



# The National Agricultural Law Center

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## States' Differential Tax Assessment of Agricultural Land Statutes

*Maryland*



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# A National Agricultural Law Center Research Publication

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

[Md. Code, Tax-Prop. § 8-209](#)

[Md. Code, Tax-Prop. § 9-206](#)

*Current through all legislation from the 2018 Regular Session of the General Assembly.*

### § 8-209. Farm and agricultural land

#### Purpose

(a) The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:

- (1) maintain a readily available source of food and dairy products close to the metropolitan areas of the State;
- (2) encourage the preservation of open space as an amenity necessary for human welfare and happiness; and
- (3) prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

#### Intention of the General Assembly

(b) It is the intention of the General Assembly that the assessment of farmland:

- (1) be maintained at levels compatible with the continued use of the land for farming; and
- (2) not be affected adversely by neighboring land uses of a more intensive nature. Land actively used for farm or agriculture purpose

(c) Land that is actively used for farm or agricultural use shall be valued on the basis of that use and may not be valued as if subdivided.



### **Assessment based on value**

(d) Land that is valued under subsection (c) of this section shall be assessed on the basis of its use value.

### **Regulations**

- (e) (1) The Department shall establish in regulations criteria to determine if land that appears to be actively used for farm or agricultural purposes:
- (i) is actually used for farm or agricultural purposes; and
  - (ii) qualifies for assessment under this section.
- (2) The criteria shall include:
- (i) the zoning of the land;
  - (ii) the present and past use of the land including land under the Soil Bank Program of the United States;
  - (iii) the productivity of the land, including timberlands and reforested lands; and
  - (iv) the gross income that is derived from the agricultural activity.

### **Administering this section**

(f) In administering this section, periodically, the Director shall consult with:

- (1) the Secretary of Agriculture;
- (2) officials of the State who are knowledgeable in agriculture;
- (3) representatives of the agricultural community;
- (4) officials of counties and municipal corporations; and
- (5) other persons as determined by the Director.



## Definitions; affirmation for parcel of land less than 20 acres

- (g) (1) In this subsection the following words have the meanings indicated:
- (i) “actively used” means land that is actually and primarily used for a continuing farm or agricultural use;
  - (ii) “agricultural land unit” means the combination of not more than 3 parcels of land when the parcels are:
    - 1. located in the same county; and
    - 2. under the same ownership;
  - (iii) “average gross income” means the average of the 2 highest years of gross income during a 3-year period;
  - (iv) “family farm unit” means not more than 1 parcel of land of less than 20 acres for each immediate family member for land that is:
    - 1. contiguous to land receiving the farm or agricultural use assessment; and
    - 2. owned by a member or members of the immediate family of the owner of the farm or agricultural use land; and
  - (v) “gross income” means the actual income that is received in a calendar year that results directly from the farm or agricultural use of the land.
- (2) In determining if a parcel of land of less than 20 acres, or not zoned for agricultural use, is actively used, the Department may require the owner of the land to affirm, under oath, on a standard form provided by the Department that the farm or agricultural use of the land results in an average gross income of at least \$2,500 from the parcel or the agricultural land unit.
- (3) The Department may require an owner who submits an affirmation under paragraph (2) of this subsection to verify the gross income from the land by providing:
- (i) copies of sales receipts or invoices;
  - (ii) lease agreements; or
  - (iii) other documents required by the Department.



- (4) An affirmation under paragraph (2) of this subsection shall be filed before July 1 of the taxable year.
- (5) If land that appears to be actively used does not yield an average gross income of \$2,500, the Director shall waive the gross income requirement on finding that:
- (i) the land is leased and the nature of the farm or agricultural use of the land when related to the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500;
  - (ii) the nature of the farm or agricultural use of the land and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500 from the agricultural products, if sold, that are derived from the use of the land;
  - (iii) a drought or other natural cause has adversely affected the income-producing capability of the land during a 3-year period; or
  - (iv) for a newly established farm or agricultural use, the nature of the use and the amount of the land in farm or agricultural use reasonably would be expected to yield an average gross income of at least \$2,500 if the use had existed for a 3-year period.
- (6) The Director may grant only the following additional waivers:
- (i) under paragraph (5)(iii) of this subsection, for 1 additional consecutive 3-year period; and
  - (ii) under paragraph (5)(iv) of this subsection, for 1 additional consecutive 3-year period.
- (7) The gross income requirement of paragraph (2) of this subsection does not apply if the land is actively used as a family farm unit.
- (8) For purposes of qualifying for the agricultural use assessment under this section, the following real property is deemed to be a single contiguous parcel:
- (i) parcels that are created or separated by roads, easements, or other rights-of way; and
  - (ii) land relating to a right-of-way that reverts back to its owner's use for purposes of farming.



## Applicability

- (h) (1) Subject to paragraph (2) of this subsection, the following land does not qualify to be assessed under this section:
  - (i) land rezoned to a more intensive use than the use that immediately preceded the rezoning, if a person with an ownership interest in the land has applied for or requested the rezoning;
  - (ii) land used as a homesite, which means the area of land that is reasonably related to a dwelling;
  - (iii) parcels of land of less than 3 acres that are under the same ownership excluding the homesite unless:
    - 1. the land is owned by an owner of adjoining land that is receiving the farm or agricultural use assessment and is actively used;
    - 2. the owner receives at least 51% of the owner's gross income from the active use; or
    - 3. the parcels are part of a family farm unit;
  - (iv) if part of a subdivision plat, parcels of land of less than 10 acres that are owned by an owner of 5 other parcels of land of less than 10 acres each that are located in the same county and that are receiving the farm or agricultural use assessment;
  - (v) parcels of woodland of less than 5 acres excluding the homesite; or
  - (vi) land that fails to meet the gross income requirement of subsection (g) of this section.
- (2) No more than 2 parcels of less than 3 acres under the same ownership may qualify for the agricultural use assessment.

## Definitions; waiver

- (i)(1) (i) In this subsection the following words have the meanings indicated.
- (ii) "Surviving spouse" means the surviving spouse of the property owner who applied for the waiver under this subsection if the surviving spouse has not remarried and had a legal interest in the property at the time of the application for the waiver.



(iii) “3-year cycle” has the meaning stated in § 8-103 of this title.

(2) The Director may grant a waiver from the requirements of subsection (e) or (g) of this section if:

- (i) the property owner is at least 70 years of age;
- (ii) the property owner applies to the Department for a waiver of the requirements of either subsection (e) or (g) of this section;
- (iii) the land has not changed ownership during the two previous 3-year cycles; and
- (iv) the land has been assessed for at least the two previous 3-year cycles on the basis of farm or agricultural use under the law or regulations of the Department that were in effect as of the date of the application.

(3) The Director may grant a waiver from the requirements of subsection (e) or (g) of this section if:

- (i) the property owner becomes disabled and is unable to continue the farm or agricultural use of the land;
- (ii) the property owner applies to the Department for a waiver of the requirements of either subsection (e) or (g) of this section;
- (iii) the property owner engaged in farm or agricultural use activities on the land prior to the disability; and
- (iv) the land has been assessed for at least the two previous 3-year cycles on the basis of farm or agricultural use under the law or regulations of the Department that were in effect as of the date of the application.

(4) Any waiver granted under this subsection shall be in effect until:

- (i) the transfer of the property; or
- (ii) the later of the death of the property owner who received the waiver or the death of the surviving spouse.

(5) The Department may adopt regulations to carry out the provisions of this subsection.

## **§ 9-206. Agricultural land**



### **“Agricultural land” defined**

(a) In this section, “agricultural land” means real property subject to an easement or other interest that is permanently conveyed or assigned to the Maryland Agricultural Land Preservation Foundation under § 2-504 of the Agriculture Article.

### **Amount of tax credit**

(b) The Mayor and City Council of Baltimore City or the governing body of a county may grant, by law, a property tax credit not exceeding 75% of any county property tax imposed on agricultural land.

### **Procedures**

(c) The Mayor and City Council of Baltimore City or the governing body of a county may provide, by law, any procedural or enforcement provision necessary to carry out this section.

### **Valuation and assessment**

(d) Valuation and assessment of agricultural land shall be made in the same manner as any other real property in the county.

