

Ohio News Watch

CAUV changes and challenges

BY GAIL C. KECK

THIS winter when farm landowners open their real estate tax bills, some will see major increases, but those hikes won't be as much as the Ohio Department of Taxation proposed earlier this year.

Last spring, the Ohio Farm Bureau Federation, the Ohio Farmers Union and the Department of Taxation's Agricultural Advisory Committee pushed through some administrative changes in the Current Agricultural Use Value (CAUV) program. Those changes help, but more are needed, says Ted Finnarn, a Darke County farmer and attorney who helped design the CAUV program in the early 1970s. "We're still working on some key issues," he says.

Over the last several years, as counties reappraised or updated farmland values, some landowners saw their property taxes double or even triple. This year 24 counties (see story at right) are undergoing updates or reappraisals, and those counties will be impacted by the changes made by the tax department in CAUVs for the 2015 tax year. The increases would have been higher if not for the changes made this year in data used in the valuation calculations, explains Finnarn.

Leah Curtis, director of ag law for the Ohio Farm Bureau, says the changes made this year update the calculations to bring them more in line with the current farm economy. The changes include:

■ **Capitalization rate.** One change was in the capitalization rate. Previously, the capitalization rate was calculated using mortgage interest rates for a 15-year loan period. But in reality, 25- to 30-year loans are more typically used by farmers, she says. So the interest rates used in the calculation were changed to reflect rates for longer loans. The debt-to-equity ratio used in the capitalization rate calculations was also changed. Instead of using the 60-40 ratio that has been used in the past, the ratio was changed to 80-20.

■ **Timely data.** The timeliness of data will improve. In the past, crop yield, price and production cost data used in the formula were 2 years old. Now the formula will use the previous year's prices, yields from the most recently completed crop year and



CAUV DISCUSSION: Trotwood farmers Brian Garber (left) and Bruce Kettelle take a break from cutting soybeans to talk about the next steps needed to bring change to the CAUV formula. Garber has one parcel in Trotwood where the taxes are \$124 per acre, and he expects that farm to generate about \$100 profit per acre this year.

the current year's production costs, Curtis explains. "The data in the formula is much more timely than in the past."

■ **Woodland values.** The way woodland values are determined will change. The formula bases woodland values on the value of the soils for crop production with value deductions based on what it would cost to clear and drain the land. However, Curtis says the old formula used outdated clearing and draining costs. "They were the same as they were in the '70s." The new calculations use higher numbers for the clearing and draining deductions.

Curtis says in the coming year Farm Bureau will continue to push for additional changes to make CAUV more accurate. For instance, timberland values still need more adjustment to be realistic, and the capitalization rate used in the formula should be based more on ag land uses rather than real estate markets, she says.

Another recommendation is that land devoted to year-round conservation, such as grass waterways and buffer strips, should be assigned minimum values. "We

want to make sure people aren't discouraged from doing conservation practices because of tax policies," she says.

While Farm Bureau continues to work on CAUV improvements through the administrative process with the Department of Taxation, other groups are becoming involved. Bruce Kettelle, spokesman for the grassroots group Ohio Farmers for CAUV, says more farmers should educate themselves about how the formula works. For instance, Kettelle, who farms in Montgomery County, says farms in urban areas with high millage rates are being hit especially hard with tax increases.

One factor used in the formula is a tax additur based on a state average of millage rates. But the millage rate in Trotwood is more than twice the state average, he says. "Each farm should get credit for the actual millage rate they're in." Kettelle, who is also a Trotwood city councilman, says the financial health of farms affects entire communities. "I think in Montgomery County we'll see some farm failures from this," he says. "I expect to see a lot of delinquencies when the next tax bills come out."

Kettelle is urging communities to become involved. He presented a resolution to the Trotwood City Council supporting modernization of the Ohio farm property tax formula to save farms from excessive taxation. The resolution was passed Oct. 5 and is being considered by several other municipalities.

Reappraisals and updates

IN 2015, five counties will undergo farmland value reappraisals: Allen, Coshocton, Guernsey, Sandusky and Vinton. Nineteen others are doing triennial updates: Belmont, Brown, Crawford, Cuyahoga, Erie, Fayette, Highland, Huron, Jefferson, Lake, Lorain, Lucas, Morgan, Muskingum, Ottawa, Portage, Stark, Warren and Williams.

Another group of landowners has filed an appeal with the Ohio Board of Tax Appeals, asking the tax commissioner to reissue the 2015 CAUV Order with revised woodland values. Jack Van Kley, the attorney handling the appeal for the landowners, says the land-clearing cost used in the formula should be at least \$3,500 per acre. "If you underestimate the land-clearing costs, then the property values will be too high," he says. A hearing on the appeal has been scheduled for March 26. In the meantime, the landowners will be collecting evidence to support their case, Van Kley explains. The group includes farmers with woodland acres, as well as owners of commercial timberland.

A second group has filed a lawsuit against the state of Ohio, claiming the Department of Taxation has flouted the legislative and statutory mandates that govern CAUV computation. Kevin Roberts, the landowners' attorney, says the suit is not intended to change the program, just how it is being handled by the Department of Taxation. "The clients like the CAUV program. Nobody's trying to scrap it or replace it or do something new," he says.

However, Roberts says, taxes paid by ag landowners have increased because the department has used an artificially low capitalization rate. Another concern is the department calculated net income based on corn and soybean crops, neglecting to include other cropping patterns. The suit also addresses calculation of woodland values. "They've been deviating from the formula for the last 10 years, especially the last five years," he says.

The lawsuit was filed seeking class action status. It asks the court to order the state to refund "unlawfully collected" taxes and correctly administer the program going forward. The state has filed a motion to move the case from Ashtabula County, where the suit was filed, to Franklin County. Resolving the case is likely to take at least a couple of years, says Roberts.

CAUV basics

OHIO'S Current Agricultural Use Value program is part of the state's constitution, approved by voters in 1972. Through CAUV, the value of agricultural land for property tax purposes is established based on the land's use for agricultural purposes rather than fair market value. CAUV values are determined using a formula that uses five main factors: crop prices, crop yields, cropping patterns, production costs and capitalization rate.