



MAINE REVENUE SERVICES PROPERTY TAX DIVISION BULLETIN NO. 20

MAINE FARMLAND TAX LAW

REFERENCE: 36 M.R.S. §§ 1101 - 1121
December 9, 2022; replaces April 9, 2020 revision

1. General

The Farm and Open Space Tax Law was adopted in 1971 to encourage the preservation of farmland and open space land and to protect that land from competing, higher-valued uses. This bulletin addresses only those portions of the law that are applicable to farmland, referred to throughout this bulletin as the “Farmland program.” For information on the Open Space program, see Bulletin No. 21 – Maine Open Space Tax Law.

The Farmland program allows the valuation of farmland based on its current use as farmland, rather than based on its just value for other potential uses. This reduced land value results in lower property tax bills for owners of farmland. Lower taxes are designed to act as an incentive to preserve Maine’s farming community.

2. Definitions

- A. Agricultural products. “Agricultural products,” as defined in 7 M.R.S. § 152(2), means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees’ products, livestock and livestock products, manure and compost, and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber, or fur. “Agricultural products” does not include trees grown and harvested for forest products.
- B. Assessor. “Assessor” means a sworn municipal assessing authority whether an individual assessor, a board of assessors, or a chief assessor of a primary assessing area. With respect to the unorganized territory, “assessor” means the State Tax Assessor.
- C. Certified ratio. “Certified ratio” means the level of municipal assessed value, expressed as a percentage of just value as certified by the assessor pursuant to 36 M.R.S. § 383.
- D. Farming. For purposes of this bulletin, “farming” means agricultural or horticultural activities. Horticultural activity means the production of vegetables, tree fruits, small fruits, flowers, and woody or herbaceous plants.

- E. Just value. “Just value” means market value, i.e. the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller for a property, each acting without compulsion in an arm’s-length transaction.
- F. Municipality. “Municipality” means any city, town, plantation, or that portion of a county in the unorganized territory.

3. Valuation

The assessor for each municipality with land in the Farmland program must establish the 100% value per acre for each category of farmland in that municipality, based on the current use of that land for farming purposes. The established values should be based on considerations such as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography, and state-developed guidelines for agricultural valuation. These values should not reflect potential uses of the land, other than farming uses. In addition, the values should not reflect either road or shore frontage. The 100% values are then adjusted by the municipality’s certified ratio.

The assessor must record both the value of farmland established under the Farmland program and the value at which the farmland would have been assessed had it not been classified as farmland. Values must be recorded in the office of the municipality in which the farmland is located.

4. Classification

- A. Minimum size. A tract of farmland must contain at least five contiguous acres. If a tract is divided by water at the normal high-water mark or high tide, that tract is not contiguous. While a landowner must have a tract containing five contiguous acres, not all five acres must be farmed. For example, if a person owns a five-acre lot and crops are grown on one acre, with the remaining four acres used for purposes other than farming, the five-acre lot meets the minimum size requirement. If all other qualifications are met, the landowner may enroll the land in the Farmland program, but only the one acre devoted to farming is subject to the lower farmland valuation. The remaining portion of the lot must be assessed according to just value.
- B. Use. A tract of farmland must be used for farming activities; however, the tract may also include woodland and wasteland. See Appendix A—Guidelines for Agricultural Valuation at the end of this bulletin for additional information on suggested categories of qualifying uses.
- C. Income requirement. A tract of farmland must generate gross income of at least \$2,000 per year from the sale of agricultural products in one of the two, or three of the five, calendar years preceding the date of application for classification. To determine whether a landowner meets the income threshold, look at the two previous calendar years. If the landowner earned at least \$2,000 from farming in one of those years, the land will qualify as farmland. If a landowner did not earn at least \$2,000 in *either* of the two previous years, the landowner must have earned at least \$2,000 in *each* of the third, fourth, and fifth previous years. Gross income is generally reported on Schedule F of the federal income tax return, Form 1040. Gross income from the sale of agricultural products

includes the value of commodities produced for consumption by the farm household. Income may be generated by the activity of an owner or a lessee.

If the owner of a tract of farmland has a lease agreement to also farm a portion of a contiguous tract owned by another person, the two tracts may be treated as one parcel in determining the minimum gross income requirement.

- D. Income report. Once qualified, an owner of farmland must file an income report with the assessor by April 1 of each fifth year after qualification, stating the gross income derived by either the owner or lessee in each of the previous five years from land in the Farmland program. If a farmland owner fails to file this report, the owner will be liable for those taxes that should have been paid, the penalty described in 36 M.R.S. § 1112-C (see section 7(D) below), plus an additional 25% penalty described in 36 M.R.S. § 1109(5).
- E. Provisional classification. The owner of land that meets all the requirements under this section except the income requirement may apply for a two-year provisional classification as farmland. The land must be provisionally classified and subject to the provisions of the Maine Farmland Tax Law. If the land does not qualify at the end of the two-year period, the penalty described in section 7(D) below, will be assessed for the two preceding tax years. If an owner of land currently in the Farmland program timely files the income report described in section 4(D) above, but fails to meet the income requirements, the land may, at the discretion of the assessor, be provisionally classified as described in this section.

5. General Provisions

- A. Filing. Owners must file an application with the assessor of the municipality where the property is located by April 1 of the year in which classification is first requested. Annual filing is not necessary; however, an income report must be filed every five years and an assessor may request the filing of a new application at any time, such as when property changes ownership. An application must be accompanied by a map or sketch showing the different land classifications, including any non-farmland, within the tract.
- B. Determination. The assessor must determine whether land included in a Farmland program application is subject to classification as farmland, identify the land according to the categories listed in the Guidelines for Agricultural Valuation at the end of this bulletin, and notify the owner of the decision by June 1 of the year of application. If an application is denied, the assessor must state the reason for the denial in the decision notification to the landowner and provide the landowner an opportunity to meet the requirements for approval.
- C. Reclassification. The assessor must determine annually whether land in the Farmland program continues to qualify as farmland. If the land no longer qualifies, the assessor must either remove the land from the Farmland program or, at the assessor's discretion allow the land to be provisionally classified as described in section 4(E) above. In addition, landowners are required to give the assessor notice of any change of use or change of classification of farmland by March 31 of the tax year in which the change occurs.

- D. Tax rate. Land in the Farmland program is subject to the same property tax rate applicable to other property in the municipality.
- E. Valuation of areas other than farmland:
 - (1) Farm woodland. Farm woodland must be assessed using the per acre Tree Growth Tax Law values published annually in MRS Rule 202 – Tree Growth Tax Law Valuations.
 - (2) Other Areas. Areas in a classified tract other than farmland must be assessed on the basis of just value.
- F. Farm structures. Building components of a farm, such as animal shelters, are normally considered part of the farm and the structures should be valued in the same way as other similar structures in the municipality. When accessory structures such as animal shelters are built on farmland, that land may remain in the farmland program.

6. Abatement and Appeal

- A. Notice of decision. The assessor must notify the landowner by June 1 of the application year that the application has been accepted or denied. If the application is denied, the assessor must state the reason for the denial and provide the landowner an opportunity to amend the application and/or provide requested information within 60 days. If the landowner fails to respond to the assessor's request to file an application and/or provide the requested information, the owner is deemed to have waived all rights of appeal.
- B. Abatement procedure. Denials of applications for the Farmland program may be appealed using the abatement procedures provided by 36 M.R.S. § 841. For more information about the abatement and appeal procedures, see Property Tax Division Bulletin No. 10 – Property Tax Abatement and Appeals Procedures. The assessor, on written application by the taxpayer within 185 days from date of commitment, or on the assessor's own initiative within one year from date of commitment, may abate the assessed tax as the assessor thinks proper, provided the taxpayer has complied with the reporting requirements of 36 M.R.S. § 706-A.
- C. State Board of Property Tax Review. If an assessor denies a request for abatement from a landowner, the landowner may appeal that decision to the State Board of Property Tax Review. The appeal must be filed within 60 days from receipt of the assessor's decision or within 60 days from the date the application for abatement was deemed to have been denied. An application is deemed denied if the assessor fails to give written notice of their decision within 60 days from the date of filing of the application and the applicant has not consented in writing to further delay.
- D. Superior Court. Any party dissatisfied with a decision of the State Board of Property Tax Review may appeal that decision to Superior Court in the county where the property is located. The appeal must be made within 30 days of the decision by the State Board of Property Tax Review.

7. Withdrawal, Transfer, and Penalty

- A. Withdrawal. A landowner may request to withdraw land from the Farmland program at any time. A recapture penalty, however, will be assessed on the withdrawal. In addition, if the assessor determines property no longer qualifies for the Farmland program, the assessor must withdraw the property from the program, except as provided in section 4(E) above.
- B. Transfer to another program. If land qualifies for the Tree Growth Tax Law program, the Open Space Tax Law program, or the Working Waterfront program, the landowner may transfer the land into one of those programs without incurring a penalty. For information on the other programs, see Bulletin No. 19 – Maine Tree Growth Tax Law, Bulletin No. 21 – Maine Open Space Tax Law, and the Working Waterfront program frequently asked questions section on the Property Tax Division website.
- C. Transfer of ownership. If a landowner transfers ownership of land in the Farmland program, the land may remain in the program as long as the land continues to meet the requirements of the program. The new owner must notify the assessor of the transfer, and the assessor may require the new landowner to file an updated application.
- D. Penalty. The penalty for withdrawal from the Farmland program is equal to the greater of:
 - (1) The taxes that would have been due for the previous five years (or the number of years in the program, if fewer than five) if the property was not in the program, less the taxes that were paid on the property during that period, plus interest based on the applicable interest rate for each year; or
 - (2) A percentage of the difference between the 100% value of the land as classified farmland on the April 1 immediately preceding withdrawal and the assessed just value of comparable property in the municipality, adjusted by the municipality’s certified ratio on the date of withdrawal. The percentage is based on the number of years the land has been classified in the Farmland program, and equals:

10 years or less	30%
11 years	29%
12 years	28%
13 years	27%
14 years	26%
15 years	25%
16 years	24%
17 years	23%
18 years	22%
19 years	21%
20 years or more	20%

If the property has been in the program for at least five years, the landowner may pay any penalty due in five equal annual installments.

8. Valuation Guidelines and Program Promotion

The Department of Agriculture, Conservation and Forestry, working with Maine Revenue Services, representatives of municipal assessors, and farmers, has prepared guidelines to assist assessors in the valuation of farmland—see Appendix A below. The guidelines include suggested categories of farmland uses.

For more information, see the Department of Agriculture, Conservation and Forestry website at: www.maine.gov/dacf/ard/farmland_protection/farmland_tax_law.shtml.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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APPENDIX A: GUIDELINES FOR AGRICULTURAL VALUATION

The following guidelines were derived by the Department of Agriculture, Conservation and Forestry and Maine Revenue Services after review of commentary from the assessing and agricultural communities. The categories listed vary somewhat relative to language found in the law and are an attempt to reconcile that language with typical Maine farming practices.

Upon consideration of the various adjustment factors related to regional or statewide averages, an assessor may use these categories to develop local values. The assessor must document and substantiate any values applied to land in the program.

Cropland. Land used for field grown crops such as a typical Maine potato farm. This includes crops grown in rotation with potatoes - corn for grain, small grains, legumes, broccoli, etc.

Orchard Land. Land devoted to the growth and cultivation of trees bearing edible fruit. There should be a minimum stocking density equivalent to 60 trees per acre.

Pastureland. Land devoted to the production of forage plants consumed by animals. This includes grazing land, hay, ensilage, corn for ensilage and any other crops grown for forage.

Horticultural Land (edible). Land used for intensive vegetable and small fruit production, market gardening, strawberries, raspberries, high-bush blueberries, etc.

Horticultural Land (ornamental). Land used for production of planted and cultivated Christmas trees, flowers, sod, shrubs, trees and general nursery stock. Excluded from this category are trees harvested for forest products.

Blueberry Land. Land devoted to production of wild low-bush blueberries.

ADJUSTMENT FACTORS

Adjustments to the recommended values may be based on soil type, conservation measures, convenience and proximity to the farmstead, field size and shape, slopes, drainage, aeration, accessibility to and choice of markets, rocks, climate, commodity yield and price.