

General Information

The 4 Year Rule Section 5731.011(D)

The estate remains open for four years. Current agricultural use value (CAUV) will be disallowed if, during that time, the farm property is transferred to a non-qualified heir or the estate discontinues the qualified use of the property. Qualified use is considered terminated if property passes to a non-qualified heir even though the property is still used for farming. If one of these situations occurs, the department must be notified within nine months and a recapture tax (explained below) will be assessed against the person who is disposing of the property or terminating the qualified use.

Annual Report

In order for the Department to keep track of each CAUV estate, the qualified heirs are required to file an annual report, Estate Tax Form 36. This report must be submitted on the second, third and fourth anniversaries of the decedent's date of death. The first annual report is due no sooner than sixty days before and no later than the second anniversary date of the decedent's date of death. Failure to timely file the annual reports also results in the assessment of the recapture tax.

Recapture Tax Section 5731.011(E)

The recapture tax is the amount of tax savings realized in the decedent's estate because of the reduction in value of the farm property. For example:

Assume the estate tax return shows all property at fair market value resulting in a tax of \$25,000. However, when the estate reduces the farm property to CAUV, the tax actually due is only \$8,000. Therefore, the savings realized is \$17,000. This amount is also the amount of recapture tax.

Payment

The payment of recapture tax is the responsibility of the qualified heirs. Interest is calculated on the recapture tax from nine months after the decedent's date of death. If a qualified heir dies, no recapture tax will be assessed.

Amended Filings

If any portion or all the CAUV property is sold, transferred, or converted to nonqualified use, the estate must file an amended Estate Tax Form 2X showing the increase from the current CAUV value to the fair market value. The estate will also be required to file an amended Estate Tax Form 34 reflecting the sale or conversion of the property.

Miscellaneous Information regarding the sale of CAUV Property

If the sale is to another qualified heir, there is no recapture tax.

If the sale is to a non-qualified heir, the recapture tax is assessed based upon the percentage of tax the portion of property sold generates.

If the property sold is either the one-acre homesite or building only, there is no recapture tax, since that part of the property was originally included and taxed at fair market value.

Where to File the completed Estate Tax Form 36

**Ohio Department of Taxation
Estate Tax Division
800 Freeway Drive North
Columbus, OH 43229
(800) 977-7711 or (614) 387-1976
or FAX to (614) 387-1984**