

Rules and Regulations
For Implementation of Act 319
The Clean and Green Act

Title 7. Agriculture
Part V-C. Farmland and Forest
Land Assessments
Chapter 137. Preferential
Assessment of Farmland and
Forest Land

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GENERAL PROVISIONS

137.1. UNDER WHICH ACT IS THE PROGRAM CONDUCTED?

(a) This chapter sets forth provisions to implement the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (72 P.S. ss 5490.1-5490.13). It is sometimes unofficially referred to as Act 319 of 1974 or the Clean & Green Act. It will simply be called the act in this chapter.

(b) The act provided for land devoted to agricultural use, agricultural Reserve use, or forest reserve used to be assessed at the value it has for that use rather than at development value. The intent of the act is to encourage you to retain your land in one of these uses.

137.2. WHAT ROLE DOES THE PENNSYLVANIA DEPARTMENT OF AGRICULTURE PLAY IN THE ADMINISTRATION OF THE ACT?

The Pennsylvania Department of Agriculture is responsible for developing application forms and the rules & regulations, in order to assure state-wide uniformity. The Department of Agriculture has an advisory role in the administration of the act. It does not administer the rules and regulations.

137.3. WHO DOES HAVE THE RESPONSIBILITY TO ADMINISTER THE ACT?

The county assessor has the major responsibility for administration of the act. The county assessor must process application forms, calculate the assessment, determine what penalties are due when the provisions of the act are violated, and keep records for those properties enrolled under the act.

137.4. HOW DO I USE THIS CHAPTER?

This chapter is written in such a way that you can decide after reading the general provisions whether or not you wish to enroll in the act. If, upon reading the general provisions, you decide that act is inappropriate, you need not read and further.

137.5. WHAT ARE THE BENEFITS TO ME UNDER THE PROGRAM?

The benefits to you as a landowner are an assurance that your land will not be assessed at the same rate as adjacent land under development pressure and not enrolled in the program. In almost all cases, you will see a reduction in your property tax assessment compared to land that is being developed. The difference between assessments of land enrolled under the act and nonparticipating land will be most noticeable when a county is reassessed. The intent of the act is to protect your from being forced to go out of agriculture or sell part of the land, in order to pay unusually high taxes. In addition to the tax benefit, you as well as your neighbors, benefit by having the land kept in agricultural use rather the developed.

137.6. IS LAND UNDER ASSESSMENT UNDER THE ACT OPEN TO THE PUBLIC?

It is a common misconception that all land assessed under the act must be open to the public. The truth is that only land enrolled under the category agriculture reserve must be kept open to the public and the only for outdoor recreation or the enjoyment of scenic or natural beauty. Nothing under the act changes your rights to exclude the public from land enrolled under agricultural uses or forest reserve.

137.7. AM I ELIGIBLE FOR A TAX ASSESSMENT UNDER THE ACT?

Land may be eligible for tax assessment under the act when it meets the qualifications for either agricultural use, agricultural reserve, or forest reserve. Qualified land can have any combination or amount of the three eligible uses. You must include all your land as described in the deed when you apply for an assessment under the act.

137.8. DOES MY LAND QUALIFY UNDER THE REQUIREMENT OF AN AGRICULTURE USE?

(a) Your land must have produced an agricultural commodity three years prior to application and must presently be devoted to the production of an agricultural commodity. Your land must also be 10 contiguous acres, you may still qualify under agricultural use, if you can prove to your county assessor that the land has an anticipated gross income of \$2,000 per year from the production of agricultural commodities. This can be shown by using evidence from soil surveys, from proof of income for three years, or from other evidence acceptable to your county assessor. Your county assessor can require you to furnish with your application certified copies of the applicable schedules of your Federal or State income tax returns or both to establish proof of an anticipated annual gross income of \$2,000 or more from the production of agriculture commodities. The annual income requirement for land less than 10 contiguous acres must be met each year, unless there are circumstances beyond your control.

(b) For example, you have eight acres of land. This land contains a fruit orchard which produces at least \$2,00 of annual gross income to you. The land is under the tax assessment under the act. Last year, a disease destroyed all your fruit trees. Therefore, you have no gross income to report from the orchard. As long as you make a good faith effort to replant your orchard, you are still eligible for the tax assessment under the act, and there has been no change in use.

(c) For another example, you have eight acres of land. You are under a tax assessment under the act. You have \$2,000 annual gross income from swine production. After two years under an Act 319 tax assessment under the act, you decide to sell your entire swine herd, You do not start another agricultural use of your eight acres, which can produce an anticipated annual gross income of at least \$2,000. Your failure to continue the and in an agricultural use capable of producing income constitutes a change to an ineligible use. Therefore you are liable or the roll-back taxes and interest.

137.9. DOES MY LAND QUALIFY UNDER THE REQUIREMENT OF AN AGRICULTURAL RESERVE?

(a) Agricultural reserve land must be at least 10 acres in area and may not be used for any commercial purposes; that is, you may not earn any profit from any use of the land. This is the only category where the land must be open to the public for use as outdoor recreation or the enjoyment of scenic or natural beauty. No fee can be charged for the use of the land; nor can you discriminate against a person on the basis of race, creed, color, sex, age or national origin.

(b) Before a person can enter upon your land, you must first, whenever possible, notify you of his intent to enter. You can deny entry to your land in cases when damage to the property might result. You can close off entry to areas upon prior notification to the county assessor of the existence of hazardous situations. However, the public has a right to use your land for recreation and for the enjoyment of scenic and natural beauty. Your reasons to deny entry to your land must be based upon fact and acceptable to your county assessor.

(c) At least 60% of the land must be in a Soil Conservation Service capability classification I through VI, excluding water and wetland areas. The Soil Conservation Service (SCA) is an agency of the United State Department of Agriculture responsible for the national program of soil and water conservation. The Soil Conservation Service has leadership for the National Cooperative Soil Survey Program, which serves as a base for establishing the land capability classes.

(d) General descriptions of the applicable capability classes reflect their agriculture use and are as follows:

(1) Class I. Soils in Class I have few limitations that restrict their use for agriculture.

(2) Class II. Soils in Class II have some limitations that reduce the choice of plants or require moderate conservation practices.

(3) Class III. Soils in Class III have severe limitations that reduce the choice of plants or require special conservation practices, or

both.

(4) Class IV. Soils in Class IV have severe limitations that restrict the choice of plants, require very careful management, or both.

(5) Class V. Soils in Class V have little or no erosion hazard but have other limitations impractical to remove that limit their use largely to pasture, range, woodland or wildlife food or cover.

(6) Class VI. Soils in Class VI have severe limitations that make them generally unsuited for cultivation and limit their use largely to pasture or range, woodland, or wildlife food and cover.

(e) Detailed descriptions of soil classifications may be obtained for the Soil Conservation Service. The address is: 228 Walnut Street, Harrisburg, PA 17108. The information may also be obtained from your county office of the Soil Conservation Service.

137.10. DOES MY LAND QUALIFY UNDER THE REQUIREMENTS OF A FOREST RESERVE?

(a) Your land must be presently stocked with trees and capable of producing 25 cubic feet per acre of annual growth.

(b) Your land must also be at least 10 contiguous acres. If you own a farm woodlot that is contiguous to your land in the agricultural use category, the ten acre minimum requirement is not necessary.

(c) In addition to the work sheet for forest reserve valuation, Part 2-C (form AAO-85), the county assessor may require such documentation as he deems necessary to substantiate that the land in the application is capable of producing timber or other wood products. The documentation may include, but is not limited to, any of the following: photographs, a survey plan, income tax records, an inventory of trees by species and size, sales invoices of products sold, sales invoices from trees planted, an Affidavit, etc.

137.11. HOW LONG DOES A TAX ASSESSMENT CONTINUE ON MY LAND?

Tax assessments under the act continue on your land as long as your land meets the eligibility requirements as explained in Sections 137.8, 137.9 and 137.10 of this title. You can sell your land to another person without the loss of benefits under the act. You can transfer your land from one category to another within the eligible uses--for example ten acres of agricultural use land can be planted in trees and reclassified forest reserve land - without the loss of tax assessment under the act, although the assessment may change. If you change your land to an ineligible use, there is a penalty. You are required to pay roll-back taxes and interest on these taxes. Roll-back taxes are explained in section 137.54 of this title. There are provisions to split-off, separate and transfer your land without incurring the penalty of payment of roll-back taxes. These provisions are found in sections 137.42, 137.43 and 137.44 of this title.

137.12. HOW ARE THE KEY WORDS IN THIS CHAPTER DEFINED?

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Agricultural commodity -- All plant and animal products including Christmas trees produced in this Commonwealth for commercial purposes. Animal products include equine and other livestock, that are produced and bred for commercial purposes.

Agricultural reserve -- Noncommercial open space lands used for outdoor recreation, for the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on nondiscriminatory basis.

Agricultural use -- Use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government.

Bureau of Forestry, Pennsylvania Department of Environmental Resources ---- The Commonwealth office where inquiries about

Forest Reserve and Forest Management Plans can be directed. The address is Bureau of Forestry, Evangelical Press Building, P O Box 1467, Harrisburg PA 17120.

Contiguous land or contiguous areas --- All portions of one operational unit as described in the deed whether or not the portions are divided by streams, paved public roads, streets or bridges. includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

County assessor or county board of assessment --- The agency charged with the administration of the act.

Forest reserve - Land 10 acres or more, stocked by forest trees of an size and capable of producing timber or other wood products.

Ineligible land or ineligible use - Land or land use that fails to meet the requirements as explained in sections 137.7, 137.8, 137.9 or 137.10 of this title.

Pennsylvania Department of Agriculture --- The Commonwealth agency charged with the promulgation of rules and regulations for the act. Inquiries about this chapter can be directed to the Office of Planning, Research and Economic Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg PA 17110.

Preferential assessment - The assessment as determined under the provisions of the act.

Roll-back tax ---- The amount equal to the difference between the taxes paid or payable on the basis of the valuation and the assessment authorized in this chapter and the taxes that would have been paid or payable had that land been valued, assessed and taxed as other land in the taxing district in the current tax year, the year of change, and in six of the previous tax years under the act or the number of years of preferential assessment up to seven.

Separation ; A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of the act into two or more tracts of land, the use of which continues to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements of sections 137.7, 137.8, 137.9 and 137.10 of this title.

Split-off --- A division by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of the act into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of sections 137.7, 137.8, 137.9 and 137.10 of this title.

Transfer - A conveyance of an entire tract of land under a tax assessment under the act, the use of which continues to be agricultural use, agricultural reserve or forest reserve and meets the requirement of sections 137.7, 137.8, 137.9 and 137.10 of this title.

Use-value assessment ---- The assessment as determined under the provisions of the act.

HOW TO APPLY FOR THE ACT 319 TAX ASSESSMENT

137.21. WHERE DO I GET AN APPLICATION FOR A TAX ASSESSMENT UNDER THE ACT?

You can request an application under the act from the County Board of Assessment Office. You can also inspect a copy of these rules and regulations at your County Board of Assessment Office.

137.22. WHEN SHOULD I APPLY FOR A TAX ASSESSMENT UNDER THE ACT?

You must submit your completed application to the county assessor on or before JUNE 1, in order to be considered for tax assessment under the act for the next year.

137.23. WHAT FORMS SHOULD I COMPLETE?

(a) You must complete the application Form AAO-82, Part I. Depending upon the eligible use category you desire, then the following worksheets must be also completed:

- (1) Agricultural Use -- Form AAO-83, Part 2-A
- (2) Agricultural Reserve -- Form AAO-84, Part 2-B
- (3) Forest Reserve -- Form AAO-85, Part 2-C

(b) Your county assessor will perform any calculations necessary on the forms in order to arrive at a tax assessment under the act for your land. If your land lies in more than one county, you should file your application with the county assessor in the county to which you pay property taxes.

(c) The forms appear as Appendices to this chapter.

137.24. CAN I FILE A PRELIMINARY APPLICATION TO SEE IF I QUALIFY FOR THE TAX ASSESSMENT UNDER THE ACT?

You may file a preliminary application to determine whether your land qualifies for the tax assessment under the act. You must complete Form AAO-82 and the appropriate work sheet(s) for the use category under which you are applying. You must indicate that these completed forms are only a preliminary application.

137.25. MUST I MAIL A LETTER OF ACCEPTANCE TO MY COUNTY ASSESSOR IF I QUALIFY FOR THE TAX ASSESSMENT UNDER THE ACT?

After the county assessor has notified you that your land qualifies for tax assessment under the act, you must mail a letter to the county assessor to indicate your intent to enroll in the program.

137.26. HOW MUCH OF MY LAND MUST BE ENROLLED UNDER THE ACT?

You must include all your land as described in the deed in your application. All contiguous land must be enrolled in the program. See section 137.12 of this title for the definition of contiguous land.

137.27. **ONCE ENROLLED IN THE ACT, MUST I SUBMIT AN ANNUAL REQUEST FOR CONTINUANCE OF MY ENROLLMENT?**

Your tax assessment under the act shall continue until a land use change takes place.

137.28. **CAN I CHANGE A TAX ASSESSMENT TO A TAX ASSESSMENT UNDER THE ACT?**

If your land is presently under a tax assessment under the act of January 13, 1966, (P.L.(1956) 1291, No. 515) (16 P.S. ss 11941 - 11947), you have the option to renegotiate the assessment with the county assessor, to come under a tax assessment under the act.

137.29. **CAN I APPEAL A DECISION OF MY COUNTY ASSESSOR?**

You or the political subdivision in which the property is located, have the right to appeal any decision of the county assessor regarding your application and the method used to determine any assessments under the provisions of the act. You must first appeal to the County Board of Assessment. After this board has made a decision, you then have the right to appeal to the Court of Common Pleas.

137.30. **WILL MY TAX ASSESSMENT UNDER THE ACT STAY THE SAME EVERY YEAR?**

Your tax assessment under the act may change due to a reassessment of your land by the county assessor.

HOW TO CONVEY LAND

137.41. **WHAT MUST I DO IF I SEPARATE OR SPLIT-OFF OR TRANSFER A PORTION OF MY LAND UNDER TAX ASSESSMENT UNDER THE ACT?**

(a) You must notify your county assessor. You must give the county assessor at least 30 days written notice of a transfer, separation or split-off. The notice shall include the following information:

(1) Name and address of the persons, partnership or companies to whom you are conveying the land.

(2) Date of the proposed transfer, separation or split-off.

(3) The amount of land to be transferred, separated or split-off.

(4) The present use of the land to be transferred, separated or split-off.

(5) The date of the original application for tax assessment under the act.

(6) Any previous transfers, separation or split-offs of tax assessed land under the act from, the original tract.

(7) The intended use to which the land when transferred, separated or split-off will be applied.

(b) Notification forms for proposed separations, transfers or split-offs can be obtained by your county assessor from the Pennsylvania Department of Agriculture.

137.42. **CAN I TRANSFER ALL OF MY LAND AND DOES IT STILL REMAIN UNDER THE TAX ASSESSMENT UNDER THE ACT?**

You can convey all your land to another person and the land will still retain the tax assessment under the act, as long as there is no change to an ineligible use.

137.43. **CAN I SEPARATE MY LAND AND DOES THE LAND STILL REMAIN UNDER THE TAX ASSESSMENT ACT?**

You can separate your land into two or more tracts, as long as the eligible use continues on each tract. Each tract so formed must also be ten contiguous acres, or it must produce an anticipated yearly gross income of \$2,000 or more. If one of the owners of the tract that you formed in the separation changes his tract to an ineligible use within seven years of the date of separation, then that owner is liable for all the roll-back taxes and interest on the original tract of land that you separated. After seven years from the date of your separation, an owner of a tract that you formed can change to an ineligible use and be liable only for the roll-back on his tract.

137.44. **CAN I SPLIT-OFF A PORTION OF MY LAND AND STILL RETAIN THE TAX ASSESSMENT UNDER THE ACT?**

You are restricted to the following requirements:

(1) The tract of land that you split-off must not exceed two acres annually.

(2) The use of the split-off land must be in residential, agricultural, or forest reserve. The person to whom you conveyed the split-off tract must occupy the residential dwelling that would be constructed on this land.

(3) The total amount of split-off tracts of land cannot exceed 10% or 10 acres, whichever is the lesser, of your entire tract of land under a tax assessment under the act.

137.45. WHAT HAPPENS TO MY TAX ASSESSMENT UNDER THE ACT AT MY DEATH?

(a) If our land is separated among your beneficiaries who are considered as Class A for Pennsylvania inheritance tax purposes, then the tax assessment under the tax assessment under the act remains with the separated tracts. If one of the beneficiaries of your estate changes to an ineligible use, then that person is liable for the roll-back taxes on the tract held by him.

(b) Class A beneficiaries are defined as grandfather, grandmother, father, mother, husband, wife, lineal descendants, and a wife or widow, and husband or widower of a child. Lineal descendants can be further defined as all children of the natural parents and their descendants, adopted descendants and their descendants, stepchildren and children and their descendants of the natural parent who are adopted by his or her spouse. Lineal descendants do not include descendants of stepchildren or adopted children and their descendants in the natural family

137.46. WHAT HAPPENS TO MY TAX ASSESSMENT UNDER THE ACT IF A PORTION OF MY LAND IS CONDEMNED BY THE FEDERAL, STATE OR LOCAL GOVERNMENT?

(a) If any or all of your land is condemned by a government entity, the condemnation will not affect the land that you retain or subject you to roll-back taxes on any part of your land. You will also not be subject to roll-back taxes on the condemned portion.

(b) If you reach an agreed settlement to sell any or all of your land to any entity that possessed the power of condemnation, then that sale to the entity will not subject you to roll-back taxes on the land you retain or the land you sell.

HOW TO DETERMINE THE ROLL-BACK TAX

137.51 WHAT HAPPENS IF I CHANGE TO AN INELIGIBLE LAND USE?

If you change to an ineligible land use, you are liable for roll-back taxes and interest on that land on which the use change occurs.

137.52 WHAT MUST I DO IF I CHANGE TO AN INELIGIBLE LAND USE?

You must notify your county assessor at least 30 days prior to the date of use change. The notice must state the number of acres subject to use change and the number of acres retained by you in an eligible use if any.

137.53 WHAT ARE ROLL-BACK TAXES?

(a) Roll-back taxes are defined in section 137.12 of this title (relating to key words). This is the statutory definition found in the act.

(b) In simpler terms, roll-back taxes are the difference between what you have been paying as real estate taxes based upon your tax assessment under the act and what you would have paid if your land had not been assessed under the act.

(c) For example, you own 100 acres. Your tax assessment under the act is \$5,000. If you had not been assessed under the act, your assessment would have been \$25,000. Your total annual real estate millage is 100 mills. Therefore, under a tax assessment under the act your real estate taxes amount to \$500 per year. If your land was not under the act, your real estate taxes would have been \$2,500 per year. difference is \$2,000. That difference is the roll-back tax.

137.54 HOW DOES MY COUNTY ASSESSOR CALCULATE MY ROLL-BACK TAXES?

(a) Once your county assessor is notified of a change to an ineligible use, the county assessor will calculate your roll-back taxes. The county assessor will first determine who is liable to pay the taxes and what amount of land is subject to the roll-back taxes. The county assessor determines the roll-back tax for each year based on section 137.53 of this title. You are liable for the current year's roll-back taxes as well as the six most recent tax years that your land was assessed under the act plus interest at 6.0% per annum on each year's roll-back taxes. The roll-back taxes only apply to the seven most recent tax year.

(b) For example, using the same facts in the example in section 137.53 of this title, the following facts are added: You have had tax assessment under the act for nine years. You notify the county assessor that you are changing your entire 100 acres to an ineligible use, The county assessor must calculate your roll-back taxes on the seven most recent years. Therefore, the first two years that you were under assessment under the act are not considered in the calculation. The calculation would be the following:

	Roll-Back Tax	Interest 6.0%/Year	Amount Due
3 rd Year	\$ 2,000.00	\$ 840.00	\$ 2,840.00
4 th Year	2,000.00	720.00	2,720.00
5 th Year	2,000.00	600.00	2,600.00
6 th Year	2,000.00	480.00	2,480.00
7 th Year	2,000.00	360.00	2,360.00
8 th Year	2,000.00	240.00	2,240.00
9 th Year	<u>2,000.00</u>	<u>120.00</u>	<u>2,120.00</u>
	\$14,000.00	3,360.00	17,360.00

137.55 WHO HAS TO PAY THE ROLL-BACK TAXES?

The general rule is that the person who owns the land and who changes to an ineligible use, is liable for the roll-back taxes and interest. Here are some examples:

- (1) If you change your entire tract of land to an ineligible use, then you are liable for the roll-back taxes on the entire tract of land.
- (2) If you separate your land under section 137.43 of this title then the owner of a tract who changes the use is liable either for the entire original tract's roll-back taxes or the roll-back taxes only on his tract. It depends upon whether he changes use within seven years of your separation. Check section 137.43 of this title for this rule.
- (3) If you split-off a part of your land and change to an ineligible use on that part, then the part split-off and the remaining portion of your land are liable for roll-back taxes. There are two exceptions to this rule:
 - (i) One exception is for land split-off due to a condemnation, check section 137.46 of this title for more details, and,
 - (ii) the other exception is for a split-off that follows the requirements in section 137.44 of this title, The part split-off must be used in one of three ways:
 - (A) as agricultural use,
 - (B) as forest reserve use, or
 - (C) as residential use. The person to whom you conveyed the split-off part must have a dwelling constructed and then reside in it.
 - (iii) Even if you split-off two acres, the person to whom you conveyed it must only use that part in one of the three uses. If the owner of the part split-off refuses to use his land as required, then your remaining land as well as the split-off part are liable for roll-back taxes and interest. However, the act gives you the right to file a court action in equity to compel the owner of a split-off part to keep that land in one of three uses. Your right to sue in equity is to protect your against the imposition of roll-back taxes and interest on the land that your retain.
 - (iv) In addition, a part split-off that is for residential use can be reassessed to a normal tax assessment. See section 137.61 of this title for a definition of normal tax assessment.

137.56. WHEN ARE MY ROLL-BACK TAXES DUE?

Your roll-back taxes and interest are due on the day of change of use. That day can be the date of conveyance of your land to another who does not desire to continue with an eligible use. The day of change of use can also be determined by your county assessor to be that day when you have taken substantial steps to begin to change to an ineligible use. Usually, the county assessor will accept the day of change of use as submitted under the notice requirements in section 137.52 of this title.

137.57 WHAT HAPPEN IF THE ROLL-BACK TAXES ARE NOT PAID?

The county can cause a lien to be placed on your land for the value of the roll-back taxes and interest and any other administrative and local court costs. The lien can be collected by the county having jurisdiction in the same manner as other lien-debts on real estate.

OTHER THINGS YOU SHOULD KNOW

137.61. WHAT ARE THE RESPOSIBILITIES OF MY COUNTY ASSESSOR?

- (a) The major responsibility of the county assessor is to determine the amount of tax assessment under the act. In addition, the county assessor had the responsibility to accept and to note on all appropriate records, such as property records cards and assessment rolls, the fair market value, the use value, the normal tax assessment and the tax assessment under the act. The county assessor must record all annual changes in the values, if there are any. The county assessor must also notify within five days appropriate taxing bodies of any tax assessments under the act granted or terminated within their jurisdiction. The county assessor must notify within five days the owner of land that is under tax assessment under the act and the appropriate taxing bodies of any changes in the fair market value, the normal tax assessment or the tax assessment under the act. The county assessor shall maintain a permanent record of the tax millage levied by each of the taxing authorities in the county for each tax year. The county assessor must also calculate the roll-back taxes due as described in ss 137.51 -137.57 of this title (relating to how to determine the roll-back tax). Finally, the county assessor must record in the Office of Recorder of Deeds for your county all approved applications under the act in a separate tax assessment docket book.
- (b) Fair market value means the price a property will bring in the open market for its highest and best use, where there is a willing seller and a willing buyer neither of whom is compelled to enter into the transaction. Normal tax assessment means the fair market value of the land multiplied by the local assessment ratio, and is the value to be taxed at the appropriate millage rate in cases where a tax assessment under the act is not used for taxing purposes. Use-value means the value land has been devoted to its present use, based on ability to produce an agricultural commodity.

37.62. WHAT METHOD DOES THE COUNTY ASSESSOR USE IN DETERMINING MY TAX ASSESSMENT UNDER THE ACT?

The method used by the county assessor to calculate the assessment under the act should be logical uniform and reasonable. The method must be consider not only (1) the available evidence of the capability of the soils for the particular use, but must also consider (2) the evidence of the capability of the parcel of land when it is devoted to the proposed particular use. The capability of the soils should be derived from available soil surveys such as the soil survey at Pennsylvania State University, the National Cooperative Soil Survey and the United States Census of Agricultural Categories of Land Use Classes. The capability of the land devoted to such use could be determined by an analysis of the evidence of the productive capability of the land, including such factors as average annual net return (average annual gross return less average annual management costs) discounted at an appropriate interest rate. The Pennsylvania Department of Agricultural can distribute upon request suggested methods for calculating tax assessments for land devoted to agricultural use, agricultural reserve use or forest reserve use under the act.

137.63 WHAT HAPPENS IF MY LAND LIES IN MORE THAN ONE TAX DISTRICT?

When your land is located in more than one taxing district, the minimum acreage requirements must be determined on the basis of the total contiguous land, regardless of whether the contiguous land lies in more than one taxing district.

137.64 WHAT DOES MY COUNTY ASSESSOR'S OFFICE DO AFTER IT RECEIVES A NOTICE OF A CHANGE TO AN INELIGIBLE LAND USE?

Within five working days after receipt of the notice, the county assessor shall calculate the roll-back taxes due and notify you of the amount. The county assessor shall also notify the other taxing bodies of the district in which your land is located of the change in assessment and any roll-back taxes that may be due. The county assessor shall file a claim for roll-back taxes and interest for years prior to the current year with the Tax Claim Bureau or the County Treasurer, whichever is more appropriate. This action shall constitute a lien on your land having the same effect as if it were filed by the taxing bodies.

137.65 WHO IS RESPONSIBLE TO DISTRIBUTE THE ROLL-BACK TAXES TO THE TAXING AUTHORITIES?

Your County Treasurer or Tax Claim Bureau shall be responsible for the proper distribution of the taxes and interest to the taxing bodies.

137.66 DOES THE REMOVAL OF SUBSURFACE RESOURCES CONSTITUTE AN INELIGIBLE USE OF THE LAND?

The removal of subsurface resources such as oil, gas or coal shall not constitute an ineligible use of the land, as long as the land is returned to the original use after the extraction. The county assessor may make a normal tax assessment on the working area of the resource extraction without jeopardizing your tax assessment under the act of the remainder of your land, Extraction ceases when the land is returned to a condition whereby it can meet the requirements for one of the three eligible uses.

137.67 DOES THE PENNSYLVANIA DEPARTMENT OF AGRICULTURE REQUIRE ANY INFORMATION FROM MY COUNTY ASSESSOR?

The Pennsylvania Department of Agriculture is charged under the act with promulgating state-wide uniform rules and regulations. The Department needs information from each county assessor for each calendar year in order to insure that these rules are fair and consistent with everyday implementation of the act. The information must be submitted on form AAO-91 to the Pennsylvania Department of Agriculture by January 31st of each year.

137.68 ARE THE TAX ASSESSMENTS UNDER THE ACT CONSIDERED BY THE STATE TAX EQUALIZATION BOARD FOR SCHOOL SUBSIDY PURPOSES?

The State Tax Equalization Board shall consider the tax assessments under the act in determining the market value of taxable real property for school subsidy purposes. The State Tax Equalization Board shall not reflect the individual school district market value decrease as it relates to agricultural land when certifying the state-wide market value to the Pennsylvania Department of Education.