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States' Differential Tax Assessment of Agricultural Land Statutes

South Dakota



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States' Differential Tax Assessment of Agricultural Land Statutes State of South Dakota

S.D. Codified Laws §§ [10-6-31.3](#) to [10-6-33.35](#)

Current through 2018 Regular and Special Sessions, Sup. Ct. Rule 18-15 and Nov. 2018 election.

§ 10-6-31.3. Criteria for classification of land as agricultural

For tax purposes, land is agricultural land if its principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit. Agricultural real estate also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural real estate as defined and it is under the same ownership.

In addition, to be classified as agricultural land for tax purposes, the land shall meet one of the following criteria:

- (1) In three of the previous five years, a gross income is derived from the pursuit of agriculture from the land that is at least ten percent of the taxable valuation of the bare land assessed as agricultural property, excluding any improvements. If there is a crop share arrangement or cash rent agreement, the gross income from the land of both the landlord and tenant shall be combined and used to meet this requirement. Alternatively, at least two thousand five hundred dollars of the owner's gross income is annually derived from the pursuit of agriculture; or
- (2) The land consists of not less than twenty acres of unplatted land or is a part of a management unit of not less than eighty acres of unplatted land. The same acreage specifications apply to platted land, excluding land platted as a subdivision, which is in an unincorporated area. However, the board of county commissioners may increase the minimum acre requirement up to one hundred sixty acres.

For the purposes of this section, the term, management unit, means any parcels of land, whether adjoining or not, under common ownership located within this state and managed and operated as a unit for one or more of the principal uses listed in this section. No parcel of land within a management unit may be more than twenty air miles from the nearest other parcel within the management unit. If requested by the director of equalization, the owner shall provide supporting documentation of the land contained in the management unit.

§ 10-6-33. Basis for determining valuation for tax purposes--Forced sale value not to be used--Cost, market and income approaches to appraisal considered



All property shall be assessed at its true and full value in money. The true and full value is the taxable value of such property upon which the levy shall be made and applied and the taxes computed. In determining the true and full value of property the director of equalization may not adopt a lower or different standard of value because it is to serve as a basis of taxation. The director may not adopt as a criterion of value the price for which the property would sell at a forced sale, or in the aggregate with all the property in the third class municipality or district. The director shall value each article or description by itself and at an amount or price as he believes the property to be fairly worth in money. The true and full value shall be determined by appropriate consideration of the cost approach, the market approach and the income approach to appraisal. The director of equalization shall consider and document all elements of such approaches that are applicable prior to a determination of true and full value.

§ 10-6-33.2. Determination of capacity to produce agricultural products--Sources of information

The capacity of agricultural land to produce agricultural products shall be based on average yields under natural conditions for land producing crops or plants and on the average acres per animal unit for grazing land. The average shall affect each operating unit and shall be based on the ten-year period immediately preceding the tax year in issue. In determining the capacity to produce, the county director of equalization and the county board of equalization shall consider yields, the extent to which the land is able to be tilled or is nontillable based upon soil type, terrain, topographical, and surface conditions, and animal unit carrying capacity, as determined by the natural resources conservation service, farm credit services of America, farm service agency, the extension service, and private lending agencies dealing with land production capacities.

§ 10-6-33.3. Property not used for agriculture separately assessed

Land or improvement on land within an operating unit which is not used incident to an agricultural pursuit shall be separately listed and assessed.

§ 10-6-33.7. Classification of agricultural land in each county--Basis for soil valuation

Agricultural land in each county shall be divided into the eight classes defined by the United States Department of Agriculture's soil conservation service as published in its soil survey for each county. The county director of equalization shall, based on the agricultural lands soil survey classification, determine a value for each soil type.

§ 10-6-33.12. Distinction between agricultural and nonagricultural real property

For the purposes of §§ 10-6-33.8 and 10-6-33.9, there shall be a separate median sales to assessment ratio and coefficient of dispersion for agricultural and nonagricultural real property.

§ 10-6-33.21. Assessed value of inundated farmlands--Classification

If an application is submitted pursuant to § 10-6-33.22, the director of equalization shall take into consideration and make adjustments in setting the assessed value for agricultural land which has been inundated by floods and is not farmable during the past three growing seasons. The director of equalization shall use the marshland soils rating classification pursuant to §§ 10-6-33.2 and 10-6-33.7 to determine the assessed value of the acreage inundated and not farmable.



§ 10-6-33.22. Request for special assessment for inundated farmland--Time limit- Description of land

If agricultural land has been inundated by floods and was not farmable during the past three growing seasons, any landowner or the landowner's agent or attorney may request the director of equalization to specially assess the land for the purpose of taxation by submitting an application before November first. The landowner or the landowner's agent or attorney shall describe on the application the portion of the agricultural land that has been inundated by floods and was not farmable during the past three growing seasons.

§ 10-6-33.28. Agricultural land to be assessed based on agricultural income value

Notwithstanding the provisions of § 10-6-33, beginning on July 1, 2009, agricultural land shall be assessed based on its agricultural income value on a per acre basis. The agricultural income value of agricultural land shall be determined on the basis of productivity and the annual earnings capacity of the agricultural land. The productivity of agricultural land and its annual earning capacity shall be based on data collected and analyzed pursuant to this section and §§ 10-6-33.29 to 10-6-33.33, inclusive.

Agricultural income value is defined as the capitalized annual earning capacity on a per acre basis which has been adjusted by an amount that reflects the landowner's share of the gross return. The capacity of cropland to produce agricultural products shall be based on the income from crops or plants produced on the land. The capacity of noncropland to produce agricultural products shall be based on cash rents or the animal unit carrying capacity of the land, or a combination of both. For the purpose of this section, annual earning capacity for:

- (1) Cropland is thirty-five percent of the annual gross return to the land; and
- (2) Noncropland is one hundred percent of the annual gross return to the land based on cash rent for noncropland.

The annual earning capacity shall be capitalized at a rate of six and six-tenths percent to determine the agricultural income value.

§ 10-6-33.29. Database to determine agricultural income value

The secretary of revenue shall enter into contracts with South Dakota State University and, if necessary, the South Dakota Agricultural Statistics Service for the purpose of creating a database to determine the agricultural income value of agricultural land by county. The cropland data may include: acres planted, acres harvested, yield per acre, and statewide crop prices. The noncropland data may include: cash rents, rangeland acres, pastureland acres, rangeland AUM's per acre, pastureland AUM's per acre, grazing season data, and statewide cow and calf prices. The Agricultural Land Assessment Implementation and Oversight Advisory Task Force may recommend other cropland and noncropland data to the Legislature for subsequent use in the database. The secretary shall have such data collected for 2001, which will serve as the first year of the database, and each year thereafter. The database shall consist of the most recent eight years of data that have been collected and the two years, one year representing the highest agricultural income value and one year representing the lowest agricultural income value, shall be discarded from the database. The database for the 2010 assessment for taxes payable in 2011 shall consist of data from 2001 to 2008, inclusive, and the database for each assessment year thereafter shall be adjusted accordingly.



South Dakota State University shall provide the data for each county to the secretary of revenue by June first of each year.

§ 10-6-33.30. Factors used for percentage of annual earning capacity

The economics department of South Dakota State University shall submit recommendations to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force by November 1, 2008, regarding factors to use for the percentage of annual earning capacity to be used to determine the agricultural income value of the land pursuant to § 10-6-33.28 and other provisions used to assess agricultural land that will provide the least amount of shift between cropland and noncropland on a statewide basis. Thereafter, the economics department shall submit such recommendations, if any, to the task force by September first of each year.

§ 10-6-33.31. Director of equalization to be provided agricultural income value for county- -Adjustment of assessed value

Before July first each year, the secretary of revenue shall annually provide each director of equalization the agricultural income value for each county as computed pursuant to § 10-6-33.28. The director of equalization shall annually determine the assessed value of agricultural land. The assessed value of agricultural land may be adjusted by the following factors affecting productivity:

- (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2; and
- (2) The location, size, soil survey statistics, terrain, and topographical condition of the land including the climate, accessibility, and surface obstructions.

Each adjustment shall be documented. The director of equalization may document an adjustment by using data from sources reasonably related to the adjustment being made. In addition, the director of equalization may use data from comparable sales of agricultural land to document the adjustment concerning productivity for any of the factors listed in this section.

If the actual use of agricultural land varies from the land use category specified by soil classification standards, the property owner may request an examination of the land by the director of equalization. The director of equalization shall make a determination of whether to adjust the assessed value of the agricultural land pursuant to the factors listed in subdivision (2).

§ 10-6-33.34. Market value of agricultural land

The agricultural income value for agricultural land as determined by §§ 10-6-33.28 to 10-6-33.33, inclusive, represents the market value of agricultural land, and the Department of Revenue shall provide the director of equalization of each county the factor of adjustment necessary for the computation required pursuant to §§ 10-3-41, 10-12-31.1, 10-12-42, and 10-13-37.

§ 10-6-33.35. Agricultural Land Assessment Implementation and Oversight Advisory Task Force

There is hereby established the Agricultural Land Assessment Implementation and Oversight Advisory Task Force. The task force shall consist of the following fourteen members:

- (1) The speaker of the House of Representatives shall appoint four members of the House of Representatives, no more than two of whom may be from one political party;
- (2) The speaker of the House of Representatives shall appoint three members of the general public, at least one of the members shall have an agricultural background and at least one of the members shall have a business background;



- (3) The president pro tempore of the Senate shall appoint four members of the Senate, no more than two of whom may be from one political party; and
- (4) The president pro tempore of the Senate shall appoint three members of the general public, at least one of the members shall have an agricultural background and at least one of the members shall have a business background.

The initial appointments shall be made no later than July 1, 2008, and shall serve until January 12, 2009. The speaker of the House of Representatives and president pro tempore of the Senate before the close of each regular session of the Legislature held in odd-numbered years shall appoint members to the task force for a term of two years. If there is a vacancy on the task force, the vacancy shall be filled in the same manner as the original appointment.

The task force shall advise the department regarding the rules promulgated by the department to administer the provisions concerning the assessment and taxation of agricultural lands and shall review the implementation of the provisions of law concerning the assessment and taxation of agricultural land. The task force shall report to the Senate and House of Representatives and may submit a copy of its report to the Governor. The task force may present draft legislation and policy recommendations to the Legislative Research Council Executive Board.

The task force shall make recommendations in the following areas:

- (1) The proper percentage of annual earning capacity to be used to determine the agricultural income value pursuant to § 10-6-33.28;
- (2) The proper capitalization rate in order to have total taxable valuation for the taxes payable in 2011 from agricultural property be not more than total taxable valuation for the taxes payable in 2010 from agricultural property plus the estimated growth in agricultural property value in 2010;
- (3) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-35.1 to ensure that the total amount of additional taxes that may be generated on agricultural land by a school district pursuant to the provisions of §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-35.1 will not provide a substantial property tax revenue increase for the school district pursuant to the implementation of the productivity system pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive;
- (4) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-35.1 to ensure that the total amount of property taxes that may be lost on agricultural land by a school district pursuant to the provisions of §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-35.1 will not provide a substantial property tax revenue decrease for the school district pursuant to the implementation of the productivity system pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive; and
- (5) The distribution of the local effort for the general fund of school districts between the classifications of real property as provided by § 13-13-72.1 which establishes the real property tax contribution from agricultural property for the general fund of school districts as a fixed ratio of the total local effort for such levies. The task force shall also consider the other taxes paid by agricultural property, the relationship of the total assessed value of agricultural property to the total assessed value of all real property, and other factors the task force deems appropriate.

