

**Answers to Frequently Asked Questions about Conservation Use
Valuation and
Preferential Agricultural Assessment**



**A presentation of the most frequently asked questions and answers collected
over the past several years for ad valorem tax issues in Georgia**



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Answers to Frequently Asked Questions about Conservation Use Valuation and Agricultural Preferential Assessment

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INTRODUCTION

Presently in Morgan County there are approximately 1897 Conservation Use covenants, Preferential Agricultural Assessment covenants and Forest Land Protection Act covenants in use by agricultural and forestry landowners. These landowners earn significant property tax benefits from these three tax programs as an alternative to fair market value (FMV).

Georgia Code Section 48-5-7.4 allows for up to 2,000 acres of real property of a single owner, the *primary purpose* of which is any good faith production, including but not limited to, subsistence farming or commercial production from or on the land of agricultural products or timber who meet certain criteria of ownership to enter into a ten-year covenant agreement.

Primary purpose is defined as "the principle use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to, or in conflict with its primary use.

This booklet contains a listing of questions and answers collected over the past several years dealing with these ad valorem tax issues. A careful reading of these contents will foster a better understanding among taxpayers of how these property tax programs works.

CONSERVATION USE VALUATION AND AGRICULTURAL PREFERENTIAL ASSESSMENT

Which is better for me as a Morgan County landowner: fair market value (FMV), Agricultural Preferential Assessment, or Conservation Use Valuation of my land?

It really depends on your planned use for the land over the life of the covenant. For qualified landowners planning to continue the land use in agricultural or forest production, either program can earn tax benefits and serve as an incentive for continued agricultural and forest production.

Agricultural Preferential Assessment generally provides a 25 percent tax advantage over the Fair Market Value. (FMV)

Conservation Use Valuation can offer significant savings, in some cases greater than 50% from FMV.

Alternatively, to maintain a greater flexibility over the use of your land, accept a FMV basis for your ad valorem taxes.

Why should I be interested in Conservation Use Valuation for ad valorem taxation?

All landowners who qualify for Conservation Use Valuation are entitled to have their land valued according to its current use (agriculture, forestry, or environmentally sensitive) instead of the Fair Market Value for ad valorem taxation. This can reap large tax benefits. Another benefit of CUVA is that the value changes are limited to +/- 3 percent a year and a total of +/- 34.39 percent over the life of the 10-year covenant.

Why should I be interested in Agricultural Preferential Assessment?

All land owners who qualify for Agricultural Preferential Assessment are entitled to have their property valued for assessment at 75 percent of FMV for ad valorem taxation. In most cases, 25 percent tax savings will be realized with Agricultural Preferential Assessment. However, Agricultural Preferential Assessment values change as fast as FMV changes and offer no degree of certainty on the property tax burden.

If Conservation Use Valuation offers large savings and appears to be more stable, why would I consider Agricultural Preferential Assessment?

Agricultural Preferential Assessment applies to all land and up to \$100,000 dollars in building value on agricultural production and storage buildings. Conservation Use Valuation applies only to land values and has no effect on building values. A taxpayer that has a small amount of land with a good number of agricultural buildings, such as chicken farming, *may* receive greater benefits under Agricultural Preferential Assessment.

How does the value of my land under the Conservation Use covenant change: per year, per 10 years?

Conservation Use values for land cannot change more than 3 percent per year or more than 34.39 percent over the life of the covenant.

But remember your land will be taxed according to Fair Market Value at the end of the covenant unless you renew the covenant.

Who is eligible for Conservation Use Valuation and/or Agricultural Preferential Assessment?

U. S. Citizens

Family Farm Corporations who earns at least 80% of their income from farming

Non-profit conservation organizations, estates and trust may be eligible

How do I sign up for one of these programs?

Application, questionnaire form & other related details are available at the Morgan County Tax Assessors office. The Morgan County Board of Tax Assessors requires the following when submitting your application:

- Application must be signed by either the Taxpayer, Taxpayer's Authorized Representative or by each person having any beneficial interest in the property described in the application
- Application must be notarized: stamped or embossed, signed and dated by Notary
- A questionnaire should also be completed along with the application
- According to HB916 effective May 1, 2012, Conservation Use Assessment **minimum acreage requirement is ten (10) acres**; however, an owner(s) applying for conservation use assessment on a parcel of less than ten (10) acres **SHALL** submit additional relevant records regarding proof of bona fide conservation use: if the owner of the subject property provides proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property, no further records regarding proof of bona fide use shall be required
- A Covenant Recording Fee shall be collected at the time the application is made. Only cash, bank cashier's check or money order will be accepted. Make money order or cashier check payable to: **Morgan County**

Covenant Recording Fees: NEW FEE 1-1-2020 (HB 288)

- Conservation Use Assessment application:
 - \$25.00 New Application
 - \$25.00 Continuation Application
 - \$27.00 Renewal application(\$ 25.00 for application and 2.00 to file release)
- Preferential Assessment application: \$25.00 per individual property
- Forest Land Protection Act (FLPA) application: \$25.00

Conservation Use Assessment and Preferential Assessment is a 10-year covenant with Morgan County, and Forest Land Protection Act is a 10-year covenant whereby you agree to continue your property in agricultural or forestry use.

When I sign up for one of these covenants, is the application in some way recorded with the deed to my land?

Once your application is approved, the covenant agreement will be placed on record in the Clerk of Superior Court Office of Morgan County. A title search of your property should show that your property is under a covenant. This is for the protection of both the potential seller and/or buyer who may not be aware of the covenant, and any penalties that may occur due to a transaction. The penalties and interest go back to the original owner in the year the covenant is breached. (The penalty is based on two times the tax savings for the number of years the covenant has been in effect plus interest.)

What are considered the allowable uses for a property in order to be eligible for conservation use valuation?

The land uses required for Conservation Use Valuation are good faith agricultural/forest production and environmentally sensitive land including:

- Raising, harvesting or storing crops
- Feeding, breeding or managing livestock or poultry
- Producing plants, trees, fowl or animals
- Production of aquaculture, horticulture, floriculture, dairy, livestock, poultry and apiarian products

When can I sign up for either of these programs?

The earliest anyone may sign up for Conservation Use Valuation or Agricultural Preferential Assessment is January 1 of each year. *The filing time runs from January 1 until April 1.*

In addition, if the county re-assesses your property, you will receive a change in assessment notice. You may make application in conjunction to or in lieu of an appeal, during the 45-day appeal period.

How much land can I enter into Conservation Use Valuation and/or Agricultural Preferential Assessment?

Up to 2,000 acres in Georgia can be entered in Conservation Use covenants. At the same time, up to 2,000 other acres in Georgia may be entered into Agricultural Preferential Assessment. Presently there is a minimum of 10 acres for Conservation Use Valuation.

For vacant parcels over 10 acres, there are no requirements for documentation. The eligibility will be determined from on-site inspection of the property.

If I already have property under a conservation use covenant, can I add additional property to the current covenant?

If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the ten-year period of the original covenant: provided, however, that such **subsequently acquired qualified property shall be less than 50 acres.**

The county appraisal staff shall not combine multiple rural parcels into a single taxable parcel unless all of the following have been satisfied: Parcels must be contiguous.

The term “**contiguous**” means real property within the county that abuts, joins, or touches and has the same undivided common ownership. If an applicant’s tract is divided by a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track, then the applicant has, at the time of the initial application, a one-time election to declare the tract as contiguous irrespective of a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.

Parcels **must** be titled in exactly the same name;
Parcels **must** fall entirely within the same taxing district; and
Parcels that are contiguous but lie in different taxing districts and are otherwise eligible for combination shall be valued in the same manner as the total acreage of the combined parcels would dictate.

560-11-6-.04 Applications.

(b) Such subsequently acquired property may not be subject to another existing current use covenant or preferential assessment; and

(c) For the purpose of establishing the entry date of the original covenant the assessor shall use the January 1st assessment date of the first year for which the original covenant is in effect.

(d) The covenant application for the contiguous acreage to be added to an existing covenant shall be made for the add-on acreage only and shall reference the existing original covenant by parcel number.

Does my entire property have to qualify in order to apply for conservation use covenant?

When 51% or more of the area of a single tract of real property is used for a qualifying purpose, then such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the unused portion; provided, however, that such unused portion must be minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems. The lease of hunting rights or the use of the property for hunting purposes shall not constitute another type of business. The charging of admission for use of the property for fishing purposes shall not constitute another type of business.

If you have questions about your specific case, check with the Tax Assessors’ Office before you change use on any portions of your covenant lands.

Any application for conservation use assessment and any granted covenant on such property shall exclude the entire value of any residence located thereon and its underlying property; as used in this subparagraph, the term “underlying property” means the minimum lot size required for residential construction by local zoning ordinances or up to two acres, whichever is less.

What is the status of my house and yard if I currently enrolled in an Agricultural Preferential or Conservation Use covenant and also live on the property?

For *Agricultural Preferential* and *Conservation Use*, Georgia law states that the land underlying the house is to be separated out and priced at the FMV. The house in which you live is not part of the covenant but is valued according to FMV. More importantly, total value changes under a

Conservation Use covenant (including the eligible Miscellaneous Improvements) are limited to +/- 3 percent per year up to +/- 34.39 percent over the 10-year life of the covenant.

It should be noted that physical changes to the house, such as additions, are valued according to FMV.

How many Conservation Use Covenants can I have? Does all of my land have to be in the same county?

You can have up to 2000 acres in a Conservation Covenant. You may have a separate covenant for each legally definable tract of land you own, providing the parcels qualify for a covenant. Covenants cannot cross county lines or state boundaries. If part of a tract is in two different counties, you will need to apply for a covenant in each county that the land is taxed in. Tract means a parcel of property with boundaries designated by the Morgan County Board of Tax Assessors to facilitate proper identification of the property on their maps and records.

What happens if I want to get out of the covenant before the 10-year period is up?

You are bound by legal agreement with Morgan County for the duration of the 10-year covenant to maintain the Conservation Use. There are four conditions under which you can end a covenant with no penalty, or a one-year penalty. These are:

If you or any party to the covenant dies during the period of the covenant, the covenant ends. This is considered a *no penalty* breach.

If any part of your property is taken, or is conveyed, to a party with the power of eminent domain, the covenant may end. If this occurs, this is a *no penalty* breach.

If you become medically unable to continue the land in its qualifying use, the covenant ends. The Morgan County Board of Tax Assessors requires letters from two (2) doctors stating the medical reason that a landowner cannot continue to farm. If tax savings have been enjoyed during the year this occurs, then a *one-year penalty* is applied.

If your land is taken from you through foreclosure, the covenant ends. If tax savings have been enjoyed during the year this occurs, then a *one-year penalty* is applied.

Otherwise to get out of the covenant early you must pay a tax penalty equal to twice the tax savings enjoyed to date, plus interest & penalties.

What are the penalties for breach of the Conservation Use Valuation and Agricultural Preferential Assessment covenant?

Breaching a *Conservation Use* covenant will result in a penalty that applies to the entire tract that is placed under an original covenant, even if the breach occurred on only a small portion of the tract under the covenant. The penalty paid by the original covenant holder will be an amount equal to twice the property tax savings incurred from the year the covenant was entered until it was breached, plus interest and penalties.

In the event that a portion of the land under a Conservation Use covenant is sold to a qualifying landowner, who later breaks the covenant, penalties also apply to the entire tract under the original covenant. Under this condition, there will be a pro-rata assessment of the penalty against each of the

parties of the covenant in proportion to the tax benefit enjoyed by each. This means that the original covenant holder will pay a fine based on the tax savings enjoyed on all the acreage, from the beginning of the covenant up to the time of sale of land, and of the breach. The subsequent covenant holder would pay a fine based on the tax benefits enjoyed from the time of covenant land purchase up to the time of the breach. Please be aware that the penalty plus interest constitutes a lien against the property if not paid.

Penalties for the *Agricultural Preferential* covenant are assessed as the tax benefits enjoyed during only the year of the breach, times a factor of:

- 5 if breached during the 1st or 2nd year
- 4 if breached during the 3rd or 4th year
- 3 if breached during the 5th or 6th year
- 2 if breached during the 7th, 8th, 9th or 10th year

The landowner in the original covenant pays the penalty.

Exactly how is a Conservation Use breach penalty calculated?

The Morgan County Board of Tax Assessors’ office maintains the FMV of the property for each year of the covenant. They also calculate the tax savings, interest & penalties for the property being breached. The difference between the actual FMV and the CUVA value becomes an annual exemption for the taxpayer. The tax savings benefit is calculated from the amount of the exemption.

The following is an example of how a penalty might be calculated if a covenant was breached in the 6th year of the agreement, and the parcel is vacant with no homestead exemptions.

EXAMPLE ONLY

FAIR MARKET VALUE	CURRENT USE VALUE	EXEMPT AMOUNT *	MILLAGE RATE	TAX SAVINGS	PENALTY	\$ AMOUNT PENALTY
195,000	92,000	41,200	.02150	\$ 885.80	X 2	\$1,771.60
195,000	94,760	40,096	.02120	850.04	X 2	1,700.08
260,000	97,600	64,960	.02280	1,481.09	X 2	2,962.18
260,000	100,500	63,800	.02075	1,323.85	X 2	2,647.70
260,000	103,500	62,600	.02170	1,358.42	X 2	2,716.84
288,000	106,600	72,560	.02058	1,439.28	X 2	2,986.56
TOTAL PENALTY DUE AT BREACH						\$14,784.96

*Exempt amount is the difference between the FMV and the CUVA value multiplied times the assessment level of 40 percent.

(195,000 - 92,000 = 103,000 X .40 = 41,200)

The penalty amount will vary from covenant to covenant due to the fact that the FMV and the CUVA value will be different for each parcel.

As shown above, the FMV changed between the second and third year. Thus, the penalty amount increased between the second and third year. This demonstrates the importance of keeping up with the FMV, even though you are not being taxed on that amount.

In fact the tax amount due under Conservation Use for the first year would be \$791.20. Without the Conservation Use covenant, the tax due would be \$1,677.00. So, as you can see this covenant can offer substantial tax savings.

Looking at the previous chart, what would be the penalty if I breached the covenant due to foreclosure or a medically demonstrated illness during the 6th year?

If the covenant is breached due to foreclosure or a medically demonstrated illness, *and* tax benefits have been received for that year, then only the penalty amount due for the year in which you breach is due. So, under one of these circumstances, the penalty due would be \$2,986.56.

Can I change agricultural/forestry uses of the Conservation Use covenant land during the 10-year period?

Yes, you can change among good faith production of agriculture or forestry crops provided that you notify the Morgan County Board of Tax Assessors in writing of the intended use change. Failure to notify constitutes a breach of the covenant with penalties as described.

Can I sell land that is under the Conservation Use Covenant?

Yes. But to avoid a penalty, the buyer must continue the terms of the original covenant and enter a continuance Conservation Use covenant for the land purchased. The sign-up period for the new owner is during the next year's regular sign-up period, January 1 through April 1. The landowner under the original covenant remains in that covenant unless all land under covenant was sold. But the original covenant holder still remains legally responsible for any penalty assessed against benefits earned before the sale.

When selling land under a covenant, it may be wise to have your attorney include language with the property deed requiring the new owner to continue land use under provisions of the original covenant.

What happens if my spouse and I jointly own property entered in a Conservation Use Covenant and we divorce during the covenant period with one of us gaining the deed to the property?

Department of Revenue Regulations state that when there is a change in ownership of property receiving current use assessment, the new owner must apply for a continuation of the covenant. This application must be made on or before the deadline for filing returns, which is April 1 of the next year after the change of ownership.

In the event of a divorce, the original parties to the covenant remain liable for any breach of the covenant. Responsibility for penalties due to a covenant breach should be specified in divorce decrees, contracts, etc.

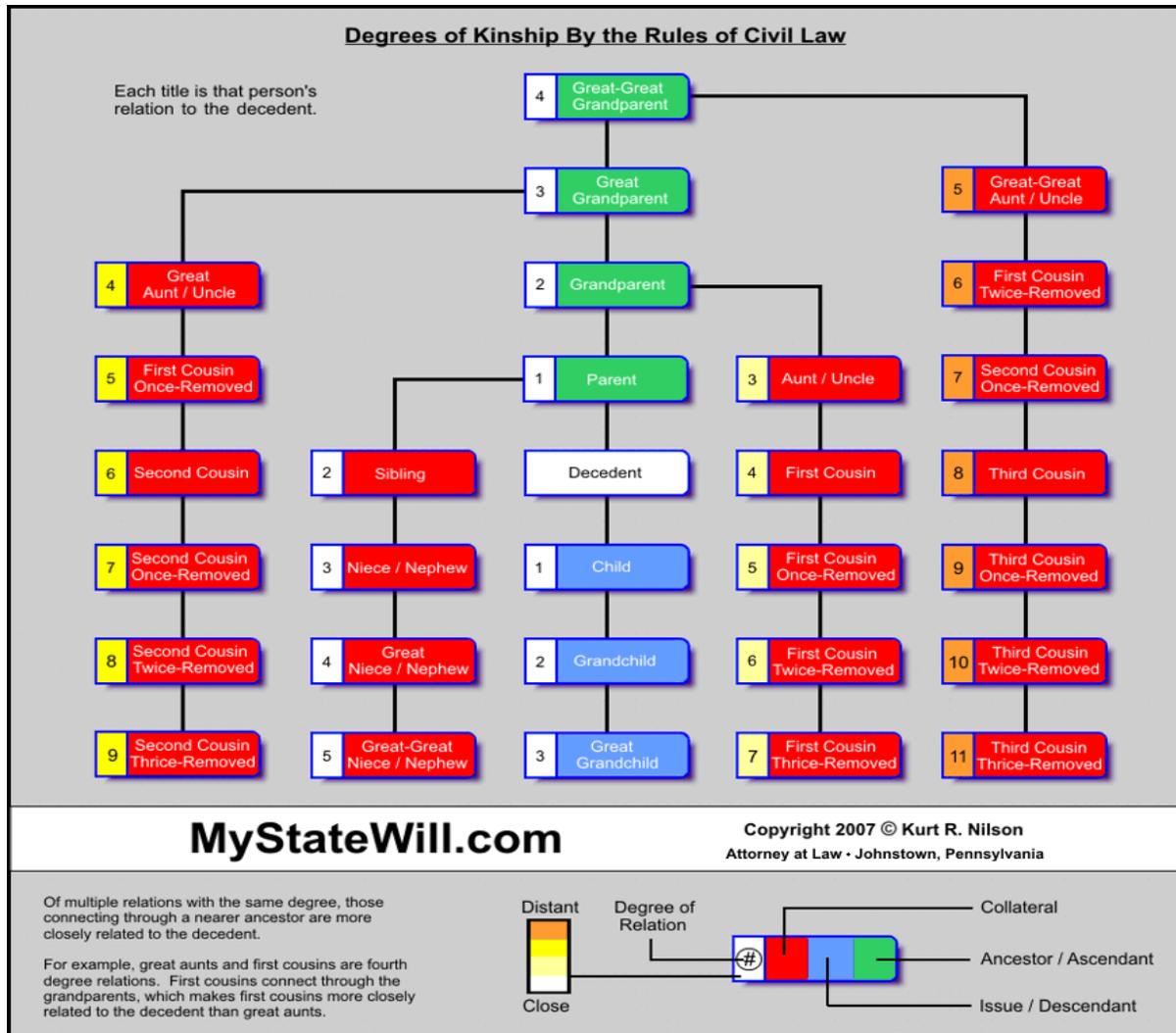
Can members of my family build a home and live on Conservation Use Covenant land?

Yes, any family member which is related to the original covenant holder, at least to the fourth degree of civil reckoning, can build a home and live on the land (**up to 5 acres**) enrolled in a Conservation Use Covenant, without penalty during the life of the original covenant.

After the transfer of property under covenant to the family member, the home must be built and occupied by the family member within one year and must remain so for the duration of the original covenant.

This property **will not receive the CUVA exemption** but does still remain subject to the conditions of the original covenant.

FOURTH DEGREE OF CIVIL RECKONING



What happens if the original covenant holder dies during the life of the covenant or cannot carry out the requirements of the covenant?

If the original covenant holder dies before the Conservation Use or Agricultural Preferential covenant expires, the agreement is nullified, and the covenant ends without penalty, or the heirs have the option to continue the covenant without penalty.

If the property owner ends the covenant because of a foreclosure or medically documented illness, the covenant is breached. But only the tax savings incurred in that year will be forfeited.

What happens if the County or State wants some of my land for right-of-way?

When a public body (government) acquires the land through eminent domain, the covenant ends. You may be entitled to sign up again on the remaining acreage if you choose.

Property that is either given or sold to schools and power companies would also include in this group.

What do I do if I want to enter my land in a Current Use Covenant but feel that I may want to develop some of the land before the 10 years is up?

The best approach would be to enroll only the land that you intend to keep in the qualifying uses for the life of the covenant. This means to create a new legal description for separate tracts.

For example, if you own 100 acres and feel you may want to develop or sell a portion during the 10-year covenant period, you will be required to submit a legal description to the Board of any property that will not be included in the covenant. This legal description can be by deed or by survey.

Can I lease or rent my covenant land out for hunting, pine straw harvest, agricultural or tree crop production, or other qualifying uses without penalty?

Yes, these rights are specifically spelled out in the law. However, the person with whom you lease or rent land must otherwise qualify for the program.

Can I lease or rent my covenant land for other purposes, such as cell towers?

Placing a cell tower on your property is allowed on up to 6 acres. As noted above, anyone who leases land must otherwise qualify for the program. Renting or leasing to companies and corporations who would not qualify for the program is considered a breach of the covenant. Caution should be taken if you are considering leasing for any purpose other than cell towers, hunting or agricultural purposes.

Can I sell my house and yard that is located on Conservation Use covenant land, or rent it out, without breaking my covenant agreement, even when the remaining land stays in the qualifying use?

Conservation Use and Agricultural Preferential valuation does not apply to a residence but does apply to the lot on which the house is located on the agricultural or forest property under covenant. Therefore, the house and yard may not be considered for sale separately from the Conservation Use covenant. Renting the residence or any other house or mobile home located on the parcel is allowed. Be sure to check with The Morgan County Board of Tax Assessors before making any changes in ownership, or renting, of the house and/or any part of the property.

What if I want to change between Agricultural Preferential Assessment and Conservation Use Valuation?

There is no apparent time limit set by Georgia law on when you can change from an existing Agricultural Preferential Assessment covenant to a Conservation Use covenant. However, you can change from Preferential Assessment to Conservation Use, for a particular covenant, only once.

You **cannot** change from an existing Conservation Use covenant to a new Agricultural Preferential Assessment covenant except at the end of the Conservation Use agreement.

How much is my land worth under the Conservation Use covenant? Who decides what it is worth? How is a particular piece of land given a value?

Conservation Use land value is based on its use, location and soil productivity. Annually the Georgia Department of Revenue publishes a table of values for all Conservation Use land in Georgia. The table of values is available at the Morgan County Tax Assessors' office, University of Georgia Cooperative Extension Service County Office, the Georgia Forestry Association, Georgia Farm Bureau Federation and the Georgia Forestry Commission.

Once your application has been approved, the acreage of your parcel is broken down by soil classification. Then the soil types are coded against the above table and totaled for a new Conservation Use value. These values cannot go up or down more than 3% per year.

While my land is in a Conservation Use covenant, how do I keep up with its Fair Market Value (FMV)?

The Tax Assessors' Office will continue to notify the taxpayer of any changes to the FMV of the covenanted property. Assessment Notices are sent annually to reflect the FMV & the Conservation value each year. Remember the difference between FMV and Conservation Use value is the basis for calculating any penalty. So, pay careful attention each year to the FMV of your land, even while in a protective covenant.

What happens if I want to divide my property for estate planning purposes and deed off portions while I am in the covenant?

If you do not change the use of the property, each party may be eligible to file for continuance of the original covenant. It would be wise to discuss this with the Tax Assessors' office to make sure that the division will be done in a manner that would not breach the covenant.

The Morgan County Board of Tax Assessors should be consulted before building any improvements on property divided for estate planning purposes.

If I choose to place my property into a LC, LLC, LP, Family Farm Corporation etc., for estate planning purposes or other income tax purposes, how will this affect my covenant?

Georgia Law and Regulations Reference 48-5-7.4 (C) (iv)

A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree reckoning, except that, solely with the respect to a family limited partnership, corporation, limited partnership, limited

corporation, limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5% interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens. a trust of which the beneficiaries are one or more natural or naturalized citizens and which family owned farm entity derived 80% or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility.

All parties of the partnership or corporation must be related to each other within the fourth degree of civil reckoning, except that there is an allowance for a non-related 5% ownership for management purposes.

The Morgan County Board of Tax Assessors requires the following legal documentations at time of filing an application for any of the entities referenced above in GA Law & Regulation 48-5-7.4. Failure to submit the applicable documentations when filing for a new conservation use covenant application will be denied. Failure to submit the applicable documentations when filing under an existing conservation use covenant will result in penalties being accessed to property for breach of covenant.

- Copy of Business certificate of corporation filed with the GA Secretary of State
- Copy of Business IRS tax return for the partnership or corporation
- An affidavit declaring relationship of ownership/partners of registered Business.
- When an LLC, LLP, etc. entity is formed with the state of Georgia, the establishment of a banking account is required for the entity; therefore, it is the policy of the Morgan Board of Tax Assessors that the entity's account information must be submitted at the time of filing a conservation use application for the LLC as proof of bona fide conservation use.
- Any businesses that have not filed its IRS taxes on or before April 15th and claim that they have filed for a filing extension, MUST provide a copy of the Internal Revenue Service's official acknowledgement that a tax return extension has been filed. The IRS tax filing extension acknowledgement must provide the extension date that the tax must be filed.

What happens if I divide my property or sell it, and the new owners do not come in and file for a continuance covenant?

When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to apply for continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event, the board of assessors shall send to **both**, the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

- (a) the requirement of the new owner of the property to apply for continuation of the current use assessment within (30) days of the date of postmark of the notice
- (b) the requirement of the new owner of the property to continuously devote the property to an applicable bona fide qualifying use for the duration of the covenant
- (c) the change to the assessment if the covenant is breached; and

(d) The amount of penalty if the covenant is breached

If I make application, what will the Morgan County Board of Tax Assessors look at to determine if I qualify?

The Morgan County Board of Assessors will review the current use application & questionnaire form, photos and any other property related documentation of the property seeking conservation use assessment. An appraiser from the Morgan County Tax Assessors' office will perform an on-site inspection of the property and prepare a report for the Morgan County Board of Tax Assessors to review to conclude if a conservation use covenant is approved or denied.

Applicant(s) should submit any documentation he/she has regarding the bona fide conservation use of the property.

If I have property that has been under a conservation use or preferential agricultural covenant for 10 years, will my covenant automatically be renewed at the end of the 10 years?

No. You must sign a release of the first 10-year covenant and the exemption ends. At the end of October, the Tax Assessors' office will send you notification that your covenant is about to expire.

You must make application for a new 10-year covenant between January 1st & April 1st of the following year if you desire the exemption to continue.

If you apply for your second 10-year period, it is considered a **RENEWAL COVENANT**.

If I had the exemption before, I should automatically qualify again, right?

Not necessarily. Ten years is a long period, and many changes can occur. During the first 10 years since the covenant was originally placed into law in 1992, there have been changes made to the law, changes to the state regulations, and changes due to court cases that clarify the law. These changes included making it more difficult for smaller tracts to enter into these covenants, clarification of the type of income allowed (no, non-agricultural related rental income) and clarification of the definition of ***primary use*** of the property.

There may have been changes in ownership, changes in use and other factors that need to be reviewed.

Were there any changes that benefit the taxpayer?

Yes, the law now states that if you enter into a **second ten-year** covenant, it is considered a ***renewal covenant***.

If you decide to sell your property or change the use during the 6th through the 10th year of your ***renewal*** covenant, you only have to pay the taxes that would have been due if you were not in the covenant.

There is no penalty amount, but you do have to pay taxes at the fair market value for years you have been in the ***renewal*** covenant.

There is also a change that allows for an early out provision, if any one of the parties of the covenant turns 65 years of age also included a new option for anyone who turns 65 during a *renewal* covenant.

What do I do if I am turned down for a Current Use covenant?

If your application is turned down, you may appeal the decision of the Board of Tax Assessors. This must be done, in writing, within 30 days of the date of the letter of notification. Your appeal will be forwarded to the Board of Equalization for a hearing.

If I have questions, who and where do I call for answers?

Anytime you have questions regarding making an application, or changing the use of your property, please contact the following person at the Morgan County Tax Assessors' office:

Guy Rogers (706) 342-0551