

## Be Careful to Avoid Tax Penalties for Converting Ag Land into Other Use

Article By:

Nancy Leary Haggerty

---

**Uniformity.** Wisconsin law has requirements, dating back to the Constitution, that all land in the state be “uniformly” assessed for real estate tax purposes, meaning that every parcel of land which is similarly used, must be similarly assessed. However, the State Legislature was concerned that, in times of rising land prices and active development, an individual or corporate farmer could be priced out of his own land, if his farmland was assessed on the same per acre value as surrounding subdivision lots.

**Preserving Ag Uses.** In an effort to preserve family farms and other agricultural uses, programs have been created over the years by the State Legislature, to lessen the tax burden for agricultural businesses, which effectively use land as their “factory.” Some of these programs required a landowner to affirmatively submit its land to a program, at least for a stated number of years, in return for receiving a tax credit; others reduced assessments if the affected land was included in a special “**Farmland Preservation Zoning**” district, but other laws separated out land in active agricultural use, and assessed it based on the income that could be generated from the land’s estimated rental for ag use, which is called the “use value assessment” system.

**Penalties for Conversion.** This reduction in tax assessment has been a blessing to both individual and corporate farmers, by substantially reducing the cost of holding that land, but the advantage is accompanied by a penalty levied when land is removed from this ag classification, which is intended to make up some of the missing taxes, and to prevent this ag status from being abused.

**Termination of Some Penalties.** Last year’s Budget Bill eliminated some of these programs, and their penalties, including the **Farmland Preservation Conversion Fee**, but the “use-value assessment” system still exists, and the penalties are now substantial. Ag landowners, the people who buy and sell land to and from them, and lenders who lend to them, need to be aware of how and when the penalties are imposed, so they don’t inadvertently trip the trigger for payment of these fees, when they make changes in their properties.

**Use-Value Assessment Benefits.** Under the “use-value assessment” system, ag land is assessed based on its agricultural value rather than on the value of its highest and best use. The definition of “agricultural land” is land that is devoted primarily to agricultural use, but not including buildings and improvements, and the land underlying those buildings, even if the use of that land is

---

related to the agricultural use. If the use of the land in a tax parcel is changed out of ag use, it will be reassessed the following January 1, to the full fair market value at that time, and in addition, a substantial “conversion charge” will be due.

**Conversion of Use.** The statutes do not define when a “change of use” occurs, and instead leave that determination up to the local assessor and the local tax codes. A change in zoning, a sale of some of the land, a division of the land into smaller parcels, even into subdivision lots, might, or might not be a “conversion” depending on whether the local assessor has determined that a change in the use has occurred. A sale or subdivision may not trigger the penalty as long as the land continues to be actively farmed, but the issuance of a building permit to start construction might do so. Buyers and sellers must negotiate in their offers to purchase who will pay the fee so that other actions taken to develop the land will not accidentally impose the penalty on the unintended party.

**Timing of Assessment Change.** Since land is assessed each year, based on the status of the property on January 1 of that year, a property that is subdivided or sold in the middle of a year, even if the use changes, will not change its assessment until January 1 of the following year, affecting the tax bill issued in the next December. The party which owns the property when the “conversion” takes place is liable for the conversion fee. The County Treasurer administers the charge, and the payment is made to the County. The conversion charge is calculated by multiplying the number of acres converted, by a percentage of the difference between the average fair market value of agricultural land (based on the previous year’s sales in that county) and the average equalized value of agricultural land. The Department of Revenue calculates this number each year, for each county, and posts it on its website. The conversion fee is due within 30 days after the charge is assessed by the County Treasurer. Therefore, land converted out of ag use suffers a double penalty; not only does its underlying assessment increase the following January 1, to fair market value, but the conversion penalty is due on top of it.

**Exemptions.** There are a few exemptions to this conversion fee, including whether the land is being converted to swampland or productive timber land, or converted for farm residences and the buildings, improvements and land necessary for the farm residence. The real estate regulations require a seller and broker to affirmatively disclose to a buyer if the land has been assessed under this scheme, and whether or not the conversion fee has been paid.

**Planning Opportunities.** The existence of this law provides some risks to the unwary buyer, but also some opportunities for landowners in agricultural industries. First, when expanding buildings or improvements, be aware of the boundaries of each tax parcel, and the layout of the new development to understand how the assessor will calculate the acreage which is being converted out of ag use. A change of use on only a part of a tax parcel can be calculated by acreage, and may not trigger the entire parcel’s removal from the beneficial lower use-value assessment.

Second, creating an active farm use which meets the definition of this program, even on land intended for expansion, could substantially reduce the holding costs of that land until the land is needed. Allowing a farmer to crop the parcel during the holding period, even if that farmer pays little in rent, may result in substantially reduced costs.

Third, the State of Wisconsin, not the local assessor, values land categorized as “manufacturing” in order to produce a uniform assessment method across the whole state for manufacturing. Land and equipment used for manufacturing can be exempt from taxation. Therefore, a landowner might want to deliberately seek classification of the land and equipment as manufacturing property, from the Wisconsin Department of Revenue, when installing a large amount of equipment that could then be

exempt from taxation, if that produces a better financial result. The conversion fee would still apply, but the total tax result might be better.

Last, be aware of the annual January 1 assessment date. Razing a building before the end of a year results in that parcel being assessed as vacant land the following year; razing the same building in early January will require paying taxes on that removed building for the entire calendar year. Conversely, taxes on improvements constructed just after the first of a year will not be due until two full calendar years later, as that land will be assessed as vacant land for the first year of the construction process.

©2025 MICHAEL BEST & FRIEDRICH LLP

---

National Law Review, Volume II, Number 274

Source URL: <https://natlawreview.com/article/be-careful-to-avoid-tax-penalties-converting-ag-land-other-use>