

CROP FOREST LANDS:
FORESTRY:
TAXATION:

Person whose land has been classified as forest cropland may withdraw his land from such classification by paying the taxes owed thereon plus penalty equivalent to 5% interest less the amounts previously paid.



May 9, 1955

Honorable Roy W. McGhee, Jr.
Prosecuting Attorney
Wayne County
Greenville, Missouri

Dear Mr. McGhee:

You recently requested an opinion from this office wherein you asked the following questions concerning the withdrawal of forest cropland from such classification:

"1. Should the owner first notify the commission or the district forester, or merely pay the taxes due?

"2. What taxes are due? If the land in question has been under the forest cropland program over 5 years are taxes which are for years preceding the last 5 legally collectible? If the assessor has never kept books for the separate assessment, may the collector take the assessed valuation for the year prior to the time the land was included in the forest cropland program and, using that valuation, figure the taxes due for all the years subsequent, during which the land was under the forest cropland program? If this be correct, does the collector then merely add 5% penalty, and deduct the \$1.00 per acre paid, and omit the usual penalties? How is the 2¢ @ acre paid by the State accounted for?"

In answer to the first question which you asked, the statute, Section 254.220, RSMo. 1949, provides that when the owner has paid the back taxes due on such land it is automatically dropped from the forest cropland class. Thus there is no statutory requirement of notification but when the back taxes due etc., have been paid the land automatically ceases to have its classification of forest cropland.

Hon. Roy W. McGhee, Jr.

As to questions asked in the second paragraph of your request, the taxes due are those specified in Section 254.220, supra. They are the back taxes for each year during which the land was classified as forest cropland plus a penalty equivalent to 5% interest on such amount less the taxes actually paid on the basis of the assessment of the land in question at the rate of \$1.00 per acre as provided in Section 254.090, RSMo 1949.

There would be no question about the collectibility of taxes for a year more than five years in the past. It is assumed that your question was based upon the possible application of the statute of limitations, however, these taxes were not due as long as the land was classified as forest cropland and therefore the statute of limitations would not start to run. These taxes only become due and payable at the time the land is withdrawn from the classification of forest cropland and, therefore, the statute of limitations would begin to run at the time of such withdrawal.

It is, by Section 254.220, RSMo. 1949, made the duty of the assessor, county clerk and collector to keep all records of all taxes due as if the land were not classified as forest cropland. Thus, in effect, the statutes provide for two assessments; one under Section 254.090, RSMo 1949, of \$1.00 per acre and the other representing the balance of the valuation that would have been applicable if the land had not been classified as forest cropland. Since you point out that your county officials failed to keep records, as required, of the assessment and taxes due on the balance remaining after the application of Section 254.090, this land should, for such purposes, properly be considered as omitted land and the assessor should place it on his book before the same is returned to the county court with all arrearages of tax for former years charged thereon pursuant to the provisions of Section 137.165, RSMo 1949, which provides for the assessment of omitted real estate.

As to the two cent per acre paid to the county by the state the statutes provide nothing about reimbursement of this amount when land is voluntarily withdrawn from its classification as forest cropland. Thus the officials of the county need not concern themselves with this item. It is only when classification as forest cropland is canceled by the commission that the owner of such land is required to make reimbursement of this two cents per acre paid by the state to the county. Such reimbursement is made to the Director of Revenue as is provided by Section 254.210 RSMo 1949, and since your question refers to voluntary withdrawal that section is not applicable.

Hon. Roy W. McGhee, Jr.

CONCLUSION

It is, therefore, the conclusion of this office that under the provisions of Section 254.220, RSMo. 1949, one who desires to withdraw his land from its classification as forest cropland does so by paying the taxes due thereon for the years during which such land was so classified; that no other notification is required and that the amount due is the amount of tax that would have been levied on such land during each and all of the years wherein the land was classified as cropland plus a penalty equal to 5% interest on such amount less the amount of taxes actually paid thereon under the provisions of Section 254.090, RSMo. 1949.

The foregoing opinion which I hereby approve, was prepared by my assistant, Mr. Fred L. Howard.

Yours very truly,

John M. Dalton
Attorney General

FLH:mw