Property Tax Advisory

Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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Specific Question Pertaining to the Administration and Qualification of the Land on Which a Residence is Sited for Property Classified as Farm and Agricultural Land Under Chapter 84.34 RCW

Question: When a residence located on land classified as farm and agricultural land under RCW 84.34.020(2)(f) is not occupied by a farm owner or operator and is not used in connection with the farm operation, does that land qualify to be included within the total parcel classified as farm and agricultural land classification under RCW 84.34.020(2)?

Answer: The Department of Revenue's answer is no. The correct administration for a parcel of land on which a residence is sited that does not qualify under RCW 84.34.020(2)(f) is to segregate the unqualified area from classification and value that portion at its true and fair market value. The following analysis supports the Department of Revenue's answer.

The process for the listing and assessment of property for purposes of ad valorem taxation is delineated under chapter 84.40 RCW. Specifically, RCW 84.40.030 sets forth the basis for the valuation of real property and states, in pertinent part, that "all real property shall be appraised at one hundred percent of its true and fair value in money…unless specifically provided otherwise by law."

Implicit in determining true and fair value is the principle of highest and best use. That principle is identified in WAC 458-07-030(3) which states, in pertinent part, that "unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment."

Because property is valued on the basis of its highest and best use, the Legislature recognized it was in the state's best interest to promote the preservation of open space lands, timber lands, and farm and agricultural lands. Therefore, the Legislature enacted the Open Space Taxation Act, creating the Current Use Program under chapter 84.34 RCW. The enactment of this program allows for some property owners to have their land assessed and valued on the basis of its "current use," rather than its "highest and best use," usually resulting in lower assessed values. In order for the land to be classified in the program, property owners must meet specific requirements as to the use of the land.

The Legislature also understood that land classified in the current use program resulted in a tax-shift because of the reduced valuation. Consequently, they implemented a means of collecting back taxes in the event that the requirements for the use of the land were not adhered to by the land owner.

Under RCW 84.34.020 (2), farm and agricultural land is defined, in part, to mean:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:
  (i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;
  (ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or
  (iii) Other similar commercial activities as may be established by rule;

(f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

This statute stipulates that the land must be devoted primarily to the production of livestock or agricultural commodities for commercial purposes. It also stipulates that the land on which a residence is located ***may*** be classified as farm and agricultural land ***if*** the land is 20 acres or more and the land is the principal place of residence of the farm operator or owner and the housing is integral to the use of the classified land for agricultural purposes. The land is not eligible for classification if it does not meet these criteria. In fact, prior to 1992, RCW 84.34.020(2)(f) did not exist.

Furthermore, RCW 84.34.065, which provides a method of valuation for property classified as farm and agricultural land, was revised in 1992 to include a method for valuing land that qualifies under RCW 84.34.020(2)(f). Likewise, revisions to WAC 458-30-260, effective November 1995, reflected valuation procedures addressing land that does not qualify under RCW 84.34.020(2)(f). Specifically, WAC 458-30-260(8) states in pertinent part that "if the residence or housing for employees does not meet all the requirements for classification [under RCW 84.34.020(2)(f)], the land may not be classified as farm and agricultural land and it must be valued at its true and fair value." [Emphasis added.]

When land fails to qualify, or no longer continues to qualify, under RCW 84.34.020(2)(f), then the land attributable to the residence – typically referred to as a homesite – is removed from classification and is valued at its true and fair value under RCW 84.40.030. The typical homesite area used by most assessors is one acre. Despite the fact that no statutory basis exists for a one-acre homesite, the Washington Board of Tax Appeals in Garlinger v. Rausch, BTA Docket No. 51609 (1998) made "official notice" of a one-acre homesite. The Board stated in their *ANALYSIS AND CONCLUSIONS* that "based on numerous hearings before this board, we [BTA] take official notice of the fact that one acre is the generally accepted standard used by assessors in valuing homesites located on land which falls under the various open space classifications."

Two different scenarios exist that must be considered as a result of the answer to the initial question, for correct administration of related land. Those scenarios are:

(a) An initial application is made for a 20-acre parcel (or multiple parcels totaling 20 acres), but the land on which the residence (homesite) is sited does not meet the requirements under RCW 84.34.020(2)(f);

(b) A 20-acre parcel (or multiple parcels totaling 20 acres) that was previously classified as farm and agricultural land, but the land on which the residence (homesite) is sited no longer meets the requirements under RCW 84.34.020(2)(f).

If one acre is used for a homesite area, then – in the scenarios noted – the Department would interpret that, upon removal of the one-acre homesite from the 20-acre parcel, a 19-acre parcel of *classified* land remains. Consequently, those 19 acres are subject to the minimum income or investment requirements outlined in RCW 84.34.020(2)(b) or (d), as applicable.

Likewise, in the event that a one-acre homesite is removed from classification because the residence no longer qualifies under RCW 84.34.020(2)(f), the residual 19 acres remain the *classified* farm and agricultural land. Those 19 acres then become subject to the minimum income or investment requirements outlined in RCW 84.34.020(2)(b) or (d), as applicable.

In summary, land that does not meet the requirements or criteria for the current use program under chapter 84.34 RCW may not be classified. The Department contends that no provision exists for a homesite to be classified or valued as farm and agricultural land when it does not meet the criteria under RCW 84.34.020(2)(f).

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