

1975 O. A. G.

OFFICIAL OPINION NO. 33

December 16, 1975

Mr. Kenneth R. Beesley  
State Examiner  
912 State Office Building  
Indianapolis, Indiana 46204

Dear Mr. Beesley:

This is in response to your request for an official opinion as to the following question:

“When land is withdrawn from the classification of forest land or forest plantation, and the owner is required to pay the property taxes that would have been charged if the land had not been so classified, is the tax to be computed on the basis of the gross tax rate, or upon the net tax rate after allowing the property tax replacement credit, pursuant to IC 6-1.1-21?”

ANALYSIS

Indiana Code of 1971, sections 6-1.1-6-1 to 6-1.1-6-27 provide that land classified as native forest land or a forest plantation shall be assessed at one dollar per acre for general property tax purposes and further provide the procedures a landowner must follow to have his land so classified. Code section 6-1.1-6-24(a) prescribes the tax liability which attaches to land which is withdrawn from classification. That subsection reads as follows:

“If land which is classified as native forest land or as a forest plantation is withdrawn from the classification, the owner shall pay an amount equal to the lesser of:

(1) the total property taxes that, if it were not for the classification, would have been assessed on the land during the lesser of:

(i) the period of classification; or

## OPINION 33

(ii) the ten [10] year period immediately preceding the date on which the land is withdrawn from the classification; plus interest on the property taxes at the rate of five per cent [5%] per year; or

(2) the remainder of (i) the withdrawal assessment of the land minus (ii) the sum of:

(A) the initial classification assessment of the land; and

(B) any increase in the initial classification of the land resulting from the subsequent construction of a ditch or levee.”

Thus, the statute requires a taxpayer withdrawing his forest land from the special classification to pay the lesser of (a) his tax bill for the period that his land was specially classified, not to exceed ten years, or (b) the increased assessed value of the land from the time it was granted the special classification until the time it was withdrawn, such increase, however, not to include value added by the construction of ditches or levees. You question whether tax liability figured under the first option, which requires payment of the total property taxes which would have been assessed during the period of classification, should take into account the credit allowed under the Property Tax Replacement Law, Code sections 6-1.1-21-1 to 6-1.1-21-12.

Specifically, Code section 6-1.1-21-5 provides that “[e]ach year the taxpayers of each of the several counties shall receive a credit for property tax replacement in the amount of twenty per cent [20%] of the tax liability . . . of each taxpayer for [property] taxes . . .” Since this credit would have been available to the owner of classified land except for that classification, it likewise should be available at the time the classification is withdrawn and liability attaches. This result is required by the plain meaning of Code section 6-1.1-6-24, which provides that, upon withdrawal of his land from classification, a landowner shall pay an amount equal to the total property taxes that *would have been* assessed on the land during the period of classification (but not to ex-

## 1975 O. A. G.

ceed ten years). The real property taxes that would have been assessed during the period of classification would have been reduced by the property tax replacement credit then in effect. Of course, that credit was first provided by Acts 1973, P.L. 45, Sec. 3; was first applied to taxes due and payable in 1974; and thus would apply only to taxes that would have been assessed on classified lands for 1974 and subsequent years.

### CONCLUSION

It is, therefore, my Official Opinion that where land classified as native forest land or forest plantation is withdrawn from such classification, the resulting property tax liability under Code section 6-1.1-6-24(a) should be computed so as to allow the credit available under the Property Tax Replacement Law.