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## States' Differential Tax Assessment of Agricultural Land Statutes *Louisiana*



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# A National Agricultural Law Center Research Publication

## States' Differential Tax Assessment of Agricultural Land Statutes State of Louisiana

### [La. Stat. Ann. §§ 47:2301–47:2309](#)

*Current through the 2018 Third Extraordinary Session.*

#### **§ 2301. Use value; defined**

Use value of bona fide agricultural, horticultural and timber lands means the highest value of such land when used by a prudent agricultural, horticultural or timber operator for the sole purpose of continuing the operation, as a commercial agricultural, horticultural or timber enterprise, of an existing bona fide agricultural, horticultural or timber use. Use value of bona fide marsh lands is the highest value of such land for the sole purpose of continuing the traditional use of the marsh lands for hunting, fishing, trapping or various types of aquaculture by a prudent manager of marsh lands. Use value of such land shall be so established without reference to any other criteria of value particularly, but not as a limitation, without reference to fair market value or value to the public in general.

#### **§ 2302. Definitions**

- A. Bona fide agricultural land is land devoted to the production for sale, in reasonable commercial quantities, of plants and animals, or their products, useful to man, and agricultural land under a contract with a state or federal agency restricting its use for agricultural production; or land under contract for agricultural use pursuant to an ordinance authorizing urban agricultural incentive zones as defined in R.S. 3:4751 through 4754.
- B. Bona fide horticultural land is land devoted to the production for sale, in reasonable commercial quantities, of fruits, vegetables, flowers or ornamental plants, and horticultural land under a contract with a state or federal agency restricting its use for horticultural production.
- C. Bona fide marsh land is wetland other than bona fide agricultural, horticultural or timber land.
- D. Bona fide timberland is land stocked by forest trees of any size and specie, or formerly having such tree cover within the last three years and not currently developed or being used for nonforest purposes, and devoted to the



production, in reasonable commercial quantities, of timber and timber products, and timberland under a contract with a state or federal agency restricting its use for timber production.

### **§ 2303. Eligibility for use value assessment**

In order to be classified as bona fide agricultural, horticultural, marsh or timber land and assessed at its use value under the provisions of Article VII, Section 18(C) of the Louisiana Constitution of 1974, it must meet the definition of bona fide agricultural, horticultural, marsh or timber land as described in R.S. 47:2302 and, in the case of bona fide agricultural, horticultural, or timber land:

- A. Be at least three acres in size, or have produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years, and
- B. The landowner has signed an agreement that the land will be devoted to one or more of the designated uses as defined in R.S. 47:2302.

### **§ 2304. Application for use value assessment**

- A. A landowner, desiring a use value assessment under this Act shall be required to file an application with the assessor in the parish or district where the property is located certifying that the property is eligible for use value assessment as bona fide agricultural, horticultural, marsh or timber land as defined in Section 2 of this Act.1
- B. (1) Except as provided for in Paragraph (2) of this Subsection, applications shall be filed in the parish or district where the property is located and shall be permanent as long as the property remains eligible for use value, except that in the event of a sale of the property, the purchaser must sign a new application within sixty days from the date of the sale.  
  
(2) In the parishes of Orleans and Jefferson, such applications shall be filed at least every four years except that in the event of a sale of the property, the purchaser must sign a new application within sixty days from the date of sale.
- C. In addition to the filing of an application required in Section 4(A) above, the landowner shall sign an agreement that the land will be devoted to one or more of the designated uses as defined in Section 2 of this Act.

D to G. Repealed by Acts 1979, No. 630, § 1.



## § 2305. Loss of eligibility

- A. If land having a use value assessment ceases to meet the eligibility requirements described in Section 3 of this Act,<sup>1</sup> the owner shall be obligated to notify the assessor in the parish or district where the property is located within sixty days following the effective date of loss of eligibility. Upon notification of loss of eligibility the assessor shall reassess the property immediately, to become effective the following tax year.
- B. (1) If land having a use value assessment is sold for a price four times greater than its use value, the land shall be presumed to be no longer eligible to be classified as bona fide agricultural, horticultural, marsh, or timber land. Upon application as provided in R.S. 47:2304, the purchaser shall be given the opportunity to demonstrate to the full satisfaction of the assessor:
- (a) That the sales price paid includes things of value which are susceptible of appraisal including, but not by way of limitation, standing crops or timber, improvements, equipment, etc.; or
  - (b) That the land is actually in bona fide agricultural, horticultural, marsh, or timber land use and meets the requirements of R.S. 47:2302 and R.S. 47:2303. Such demonstration of bona fide operations may include the preparation and implementation of farm or forestry plans or programs within two years following the purchase.
- (2) Upon such demonstration, the landowner shall be entitled to a use value classification.

## § 2306. Penalties

- A. In the event that the landowner obtains a use value assessment by means of false certifications on his application, or fails to timely notify the assessor of loss of eligibility for use value assessment as required by Section 5(A) of this Act,<sup>1</sup> he shall be liable for a penalty equal to five times the difference between the tax under a market value assessment and the tax under a use value assessment for the tax years in which the use value assessment was attributable to the false certifications or failure to timely notify the assessor of loss of eligibility.
- B. The tax collector in each parish upon notification by the assessor of a taxpayer's liability for penalty as provided in Section 6(A) above, shall have the authority and the responsibility for collecting the penalties provided for in this Section, and shall disburse said penalties, pro rata, to the same authorities as taxes for current year are disbursed.



## § 2307. Determination of use value

### A. Agricultural and horticultural lands

- (1) Formula. Use value of bona fide agricultural and horticultural lands shall be determined by the application of the following formula:

Value equals net income divided by capitalization rate.

In applying this formula the assessors shall utilize the use value table and the capitalization rate as determined by the Louisiana Tax Commission or its successor and said formula shall be applied uniformly throughout the state.

- (2) Net income. To assist the assessors in the application of the formula described in Paragraph (A)(1) of this Section, and to determine the net income factor to be used in the formula, the Louisiana Tax Commission or its successor shall prepare and publish a table defining the different classifications of land, the range of production costs and gross returns based on four year averages. In preparing the use value table for agricultural and horticultural lands, the Louisiana Tax Commission or its successor shall consider the following factors:

#### (a) Classification

In defining classifications of land, the first four classifications of the U.S. Soil Conservation Service shall be used, with such modifications as may be required by special circumstances, provided that all land historically subject to regular and periodic flooding may be classified as Class IV land.

#### (b) Range of productivity

In determining the range of productivity the average soil productivity for various classifications of soils within each classification as determined by the U.S. Soil Conservation shall be used.

#### (c) Cost of production and gross returns--weighted average

In determining cost of production and gross returns, the Louisiana Tax Commission or its successor shall use the weighted average cost of production and gross returns, by land classification, of major agricultural commodities produced in Louisiana for the four production years immediately preceding the year in which the table is prepared. Provided, however, no negative income factor shall ever be an input factor in any such table, and if negative, said value shall be entered as zero value.



(3) Capitalization rate

The Louisiana Tax Commission, or its successor, shall determine a capitalization rate for use in determining use value by considering the following factors:

- (a) physical and economic risk;
- (b) effect of relative marketability of agricultural and horticultural lands on liquidity of investments;
- (c) competition with other investments and prevailing interest rate; and
- (d) any other appropriate factors.

In no event shall the capitalization rate be less than twelve percent.

- B. (1) Marshland. The assessor of each parish containing bona fide marshland shall determine the use value of such land, as defined in R.S. 47:2302 and shall assess such land on the basis of its highest use value. In determining the use value of such lands, the assessors shall utilize the use value table prepared by the Louisiana Tax Commission or its successor which shall be applied uniformly statewide.
- (2) The table prepared by the Louisiana Tax Commission shall define each different classification of marshland, a range of production within each class, and the range of returns based upon the past four-year averages.
- (3) In preparing the use value table for marshland, the Louisiana Tax Commission shall consider the following factors:
- (a) Classification of the marshland as either freshwater, brackish, or saltwater marshland.
  - (b) The income that may be produced within each class.
  - (c) Income derived from the traditional use of such marshland, as such uses are enumerated in R.S. 47:2301.
  - (d) Physical and economic risks attendant thereto.
  - (e) Prevailing interest rates.
  - (f) Liquidity of investments.



(g) Federal and state regulatory authority governing use of such marshland.

C. Timberland

(1) Formula. Use value of bona fide timberland shall be determined by the following formula:

Value equals net income divided by capitalization rate.

In applying this formula the assessors shall utilize the use value table and the capitalization rate as determined by the Louisiana Tax Commission or its successor and said formula shall be applied uniformly throughout the state.

(2) Net income. To assist the assessors in the application of the formula described in Paragraph (C)(1) of this Section and to determine the net income factor to be used in the formula, the Louisiana Tax Commission or its successor shall prepare and publish a table defining the different classifications of timberland, the range of production within each class, and the range of production costs and gross returns based on four year averages. In preparing the use value table for timberland, the Tax Commission shall consider the following factors:

(a) Classification of timberland

Class I timberland is timberland capable of producing more than 120 cubic feet of timber per acre per annum.

Class II timberland is timberland capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.

Class III timberland is timberland capable of producing less than 85 cubic feet of timber per acre per annum.

Class IV timberland is timberland capable of producing less than 85 cubic feet of timber per acre per annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise considered to be swampland.

(b) Range of productivity



Productivity of timberland shall be determined by reference to the U.S. Forest Service Periodic Surveys and the U.S. Soil Conservation Service Woodland Classifications.

(c) Net income

Net income shall be determined by multiplying the annual cubic foot growth per acre for timber in each of the four classifications defined in Subparagraph (C)(2)(a) of this Section, as determined by the U.S. Forest Service Periodic Survey times the value per cubic foot of timber stumpage as derived from the severance tax returns and reported by the Louisiana Tax Commission or its successor less the management cost. The gross return and the management cost shall be based upon weighted averages for timber produced in Louisiana for the four-year period immediately preceding the year in which the table is prepared, as determined from figures furnished by the Louisiana Tax Commission and the Louisiana Forestry Commission.

(3) Capitalization rate

In determining an appropriate capitalization rate to be used in the use value table, the Louisiana Tax Commission or its successor shall take into consideration the following factors:

- (a) physical and economic risk;
- (b) effect of relative marketability of timberlands on liquidity of said investments;
- (c) competition with other investments and prevailing interest rates; and
- (d) any other factors which may be appropriate.

In no event shall the capitalization rate be less than ten percent.

- (4) In determining the use value of lands classified as Class IV timberland, as defined in Subparagraph (C)(2)(a) of this Section, the Louisiana Tax Commission or its successor shall use the net income figure employed in determining the use value of Class III timberland; but shall adjust the capitalization rate upward so as to appropriately reflect the low productivity of lands falling within classification IV as a result of overflow and siltation conditions.





## **§ 2308. Louisiana Tax Commission; tables; classifying land; public hearings**

Whenever the Louisiana Tax Commission or its successor is required to prepare and publish a table or make a determination or define classifications of land, it shall do so only after public hearings held pursuant to the Administrative Procedure Act.

## **§ 2309. Effective date; nonapplicability**

This Act shall become effective upon signature by the governor, or, if not signed by the governor, upon the expiration of the time for bills to become law without signature by the governor. Notwithstanding the effective date stated herein, the provisions of this Act shall be effective only to the extent necessary under the provisions of Section 23 of Article VII of the constitution of Louisiana. In no event shall these provisions apply to ad valorem taxes levied for the taxable years 1976 and 1977.

