



# The National Agricultural Law Center

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## States' Differential Tax Assessment of Agricultural Land Statutes

*New Mexico*



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# A National Agricultural Law Center Research Publication

## States' Differential Tax Assessment of Agricultural Land Statutes State of New Mexico

### [N.M. Stat. §§ 7-36-2](#)

*Current through the end of the Second Regular Session of the 53rd Legislature (2018).*

#### **§ 7-36-20. Special method of valuation; land used primarily for agricultural purposes**

- A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made. If the land was valued under this section in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation under this section, a presumption is created that the land continues to be entitled to that valuation.
- B. For the purpose of this section:
- (1) "agricultural products" means plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish; and
  - (2) "agricultural use" means the:
    - (a) use of land for the production of agricultural products;
    - (b) use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;
    - (c) resting of land to maintain its capacity to produce agricultural products;  
or
    - (d) resting of land as the direct result of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph.



- C. The department shall adopt rules for determining whether land is used primarily for agricultural purposes. The rules shall provide that the use of land for the lawful taking of game shall not be considered in determining whether land is used primarily for agricultural purposes.
- D. The department shall adopt rules for determining the value of land used primarily for agricultural purposes. The rules shall:
- (1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;
  - (2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and establish carrying capacities for the land in the state classified as grazing land;
  - (3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;
  - (4) provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;
  - (5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and
  - (6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.
- E. All improvements, other than those specified in Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately for property taxation purposes, and the value of these improvements shall be added to the value of the land determined under this section.
- F. The owner of the land shall make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and shall be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.



- G. The owner of land valued under this section shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. This report shall be made on a form prescribed by department rules and shall be made by the last day of February of the tax year immediately following the year in which the change in the use of the land occurs.
- H. Any person who is required to make a report under the provisions of Subsection G of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years for which the person failed to make the required report.

### **§ 7-36-21. Special method of valuation; livestock**

- A. All livestock located in the state on January 1 of the tax year shall be valued for property taxation purposes as of January 1.
- B. All livestock not located in the state on January 1 but brought into the state and located there for more than twenty days subsequent to January 1 shall be valued for property taxation purposes as of the first day of the month following the month in which they have remained in the state for more than twenty days.
- C. The owner of livestock subject to valuation for property taxation purposes shall report the livestock for valuation to the county assessor of the county in which they are located on the valuation date specified in Subsections A or B of this section. However, if an importation or movement report is made by the livestock board under the provisions of Section 7-38-45 NMSA 1978, the owner of livestock is relieved of his responsibility to report the livestock covered by the livestock board report, and that report fulfills the owner's responsibility for reporting the livestock under this section. The owner's report shall be in a form and contain the information required by department regulations and shall be made no later than:
- (1) the last day of February for livestock required to be valued as of the first day of January or February of the tax year; or
  - (2) ten days after the valuation date determined under Subsection B of this section for livestock required to be valued as of dates other than those in Paragraph (1) of this subsection.
- D. The department shall establish for each tax year the various classes of livestock and the value of each class. This determination shall be implemented by an order of the director, and the order shall be made no later than December 1 of the year prior to the tax year to which the classification and values apply.
- E. The department shall adopt regulations for the allocation of value of livestock, which regulations shall provide for:



(1) a basic allocation formula that prorates value on the basis of the amount of time that livestock are in the state and subject to valuation for property taxation purposes;

(2) determining proration of value under Paragraph (1) of this subsection using estimates of the amount of time that livestock will be in the state to cover those situations in which livestock are imported for an indeterminate time during a tax year or in which resident livestock are exported for an indeterminate time during a tax year but are returned during the same tax year; and

(3) a method of allocating value of livestock, both resident and transient, among different governmental units when the livestock range on land in more than one governmental unit.

F. Any person who intentionally refuses to make a report required of him under this section or who knowingly makes a false statement in a report required under this section is guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

G. Any person who fails to make a report required of him under this section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he failed to make the required report.

H. Any person who intentionally refuses to make a report required of him under this section with the intent to evade any tax or who fails to make a report required of him under this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he refused or failed to make the required report.

I. The civil penalties authorized under Subsections G and H of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the person having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

