



# Publication 134

## Developer's Exemption

### Property Tax Code, Section 10-30

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#### About this publication

The information in this publication is current as of the date of the publication. Please visit our web site at [tax.illinois.gov](http://tax.illinois.gov) to verify you have the most current revision.

The contents of this publication are informational only and do not take the place of statutes, rules, or court decisions. For many topics covered in this publication, we have provided a reference to the Illinois Property Tax Code for further clarification or more detail. All of the sections and parts referenced can be found at 35 ILCS 200/1 *et seq.*

This publication is issued according to Section 8-5 of the Property Tax Code which states, "The department shall confer with, advise and assist local assessment officers relative to the performance of their duties." As such, this publication is provided to help local assessment officials determine the proper valuation method to use when assessing subdivided land for property tax purposes and to facilitate statewide uniformity in these assessment practices. This document is not all-inclusive and is not intended to replace the assessor's professional judgment.

#### Contents

Applicable statute .....	1
Overview.....	2
Example.....	3
FAQs.....	3
Additional references .....	4

#### Applicable Statute

(35 ILCS 200/10-30)

##### Sec. 10-30. Subdivisions; counties of less than 3,000,000.

(a) In counties with less than 3,000,000 inhabitants, the platting and subdivision of property into separate lots and the development of the subdivided property with streets, sidewalks, curbs, gutters, sewer, water and utility lines shall not increase the assessed valuation of all or any part of the property, if:

- (1) The property is platted and subdivided in accordance with the Plat Act;
- (2) The platting occurs after January 1, 1978;
- (3) At the time of platting the property is in excess of 5 acres; and
- (4) At the time of platting the property is vacant or used as a farm as defined in Section 1-60.

(b) Except as provided in subsection (c) of this Section, the assessed valuation of property so platted and subdivided shall be determined each year based on the estimated price the property would bring at a fair voluntary sale for use by the buyer for the same purposes for which the property was used when last assessed prior to its platting.

(c) Upon completion of a habitable structure on any lot of subdivided property, or upon the use of any lot, either alone or in conjunction with any contiguous property, for any business, commercial or residential purpose, or upon the initial sale of any platted lot, including a platted lot which is vacant: (i) the provisions of subsection (b) of this Section shall no longer apply in determining the assessed valuation of the lot, (ii) each lot shall be assessed without regard to any provision of this Section, and (iii) the assessed valuation of the remaining property, when next determined, shall be reduced proportionately to reflect the exclusion of the property that no longer qualifies for valuation under this Section. Holding or offering a platted lot for initial sale shall not constitute a use of the lot for business, commercial or residential purposes unless a habitable structure is situated on the lot or unless the lot is otherwise used for a business, commercial or residential purpose.

(Source: P.A. 83-837; 88-455; 95-135.)

Remove preferential assessment Assessed value Qualifications

# Overview

## What is the “developer’s” exemption?

Section 10-30 of the Illinois Property Tax Code<sup>1</sup> gives a preferential property assessment for acreage that is in transition from vacant land to a residential, commercial, or industrial use. The purpose of the preferential assessment is to encourage real estate development by providing a tax incentive that protects a developer from paying increased taxes until a return on the investment can be made. As a result, the preferential assessment is often called the “developer’s exemption” or “developer’s rate”.

The preferential assessment is available in all counties except Cook County.

## What criteria must be met?

To qualify, the land must be

- platted and subdivided as required by the Illinois Plat Act<sup>2</sup>;
- platted after January 1, 1978;
- more than 5 acres when platted; and
- vacant land or used as a farm<sup>3</sup> when platted.

**Note** Before January 1, 2008, the subdivision had to be more than 10 acres when platted.

## How is the assessed value determined?

The assessed value is the estimated price for which the property would sell if the new owner were to continue to use it for the same purpose for which it was used before it was platted and subdivided. This does not mean that the assessed value is “frozen” at the amount at which it was assessed before it was platted and subdivided; it does mean that the assessed value cannot increase because of new infrastructure (*e.g.*, streets, sidewalks, curbs, gutter, or sewer, water, and utility lines).

If the land was previously

- assessed as vacant land (not farm), it continues to be assessed as vacant land (one-third of its fair market value according to its use before the property was platted).
- assessed as farmland<sup>4</sup>, it is assessed at the estimated selling price of farmland.

- tax-exempt, it is assessed based on its classification when the exemption is removed (*i.e.*, vacant land or farmland). The exempt entity must notify the CCAO within 30 days of the date the property was sold<sup>5</sup>. The exempt status is removed as of the date of the transaction<sup>6</sup>.

**Note** A recent Illinois Appellate Court decision says that land previously assessed under the Farmland Assessment Law should continue to be assessed as farmland based on the soils’ productivity indexes until the property no longer qualifies for the developer’s exemption. Chief county assessment officers (CCAOs) should consult their respective State’s Attorney for more information and guidance.

## Must the developer apply for this exemption?

No. The CCAO must send a notice to the property owner if the assessment changes<sup>7</sup>. The developer may contact the CCAO if it appears that the land is being assessed at a higher level because of added infrastructure or if the property is not assessed as it was in the assessment year before the plat and subdivision was filed. The developer may also file a formal assessment appeal with the county board of review or circuit court.

## When does the developer’s exemption expire?

The preferential assessment for a lot in the subdivided property ends when one of the following events occur:

- A habitable structure on any lot of subdivided property is completed.
- A lot is used for a business, residential, or commercial purpose.
- A platted lot or vacant platted lot is sold.

**Note** The developer’s exemption does not expire if an improvement qualifies for the model home assessment.

<sup>1</sup> 35 ILCS 200/10-30

<sup>2</sup> 35 ILCS 205/1 *et seq.*

<sup>3</sup> 35 ILCS 200/1-60

<sup>4</sup> 35 ILCS 200/10-110 through 10-135

<sup>5</sup> 35 ILCS 200/15-20

<sup>6</sup> 35 ILCS 200/9-200

<sup>7</sup> 35 ILCS 200/12-30

## ***How is the property assessed after it no longer qualifies for the developer's exemption?***

The preferential assessment is removed and the land and any improvements are valued at one-third of their respective market values.

**Note** If a single lot is sold, the rest of the land continues to receive the preferential assessment. The assessed value of the unsold land is reduced proportionally to reflect the fact that the lot no longer qualifies for the preferential assessment.

## **Developer's lot exemption example**

A farmer owns 100 acres of land and has planted crops on the entire acreage for the previous two years. His property is assessed as farmland. On January 1, 2007, he decides to plat and subdivide a quarter of his farm into 25 one-acre lots, but continues to plant crops on the entire 100 acres for the 2007 assessment year. The act of platting does not require assessment officials to make any changes in the property value for the 2007 assessment year.

The farmer decides to develop one of the lots, so he plants crops on 99 acres during the 2008 assessment year. On March 1, 2008, he begins construction of a house on a one-acre lot and completes construction on August 1, 2008. The house is not occupied, sold, or used as a model home in 2008. Assessing officials should continue to value the 99 acres as cropland. The one-acre lot and house should be assessed at one-third of full market value as residential property and prorated from August 1, 2008 through December 31, 2008<sup>8</sup>.

## **Frequently asked questions**

### ***Can the developer combine multiple plat recordings so that the overall development exceeds 5 acres?***

No. The final recorded plat must be more than 5 acres.

### ***When must the developer record the plat and subdivision to receive the preferential assessment?***

Generally, the plat must be recorded before the chief county assessment officer reassesses or reclassifies the property.

**Note** A recent Illinois appellate court decision determined that land that is platted and subdivided the

- same assessment year as it is reassessed or reclassified qualifies for the preferential assessment.
- year after the assessment year it is reclassified does not qualify for the preferential assessment.

### ***If the developer sells all or a portion of the land to another developer, does the property continue to receive the preferential assessment?***

No. When any sale occurs, the preferential assessment is removed. It does not matter that one developer sold land to another developer.

If only a portion is sold, then that portion is assessed at one-third of its fair market value. The portion remaining with the original developer continues to receive the preferential assessment. Beginning with the next assessment year, the assessed value is reduced proportionately to reflect the portion that was sold.

If the entire development is sold to another developer, then that entire development no longer qualifies for the preferential assessment. This applies even if no habitable structures have been built or the area has not been used for any business, commercial, or residential purpose.

## ***When is a structure considered “habitable”?***

“Habitable” means fit for occupancy. Assessors regularly decide when a structure is habitable as part of their work. Though not the only resource available, one reliable source of evidence that a structure is habitable is the issuance of a certificate of occupancy by a municipality or county.

## ***Is the preferential land assessment removed when an “instant assessment” on an improvement is done?***

Yes. The preferential land assessment is removed when a habitable structure is completed on any lot of the subdivided property. Section 10-30, paragraph (c) states that the preferential assessment procedure in paragraph (b) no longer applies to that lot when a habitable structure is completed (or a lot is sold, or a lot is used for a residential, business, or commercial purpose). This means that both the assessed value of both the lot and the improvement will be prorated from the date of completion through the end of the assessment year. If the completion of a habitable structure occurs after the assessment books are closed, the change in value will commence January 1 of the next assessment year.

Section 10-30, paragraph (c) also requires that the assessed value of the remaining land, when next determined, must be reduced proportionately to reflect the fact that a portion of land no longer qualifies for this preferential assessment. In other words, the remaining portion of land will continue to receive the preferential assessment, but will be reduced proportionately on the next January 1 assessment date.

## ***If habitable structures are completed during the prior assessment year but are not sold, should the land be assessed at market value based on its actual use the next January 1st?***

Yes. If the structures were instantly assessed during the prior assessment year, then the preferential land assessment should be removed at the same time. If the habitable structures were not instantly assessed, then the preferential assessment is removed on January 1st.

Section 10-30, paragraph (c) states that the preferential assessment procedure in paragraph (b) no longer applies when a habitable structure is completed (or a lot is sold, or a lot is used for a residential, business, or commercial purpose). This means the lot's assessed value will not be based on market value of the estimated price it would bring in a sale for the purpose of which it was previously assessed (usually farmland). Once a structure is completed, the structure and the land are assessed according to the highest and best use.

## ***If a model home is constructed, does the lot continue to receive the developer's exemption?***

Yes. The model home assessment provision under Section 10-25 states that the assessed value on the property on which the model home is built must be the same as it was before the model home was constructed and before any zoning classification changes were made. If the model home is occupied or is sold, it no longer qualifies for the model home exemption and the land no longer qualifies for the developer's exemption. Both the land and the improvements will be assessed at 100% of the fair market value.

## ***Is the preferential assessment removed from the entire parcel when a single unit condominium unit is sold and the land is under a single PIN?***

The answer depends on whether the other units are habitable. If they are not, then the sold unit and its corresponding portion of the land is assessed at market value. Each January 1st the preferential assessment will be reduced proportionately to reflect the creation of new PINs as units are sold.

## **Additional references**

### **Court Decisions**

Bond County Bd. of Review v. Property Tax Appeal Bd., App. 5 Dist.2003, 277 Ill.Dec. 542, 343 Ill.App.3d 289, 796 N.E.2d 628

Mill Creek Development, Inc. v. Property Tax Appeal Bd. of State of Ill., App. 3 Dist.2003, 281 Ill.Dec. 270, 345 Ill.App.3d 790, 803 N.E.2d 891

Paciga v. Property Tax Appeal Bd., App.2 Dist.2001, 255 Ill. Dec.590, 322 Ill.App.3d 157, 749 N.E.2d 1072, appeal denied 261 Ill.Dec.350, 196 Ill.2d 546, 763 N.E.2d 320