

EXCERPTS FROM THE AGRICULTURAL PROPERTY RECAPTURE ACT

Section 211.1002. (c)

"Converted by a change in use' means 1 or more of the following: (i) That due to a change in use the property is no longer qualified agricultural property as determined by the assessor of the local tax collecting unit. (ii) If, prior to a transfer of qualified agricultural property, the purchaser files a notice of intent to rescind the qualified agricultural property exemption under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, with the local tax collecting unit and delivers a copy of that notice to the seller of the qualified agricultural property, the property has been converted by a change in use...**If the sale is not consummated within 120 days of the filing of the notice under this subdivision or within 120 days of a subsequent filing of the notice under this subdivision, then the property is not converted by a change in use under this subdivision.**" (emphasis added)

Section 211.1003. (2)

"If a recapture tax is imposed because qualified agricultural property is converted by a change in use described under section 2(c)(i), the recapture tax is the obligation of the person who owned the property at the time the property was converted by a change in use..."

Section 211.1003. (3)

"If a recapture tax is imposed because qualified agricultural property is converted by a change in use as described in section 2(c)(ii), the recapture tax is an obligation of the person who owned the property prior to the transfer and the recapture tax is due when the instruments transferring the property are recorded with the register of deeds. The register of deeds shall not record an instrument transferring the property before the recapture tax is paid."

Section 211.7dd. (d)

"'Qualified agricultural property' means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use...Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building."

Section 211.27a. (3)

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

Section 211.27a. (6)

"...[T]ransfer of ownership' means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest."

Section 211.27a. (6)(k)

Notwithstanding the provisions of section 7ee(5), at the request of a property owner, an assessor's establishment of a separate tax parcel for a portion of a parcel that ceases to be qualified agricultural property but is not subject to a land division under the land division act, 1967 PA 288, MCL 560.101 to 560.293, or any local ordinance. For purposes of this subdivision, a transfer of ownership occurs only as to that portion of the parcel established as a separate tax parcel and only that portion shall have its taxable value adjusted under subsection (3) and shall be subject to the recapture tax provided for under the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007. The adjustment under subsection (3) shall be made as of December 31 in the year that the portion of the parcel established as a separate tax parcel ceases to be qualified agricultural property. A portion of a parcel subject to this subdivision is considered a separate tax parcel only for those purposes described in this subdivision.

Note: A request to establish a separate parcel in accordance to MCL 211.27a(6)(k) must be made in writing to the local unit assessor where the qualified agricultural property is located prior to submitting the "Affidavit Attesting that Qualified Agricultural Property Shall Remain Qualified Agricultural Property" (Form 3676).

Section 211.27a. (7)(n)

"Transfer of ownership" does not include the following: "A transfer of qualified agricultural property, if the person to whom the qualified agricultural property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property ... An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act ... if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

(ii) The property is subject to the recapture tax provided for under the agricultural property recapture act."