

HB 33 (135th General Assembly) – 2023

Valuation of federally subsidized residential rental property

Sec. 5713.03. ~~(A)~~ The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner.

The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

- ~~(1)(A)~~ The tract, lot, or parcel of real estate loses value due to some casualty;
- ~~(2)(B)~~ An improvement is added to the property.

Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

~~(B) Pursuant to division (A) of this section, the county auditor may determine the true value of real property that is part of a qualified low-income housing tax credit project through use of one or more of the market-data approach, the income approach, or the cost approach:~~

~~As used in division (B) of this section, "low-income housing tax credit project" means a qualified low-income housing project during its compliance period, as those terms are defined by section 42 of the Internal Revenue Code:~~

~~(C)~~ The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and

taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5713.031.

- (A) As used in this section, "federally subsidized residential rental property" means property to which one or more of the following apply:
- (1) It is part of a qualified low-income housing project, through its compliance and extended use period, as those terms are defined in section 42 of the Internal Revenue Code, or any other period during which it is similarly restricted under section 42 of the Internal Revenue Code.
 - (2) It receives assistance pursuant to section 202 of the "Housing Act of 1959," 12 U.S.C. 1701q, and remains restricted pursuant to that section.
 - (3) Property that receives assistance pursuant to Section 811 of the "Cranston-Gonzalez National Affordable Housing Act," 42 U.S.C. 8013, and remains restricted pursuant to that section;
 - (4) Property that receives project-based assistance pursuant to section 8 of the "United States Housing Act of 1937," 42 U.S.C. 1437f, and remains restricted pursuant to that section;
 - (5) Property that receives assistance pursuant to section 515 of the "Housing Act of 1949," 42 U.S.C. 1485, and remains restricted pursuant to that section;
 - (6) Property that receives assistance pursuant to section 538 of the "Housing Act of 1949," 42 U.S.C. 1490p-2, and remains restricted pursuant to that section;
 - (7) Property that receives assistance pursuant to section 521 of the "Housing Act of 1949," 42 U.S.C. 1490a, and remains restricted pursuant to that section.
- (B) An owner of federally subsidized residential rental property shall file with the county auditor of the county in which the property is located the following

information from the preceding calendar year or up to three preceding calendar years, as applicable:

- (1) The operating income of the property which shall include gross potential rent, any forgiveness of or allowance received for losses due to vacancy or unpaid rent, and any income derived from other sources;
- (2) The operating expenses of the property including all non-capitalized expenses related to staffing, utilities, repairs, supplies, telecommunication, management fees, audits, legal and contract services, and any other expense a prospective buyer might consider in purchasing the property. Real property taxes, depreciation, and amortization expenses and replacement of short-term capitalized assets shall be excluded from operating expenses.
- (3) The annual amount of contribution to replacement reserve funds or accounts related to the property.

(C)

- (1) The information required under division (B) of this section shall be filed by the owner both before the property is placed in service and after the commencement of the property's operations, and each following year to which section 5715.24 of the Revised Code applies in the county, on or before the first day of March. Each such filing in a reappraisal or update year shall report the information required under division (B) of this section for the preceding three calendar years or for the period of time the property has been in operation, if less than three years.
- (2) Information filed under this section shall have first been audited by an independent public accountant or auditor or a certified public accountant prior to filing. If such an audit is not completed by the first day of March, the owner of the property shall file updated records within thirty days after the completion of such an audit.
- (3) If a property owner fails to timely submit the information required under division (B) of this section, the county auditor is not required to value the property in accordance with division (A)(4) of section 5715.01 of the Revised Code for any applicable tax year to which that division would have applied and shall otherwise proceed under section 5713.01 of the Revised Code to value the property in

[compliance with Ohio Constitution, Article XII, Section 2 for that tax year.](#)

- (D) [The county auditor shall use the information submitted under this section to determine the valuation of the property pursuant to rules adopted under division \(A\)\(4\) of section 5715.01 of the Revised Code.](#)
- (E) [Any information submitted under this section is not a public record for purposes of section 149.43 of the Revised Code.](#)

Sec. 5715.01.

- (A) The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule for such values and for the determination of the current agricultural use value of land devoted exclusively to agricultural use.
 - (1) The uniform rules shall prescribe methods of determining the true value and taxable value of real property. The rules shall provide that in determining the true value of lands or improvements thereon for tax purposes, all facts and circumstances relating to the value of the property, its availability for the purposes for which it is constructed or being used, its obsolete character, if any, the income capacity of the property, if any, and any other factor that tends to prove its true value shall be used. In determining the true value of minerals or rights to minerals for the purpose of real property taxation, the tax commissioner shall not include in the value of the minerals or rights to minerals the value of any tangible personal property used in the recovery of those minerals.
 - (2) The uniform rules shall prescribe the method for determining the current agricultural use value of land devoted exclusively to agricultural use, which method shall reflect standard and modern appraisal techniques that take into consideration the productivity of the soil under normal management practices, typical cropping and land use patterns, the average price patterns of the crops and products produced and the typical production costs to determine the net income potential to be capitalized, and other pertinent factors.

In determining the agricultural land capitalization rate to be applied to the net income potential from agricultural use, the commissioner shall use standard and modern appraisal techniques. In calculating

the capitalization rate for any year, the commissioner shall comply with both of the following requirements:

- (a) The commissioner shall use an equity yield rate equal to the greater of (i) the average of the total rates of return on farm equity for the twenty-five most recent years for which those rates have been calculated and published by the United States department of agriculture economic research service or another published source or (ii) the loan interest rate the commissioner uses for that year to calculate the capitalization rate;
- (b) The commissioner shall assume that the holding period for agricultural land is twenty-five years for the purpose of computing buildup of equity or appreciation with respect to that land.

The commissioner shall add to the overall capitalization rate a tax additur. The sum of the overall capitalization rate and the tax additur shall represent as nearly as possible the rate of return a prudent investor would expect from an average or typical farm in this state considering only agricultural factors.

The commissioner shall annually determine and announce the overall capitalization rate, tax additur, agricultural land capitalization rate, and the individual components used in computing such amounts in a determination, finding, computation, or order of the commissioner published simultaneously with the commissioner's annual publication of the per-acre agricultural use values for each soil type.

- (3) Notwithstanding any other provision of this chapter and Chapter 5713. of the Revised Code, the current agricultural use value of land devoted exclusively to agricultural use shall equal the following amounts for the years specified:
 - (a) In counties that undergo a reappraisal or triennial update in 2017, the current agricultural use value of the land for each of the 2017, 2018, and 2019 tax years shall equal the sum of the following amounts:
 - (i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted

pursuant those sections, without regard to the adjustment under division (A)(3)(a)(ii) of this section;

- (ii) One-half of the amount, if any, by which the value of the land for the 2016 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2016 tax year, exceeds the value determined under division (A)(3)(a)(i) of this section.

- (b) In counties that undergo a reappraisal or triennial update in 2018, the current agricultural use value of the land for each of the 2018, 2019, and 2020 tax years shall equal the sum of the following amounts:

- (i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(b)(ii) of this section;
- (ii) One-half of the amount, if any, by which the value of the land for the 2017 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2017 tax year, exceeds the value determined under division (A)(3)(b)(i) of this section.

- (c) In counties that undergo a reappraisal or triennial update in 2019, the current agricultural use value of the land for each of the 2019, 2020, and 2021 tax years shall equal the sum of the following amounts:

- (i) The current agricultural use value of the land for that tax year, as determined under this section and section 5713.31 of the Revised Code, and rules adopted pursuant those sections, without regard to the adjustment under division (A)(3)(c)(ii) of this section;

- (ii) One-half of the amount, if any, by which the value of the land for the 2018 tax year, as determined under this section, section 5713.31 of the Revised Code, and the rules adopted pursuant those sections and issued by the tax commissioner for counties undergoing a reappraisal or triennial update in the 2018 tax year, exceeds the value determined under division (A)(3)(c)(i) of this section.

(4) The uniform rules shall prescribe the method for determining the value of federally subsidized residential rental property through the use of a formula that accounts for the following factors:

- (a) Up to three years of operating income of the property, which includes gross potential rent, and any income derived from other sources as reported by the property owner to the county auditor under section 5713.031 of the Revised Code. Operating income shall include an allowance for vacancy losses, which shall be presumed to be four per cent of gross potential rent, and unpaid rent losses, which shall be presumed to be three per cent of gross potential rent. These presumptive amounts may be exceeded with evidence demonstrating the actual income of the property.
- (b) Operating expenses of the property, which shall be presumed to be forty-eight per cent of operating income plus utility expenses as reported by the property owner to the county auditor under section 5713.031 of the Revised Code. Operating expenses shall also include replacement reserve fund or account contributions which shall be presumed to be five per cent of gross potential rent. These presumptive amounts may be exceeded with evidence demonstrating the actual expenses of the property. Real property taxes, depreciation, and amortization expenses and replacement of short-term capitalized assets shall be excluded from operating expenses.
- (c) A market-appropriate, uniform capitalization rate plus a tax additur accounting for the real property tax rate of the property's location. For federally subsidized residential rental property described in division (A)(1) of section 5713.031 of the Revised Code, one percentage point shall be subtracted from the uniform capitalization rate.

[The uniform rules shall also prescribe a minimum total value for federally subsidized residential rental property of five thousand dollars multiplied by the number of dwelling units comprising the property or one hundred fifty per cent of the property's unimproved land value, whichever is greater. The formula and other rules adopted by the commissioner pursuant to this division shall comply with Ohio Constitution, Article XII, Section 2.](#)

[As used in division \(A\)\(4\) of this section, "federally subsidized residential rental property" has the same meaning as in section 5713.031 of the Revised Code and "dwelling unit" has the same meaning as in section 5321.01 of the Revised Code.](#)

- (B) The taxable value shall be that per cent of true value in money, or current agricultural use value in the case of land valued in accordance with section 5713.31 of the Revised Code, the commissioner by rule establishes, but it shall not exceed thirty-five per cent. The uniform rules shall also prescribe methods of making the appraisals set forth in section 5713.03 of the Revised Code. The taxable value of each tract, lot, or parcel of real property and improvements thereon, determined in accordance with the uniform rules and methods prescribed thereby, shall be the taxable value of the tract, lot, or parcel for all purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 5717.01 to 5717.06 of the Revised Code. County auditors shall, under the direction and supervision of the commissioner, be the chief assessing officers of their respective counties, and shall list and value the real property within their respective counties for taxation in accordance with this section and sections 5713.03 and 5713.31 of the Revised Code and with such rules of the commissioner. There shall also be a board in each county, known as the county board of revision, which shall hear complaints and revise assessments of real property for taxation.
- (C) The commissioner shall neither adopt nor enforce any rule that requires true value for any tax year to be any value other than the true value in money on the tax lien date of such tax year or that requires taxable value to be obtained in any way other than by reducing the true value, or in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, by a specified, uniform percentage.