



# MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 20

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## FARMLAND TAX LAW

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REFERENCE: 36 M.R.S. §§ 1101 - 1121  
June 1, 2017; replaces June 22, 2015 revision

### 1. General Information.

The Farm and Open Space Tax Law provides for the valuation of land that has been classified as farmland based on its current use as farmland, rather than its potential fair market value for uses other than agricultural. This bulletin explains certain features of this law. As used in this bulletin, the term "assessor" means the assessor or board of assessors of a municipality, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory.

### 2. Valuation.

The assessor for each taxing jurisdiction must establish the 100% valuation per acre of farmland based on the current use of that land for agricultural or horticultural purposes. The values adopted should be based on such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography, and state-developed guidelines for agricultural valuation. These values should not reflect potential uses of the land other than agricultural or horticultural. In addition, the values should not reflect either road or shore frontage. See Guidelines for Agricultural Valuation at the end of this bulletin.

The assessor must record the value of farmland as established under this guidance and the law and the value at which the farmland would have been assessed had it not been classified as farmland. Values must be recorded in the municipal office of the town in which the farmland is located.

### 3. Requirement for Classification.

A. Minimum size. A tract of land must contain at least five contiguous acres.

B. Use. A tract of land must be used for farming, agricultural or horticultural activities, but may include woodland and wasteland within the tract. Horticultural activity means the production of vegetables, tree fruits, small fruits, flowers, and woody or herbaceous plants.

C. Income Requirement. A tract of land must generate a gross income of at least \$2,000 per year from the sale of agricultural products in one of the two, or three of the five calendar years preceding the date of application for classification. To determine whether you meet the income threshold, look at the two

previous calendar years. If you earned at least \$2,000 from farming in one of those years, you qualify. If you didn't earn at least \$2,000 in either of the two previous years, you must have earned at least \$2,000 in each of the third, fourth, and fifth previous years. Gross income is generally reported on your federal income tax return, Form 1040, on the line for farm income. Gross income from the sale of agricultural products includes the value of commodities produced for consumption by the farm household. The term "agricultural products" is defined in 7 M.R.S. § 152(2) as:

*"Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.*

D. Income Report. Once qualified, an owner of farmland must file with the assessor by April 1 of each fifth year after qualification a statement of the gross income derived by either the owner or lessee in each of the previous five years from acreage classified as farmland.

#### 4. Provisional Classification.

The owner of farmland which meets all the requirements under section 3, except the gross income requirement, may apply for a two-year provisional classification as farmland. The land must be provisionally classified and subject to the provisions of Farm and Open Space Tax Law.

If, at the end of the two-year period, the land does not qualify, the owner must pay a penalty. The penalty is equal to the taxes which would have been assessed had the property been assessed at its fair market value on April 1 for the two preceding tax years less the taxes paid during those two preceding years plus interest on the difference.

#### 5. General Provisions.

A. Filing. Owners must file an application by April 1 of the year in which classification is first requested with the assessor of the jurisdiction where the property is located. Annual filing is not necessary; however, an assessor may request the filing of a new application at any time. The application must be accompanied by a map or sketch showing the different land classifications as well as non-farmland classification within the tract.

B. Notification of Classification. The assessor must determine whether the land is subject to classification as farmland, identify the land based on the categories listed in the Guidelines for Agricultural Valuation at the end of this bulletin and notify the owner of the decision by June 1 of the year of application. If the application is denied, the assessor must state the reasons for the denial in the decision notification to the applicant and provide the landowner an opportunity to amend the application to conform to the requirements of the statute.

C. Reclassification. Landowners are required to give the assessor notice of any change in farmland

classification. If a landowner does not give notice of a change in classification, the assessor must reclassify the parcel where the facts justify a change in classification or use.

D. Tax Rate. Classified farmland shall be subject to the same property tax rate applicable to other property in the jurisdiction.

E. Valuation of Areas Other Than Farmland:

(1) Woodland. The 100% valuation for farm woodland within a classified parcel must be the 100% valuation per acre established for forest land according to the Tree Growth Tax Law.

(2) Other Areas. Areas other than farmland must be assessed on the basis of fair market value.

F. Farm Structures. Building components of a farm, such as animal shelters, are normally considered part of the farm and the structures should be valued the same as other similar structures in the municipality. While not specifically addressed in the law, when small accessory structures such as animal shelters are built upon classified farm land, statute does not compel the land under these structures to be withdrawn from classification.

6. Appeal from Assessor.

A. Abatement Procedure. Assessments made under this subchapter are subject to the abatement procedures provided by 36 M.R.S. § 841. The assessor, on written application within 185 days from date of commitment or on their own initiative within one year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with § 706.

B. Notice of Decision. The assessor shall, by June 1, notify an applicant that their application has been accepted or denied. If an application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the application to conform to the requirements of the law within 60 days.

C. State Board of Property Tax Review. An application for review must be filed within 60 days from receipt of the assessor's denial or within 60 days from the date the application for abatement was deemed to have been denied.

D. Superior Court. Any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located.

7. Penalty; Withdrawal of Classification.

A. Change in Use. If classified farmland no longer meets the requirement for classification, it may be withdrawn from classification by the assessor or at the request of the owner. Any change in use disqualifying land for classification will result in the assessment of a penalty.

B. Exception. Penalties will be applied as a result of a change in use and the withdrawal of a portion of a classified parcel except when withdrawal is caused by a transfer resulting from the exercise or

threatened exercise of the power of eminent domain.

Change from farmland classification to open space classification or open space to farmland may not be penalized if the transferred parcel also meets the eligibility requirements of the new classification.

C. Determination of Penalty. The penalty for withdrawal from farmland classification is an amount equal to the taxes which would have been assessed upon the land for the past five years, less all taxes which were actually paid during those five years, plus interest at the rate set annually by the municipality during those five years of classification.

An owner of farmland that has been classified for five full years or more may pay any penalty owed in up to five equal annual installments with interest at the rate set by the town to begin 60 days after the date of the supplemental assessment. For an owner paying the penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the filing date of the tax lien certificate. The increased redemption term from the standard 18-month term is required in order to accommodate the enlarged time to pay under this procedure.

Notwithstanding the above, the recapture penalty for parcels transferred into farmland classification from either open space classification under the Tree Growth Tax Law (36 M.R.S. §§ 571 – 584-A) shall be the same as the prior classification if the time classified as farmland is 10 years or less.

D. Assessed Fair Market Value. Assessed fair market value at the time of withdrawal is the assessed value of comparable property in the taxing jurisdiction adjusted by the declared assessment ratio (the ratio reported by the municipality on the most recent Municipal Valuation Return) to 100%.

### **IMPORTANT**

In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, Section 8:

*"a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals."*

#### 8. Valuation Guidelines and Program Promotion.

The Department of Agriculture, Conservation and Forestry, working with Maine Revenue Services, and representatives of municipal assessors and farmers, must prepare valuation guidelines to assist local assessors in the valuation of farmland. The suggested guidelines include values for cropland, orchard land, pastureland and horticultural land. The values recommended are designed to enlighten Maine citizens to the existence of the Farm and Open Space Tax Law as well as providing regional information to local farm organizations and municipal tax assessors.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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## GUIDELINES FOR AGRICULTURAL VALUATION

The following guidelines were derived by the Department of Agriculture, Conservation and Forestry (ACF) and Maine Revenue Services (MRS) after review of commentary from the assessing and agricultural communities.

The categories listed vary somewhat relative to language found in the law; our attempt to reconcile that language with typical Maine farming practices follows.

Suggested values from ACF and MRS, developed through analysis of sales and income attributable to farms, are posted separately on the Property Tax Division website.

Upon consideration of the various adjustment factors relative to regional or statewide averages, an assessor may elect to develop local values. However, the assessor must substantiate any variation in assessment of farmland from the recommended values.

**Cropland.** Land used for field grown crops such as a typical Maine potato farm. This would include usual crops grown in rotation with potatoes - corn for grain, small grains, legumes, broccoli, etc.

**Orchard Land.** Land devoted to the growth and cultivation of trees bearing edible fruit. There should be a minimum stocking density equivalent to 60 trees per acre.

**Pastureland.** Land devoted to the production of forage plants consumed by animals. This includes grazing land, hay, ensilage, corn for ensilage and any other crops grown for forage.

**Horticultural Land (edible).** Land used for intensive vegetable and small fruit production, market gardening, strawberries, raspberries, high-bush blueberries, etc.

**Horticultural Land (ornamental).** Land used for production of planted and cultivated Christmas trees, flowers, sod, shrubs, trees and general nursery stock. Excluded from this category are trees harvested for forest products.

**Blueberry Land.** Land devoted to production of wild low-bush blueberries.

## **ADJUSTMENT FACTORS**

Soil type, conservation measures, convenience and proximity to the farmstead, field size and shape, slopes, drainage, aeration, accessibility to and choice of markets, rocks, climate, commodity yield and price.