

FOREST CROP LANDS:

Forest crop lands shall be assessed at \$1.00 per acre as long as classification continues; duties of assessor, county clerk and collector in assessment, levy and collection of taxes.

March 16, 1949

FILED

Honorable Edwin F. Brady  
Prosecuting Attorney  
Benton County  
Warsaw, Missouri

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Dear Sir:

Your request for an opinion based upon the following facts has been received:

" Section 6 of the Forests and Forestry Act, Chapter 102A, Revised Statutes of Missouri, provides that forest crop lands shall receive partial relief from taxation. Section 8 provides that while so classified such lands shall be assessed at \$1.00 per acre, Section 11a provides that the collector shall keep all records of all taxes due on said lands so that in the event it is removed from the classification as forest crop land, all the taxes carried against it can be collected. Section 6 also states that no such land shall be classified for tax relief if the value of the land exceeds \$10.00 per acre. Section 10 provides a grant by the state to the counties in lieu of taxes of 2¢ per acre per year on such lands.

"Therefore, on forest crop lands, is it the duty of the county officers involved to collect the regular amount of taxes which would otherwise have been due anyway, if the land was assessed at more than \$10.00 per acre, these taxes to be collected from the owner? On forest crop lands which were previously assessed at \$10.00 or less per acre, should the tax produced on an assessment of \$1.00 per acre be collected currently from the owner?

"The assessor, county clerk and collector of this county are in doubt as to the correct procedure for handling forest crop lands for tax purposes, but from my study of the act it appears that the owner should pay the full amount of taxes on forest crop land that was previously assessed at more than \$10.00 per acre, and that the owner should be required to pay the tax on an assessment of \$1.00 per acre on forest crop land which was previously assessed at \$10.00 or less per acre, regardless of the state grant of 2 cents per acre. Your opinion upon these questions will be sincerely appreciated."

Under the present law the Missouri Conservation Commission has been given power to accept and classify forest crop lands and to prescribe the terms, conditions of the tender, acceptance and classification. The details of the application and classification are set out in Section 14431.105, Mo. R.S.A., and reads as follows:

"Any person desiring to have lands designated as forest crop lands shall submit an application therefor to the District Forester on form or forms to be provided by the Commission. The District Forester will make or cause to be made an examination of the lands covered by said application and shall forward a copy of same, together with his recommendations, to the Commission. If the Commission approve and classify lands as forest crop lands they shall be subject to the provisions of this Act and such rules and regulations. If the Commission refuse so to accept and classify said lands, the applicant may appeal from the decision of the Commission to the circuit court in which such lands, or major part thereof, are located and the decision of the circuit court in all such matters shall be final. No application shall be made for a tract of land containing less than 40 acres; and no such land shall be classified for tax relief if the value of the land alone shall exceed \$10.00 per acre."

Upon a casual reading of this section it might appear that the Commission had unlimited power in approving and classifying lands as forest crop lands and in the continuance of that classification, or in the refusal to approve and classify lands as such.

Actually this is not true, as the law provides that the District Forester in the territory where the land is situated shall cause the lands first to be strictly examined as to the nature and quality, their suitability for the growing of wood and timber, the number of acres, and the value of same. Not less than 40 acres may be considered for classification, nor any tract, the value of which shall exceed \$10.00 per acre.

From the implication of some of the facts given in your letter it seems that land formerly valued at more than \$10.00 per acre might have been certified as forest crop lands. However these facts are not definitely stated, and in view of the fact that lands having an assessed value in excess of \$10.00 per acre at the time of such certification cannot be certified as forest crop lands, we will consider the implication as unimportant and will limit ourselves more closely to a further discussion of the facts involved in your inquiry.

Only after the preliminary examination of the District Forester, together with his recommendations concerning the classification of each tract, may the Commission approve the application and classify lands as forest lands.

It is also noted that in the event the Commission refuses to accept and classify any lands as forest lands, the applicant may take an appeal to the circuit court of the county in which the land lays. The court will then determine whether the Commission has abused its authority or has acted in an arbitrary manner in its refusal to accept or classify such lands, and presumably any other errors or irregularities that may have been committed in this connection will be corrected by the circuit court, from whose decision there is no

further appeal.

Once lands have been approved, accepted and classified as forest lands, they shall, so long as such classification continues be subject to the provisions of the Forestry Act and to such rules and reasonable regulations that may be promulgated by the Commission.

Forest crop lands are then relieved from partial taxation by Section 14431.106, Mo. R.S.A., which provides as follows:

"Any lands approved and classified by the Commission as forest crop lands as defined in this act shall receive partial relief from taxation, as hereinafter provided, during a period or periods of time not to exceed 25 years in any instance."

Section 14431.108, Mo. R.S.A., in effect provides that for general taxation purposes, forest crop lands shall be assessed for general tax purpose at the sum of \$1.00 per acre, so long as such classification continues. Said section reads as follows:

"During the time any such lands are classified as forest crop lands under this Act they shall be assessed for general taxation purposes at \$1.00 per acre and taxed at the local rates of the county wherein the lands are located."

Section 14431.110, Mo. R.S.A., provides that the state may pay to each county the sum of 2 cents per acre per year for each acre classified as forest land in lieu of taxes and reads:

"The Commission shall determine as of January 1st of each year the number of acres of privately owned forest crop land which has been accepted in each county under this Act. The state may pay to each county in which these lands are situated a certain sum appropriated by law from general revenue funds or from the fund created in Section 18 hereof, as a grant in lieu of taxes, this sum to be 2 cents per acre per year for each acre so accepted. The Commission shall annually certify to the Director of Revenue and the State Auditor the amount payable to each county and the Treasurer is authorized to pay, and, after appropriations are made as herein provided, such amounts shall be paid to such counties on or before the first day of January following. This section shall not be retroactive."

It is noted that as long as any lands are classified as forest lands they shall be entitled to the partial relief from taxation mentioned above, and that the county shall receive the 2 cents per acre, indefinitely, but not longer than 25 years. In the event the

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Commission should find the provisions of the act are not being complied with, it then becomes its duty to cancel the classification, notify the owner, the assessor, and the county clerk of the county where the lands are situated. Thereafter such lands will not be relieved from partial taxation and will be taxed as other lands.

From the facts stated in your letter, it appears that lands classified as forest crop lands in your county were, previous to being so classified valued at more than \$10.00 per acre, and that you are wondering if these lands should not be currently assessed at more than \$1.00 per acre, also the duties of the assessor, county clerk, and collector.

Assuming that the land in your county was classified in accordance with the provisions of the Forestry Act, and particularly those sections noted above, the forest crop lands in question could not be assessed at more than \$1.00 per acre as long as they retained such classification; the owners would not be required to pay taxes based on any other valuation.

Section 14431.111a clearly defines the duties of the assessor, county clerk and collector, and which appears to fully answer your inquiry in this connection. Said section provides as follows:

"The assessor shall carry the assessment of all forest crop land on the assessor's book and the county clerk shall carry out the tax levy as levied by the different political subdivisions which are entitled to levy taxes on said forest land. The collector shall keep all records of all taxes due on said forest lands so that in the event the owner of such lands may desire to remove his land from the forest class, he may do so by paying all of the taxes carried against the land based on the assessment plus a penalty equivalent to 5% interest thereon, less taxes paid as set up by Section 8. Whenever this is done by the owner such land shall automatically be dropped from the forest crop land class."

#### CONCLUSION

Therefore, it is the opinion of this department that lands accepted and classified as forest crop lands by the Missouri Conservation Commission under the provisions of the Forestry Act would be entitled to a partial release from taxation, and that as long as said lands remained in said classification, they shall for general tax purposes be assessed at \$1.00 per acre; that the owners thereof shall not be required to pay taxes thereon at any other or different rate, and without regard to the assessed valuation on said lands previous to the time they were classified as forest lands.

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The duties of the assessor, county clerk and collector with reference to the assessment, levy and collection of taxes on forest lands as set out in the Act are mandatory, and none of these officers have any lawful authority to change the method of assessment, levy, or rate of collection in any manner than that specifically prescribed in the said Act.

Respectfully submitted,

PAUL N. CHITWOOD,  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
ATTORNEY GENERAL

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