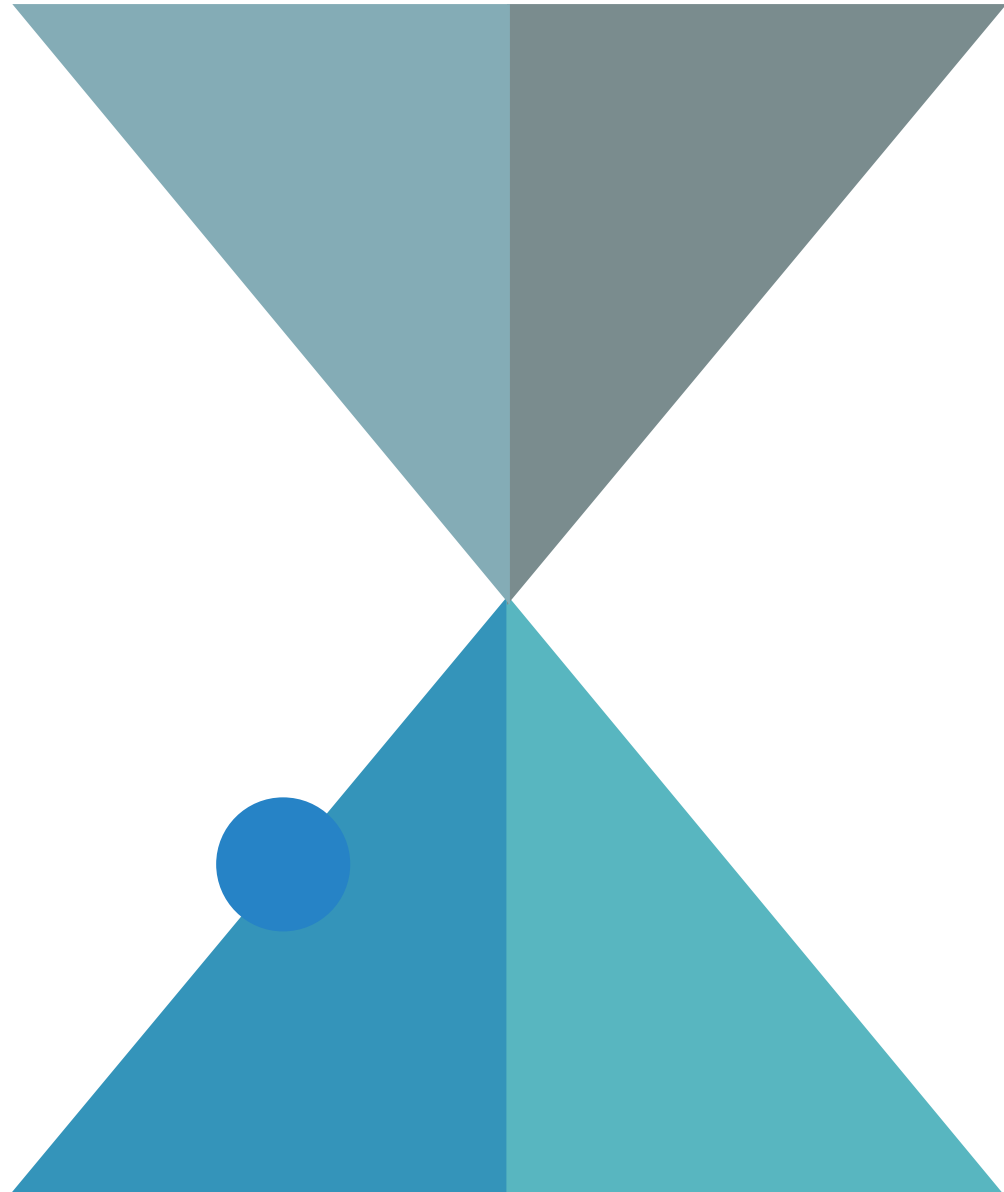


# **CURRENT USE PROGRAM PENALTIES**

Nichole Stenberg

# AGENDA

1. Recent change in Law – what it means
2. When to assess a penalty – When to not
3. How to assess a penalty
4. Calculation of a penalty
5. Excel Calculator Example
6. Other Things to Note
7. Discussion



## RECENT CHANGE IN LAW – WHAT IT MEANS

PL 2021 C 630 – Amended the laws regarding penalties to align all current use programs with the same penalty calculation

Essentially changing Farmland penalties to no longer just 5 years back taxes plus interest, but the same % of value calculation as Tree Growth, Open Space and Working Waterfront.

## **WHEN TO ASSESS A PENALTY?**

- Taxpayer requests a withdrawal
- Change in use of property
- Farmland Income requirement not being met
- Non - compliance with tree growth plan
- Non - compliance with tree growth requirements

## **WHEN NOT TO ASSESS A PENALTY?**

- Taxpayer transfers to another current use program
- Cases of eminent domain

## HOW TO ASSESS A PENALTY

The owner shall pay the penalties upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with sections 713 and 713-B.

### Things to keep in mind:

- Interest accrues 60 days after the date of supplement or the date(s) taxes are due for delinquent taxes under the original commitment, whichever occurs later
- Lien dates may differ from those for original commitment

# CALCULATING A PENALTY

- Statutory Language:

**3. Penalty.** If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner.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

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%.

(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%.

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.

## CALCULATING A PENALTY

5 Years Back Taxes calculation: What information do we need?

- Valuation in current use program for each year
- Valuation property would have been out of current use program for each year
- Yearly Due Dates
- Yearly Interest Rates
- Yearly Certified Ratio
- Yearly Mil Rates

This calculation only results in a greater penalty when the mil rate of the town is above 30 mils – so for most of us, we can skip calculating this.

## **CALCULATING A PENALTY**

% of Valuation Calculation: What information do we need?

- Valuation in current use program
- Valuation property would have been out of current use program
- Certified Ratio
- # of Years in current use programs



## EXAMPLE WITHDRAWAL

9.36 acre parcel currently enrolled in Farmland for 23 years

- Value in Farmland – \$23,400
- Value out of Farmland – \$61,200
- Certified ratio - 90%

Step 1 – Adjust values to 100 % : Value In =  $23,400/0.90 = 26,000$   
Value out =  $61,200/0.90 = 68,000$

Step 2 – Find difference between 100% values:  $68,000 - 26,000 = 42,000$

Step 3 – Determine % factor: Over 20 years = 20%

Step 4 – Apply % factor:  $42,000 \times .20 = \$8,400$

## OTHER THINGS TO NOTE

- **Additional 25% penalty**

If the owner or owners fail to report to the assessor a change of use as required by the foregoing paragraph, the assessor shall assess the taxes that should have been paid, shall assess the penalty provided in section 581 and shall assess an additional penalty equal to 25% of the penalty provided in section 581. The assessor may waive the additional penalty for cause.

- **Farmland 5-year payback of penalty**

An owner of farmland classified for 5 full years or more may pay any penalty owed under this section in up to 5 equal annual installments with interest beginning to accrue after 60 days.

For an owner paying a penalty over 5 years, 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.

# DISCUSSION

Affects of new changes on penalties?

What is the largest penalty you have assessed?

\$500 Penalties – How are they working?

Anything Else?

# CONTACT ME

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