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



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

Neb. Rev. Stat. §§ [77-1343](#) to [77-1347.01](#)

Neb. Rev. Stat. § [77-1359](#)

Neb. Rev. Stat. § [77-1363](#)

Current through the end of the 2nd Regular Session of the 105th Legislature (2018).

§ 77-1343. Agricultural or horticultural land; terms, defined

The purpose of sections 77-1343 to 77-1347.01 is to provide a special valuation for qualified agricultural or horticultural land so that the current assessed valuation of the land for property tax purposes is the value that the land would have without regard to the value the land would have for other purposes or uses. For purposes of sections 77-1343 to 77-1347.01:

- (1) Agricultural or horticultural land means that land as defined in section 77-1359;
- (2) Applicant means an owner or lessee;
- (3) Lessee means a person leasing agricultural or horticultural land from a state or governmental subdivision which is an owner that is subject to taxation under section 77-202.11;
- (4) Owner means an owner of record of agricultural or horticultural land or the purchaser of agricultural or horticultural land under a contract for sale; and
- (5) Special valuation means the value that the land would have for agricultural or horticultural purposes or uses without regard to the actual value the land would have for other purposes or uses.

§ 77-1344. Agricultural or horticultural land; special valuation; when applicable

- (1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation all of the following criteria shall be met: (a) The land is located outside the corporate boundaries of any sanitary and improvement district, city, or village except as provided in subsection (2) of this section; and (b) the land is agricultural or horticultural land.



(2) Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if the land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement.

(3) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(4) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

§ 77-1345. Agricultural or horticultural lands; special valuation; application

(1) An applicant seeking special valuation under section 77-1344 shall make application to the county assessor on or before June 30 of the first year in which such valuation is requested.

(2) (a) The application shall be made upon forms prescribed by the Tax Commissioner and available from the county assessor and shall include such information as may reasonably be required to determine the eligibility of the applicant and the land.

(b) The application shall be signed by any one of the following:

(i) The applicant;

(ii) Any person of legal age duly authorized in writing to sign an application on behalf of the applicant; or

(iii) The guardian or conservator of the applicant or the executor or administrator of the applicant's estate.

(c) The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record in the county unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney, lease, or other appropriate instrument evidencing the signer's qualification pursuant to subdivision (2)(b) of this section.

(3) If the county board of equalization takes action pursuant to section 77-1504 or 77-1507, the applicant may file an application for special valuation within thirty days after the mailing of the valuation notice issued by the county board of equalization pursuant to section 77-1504 or 77-1507.



§ 77-1345.01. Agricultural or horticultural lands; special valuation; approval or denial; protest; appeal; failure to give notice; effect

- (1) On or before July 15 in the year of application, the county assessor shall approve or deny the application for special valuation filed pursuant to section 77-1345. On or before July 22, the county assessor shall issue notice of approval or denial.
- (2) If the application is approved by the county assessor, the land shall be valued as provided in section 77-1344 and, on or before July 22, the county board of equalization shall send a property valuation notice for special value to the owner and, if not the same, the applicant. Within thirty days after the mailing of the notice, a written protest of the special value may be filed.
- (3) (a) If the application is denied by the assessor, a written protest of the denial of the application may be filed within thirty days after the mailing of the denial.

(b) If the denial of an application for special valuation is reversed on appeal and the application is approved, the land shall be valued as provided in section 77-1344 and the county board of equalization shall send the property valuation notice for special value to the owner and, if not the same, the applicant or his or her successor in interest, within fourteen days after the date of the final order. Within thirty days after the mailing of the notice, a written protest of the special value may be filed.
- (4) If the county board of equalization takes action pursuant to section 77-1504 or 77-1507 and the applicant filed an application for special valuation pursuant to subsection (3) of section 77-1345, the county assessor shall approve or deny the application within fifteen days after the filing of the application and issue notice of the approval or denial as prescribed in subsection (1) of this section. If the application is denied by the county assessor, a written protest of the denial may be filed within thirty days of the mailing of the denial.
- (5) The assessor shall mail notice of any action taken by him or her on an application to the owner and the applicant if different than the owner.
- (6) All provisions of section 77-1502 except dates for filing of a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section.
- (7) The county board of equalization shall decide any protest filed pursuant to this section within thirty days after the filing of the protest.
- (8) The clerk shall mail a copy of any decision made by the county board of equalization on a protest filed pursuant to this section to the owner and the applicant if different than the owner within seven days after the board's decision.



- (9) Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision.

- (10) If a failure to give notice as prescribed by this section prevented timely filing of a protest or appeal provided for in this section, any applicant may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine whether the land will receive special valuation for that year or to determine special value for that year.

§ 77-1346. Agricultural or horticultural lands; eligibility for special valuation; rules and regulations

The Tax Commissioner shall adopt and promulgate rules and regulations to be used by county assessors in determining eligibility for special valuation under section 77-1344 and in determining the special valuation of such land for agricultural or horticultural purposes under section 77-1344.

§ 77-1347. Agricultural or horticultural lands; special valuation; disqualification

Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

- (1) Written notification by the applicant or his or her successor in interest to the county assessor to remove such special valuation;
- (2) Except as provided in subsection (2) of section 77-1344, inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village; or
- (3) The land no longer qualifying as agricultural or horticultural land.

§ 77-1347.01. Agricultural or horticultural lands; special valuation; disqualification; procedure; protest; decision; appeal

At any time, the county assessor may determine that land no longer qualifies for special valuation pursuant to sections 77-1344 and 77-1347. If land is deemed disqualified, the county assessor shall send a written notice of the determination to the applicant or owner within fifteen days after his or her determination, including the reason for the disqualification. A protest of the county assessor's determination may be filed with the county board of equalization within thirty days after the mailing of the notice. The county board of equalization shall decide the protest within thirty days after the filing of the protest. The county clerk shall, within seven days after the county board of equalization's final decision, mail to the protester written notification of the board's decision. The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the date of the decision. The valuation notice relating to the land subject to the county assessor's disqualification notice shall be sent in accordance with subsection (2) of section 77-1315 and the valuation may be protested pursuant to section 77-1502.



§ 77-1359. Agricultural and horticultural land; legislative findings; terms, defined

The Legislature finds and declares that agricultural land and horticultural land shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

For purposes of this section and section 77-1363:

- (1) Agricultural land and horticultural land means a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land;
- (2) (a) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture;
- (b) Agricultural or horticultural purposes includes the following uses of land:
 - (i) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and
 - (ii) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production; and
- (c) Whether a parcel of land is primarily used for agricultural or horticultural purposes shall be determined without regard to whether some or all of the parcel is platted and subdivided into separate lots or developed with improvements consisting of streets, sidewalks, curbs, gutters, sewer lines, water lines, or utility lines;
- (3) Farm home site means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision; and
- (4) Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site.



§ 77-1363. Agricultural and horticultural land; classes and subclasses

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator.

County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

