

SCR

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APPENDIX A

FARM USE LAND ASSESSMENT
AS 29.53.035

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The 1976 Program Summary includes data for the four boroughs involved in the program as indicated on 89 applications filed which are subject to the department's final audit and approval.

Effective January 1, 1968, the first Farm and Agricultural Land Deferred Tax Program was enacted. (ch 82 SLA 1967) Effective January 1, 1975, the act was substantially amended. (Sec 1 ch 90 SLA 1974) And effective January 1, 1977, the act was further amended. (Sec 3 ch 229 SLA 1976)

The 1974 amendment reduced the yearly gross farm income requirement from 25% to 10%; provided for the averaging of income over a three year period; provided for estimated farm income for the current year; provided for the use of the lessee farm income to qualify the owner for farm use assessment; increased to seven years the deferred tax payment provision; and provided for reimbursement by the state of property tax revenue lost to the municipality in the operation of the act.

The 1976 amendment increased the penalty for conversion of the land to a use incompatible with farm use by requiring the owner to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years as though the land had not been assessed for farm use purposes.

Experience over the last several years has vividly demonstrated the difficulty of administering existing legislation dealing with the dual or differential assessment included in AS 29.53.035.

The omission of a lien provision to make the eligible property liable for the payment to the state of an amount equal to the deferred taxes plus interest is a glaring weakness in the legislation requiring farm use assessments in addition to assessments mandated by AS 29.53.060 at full and true value.

In an effort to correct the obvious deficiency in the existing law, an amendment is respectfully suggested and recommended.

FARM USE LAND ASSESSMENT
AS 29.53.035

*1976 PROGRAM SUMMARY

<u>MUNICIPALITY</u>	<u>Number of Applications</u>	<u>Number of Acres</u>	<u>Full and True Land Value</u>	<u>Total Deferred Value</u>	<u>Total Deferred Tax</u>
Anchorage	4	40.950	849,475.00	835,150.00	\$13,050.63
Fairbanks	11	1,960.500	1,105,117.00	866,867.00	5,527.58
Kenai	9	727.808	305,650.00	178,900.00	1,127.83
Matanuska-Susitna	64	13,420.628	12,615,420.00	9,681,540.00	79,473.00
STATEWIDE TOTAL	88	16,149.886	14,875,662.00	11,562,457.00	\$99,179.04
AVERAGE PER APPLICATION:		183.520	169,041.61	131,391.56	\$ 1,127.03
AVERAGE PER ACRE:			921.10	715.95	\$ 6.14

* *Estimated pending final approval of accounts*

FIVE-YEAR SUMMARY OF PROGRAM PERFORMANCE

<u>YEAR</u>	<u>Number of Applications</u>	<u>Number of Acres</u>	<u>Total Deferred Value</u>	<u>Total Deferred Tax</u>
1972	55	*NA	2,299,265	\$25,290
1973	66	*NA	3,332,290	34,945
1974	71	11,250	4,737,290	57,735
1975	91	18,759	6,140,300	77,805
1976	88	16,150	11,562,457	99,179

* *Data not available*

ALASKA ADMINISTRATIVE CODE TITLE 19
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

CHAPTER 55
FARM USE LAND ASSESSMENT

19 AAC 55.010. FORMS. (a) The Department of Community and Regional Affairs Form 21-410 and Form 21-411 are adopted for use in application for the farm and agricultural land use assessment and tax deferment program.

(b) Application and authorization forms shall be made available by and shall be returned to the clerk or assessor of the municipality in which the land for which the farm use assessment and tax deferment are sought is located.

19 AAC 55.020. SUPPLEMENTARY INFORMATION SUPPORTING APPLICATION FOR THE ASSESSMENT AND TAX DEFERMENT. (a) Applicants for the assessment and tax deferment shall in addition to the application prescribed in Section 10 of this Chapter:

(1) provide for inspection by the clerk or assessor of the municipality copies of the applicant's state income tax returns as required for the application as submitted and such other information as may reasonably establish that the applicant has derived at least 10 per cent of his yearly gross income from the agricultural use of the land for which the assessment and tax deferment are sought and that the percentage was from agricultural use; or

(2) attach to the application form an authorization, signed and notarized, granting to the office of the state assessor the right of inspecting Alaska income tax returns to ascertain that the applicant has derived the requisite level of yearly gross income from the use of the land for which the application is submitted for farm purposes.

(b) Failure to provide documentation or authorization required by this section forfeits the claim for the farm use assessment and tax deferment.

19 AAC 55.030. APPEAL. An applicant for the farm use assessment and tax deferment who believes that the valuation or classification assigned to the land that is the subject of the application is erroneous may appeal to the board of equalization of the municipality in which the land is located in the manner provided by AS 29.53.130. The municipality shall report the disposition of all such appeals to the state assessor.

19 AAC 55.040. MAINTENANCE OF RECORDS: DUPLICATE COPIES. The municipality in which the land is located shall maintain separate files and records of all applications for the farm use assessment and tax deferment, whether allowed by the municipality or not, including valuation of the property under the full and true value standard of AS 29.53.060. Duplicate copies of all records relating to the application entered in the file shall be forwarded to the state assessor. The municipality shall investigate to determine whether title to land for which the assessment and deferment have been granted has been conveyed or alienated in such a way that the assessment or deferment may be terminated and shall advise the state assessor as to the results of its investigation.

19 AAC 55.050. CONFIDENTIALITY. Tax records and other documents providing evidence of the applicant's eligibility for the farm use assessment and tax deferment are confidential and shall be used only for the purpose of ascertaining whether the applicant is entitled to the benefits of the assessment and deferment.

19 AAC 55.060. DEFINITIONS. In this Chapter:

(1) "farm use assessment" means the value of the unit or parcel of property for which application for a farm use assessment and tax deferment is made, based upon its highest and best use as farm or agricultural land;

(2) "yearly gross income" means the income of the applicant for the year preceding the tax year for which the application is filed and means the adjusted gross income of the applicant as defined in Section 62 of the Internal Revenue Code (26 USC 62).

FARM USE ASSESSMENT APPLICATION

AS 29.53.035

May 1

Application must be filed on or before February 1 of the assessment year.
Complete one form for each parcel of property within the farm unit.

NAME _____
DATE REC'D _____
BY: _____

MUNICIPALITY _____
NAME OF APPLICANT _____
MAILING ADDRESS _____
CITY _____ STATE _____ ZIP _____
TELEPHONE _____ SOC. SEC. NO. _____

ACCOUNT NUMBER _____
LAND USE _____ ACRES _____
CROPS: _____ / _____
Row Crops _____ Grains _____
OTHER FARM USE: _____ / _____
Pasture _____ Hay-Silage _____
BUILDING SITE: _____ / _____
Farm Use _____ Residential _____
COMPATIBLE USES: _____ / _____ / _____
Uncleared/Windbreak/Graze _____
TOTAL: _____

PROPERTY LOCATION AND DESCRIPTION

CITY OR SERVICE AREA _____
PARCEL NUMBER _____
SUBDIVISION/JSS _____ BLOCK _____ LOT _____
SECTION _____ TOWNSHIP _____ RANGE _____

PROPERTY OWNERSHIP

OWNER OF RECORD RECORDING DISTRICT _____
 LEASED LAND DATE OF INSTRUMENT _____
Copy of Lease attached TYPE _____ VOL. _____ PAGE _____

Ownership Verified By: _____
Assessor or Clerk

INCOME

I hereby apply for Farm Use Property Tax Assessment on the property described above as provided in AS 29.53.035 for 197 _____ assessment year. I am actively engaged in using the land for profit and declare that my gross income attributed to the farm use land for the year(s) indicated below is 10% or more of my yearly gross income:

- I will provide income verification documents for inspection of the clerk or assessor on or before May 15 of the assessment year or,
- Attached is a notarized authorization granting to the state assessor the right of inspection my state income tax return, which will be available at the Department of Revenue prior to December 31 of the assessment year.

- For last year Averaged for two years
- Estimated for this year Averaged for three years

CERTIFICATION

I the undersigned hereby certify that I have read this application and the answers given are true and correct to the best of my knowledge. I understand that willful misstatement is subject to punishment by fine or imprisonment under AS 11.30.270. My signature, hereon, authorizes the assessor to review municipal records with those of the local Soil Conservation Subdistrict.

DATE _____ SIGNATURE OF APPLICANT _____

This space for local annotations only

Approved Denied _____

PROPERTY	FULL VALUE	FARM VALUE	DEFERRED
Land	_____	_____	_____
Buildings	_____	_____	_____
Total	_____	_____	_____
Mill Rate	_____		
Amount of Tax	\$ _____		

"Does the gross income attributed to the farm use land for which application is made equal or exceed 10% of the applicant's annual gross income?"

YES NO DATE: _____

Verified By: _____
Assessor or Clerk

Department of Community & Regional Affairs
 YES NO DATE: _____
Verified By: _____

PROPOSED LEGISLATION

AN ACT

Relating to the differential assessment and deferred tax reimbursement payment by the state to a municipality for revenue lost to it by the operation of Section 29.53.035.

Be it enacted by the legislature of the State of Alaska:

AS 29.53.035 is amended to read:

- (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use (, AND SHALL NOT BE ASSESSED AS IF SUBDIVIDED OR USED FOR SOME OTHER NONFARM PURPOSE.) The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be converted to a use incompatible with farm use, the owner shall be liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.
- (e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. Reimbursement under this subsection is a lien in favor of the state against the property for which a partial tax deferred payment has been approved and granted. Upon recordation in the recording office of the district in which the property is situated, the lien is prior and superior to other liens against the property except for general taxes and may be enforced by lien foreclosure as provided in AS 34.10.070 - 34.10.220. The lien becomes immediately due and payable on change of use to a purpose not compatible with farm and agricultural use.

SUGGESTED LEGISLATION
AS 29.53.035
FARM USE LAND ASSESSMENT

The preservation of farm and agricultural land as open space areas is vitally important to the continuance of that which is designated as beneficial to the health and welfare of the people, statewide, nationwide and worldwide.

To accomplish the desired objective it is necessary to make it financially possible and attractive to owners of open space areas to utilize such properties for purposes which are consistent with agricultural use.

Much of the open space area possesses an actual full and true value several times higher than the farm and agricultural use value. The assessment and taxation of such property at the higher value creates an ownership financial burden that is a compelling factor in the trend away from maintaining land in a use compatible with farm and agricultural purposes.

The most logical approach to preserving as much area as possible in a use compatible with farm and agricultural purposes is the "Development Rights" concept by which an owner may apply for farm use assessment and petition the state to reimburse the municipality for revenue lost. In exchange for the granting of the application and petition, the owner would grant to the state a first option to purchase the development rights to the property.

At some future date, should a change of use be inescapable, the state would have the prerogative to purchase the development rights at a negotiated price or release the option upon payment by the owner of an amount equal to the total state reimbursement to the municipality for the revenue lost. At some future date should a change of use be inescapable, the option to purchase could be exercised at a negotiated price.

This concept offers several advantages and benefits to owners, potential owners and the general public. One immediate and direct benefit to an owner is the opportunity to continue ownership and use without the burden of satisfying high value liability on a lower value use. The possibility of transferring title to property that will not change use is enhanced by the protection from a high value tax liability. A second benefit is the possibility that the state has an opportunity to purchase the development rights and guide the growth or change in an area in a fashion that is complementary and compatible with the trend indicated at that time.

This total concept provides the necessary mechanism for orderly statewide land use development which is designed and determined to be in the best interests of all residents of Alaska.

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

TO: Lee McAnerney
Commissioner

DATE: February 18, 1977

FILE NO:

THRU: Palmer McCarter
Director

TELEPHONE NO:

FROM: S. Robert Dozier
State Assessor

SUBJECT:

Senate Concurrent Resolution No. 12
"Farm and Agricultural Land Use
Assessment and Tax Deferment
Program" (AS 29.53.035)

Senate Concurrent Resolution No. 12 if adopted by an affirmative vote of both houses annuls Administrative Regulation 19 AAC 38.020 which was adopted by the Department as a means of verifying that the applicant is actively engaged in farming the land for profit and that 10 percent of his yearly gross income is derived by use of land for farm purposes.

Under Administrative Regulation 19 AAC 38.020 the applicant may either provide for inspection by the local assessor a copy of his Alaska State Income Tax Return and other information as may be required or attach to the application form an authorization, signed and notarized, granting to the Office of the State Assessor the right of inspecting Alaska income tax returns to ascertain the requisite level of income.

Approximately 2/3 of the 86 applications received by the Department under the 1976 program provided necessary verification of income to the local assessor. The remaining applicants submitted Income Authorization forms to the Office of the State Assessor.

A copy of Form 21-411 "Authorization for Income Verification" as adopted by the Department is attached.

The notarized signature on the income verification form authorizes the Department of Revenue to inspect the applicant's Alaska state income tax returns and release to the State Assessor the answer to the following question: "Does the gross income attributed to farm use land equal or exceed 10% of the applicant's adjusted gross income?"

Should 19 AAC 38.020 be annulled, legislative intent will be established which prohibits local and state government officials the right to verify the requisite level of yearly gross income.

The farm use land value assessment statute AS 29.53.035 was enacted as a relief measure designed to assist a property owner who is actively engaged in farming land for profit by deferment of a portion of his current tax liability. Lands included in a farm ownership unit, although only partially utilized, are considered eligible for the special farm use assessment. The deferred tax for a period not to exceed seven years, becomes a tax liability against the applicant only at such time the land is converted to a nonfarm use.

The payback penalty imposed by statute against the owner at the time farm land is converted to nonfarm purposes has been vividly demonstrated to be impossible to enforce. For example the accumulated seven year tax deferment liability may be against one or more prior owner-applicants. The current owner-developer will have no deferred tax liability. If it is legislative intent that the deferred tax liability be repaid to the State an amendment to existing law will be required which assigns the deferred tax liability to the property rather than to the applicant (i.e. establishing a tax lien against the property at such time as a deferred payment of taxes is allowed).

Enactment of Senate Concurrent Resolution No. 12 will deny both the local and state governments an opportunity to verify income. This will result in an open-end tax exemption program rather than a tax deferment program for owners of land not dedicated or used for farm purposes.

SRD:nc

Attachment

March 18, 1977

LETTER OF INTENT TO SCR 12

The intent of the Senate Community and Regional Affairs Committee, in the approval of SCR 12, is that the language of 19 AAC 38.020 is repugnant to the concerns of Alaskans, and should be annulled.

However, the Committee felt that the implementation of the regulations was inoffensive and reasonable, and well served the intent of the statutes. Therefore, while the Committee believes the regulation itself should be annulled, it could see no reason to change the existing procedures, and recommends the adoption of a new regulation which more closely describes these procedures.

Senator Joe Orsini
Chairman
Senate Community and
Regional Affairs
Committee