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KENTUCKY WOODLANDS NEWSLETTER

August 2013

Special Edition - Tax Assessment Issues

This special issue of the Kentucky Woodland Owners Association newsletter is focused on the woodland tax assessment issue that hinders owning and managing woodlands in Kentucky.

Alert for KY Woodland Owners: Property Tax on Woodlands

The Board of Directors of the Kentucky Woodland Owners Association (KWOA) is sending this memo to you for two reasons; (1) to alert you to pending litigation over unfair property tax assessments by the Kentucky Department of Revenue (KDOR) on forest farms, and (2) to request your involvement and financial assistance in KWOA's effort to correct these unfair tax assessments. Success in Kentucky courts will create a model or template for the appropriate valuation of Kentucky Woodlands, which could then be applied to each and every other tree farm in Kentucky, including your farm. Recent research by the University of Kentucky specifically on this tax issue indicated that we are taxed five (5) to ten (10) times more than we should be each year. We need your help to win this.

BACKGROUND:

For the last ten (10) years, the KWOA, through its Board of Directors, has tried to work with the KDOR and local PVAs to develop an assessment of methodology for tree farms which accurately reflects their income potential as tree farms. Section 172A of the Kentucky Constitution allows tree farms (and all other farms) to be valued on the basis of its income potential, not its possible sale price. For the past 10 years the Department of Revenue and the PVAs have refused to acknowledge the problem with their assessment scheme.

After much thought, study, and lengthy consultation with the University of Kentucky College of Agriculture, we are convinced that our contention is valid, and the University of Kentucky is very supportive of our efforts to seek a fair valuation of our tree farms. Actually, members of the College of Agriculture staff will be some of our key witnesses.

KWOA has attempted to resolve this issue in an honorable way but success has eluded us after a decade of effort in meetings, discussion, resolutions, legislation and research. This leaves only one option:

GO TO COURT!



CURRENT STATUS:

Three (3) KWOA members have appealed their property tax assessments to their local PVAs, and these appeals are now pending before the Kentucky Board of Tax Appeals in Frankfort. A trial date has been set for January 21, 2014 at 9 a.m. The hearing is open to the public, and you are encouraged to attend. For details, contact Jim Corum at 606-337-8115.

The KWOA Board of Directors has selected a legal team to represent us at the hearing on the Harlan County appeal which the Board of Tax Appeals has selected as the lead case.

This case was selected because its facts are very clear, and this case presents the best possible opportunity to litigate a case which can then be applied to all other tree farms in Kentucky.

The legal team consists of Kenton Ball, a tax attorney in Lexington, who has previously litigated this issue, and Doug Curtis, a civil litigator in Sykesville, Maryland. Both have offered significantly discounted rates for this effort, and both are up to speed by virtue of their prior litigation experience with this issue and their on-going discussions with the KWOA Board. (Kenton Ball is the son of KWOA member Joe Ball, and Doug Curtis is the brother-in-law of KWOA member Jim Corum.)

ACTION NEEDED:

FUNDRAISING! To win this case for all of us, we must start early and prepare well. The Board of Directors of KWOA has already placed \$4,000 in the KWOA Legal Fund. The three (3) members whose appeals are currently pending have already spent time, effort and their own personal money; they will also contribute additional monies to the KWOA Legal Fund. Early estimates are that \$15,000 to \$20,000 may be needed, depending on appeals. If your contribution is not needed because of some unforeseen reason, it will be refunded to all contributors, pro rata. A suggested contribution is \$0.50 per woodland acre owned, but of course, any amount will be helpful.

To ensure an early start on the case preparation by the attorneys, please send your contribution today to:

Bob Gossett, KWOA Treasurer
98 Sharon Lane
Flemingsburg, KY 41041

Make your check payable to: KWOA – Legal Fund.

Kenton Ball (the tax attorney) and Jim Noe (a Louisville CPA) both agree that your contribution to the KWOA Legal Fund may be considered an ordinary and necessary business expense under Internal Revenue Code § 162, and is, therefore, fully deductible as a farming expense. (§162 authorizes the deduction of most trade or business expenses.)

FOR MORE INFORMATION:

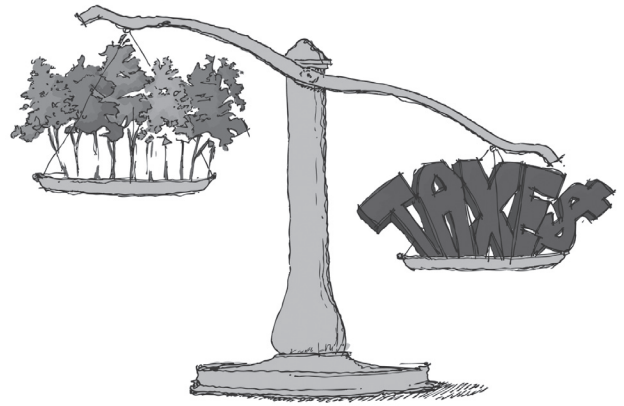
To learn more about the situation, please see the article originally published in the Kentucky Woodlands Magazine by Dr. Andrew Stainback, University of Kentucky Department of Forestry, entitled “Kentucky Woodlands Tax Assessment Project” on the following pages.



Kentucky Woodlands Tax Assessment Project

by Andrew Stainback, University of Kentucky Department of Forestry

Because most woodland owners only harvest timber periodically, annual property taxes can potentially impose a significant burden on woodland owners. In Kentucky, as in most other states, agriculture land including woodlands is assessed based on its value in its current use (use value) as opposed to market value, which is typically used for other types of property. Further, because income from woodlands occurs once every several decades (as opposed to annually in most agricultural land) the profitability of woodlands can be particularly sensitive to this assessed use value.



Problem

In Kentucky, Property Value Administrators (PVAs) use broad discretion in assessing woodlands with little guidance in terms of how to conduct the assessment. This discretion can result in widely different assessments across the state. Many woodland owners, represented by the Kentucky Woodland Owners Association (KWOA), have expressed concern that their forested properties were being assessed at a higher value than the true use value that can be generated from forestry practices. If this is the case, then the tax burden on woodland owners would not only be unfair to woodland owners, it could impact the management and retention of woodlands and the valuable economic and environmental benefits that private forests provide to the Commonwealth.

Research Project

To assist woodland owners, PVAs and policymakers, the University of Kentucky conducted a research project sponsored by the Kentucky Division of Forestry with funding from the U.S. Forest Service to estimate the use value for typical woodlands in Kentucky in terms of timber production. To conduct the study, we obtained information on current woodland tax assessments from KWOA members and calculated actual use values for woodlands. To calculate the latter, the state was divided into three regions—east, central and west (see Figure 1). The goal was to estimate the value of typical woodlands in each region using data on timber productivity and recent market prices for timber. Timber and pulpwood volume growth for economically important tree species on low, medium, and high site qualities at typical harvest ages (60-80 years) for each region was determined using U.S. Forest Service data. Central Kentucky Forest Management, Inc. was contracted to help combine the volume growth data with sawlog and pulpwood price data from Sewall Forestry Consultants for each region over the past five years (2005-2010). We then calculated the return per acre from a typical forest stand of each productivity class in each region, assuming that trees typically have to grow 60 to 80 years in Kentucky before being harvested.

Results

We found that woodland owners are typically assessed being taxed on assessed values between \$100 and \$500 per acre. These results are consistent with previous studies. Further, our research found that the actual current-use values range from \$17 to \$60 (see Table 1 on following page). This range indicates a significant discrepancy between assessed value and the actual current-use value of woodlands in Kentucky. It is important to note that these values are representative of typical woodlands, which have not necessarily been managed specifically for timber or for improved growth (i.e. thinning). These practices could potentially increase use value compared to woodlands under the passive management typical of most ownerships. Regardless, as woodlands are a valuable asset to the economy and environment in Kentucky, it is hoped that the results from this study will help develop policies in the Commonwealth that will protect and enhance our woodland resource.

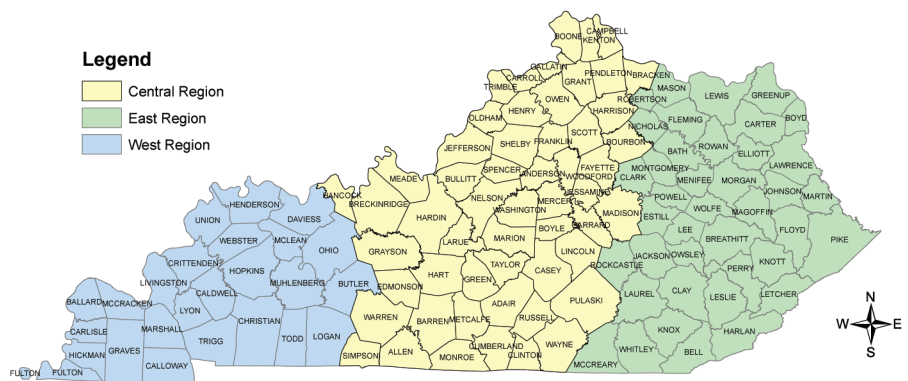


Figure 1. Kentucky Forestland Assessment Tax Regions. In this study the state of Kentucky was divided into three regions to determine how current woodland tax assessments and calculated actual use values for woodlands differed.

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Table 1. Example land values calculated with data from different regions of Kentucky. These values represent typical hardwood stands and average sites cut every 70 years. Stumpage prices are based on data from 2005-2010 for each region, and a discount rate of 5% was used. Values change with different assumptions about discount rates, timber prices, site quality, and rotation age (time to harvest).