Maryland's stealthy new tax on small farms

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FULL TEXT

The war in Ukraine, the COVID-19 pandemic and the shortage of baby formula highlight the fragility of the food supply. Regrettably, as the consequences of climate change threaten even more devastating disruption, higher property taxes - implemented without public comment, court order or legislative support - further jeopardize Maryland's ability to feed its residents.

Agriculture is risky, especially for families living and working on small farms. Most farms in the United States report losses each year. Moreover, agriculture faces enormous weather-related challenges and requires significant capital investment.

Recognizing these threats to the state's food security in 1960, Maryland became the first state in the nation to adopt an agricultural use assessment. Property used for "farm and agricultural purposes" is assessed at a preferential rate per acre, independent of its market value or any improvements, including barns, packing houses or processing facilities.

This historical practice ended a year ago when the State Department of Assessment and Taxation began reassessing at their commercial market value properties where "value-added" agricultural processing and sales occur. The result has been a sudden and significant increase in property taxes that endangers the very existence of many small farm businesses.

In case after case, farmers that added new storage, processing and sales facilities decades ago are now being reassessed at higher rates than in prior years. The state views its assessment policy as unchanged. But from the landowner's perspective, the higher assessments and tax bills undoubtedly feel like new taxes.

It is easy to understand how the tax department could conclude that value-added activities should be classified as commercial. A creamery on a farm and one in an industrial park look the same, at least from the inside. Moreover, the tax department's job is to raise money, not ensure that Maryland residents have healthy diets.

However, the department's interpretation that value-added production is commercial is not shared by those best equipped to understand the evolving nature of agriculture. The state and federal department of agriculture and many counties define value-added activities as having an agricultural purpose when the ingredients are produced on the farm. These agencies did not make their decisions casually. On the contrary, they often followed an intense public debate.

Perhaps the most convincing case for the agricultural basis of value-added activities is found in decisions made by the Maryland Agricultural Land Preservation Foundation. Although the foundation's policies prohibit commercial and industrial uses of an easement property, it has consistently judged that value-added operations, including creameries, wineries and agritourism, have an agricultural purpose and thus are allowed on easement farms.

Ironically, the foundation and the tax department arrived at their conflicting opinions by looking back, not forward. From the tax department's perspective, a barn with bathrooms for its staff and visitors is not a "standard barn" and thus not used for agricultural purposes. Likewise, a "traditional agricultural use" is the foundation's threshold test for a permitted activity on easement property. Both agencies justify crucial policies with widespread consequences based on vague perceptions of past agriculture that conjure Justice Potter Stewart's definition of obscenity: "I know it when I see it."

From a policy perspective, producing more food locally will help stabilize the climate, restore ecosystem function, improve human health and result in a more equitable society. Achieving these goals requires investing in agriculture with subsidies, tax reductions and credits, and other incentives. Unfortunately, higher property taxes make it harder, not easier, to establish the types of farms we need to achieve these benefits.

Encouraging value-added production represents a cost-effective investment in a better future. Producers receive less than eight cents of every dollar spent on food. Capturing more value from their agricultural products by processing and selling them directly to consumers can mean the difference between financial stability and selling the farm. Recognizing the substantial community benefits of an expanding local food sector, the General Assembly has required the tax department and the Maryland Department of Agriculture to study the issue and chart a path forward. This vital study should examine Maryland's future needs, not a past that polluted the Chesapeake Bay, destabilized the climate, and degraded ecosystems.

Higher property taxes will add to ongoing financial pressures on farms that threaten their ability to meet the needs of their communities. As farms become too expensive to maintain, the property is often developed for residential or commercial uses. And every time a farm is sold for non-agricultural purposes, we inch closer to food insecurity and climate catastrophe.

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