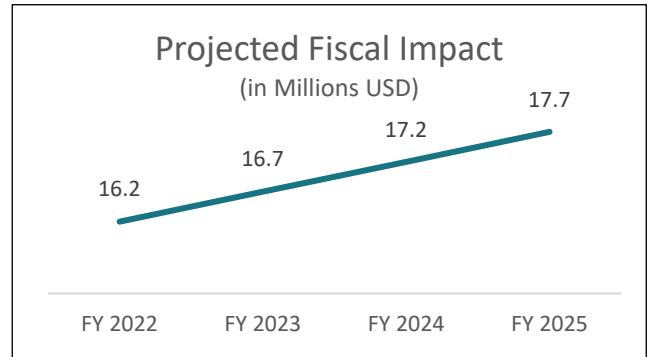


Open Space Property

Tax Expenditure Initial Review - TEB 13.06

Tax Expenditure Facts

Year Enacted	1969
Statute	Minn. Stat. § 273.112
Tax Type	Property Tax
Provision Type	Preferential Computation
Shift in Tax Burden	\$17,200,000 – Fiscal Year 2024
Latest Claims Estimate	~240 parcels – Tax Year 2021
Expiration Date	None



Tax Expenditure Description

Private recreational, social, open space, and park land is given preferential valuation and tax deferral as long as it meets certain criteria.ⁱ For property tax purposes, the property is valued at its current use rather than at a higher value that would reflect its potential use. Qualifying property includes golf courses, ski areas, and archery and firearms ranges. When the open space property no longer qualifies for preferential valuation, taxes are due equal to the amount by which the preferential valuation reduced the tax for the previous seven years.

The Minnesota Open Space Property Tax Law was enacted in 1969. Several changes have been made since enactment, and this provision was last modified in 2005.

Approximately 240 parcels received preferential valuation under this provision in 2021.

Additional Background Information

Deferral programs value and tax property based on its current use, not the amount the property would likely sell for on the open market. For example, property in the open space program used as a golf course but highly desirable for residential development is valued based solely on its use as a golf course, not based on the substantially higher value it would command if sold to a land developer for its highest-and-best (residential in this example) use.ⁱⁱ Thus, property in the open space program has a lower taxable value and subsequent tax liability than would otherwise prevail under normal assessment and valuation practices.ⁱⁱⁱ Taxable values and class rates determine how property tax burdens are distributed amongst properties in a particular taxing jurisdiction.^{iv}

The open space program is administered by local assessors and county auditors. The assessor calculates two values for open space properties, an estimated market value (EMV) based on highest-and-best use, and a taxable market value (TMV) based on current use. The auditor calculates tax liability on both amounts, and the difference between tax liability based on EMV and tax liability based on TMV is deferred so long as the property meets open space requirements. When the property is no longer eligible for open space deferral the owner must pay back the amount of property tax deferred for the current year and six preceding years.^v

Program beneficiaries include owners of qualifying private recreational, social, open space, or park land. Property in the open space program contributes a smaller amount to the tax base, requiring a higher local tax rate to produce the same levy amount. This dynamic effectively shifts a portion of the property tax burden from qualifying to non-qualifying properties in the unique taxing area. Tax shifting can occur when one or both elements of property tax capacity – taxable market value and classification rate – change due to market trends, legislative actions, reassessments, property improvements, use changes, or provisions such as open space.

Proposed Tax Expenditure Objective for Consideration

The open space property tax law is intended to encourage the preservation and development of private outdoor, recreational, open space and park land which would otherwise not occur or have to be provided by governmental authority.

Sources

The proposed objective is based on the policy statement included in Minnesota Statutes 273.112:

“The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain private outdoor recreational, open space and park land property and has resulted in excessive taxes on some of these lands. Therefore, it is hereby declared that the public policy of this state would be best served by equalizing tax burdens upon private outdoor, recreational, open space and park land within this state through appropriate taxing measures to encourage private development of these lands which would otherwise not occur or have to be provided by governmental authority.”^{vi}

Potential Metrics and Performance Measures

Publicly available parcel level data can be used to measure:

- The longevity of properties in the open space program
- Deferment value over time
- Open space property use and geographical distribution
- The amount of open space property over time

How many open space properties are used for golf, skiing, archery, or other qualifying uses but for the preferential valuation and deferment? A full evaluation may survey or partner with owners of open space property to estimate the effect of open space provisions on the supply of private outdoor recreational lands.

Contact Information and Disclaimer

This tax expenditure review was prepared by the Legislative Budget Office for the Tax Expenditure Review Commission pursuant to Minnesota Statutes 2023, section 3.8855, subdivision 4.

Notice: Proposed tax expenditure objective statements are not binding authority and should not be used as a legal interpretation of any tax expenditure statute.

For questions regarding this review, please contact the Legislative Budget Office at 651-297-7146 or lbo@lbo.mn.gov.

For more information, please visit the [Tax Expenditure Review Commission website](#).

ⁱ Minnesota Statutes 2023, section 273.112, subdivision 3 lists specific ownership, use, and non-discrimination requirements.

ⁱⁱ “Highest-and-best use” – the use that provides the highest return to the land – is a common appraisal concept used to estimate the market value of a property. Highest-and-best use depends on several factors including but not limited to zoning, use of surrounding properties, market pressures, location, local building codes, and accessibility. The use must be physically possible, legally permissible, financially feasible, and maximally productive. For a brief discussion of highest-and-best use, see Minnesota Department of Revenue, *Minnesota Property Tax Administrator’s Manual* (July 2023), 66, <https://www.revenue.state.mn.us/sites/default/files/2023-09/combined-module.pdf>.

ⁱⁱⁱ Minnesota Department of Revenue, *Auditor Treasurer Manual* (August 2021), 51-52, 76-77, <https://www.revenue.state.mn.us/sites/default/files/2021-08/Auditor-Treasurer%20Manual%20-%20August%202021.pdf>. A useful comparison of special valuation and deferral programs can be found on page 59.

^{iv} For a brief overview of property taxes in Minnesota, see Jared Swanson, et. al., *Overview of Property Taxes: A Presentation to the Property and Local Tax Division* (Minnesota House Research and Fiscal Analysis Departments, January 2023), <https://www.house.mn.gov/hrd/issinfo/2023PTHandout.pdf>. Minnesota House Research also provides a useful summary of property tax terms available at <https://www.house.mn.gov/hrd/pubs/ss/ssptterm.pdf>.

^v *Minnesota Property Tax Administrator’s Manual*, 142.

^{vi} Minnesota Statutes 2023, section 273.112, subdivision 2, <https://www.revisor.mn.gov/statutes/cite/273.112#stat.273.112.2>.