AGRICULTURAL PROPERTY RECAPTURE ACT

Act 261 of 2000

AN ACT to impose a state recapture tax on the change in use of certain agricultural property; to provide for the administration of this act; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the recapture tax; and to prescribe penalties and provide remedies.

History: 2000, Act 261, Imd. Eff. June 29, 2000

The People of the State of Michigan enact:

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211.1001 Short title.

Sec. 1.

This act shall be known and may be cited as the "agricultural property recapture act".

History: 2000, Act 261, Imd. Eff. June 29, 2000

211.1002 Definitions.

Sec. 2.

As used in this act:

(a) "Benefit period" means the period in years between the date of the first exempt transfer and the conversion by a change in use, not to exceed the 7 years immediately preceding the year in which the qualified agricultural property is converted by a change in use.

(b) "Benefit received on that property" means the sum of the number of mills levied in the local tax collecting unit on the qualified agricultural property in each year of the benefit period, multiplied by the difference in each year of the benefit period between the true cash taxable value of the property and the property's taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(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. The notice of intent to rescind the qualified agricultural property exemption shall be on a form prescribed by the department of treasury. 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.

(d) "Exempt transfer" means a conveyance of property that is not a transfer of ownership pursuant to section 27a(7)(n) of the general property tax act, 1893 PA 206, MCL 211.27a.

(e) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(f) "Qualified agricultural property" means that term as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(g) "Recapture tax" means the agricultural property recapture tax imposed under this act.

(h) "Treasurer" means the state treasurer.

(i) "True cash taxable value" means the taxable value the property would have had if section 27a(7)(n) of the general property tax act, 1893 PA 206, MCL 211.27a, were not in effect.

History: 2000, Act 261, Imd. Eff. June 29, 2000

211.1003 Agricultural property recapture tax; imposition.

Sec. 3.

(1) Beginning January 1, 2001, the agricultural property recapture tax provided under section 4 is imposed as provided in this section if the property meets all of the following conditions:

(a) The property was transferred after December 31, 1999.

(b) The taxable value of the property was not adjusted under section 27a(3) of the general property tax act, 1893 PA 206, MCL 211.27a, after the transfer described in subdivision (a) due to the provisions of section 27a(7)(n) of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) The property is converted by a change in use after December 31, 2000.

(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. If a recapture tax is imposed on the owner of the property under this subsection, the recapture tax is a lien on the property subject to the recapture tax until paid. If the recapture tax is not paid within 90 days of the date the property was converted by a change in use, the treasurer may bring a civil action against the owner of the property as of the date the property was converted by a change in use. If the recapture tax remains unpaid on the March 1 in the year immediately succeeding the year in which the property is converted by a change in use, the property on which the recapture tax is due shall be returned as delinquent to the county treasurer of the county in which the property is located. Property returned as delinquent under this section, and upon which the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a.

(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.

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History: 2000, Act 261, Imd. Eff. June 29, 2000

211.1004 Agricultural property recapture tax or benefit received on property.

Sec. 4.

The recapture tax imposed under section 3 is the benefit received on that property.

History: 2000, Act 261, Imd. Eff. June 29, 2000

211.1005 Collection and deposit of recapture tax; notification of conversion date.

Sec. 5.

(1) The recapture tax shall be collected by the county treasurer and deposited with the treasurer as provided in this section. By the fifteenth day of each month, the county treasurer shall, on a form prescribed by the treasurer, itemize the recapture taxes collected the preceding month and transmit the form and the recapture taxes collected

to the treasurer. The county treasurer may retain the interest earned on the money collected pursuant to this act while held by the county treasurer as reimbursement for the costs incurred by the county in collecting and transmitting the recapture tax. The money retained by the county treasurer under this section shall be deposited in the treasury of the county in which the recapture tax is collected to the credit of the general fund.

(2) The assessor of the local tax collecting unit shall notify the county treasurer of the date the property is converted by a change in use.

History: 2000, Act 261, Imd. Eff. June 29, 2000

211.1006 Crediting proceeds of recapture tax to certain fund.

Sec. 6.

The treasurer shall credit the proceeds of the recapture tax collected by county treasurers under this act to the fund in which the proceeds from lien payments made under part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, are deposited.

History: 2000, Act 261, Imd. Eff. June 29, 2000

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211.1007 Administration of recapture tax by revenue division.

Sec. 7.

This act shall be administered by the revenue division of the department of treasury under 1941 PA 122, MCL 205.1 to 205.31.

History: 2000, Act 261, Imd. Eff. June 29, 2000