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States' Differential Tax Assessment of Agricultural Land Statutes *Florida*



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States' Differential Tax Assessment of Agricultural Land Statutes State of Florida

[Fla. Stat. § 193.461](#)

Current through the 2018 Second Regular Session of the 25th Legislature.

§ 193.461. Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters

- (1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.
- (2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. The property appraiser shall have available at his or her office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.
- (3) (a) Lands may not be classified as agricultural lands unless a return is filed on or before March 1 of each year. Before classifying such lands as agricultural lands, the property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 constitutes a waiver for 1 year of the privilege granted in this section for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 must file an application for the classification with the property appraiser on or before the 25th day after the mailing by the property appraiser of the notice required under s. 194.011(1). Upon receipt of sufficient evidence, as determined by the property appraiser, that demonstrates that the applicant was unable to apply for the classification in a timely manner or that otherwise demonstrates extenuating circumstances that warrant the granting of the classification, the property appraiser may grant the classification. If the applicant files an application for the classification and fails to provide sufficient evidence to the property appraiser as required, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment



board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding s. 194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the value adjustment board to warrant granting the classification, the value adjustment board may grant the classification for the current year. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.



f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.

g. Such other factors as may become applicable.

2. Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale.

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes does not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to s. 193.011, to qualify for the assessment limitation set forth in s. 193.155. The remaining property may be classified under the provisions of paragraphs (a) and (b).

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from the value adjustment board or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4).

The property appraiser must, no later than January 31 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

(4) The property appraiser shall reclassify the following lands as nonagricultural:

(a) Land diverted from an agricultural to a nonagricultural use.



- (b) Land no longer being utilized for agricultural purposes.
- (5) For the purpose of this section, the term “agricultural purposes” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in s. 597.0015; algaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.
- (6) (a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:
1. The quantity and size of the property;
 2. The condition of the property;
 3. The present market value of the property as agricultural land;
 4. The income produced by the property;
 5. The productivity of land in its present use;
 6. The economic merchantability of the agricultural product; and
 7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.
- (b) Notwithstanding any provision relating to annual assessment found in s. 192.042, the property appraiser shall rely on 5-year moving average data when utilizing the income methodology approach in an assessment of property used for agricultural purposes.
- (c) 1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.
2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.



3. Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services pursuant to s. 570.93 or s. 403.067(7)(c), shall be assessed by the methodology described in subparagraph 1.
 4. Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements shall be assessed by the methodology described in subparagraph 1.
- (d) In years in which proper application for agricultural assessment has not been made, the land shall be assessed under the provisions of s. 193.011.
- (7) (a) Lands classified for assessment purposes as agricultural lands which are taken out of production by a state or federal eradication or quarantine program, including the Citrus Health Response Program, shall continue to be classified as agricultural lands for 5 years after the date of execution of a compliance agreement between the landowner and the Department of Agriculture and Consumer Services or a federal agency, as applicable, pursuant to such program or successor programs. Lands under these programs which are converted to fallow or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre on a single-year assessment methodology while fallow or otherwise used for nonincome-producing purposes. Lands under these programs which are replanted in citrus pursuant to the requirements of the compliance agreement shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre, on a single-year assessment methodology, during the 5-year term of agreement. However, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.
- (b) Lands classified for assessment purposes as agricultural lands that participate in a dispersed water storage program pursuant to a contract with the Department of Environmental Protection or a water management district which requires flooding of land shall continue to be classified as agricultural lands for the duration of the inclusion of the lands in such program or successor programs and shall be assessed as nonproductive agricultural lands. Land that participates in a dispersed water storage program that is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.



- (c) Lands classified for assessment purposes as agricultural lands which are not being used for agricultural production as a result of a natural disaster for which a state of emergency is declared pursuant to s. 252.36, when such disaster results in the halting of agricultural production, must continue to be classified as agricultural lands for 5 years after termination of the emergency declaration. However, if such lands are diverted from agricultural use to nonagricultural use during or after the 5-year recovery period, such lands must be assessed under s. 193.011. This paragraph applies retroactively to natural disasters that occurred on or after July 1, 2017.
- (8) Lands classified for assessment purposes as agricultural lands, which are not being used for agricultural production due to a hurricane that made landfall in this state during calendar year 2017, must continue to be classified as agricultural lands for assessment purposes through December 31, 2022, unless the lands are converted to a nonagricultural use. Lands converted to nonagricultural use are not covered by this subsection and must be assessed as otherwise provided by law.

