

§1112-C. Recapture penalty

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor shall withdraw the land from taxation under this subchapter. The owner of land subject to this subchapter may at any time request withdrawal of any of the owner's land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter. For purposes of this section, the transfer of land between different classifications within this subchapter does not constitute a withdrawal.

[PL 2021, c. 630, Pt. C, §13 (NEW).]

2. Withdrawal of portion. In the case of withdrawal of a portion of farmland or open space land, the owner, as a condition of withdrawal, shall file with the assessor a schedule including the information required under section 1109 showing the area withdrawn and the area remaining under this subchapter.

[PL 2021, c. 630, Pt. C, §13 (NEW).]

3. Open space penalty. If land classified as open space under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and [PL 2021, c. 630, Pt. C, §13 (NEW).]

B. An amount computed by multiplying the amount, if any, by which the just value of the land on the date of withdrawal exceeds the 100% valuation of the land pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the land was subject to valuation under this subchapter for 10 years or fewer prior to the date of withdrawal, the rate is 30%; and

(2) If the land was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is 30% reduced by one percentage point for each full year beyond 10 years that the land was subject to valuation under this subchapter prior to the date of withdrawal, except that the minimum rate is 20%. [PL 2021, c. 630, Pt. C, §13 (NEW).]

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

[PL 2023, c. 441, Pt. G, §1 (AMD).]

3-A. Farmland penalty. If land classified as farmland under this subchapter is withdrawn from taxation under this subchapter, the assessor shall impose one of the following penalties:

A. If land is withdrawn within 10 years of a transfer from either open space tax classification under this subchapter or tree growth tax classification under subchapter 2-A, the assessor shall impose a penalty equal to the amount calculated under subsection 3; or [PL 2023, c. 441, Pt. G, §2 (NEW).]

B. If the penalty under paragraph A does not apply, the assessor shall impose a penalty upon the owner equal to the taxes that would have been assessed on the land on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the land was first classified, preceding the withdrawal had that land been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that land over the preceding 5 years, or any

lesser number of tax years starting with the year in which the land was first classified, and increased by interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable. [PL 2023, c. 441, Pt. G, §2 (NEW).]

For purposes of this subsection, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio. [PL 2023, c. 441, Pt. G, §2 (NEW).]

4. Assessment and collection of penalties. The owner shall pay the penalties for withdrawal upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B. [PL 2021, c. 630, Pt. C, §13 (NEW).]

5. Eminent domain. A penalty may not be assessed under this section if the withdrawal of the parcel is occasioned by a transfer to the State or other entity holding the power of eminent domain resulting from the exercise or threatened exercise of that power. [PL 2021, c. 630, Pt. C, §13 (NEW).]

6. Relief from requirements. Upon withdrawal, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under subchapter 2 beginning the April 1st following withdrawal. [PL 2021, c. 630, Pt. C, §13 (NEW).]

7. Reclassification under other current use program. A penalty may not be assessed upon the withdrawal of land from taxation under this subchapter if the owner applies for classification of that land in another current use program prior to withdrawal and the application is accepted. If a penalty is later assessed under section 581 or 1138, the period of time that the land was taxed as farmland or open space land under this subchapter is included for purposes of establishing the amount of the penalty. [PL 2021, c. 630, Pt. C, §13 (NEW).]

8. Report of penalty. A municipality that receives a penalty for the withdrawal of land from taxation under this subchapter shall report to the State Tax Assessor the total amount received in that reporting year on the municipal valuation return form described in section 383. [PL 2021, c. 630, Pt. C, §13 (NEW).]

9. Collection of farmland penalty; annual installments. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this section in up to 5 equal annual installments with interest at the rate set by the municipality, which begins to accrue 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this subsection, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate. [PL 2021, c. 630, Pt. C, §13 (NEW).]

SECTION HISTORY

PL 2021, c. 630, Pt. C, §13 (NEW). PL 2023, c. 441, Pt. G, §§1, 2 (AMD).

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