

Leasing Mineral Rights and Present-Use Value Considerations

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Disclaimer

Nothing contained within this presentation should be construed as legal advice or guidance.

This information is research based and provided for general information purposes only.

One should always consult with a properly licensed attorney when addressing legal questions or issues.

Present-Use Overview

- Property tax deferral program
 - Use-value versus market value
- Key requirements include:
 - Minimum acreage maintained in a given use
 - Sound management program for agricultural and horticultural land
 - Income for agricultural and horticultural land
 - Management plan for forestland
- **Talk to your county tax department for information on all county present-use value program requirements.**

Possible Leasing Impacts

- Change in use of any enrolled acreage could result in loss of enrolled status for that acreage.
- Significant tax liability and costs could be incurred.
 - “Rollback” tax = Last three years of deferred taxes plus the current year owed
 - Possible penalties for failure to notify regarding change in use

Possible Leasing Impacts

- Various activities can change the use of land for some period of time:
 - Drilling pads
 - Pipeline right-of-ways (no tree planting)
 - Roads
 - Storage tanks
 - Any use that does not meet present-use value program requirements
- And cause that land to fall out of present-use:
 - Failure to meet minimum acreage requirements
 - Failure to meet income requirements if applicable
 - Failure to meet sound management program requirements
 - Failure to follow a sound forestry management plan

Possible Leasing Impacts

- Other tracts within a county, or 50 miles away from a “parent” tract, may no longer qualify.
- Land may no longer qualify for enrollment in a voluntary or enhanced voluntary agricultural district program.
 - Where present-use is a requirement

Steps to Protect Yourself

- Look at how any activity on your land could conflict with present-use value program requirements, or those of other tax deferral programs.
- Check with your tax office in advance before leasing or selling any mineral rights.
 - Consider surface impacts if you don't own rights
- Have a provision in lease, which will require company to compensate rollback taxes.
 - And compensate for future tax liabilities if other acreages removed from program

Steps to Protect Yourself

- Make sure that property description of areas to be leased is correct – and properly recorded.
- Monitor activity to ensure areas under present-use value enrollment are not impacted.
- Consult with licensed and experienced attorney – and tax professional if necessary.

Resources

- Your county tax department.
- North Carolina Department of Revenue
 - Present-Use Value Program Guide
www.dornc.com/publications/puv_guide.pdf
- North Carolina Cooperative Extension
 - North Carolina's Forestry Present-Use Valuation (PUV) Property Tax Program
www.ces.ncsu.edu/forestry/pdf/WON/won40.pdf