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1. Preferential Assessment

This term refers to the valuation of land and property for the purpose of levying taxes. In most state constitutions, all property must be assessed at its highest and best use. Frequently, agricultural land is considered not to be the highest and best use of that land and therefore is assessed at a higher rate, say that of residences or commercial structure, so farmers pay higher taxes for a use to which the land has not been put. With preferential assessment, the property is assessed and taxed at its agricultural value, rather than that of another use.

2. Exemption from Special Taxing Districts

In areas where urban sprawl is occurring, special taxing districts (sometimes called Local Improvement Districts) are set up to help pay for roads, sewer or water to outlying developments. These districts place an additional levy on the land besides the normal property tax. This can be a very hard burden for the farmer, as s/he will be paying for services that s/he doesn't need. These levies are also usually somewhat high because of the capital expense involved with the above named projects. By being exempt from these districts, the tax burden of a farmer is reduced.

3. Agricultural Zoning

This is a technique that allows an area to be zoned for large lots, typically 5-40 acres, in order to make it difficult to subdivide the property for other than agricultural uses.

4. Agricultural Districts

These districts are set up to provide suitable areas for agriculture and agriculturally-related uses. They are usually requested by petitions of the citizens in the area(s) to be designated for agriculture. This is different from zoning which is handed down from the local decision-makers to the people. Once a petition for a district has been received, the local and sometimes state decision-makers must approve the request dependent on such criteria as soil productivity, other local land-use plans, number of persons wanting the district, etc. Once approved, the land within the district may only be used for agriculture and agriculturally-related uses.

5. Crop Suitability Ratings

This is a variation on the agricultural zoning method where instead of arbitrarily designating certain lot sizes, the capability of the soil to produce crops is analyzed. Soils are given a rating dependent on their ability to produce crops. Those soils which have the highest ratings (most able to produce crops) are then restricted from other kinds of use, while those with lower ratings can be used for subdivisions, shopping malls, etc.

6. Limitation on Power of Eminent Domain

Most government entities have the right to declare eminent domain on a person's private property. That is, if the citizenry's "health, safety and welfare" are at stake, the government can take over the land and provide compensation to the former private owner.

The technique of limiting this power involves requiring the government using it to make sure that the eminent domain project complies with all local plans for development including agricultural development.

If it does not comply then the power can not be exercised. Usually, limiting eminent domain is used in conjunction with other techniques such as agricultural districts where property can only be subject to eminent domain if the proposed project is agriculturally related.

7. Income Tax Credits

In this method, the farmer is given a break on his/her income tax once s/he has agreed to keep his/her land in agricultural production for a specified period of time. This agreement is made with the local government and in some cases with the state.

8. Capital Gains Taxation

This technique is specifically aimed at reducing land speculation. It places a capital gains tax on the sale of land. The tax is progressively steeper the less time one holds the land before resale.

9. Purchase of Development Rights

Many people feel that a person has the right to develop their land as s/he sees fit. By buying the "development rights" to property from the owner and placing certain restrictions on the deed that run with the land, a community can be assured of maintaining some amount of agricultural land for crop/stock production.

10. Transfer of Development Rights

Local governments using this technique, encourage the trading of development rights within the private sector. The program is based on traditional zoning where specific uses are allocated to each zone. Then each landowner is given a specific number of development rights. To develop in the targeted growth areas an owner must have a certain number of development rights which would be obtained from landowners outside the zone. These transfers of development rights would be recorded with the deeds of the involved properties and would run with the land.

11. Food Plans for Urban Areas

This planning process would require urban areas to focus on where and how food is supplied to that location and what is needed to continue that supply. Some factors to be looked at include local production capability, dependence on food from outside the area, agricultural instability, greenhouse potential and recycling of municipal wastes.

12. Reduction of Nuisance Threat

Excusing farmers from the nuisance law is the prime thrust of this method. If an agricultural use has been established prior to another use (say a rural subdivision) then the farmer is exempt from law suits concerning nuisances such as noise or smells.

13. Land Trusts

Using this mechanism allows the owner to place his/her lands in trust for perpetuity. The uses to which the land can be put are placed on the deed and run with the land.

Preserving Prime Agricultural Land

A rising number of American farmers are finding it pays more to sell some of their land for development than to work it themselves. A 1975 study by the U.S. Department of Agriculture found that each year about two million acres of farmland are lost to urbanization and industrialization with another one million acres being converted to reservoirs, ponds and lakes.

While the total amount of cropland has remained at a relatively constant 400 million acres since 1949, significant shifts in the actual land cultivated and harvested have occurred. Prime farmland, particularly in the eastern U.S., is being developed rapidly. And, across the nation in the past 20 years, two million farms have been lost and 30 million people have moved from farms to cities.

With agricultural products accounting for 20 percent of all the nation's exports, states are examining ways to keep up crop production.

In 1956, Maryland became the first state to enact legislation which provided for the assessment of farmland based upon its value for agricultural purposes rather than its actual market value. Since then, 45 states have relieved farm owners' tax burden through differential tax assessment.

There are three types of differential

tax assessment: simple preferential assessment; preferential assessment with a "roll-back" tax or penalty when farmland is converted to other uses (deferred taxation); and preferential assessment which is contingent upon an agreement by the land owner to restrict the use of his land to agriculture for a given time period.

States continue to enact these taxing methods although they generally have not been successful in stemming the encroachment of urbanization, industrialization and recreational use upon agricultural land. Several factors account for this lack of success, the most important being that financial benefits gained from the sale of property almost always outweighs the tax penalties. Also, it is difficult to define agricultural land so that nonagricultural interests do not take advantage of the reduced valuation. Another problem with differential tax assessments for localities is the loss of the tax revenues accompanying the reduced valuation.

In addition to taxing measures, states and localities are exploring other methods to preserve prime agricultural land. These include agricultural districting, public acquisition of land with leaseback agreements, open space easements and purchase of development rights, and the transfer of

development rights. Most of these new methods are based on the philosophy that the public good is as important as private property owners' rights.

California and New York are two states relying on agricultural districting to try to preserve farmland. Those states found that premature and unnecessary conversion of agricultural land to urban areas creates urban sprawl, higher costs to the community for providing services and higher taxes for farmers. Both states have passed bills which establish agricultural district councils to consult with county governments in setting up the agriculture preserves. Once land is included in the preserves, it may not be used for purposes other than agricultural.

In both states the programs are voluntary; in California, the county may initiate preservation efforts. In New York, the conversion of land results in a five-year tax roll-back penalty. In California, often, those farmers who participate in the program don't own land in danger of development whereas farmers near urban areas do not take part in the program. Similar bills have been introduced in other states, but opinions vary as to the programs' effectiveness.

Another proposal allows public acquisition of farmland with an oversight board or commission empowered to lease the land to individuals and families interested in farming. While there is precedent in the United States for public acquisition of land through governmental agencies for parks, schools, airports and areas of critical environmental concern (Florida), none exists for acquisition of farmland in order to control development and guarantee an adequate supply of agricultural land at a reasonable price. Such proposals have been introduced in North and South Dakota and Minnesota. In 1972, Saskatchewan, Canada established a program to purchase farmland as a public trust and lease it back to young or family farmers. The program appears successful.

A third method for preserving farmland involves the purchase of a farmer's development rights. Under this legislation, the state pays the farmer the difference between the agricultural value of the land and its worth in the private market as developable land. The farmer keeps title, and a covenant is written into the deed limiting use of the land to agriculture. The New Jersey legislature has appropriated \$5 million for such a pilot program in Burlington County, and there has been overwhelming support from New Jersey farmers who want to join this unique land use experiment. A similar plan underway in Suffolk County, N.Y., allows farmers to sell their development rights to the county

while continuing to farm and pay taxes based upon current use assessment. A \$60 million bond issue will fund the program.

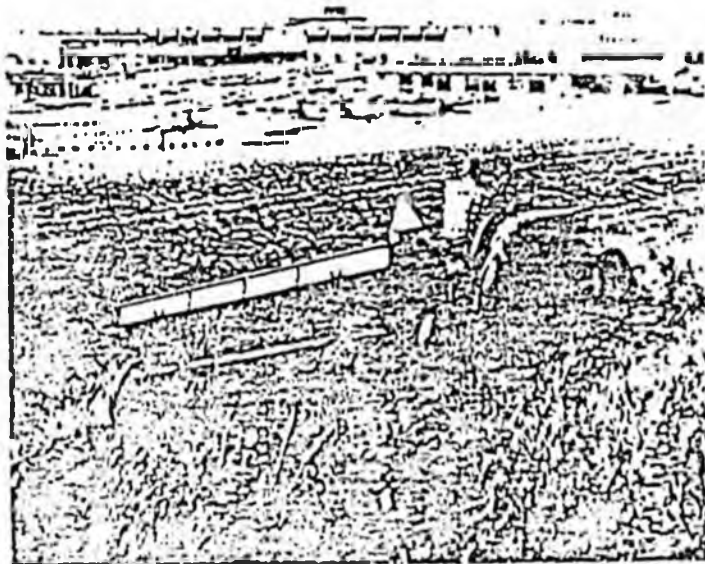
The transfer of development rights (TDR) is another method being examined as a means of saving farmland. The basic principle underlying this approach is the restriction of development in one area and its promotion in another. It is based upon the idea that development rights can be separated as are mineral and air rights from the actual ownership of the land, and thus can be regulated. The owners of land in the developable areas are required to purchase development rights certificates from owners of preserved land so that they may develop their land to an extent not allowable under the present zoning restrictions. Illinois and Louisiana have enacted TDR for certain historic preservation areas, and TDR for preserving agricultural land and open space is being considered by other states and localities.



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At the federal level, a bill establishing a national policy to retain, protect and improve agricultural land has been introduced in Congress by U.S. Rep. James Jeffords (R-Vt.) and Sen. Dick Clark (D-Idaho). The bill would set up a review and study commission to assess current farmland usage. It also makes available technical and financial assistance to the states and their political subdivisions to carry out projects for preserving agricultural land.

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State Legislatures