



# MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 20

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## FARMLAND TAX LAW

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REFERENCE: 36 M.R.S. §§ 1101 - 1121  
April 9, 2020; replaces June 1, 2017 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 farmland and open space 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 – Open Space Tax Law.

The farmland program provides for the valuation of farmland based on its current use as farmland, rather than based on its fair market 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. However, “Assessor” means the State Tax Assessor with respect to the unorganized territory.
- C. Certified ratio. “Certified ratio” means the level of municipal assessed value, expressed as a percentage, relative to full market 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. Municipality. “Municipality” means any city, town, plantation, or any location 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. See Appendix A—Guidelines for Agricultural Valuation at the end of this bulletin for descriptions of the different categories of farmland. 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. See Appendix A—Guidelines for Agricultural Valuation at the end of this bulletin for additional information on valuation.

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. 36 M.R.S. § 1109(1).

### 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 lot must be assessed according to fair market 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 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 didn’t 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.
- D. Income report. Once qualified, an owner of farmland must file with the assessor by April 1 of each fifth year after qualification a statement of the gross income derived by either the owner or lessee in each of the previous five years from acreage classified as farmland. If a farmland owner fails to

file this report, the owner will be liable for the taxes that should have been paid, the recapture penalty in 36 M.R.S. § 1112 (see section 7(C) below), plus an additional 25% penalty.

- E. Provisional Classification. The owner of farmland 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 Farm and Open Space Tax Law. If the land does not qualify at the end of the two-year period, the penalty described in section 7(C) will be assessed for the two preceding tax years.

## 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 assessor may request the filing of a new application at any time. The 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 the land is subject to classification as farmland, identify the land based on 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 the application is denied, the assessor must state the reasons for the denial in the decision notification to the applicant and provide the landowner an opportunity to meet the requirements for approval.
- C. Reclassification. Landowners are required to give the assessor notice of any change of use or change of classification of farmland by the end of the tax year in which the change occurs. If a landowner does not give notice of a change of use or classification, the assessor must reclassify the tract and impose a recapture penalty if the facts justify a change in classification or use.
- D. Tax rate. Classified farmland shall be subject to the same property tax rate applicable to other property in the municipality.
- E. Valuation of areas other than farmland:
  - (1) Woodland. The valuation for farm woodland within a classified tract must be based on the valuation under the Tree Growth Tax Law.
  - (2) Other Areas. Areas in a classified tract other than farmland must be assessed on the basis of fair market 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. While not specifically addressed in the law, when accessory structures such as animal shelters are built on classified farmland, that land may remain in the farmland program.

## 6. Abatement and Appeal

- A. Abatement request. Farmland assessments are subject to the abatement procedures provided by 36

M.R.S. § 841. If the owner of land classified as farmland believes the land is overvalued, the landowner may request an abatement. The landowner must submit an abatement request in writing to the municipal assessor within 185 days from the date of commitment. The assessor has 60 days to respond to an abatement request.

- B. State Board of Property Tax Review. If an assessor denies a landowner's abatement request, the landowner may appeal that decision to the State Board of Property Tax Review within 60 days of the assessor's denial. The State Board of Property Tax Review must issue a decision within 60 days of the appeal.
- C. Superior Court. Either party (the landowner or the municipality) that is 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 State Board of Property Tax Review decision.

For a more thorough explanation of the abatement and appeal process, see Bulletin No. 10 – Property Tax Abatement and Appeals Procedures.

## 7. Withdrawal, Transfer, and Penalty

- A. Withdrawal. A landowner may withdraw land from the farmland program at any time. A recapture penalty, however, will be assessed on the withdrawal. If the assessor determines property no longer qualifies for the program the assessor must withdraw the property from the program.
- B. Transfer. An alternative to withdrawal from the farmland program is available. If the land qualifies for another current use program (tree growth, open space), the landowner may transfer the land into that program without incurring a penalty. For information on other current use programs, see Bulletin No. 19 – Maine Tree Growth Tax Law and Bulletin No. 21 – Open Space Tax Law.
- C. Recapture Penalty. The penalty for withdrawal from the farmland program is equal to the taxes that would have been due for the previous five years if the property was not in the program, less the taxes that were paid on the property during that period. Interest is also added to the penalty, based on the applicable interest rate for each year. If the land has been in the program less than five years, the penalty is based on the number of years the property has been in the program. If the property has been in the program for at least five years, the landowner may pay the penalty 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, must prepare valuation guidelines to assist local assessors in the valuation of farmland. The suggested guidelines include values for cropland, orchard land, pastureland, and horticultural land. The values recommended are designed to enlighten Maine citizens to the existence of the Farm and Open Space Tax Law as well as providing regional information to local farm organizations and municipal tax assessors.

For more information, see the Department of Agriculture, Conservation and Forestry website at: [www.maine.gov/dacf/ard/farmland\\_protection/farmland\\_tax\\_law.shtml](http://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; our attempt to reconcile that language with typical Maine farming practices follows.

Upon consideration of the various adjustment factors relative to regional or statewide averages, an assessor may elect to develop local values. However, the assessor must document and substantiate any variation in assessment of farmland from the recommended values.

**Cropland.** Land used for field grown crops such as a typical Maine potato farm. This would include usual 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.