or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations; or
- be the homestead of an individual who is part of a corporation that derives 80 percent or more of its gross receipts from the wholesale or retail sale of horticultural or nursery stock.

The property owner must:

- complete a Green Acres Commitment Form by January 2, 2009 by making a choice to make no changes or expressing the intent to withdraw all program acres, withdraw some non-productive acres, or withdraw all non-productive acres.

### **How does the Green Acres program work?**

The value of any property that qualifies for the tax deferment is established according specific valuation guidelines and its land classification. In estimating the agricultural or Green Acres value for 2a “productive” agricultural land, the assessor uses values determined annually by the Department of Revenue based on an indicated average tillable value established from five base counties (not affected by development pressures) in southwest Minnesota and adjusted by certain valuation factors applied by the county. “Non-productive” 2b rural vacant land grandfathered into the program is valued at the lower, agricultural value established during the 2008 assessment and adjusted annually according to the growth rate of the county’s tax base. A separate market value estimate of all qualifying land is also made based on sales of comparable properties having similar enviroing influences. Taxes on the property are calculated and recorded on the tax rolls each year based upon its land classification, property tax classification rate, agricultural value, and market value, but the annual payable tax is paid on the lower, agricultural value. The difference between the tax based on the agricultural value and the tax based on the market value is the amount of the deferred tax. The land receives this benefit every year until it is withdrawn, sold, transferred, subdivided, or no longer qualifies for the tax deferment. Once all or some of the land becomes ineligible for Green Acres, the deferred taxes and any deferred special assessments are due based upon the payback conditions associated with the different classifications of land.

### **Can special assessments be deferred under the Green Acres program?**

Yes, the payment of special assessments for improvements made to a property qualifying for the Green Acres program can be deferred. The governmental unit must file with the county a certificate containing the legal description of the affected property and the amount of the deferred special assessments.

### **If a property no longer qualifies for Green Acres, how many years can the County Auditor-Treasurer go back to collect additional taxes on the deferment?**

Prior to January 2, 2009, the maximum number of years that the County Auditor-Treasurer can impose additional taxes on a property that qualified for a tax deferral is three years. Land that had qualified for a deferral over a period of at least four or more years is subject only to a payback based on the “average” of the deferred taxes for the current and two previous years times three years. No payment is required for previously deferred taxes that extend beyond the most recent three years. If land had qualified for a deferral for a period of less than three years, then the actual number of years enrolled in the program is used in the payback calculation.

However, after January 2, 2009, the different land classifications of a property will dictate the maximum number of years that additional taxes can be collected. Paybacks on class 2a productive agricultural land and all conservation acres classified as 2a agricultural land will remain at three years. If the land had qualified for a deferral extending past three years, payment is only required on the most recent three years. If it was enrolled in Green Acres for a period of less than three years, then the actual number of years is subject to the payback. Conversely, paybacks on all non-productive acres classified as class 2b rural vacant land will be based on the “average” of the deferred taxes for the current and two previous years times seven years. Much like the other conditions, no payment is required for previously deferred taxes on class 2b rural vacant land that extend past seven years. For class 2b rural vacant land enrolled in Green Acres over a period of three years or less, the actual number of years will be used to calculate the payback. If this land had qualified for the deferral for more than three years but less than seven years, then the “average” of the deferred taxes for the current and two previous years times the actual number of years enrolled in Green Acres will be used in the calculation of the deferred taxes.

**If a property has deferred special assessments and loses its Green Acres eligibility, when does the deferral become due?**

When all land classifications of a property no longer qualify for the Green Acres program, all deferred special assessments plus interest become payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvements for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within ninety (90) days. On the other hand, if only a portion of the property (i.e. non-productive and conservation acres) requires a payback, the special assessment may continue to be deferred.

**Can the County Auditor-Treasurer certify the collection of interest and penalties on deferred taxes plus any deferred special assessments?**

Both the deferred taxes and special assessments are to be extended against the property on the tax rolls for the current year. No interest or penalties are to be levied on the additional taxes, and no penalties are to be levied on special assessments if they are paid in a timely manner.

### **Are deferred taxes and deferred special assessments considered a lien on the property?**

The additional taxes imposed by the Minnesota Agricultural Property Tax Law and the deferred special assessments are a lien on the property. It is a tax lien to the same extent and duration as the regular payable real estate taxes levied against the property. If these taxes are not paid, the property is subject to forfeiture.

### **Does the tax deferral continue if the property is sold and used for agricultural purposes?**

When property enrolled in the Green Acres program is sold, all non-productive and conservation acres associated with it require a payback. Prior to January 2, 2009, a three year payback is calculated for all non-productive and conservation acres. After January 2, 2009, the conservation acres are subject to a three year payback and all “grandfathered” non-productive acres are subject to a seven year payback. Both the conservation and non-productive acres cannot qualify any longer for the tax deferral. On the other hand, no additional taxes can be extended against class 2a productive agricultural land if the property continues to be farmed and meets the requirements for the tax deferral. To qualify, the new owner must file an application for the continued deferral within 30 days after the sale.

### **What if a small part of the property is either sold to someone who does not qualify for Green Acres or is used for a non-agricultural purpose, are additional taxes due on the entire farm?**

The eligibility requirements of the program will establish whether or not the property continues to receive a tax deferral, and its land classification will dictate the extent of additional taxes due. Typically, if a qualifying property has either a small part of it sold to someone who does not qualify for the tax deferral or a diminutive portion is put to a non-agricultural use, all or some of the acres may be subject to a payback. As a general rule, if productive acres are involved, a payback is usually required on the part that is sold or used for a non-agricultural purpose. Deferred taxes are also collected on all non-productive and conservation land associated with the property based upon the applicable payback provisions. Furthermore, if the sale or use change involved one or more parcels associated with the farm, then this land is subject to the same payback provisions according to each parcel’s eligibility and land classifications.

### **How will the Green Acres program benefit an agricultural property owner?**

Enrollment in the Green Acres program is a personal choice. This program may be more beneficial to some agricultural property owners than others. It has been documented in studies examining the impacts of preferential assessments for farm land that the greater the difference between a property’s market value and its agricultural value, the higher is the associated tax reduction on that property. Thus, productive agricultural land located in and around urban areas and near lakes, rivers, and major highways is likely to receive

greater tax benefits than productive agricultural land found in rural areas where the only major influence is the demand for hunting land. This differential in tax benefits is exactly what the legislature had in mind when they created and authorized the use of this tax deferral program. The incentive to enroll in Green Acres is and will always be higher for those properties that are in the path of development. In short, the option to sign up for Green Acres is one that should be carefully reviewed by each property owner.