

CHAPTER 780

H.B. No. 1867

AN ACT

relating to the appraisal of open-space agricultural land or timberland for purposes of ad valorem taxation.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subdivision (4), Section 23.51, Tax Code, is amended to read as follows:

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period

preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land [~~using an owner-operator budget, subtracting all ordinary and prudent expenses incurred in pursuit of agricultural use, including all ordinary and prudent expenses incurred in connection with hunting and recreational leases and including owner labor and fixed and variable costs, from the five-year average agricultural income using estimates, including but not limited to those available from the Texas Agricultural Extension Service, U.S. Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Texas Department of Agriculture Crop and Livestock Reporting Service, and universities and colleges within the state. Only if insufficient data is available to calculate net to land on the basis of an owner-operator budget, net to land may be determined~~] by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. [~~Net to land shall be determined by the same method for all land in the same category located in the same appraisal district. However, when net to land is calculated using an owner-operator budget and it varies by more than 50 percent from net to land calculated on the basis of the typical lease arrangement, net to land shall be adjusted to the nearest amount that varies from the typical lease amount by only 50 percent.~~] In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation.

SECTION 2. Subdivision (1), Section 23.51, Tax Code, is amended to read as follows:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use *or to production of timber or forest products* for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshapings of the soil, fences, and riparian water rights.

SECTION 3. Section 23.72, Tax Code, is amended to read as follows:

Sec. 23.72. QUALIFICATION FOR PRODUCTIVITY APPRAISAL. Land qualifies for appraisal as provided by this subchapter if it is currently and actively devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with intent to produce income and has been devoted principally to production of timber or forest products *or to agricultural use that would qualify the land for appraisal under Subchapter C or D of this chapter* for five of the preceding seven years.

SECTION 4. The change in law made by this Act applies only to a tax year that begins on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 1988.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 30, 1987, by a non-record vote. Passed by the Senate on May 21, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Jan. 1, 1988.