Agricultural land

§ 1. The definition of *agricultural land*

For land to qualify as agricultural, it must be at least 15 acres, including woodlands and wastelands, and either:

(1) constitute a *farm unit engaged* in the production or growing of agricultural products; or
(2) have been farmed by the owner or the owner's parent or spouse for at least 25 years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.[17]

First, land containing at least 15 acres and engaged in farming will qualify as agricultural. To be engaged in farming means the land must be actively farmed in the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products. Land cannot qualify just because an owner *intends* to farm. In other words, the land cannot simply be *held for use*. It must be actively engaged in farming. For example, land not being farmed as of the assessment date (January 1)—or land that will be farmed after the assessment date—cannot qualify for the current tax year.

Here is a general, but not exhaustive, list of the most common farming activities:

- Crops: corn, wheat, cotton, tobacco, soybeans, hay, potatoes.
- Plants: herbs, bushes, grasses, vines, ferns, mosses.
- Animals: cattle, poultry, pigs, sheep, goats.
- Aquaculture: fish, shrimp, oysters.
- Nursery: places where plants are grown.
- Floral products: roses, poppies, irises, lilies, daisies.

Second, land can also qualify as agricultural if it (1) contains at least fifteen acres, (2) has been farmed for twenty-five years, and (3) is used as the owner's residence. This is commonly referred to as the *family-farm provision* (see § 6).

As noted above, for land to qualify as agricultural, it must constitute a "farm unit." Since the term "farm unit" is not defined anywhere in the Act, the assessor must determine whether the claimed farming activity represents the primary purpose for which the property is used or merely

[17] T.C.A. § 67-5-1004(1)(A)(i)–(ii) (emphasis added).

constitutes an incidental or secondary use.[18] In certain instances, a portion of the acreage that previously qualified as agricultural land may cease to qualify due to a change in use.[19]

§ 2. A gross agricultural income is a presumption of an agricultural use

> *Gross agricultural income* is defined as the
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> > total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs.[20]

If land classified as agricultural produces gross agricultural income averaging at least $1,500 per year over any three-year period, then the assessor may *presume* that a tract of land is agricultural.[21] The assessor may request an owner to provide a Schedule F from the owner's federal income tax return to verify this presumption. However, this presumption is rebuttable.[22] In other words, it is not a requirement that an owner *prove* this income. It is only an aid for the assessor to use. Even if the land does not produce any income, it can still qualify, as long as the land is being actively farmed (see § 1). The following example illustrates when the income presumption may be rebutted:

> An owner has land containing 100 acres. He provides a Schedule F to the assessor proving a gross agricultural income of $1,500 or more per year. With just this information, the assessor can presume an agricultural use for the 100 acres.
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> But after a review of the property, it is discovered that only 12 acres are being farmed. The other 88 acres are used for family activities such as four-wheeling and picnics. Most of these acres are covered with thistles and weeds. No other cultivation has been made of the land. Although the owner is farming a small

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[18] *See Swanson Developments, L.P.* (Rutherford County, Tax Year 2009, Final Decision & Order, September 15, 2011) at 3 ("[T]he predominant character of the tract supports further development, not farming, and the property in the aggregate does not, in our view, constitute a 'farm unit engaged in the production or growing of agricultural products.'") upholding *Swanson Developments L.P.* (Rutherford County, Tax Year 2009, Initial Decision & Order, January 20, 2010); *see also Sweetland Family Limited Partnership* (Putnam County, Tax Years 1999 & 2000, Final Decision & Order, September 30, 2001 at 2 (". . . the subject property cannot reasonably be considered a farm unit. Although hay is produced on the premises, we find the amount of production is minimal and incidental to the owner's primary interest and efforts with regard to subject property, i.e., holding the subject property for commercial development."); *Crescent Resources* (Williamson County, Tax Year 2007, Initial Decision & Order, April 14, 2008) at 4; and *Thomas H. Moffit, Jr.* (Knox County, Various Tax Years, Initial Decision & Order, June 27, 2014) at 10.

[19] * *See Roger Witherow, et al.* (Maury County, Tax Year 2006, Initial Decision & Order, May 17, 2007) at 3-4, wherein the administrative law judge affirmed the assessor's determination that 10.0 acres of a 64.28 acre farm no longer qualified for preferential assessment as agricultural land (". . . [O]nce [the 10.0 acres] began being utilized exclusively for excavation purposes it was no longer capable of being used for farming purposes. Indeed, the administrative judge finds that excavating dirt and rock for fill squarely constitutes a commercial use. . . [and] the 10.0 acres . . . was no longer part of a farm unit engaged in the production or growing of agricultural products. Hence . . . the assessor properly assessed rollback taxes and reclassified the 10.0 acres commercially.").

[20] T.C.A. § 67-5-1004(4).

[21] T.C.A. § 67-5-1005(a)(3).

[22] *Id*.

portion of the property and can prove at least a $1,500 income, the 100-acre tract is not a farm unit (see § 1) engaged in the growing of agricultural products or animals. Any farming use is incidental to the other primary activities of the property.[23] Here, the presumption is rebutted, even though a portion of the property is used for agricultural purposes and produces at least $1,500 of gross agricultural income per year.

§ 3. Two noncontiguous tracts—one at least 15 acres, the other 10—may qualify

For agricultural land, two noncontiguous tracts *within the same county*, including woodlands and wastelands, can qualify.[24] But one tract must contain at least 15 acres and the other tract must contain at least 10 acres.[25] Both tracts, however, must constitute a farm unit (see §1).[26] Also, the two noncontiguous tracts must be owned by the same person or persons. This does not apply to forest or open space lands.

Example A

John Smith owns a 100-acre tract and a 12-acre tract in Greenbelt County. Because both tracts are within the same county and John is the owner of both, these two tracts may qualify as agricultural land. (This assumes, however, that both tracts constitute a farm unit.)

Example B

John Smith owns a 100-acre tract in Greenbelt County and a 12-acre tract in Urban County. The 12-acre tract cannot qualify with the 100-acre tract because both tracts are not within the same county.

Example C

John Smith owns a 100-acre tract in Greenbelt County. John Smith and Jane Doe own a 12-acre tract in Greenbelt County. Because the ownership is not the same for the two tracts, the 12-acre tract cannot qualify. To qualify, the 12-acre tract would give Jane a property tax advantage that other owners of land with fewer than 15 acres cannot enjoy.

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[23] *See Crescent Resources* (Williamson County, Tax Year 2007, Initial Decision & Order, April 14, 2008) at 5 ("[T]he agricultural income presumption . . . constitutes a *rebuttable* presumption. The administrative judge finds that any presumption in favor of an 'agricultural land' classification due to agricultural income has been rebutted.").
[24] T.C.A. § 67-5-1004(1)(B). *See Joyce B. Wright* (Putnam County, Tax Year 1997, Initial Decision & Order, January 5, 1998) at 6 ("The administrative judge finds that parcels 58 [12.48 acres] and 74 [68.3 acres] constitute a farm unit satisfying the acreage requirements for non-contiguous parcels. The administrative judge finds that parcel 58.02 [3.5 acres] by itself cannot qualify as a non-contiguous 'farm unit' since it contains less than 10 acres.").
[25] *Id.*
[26] *Id.*

You cannot have three noncontiguous tracts with one tract having at least 15 acres and the other two tracts having at least 10—but fewer than 15—acres each.

> John Smith owns three noncontiguous tracts in Greenbelt County: a 50-acre tract, a 13-acre tract, and a 12-acre tract. Although all tracts are in the same county, only two tracts can qualify: either the 50 and 13-acre tracts or the 50 and 12-acre tracts. (This assumes, however, that both tracts constitute a farm unit.)

As discussed in § 1, the law does not define *farm unit*. But the word *unit* does connote being part of a whole or something that helps perform one particular function. Therefore, it must be determined whether both tracts are part of one farming operation.

> John Smith owns a 100-acre tract in Greenbelt County and a noncontiguous 12-acre tract in Greenbelt County. The 100-acre tract contains cows and horses. John uses the 12-acre tract to cut hay for the horses to eat. These two tracts are owned by the same person and used in one farming operation (i.e., both tracts constitute a farm unit). Therefore, these tracts will qualify as agricultural land.

§ 4. A home site on agricultural land

Land that meets the 15-acre minimum but has a home site on it can still qualify as agricultural.[27] The assessor will value the home site and generally up to one acre of land—sometimes more depending on how much land is necessary to support the residential structure—at market value. The remaining acreage will be classified and valued as agricultural. Sometimes a home site can be up to five acres. As long as the remaining acres are engaged in an agricultural use, the property should qualify.

§ 5. Farming the land

No clear standard, rule, or test exists to help determine how much land must be actively farmed for an entire parcel to be classified as agricultural.[28] For example, a 15-acre tract with a 1-acre home site will still qualify as agricultural land. The assumption is that the remaining 14 acres, or a substantial portion of them, are being actively farmed. But land should not be classified as agricultural under this example:

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[27] *See Bertha L. & Moreau P. Estes* (Williamson County, Tax Year 1991, Final Decision & Order, July 12, 1993) at 2 ("The per acre use value is used for all of a qualifying greenbelt property except that which is used as a home site.").

[28] *See Johnnie Wright, Jr.* (Putnam County, Tax year 1997, Initial Decision & Order, January 2, 1998) at 5 (". . . [S]ubject property consists of a 41 acre farm unit, 15 acres of which [constitute] woodlands and wastelands."); *see also Gill Enterprises* (Shelby County, Tax Years 2008-2011, Final Decision & Order, June 19, 2012) at 3 (". . . [W]e find that acreage of a contended agricultural tract need not normally be adjusted for access roads and drives [noting in a footnote that "woodlands and wastelands are not deducted" and ". . .the assessor may consider whether the portions actually in use for farming are sufficient to support the property as a farm unit . . ."]).

John Smith wants to qualify 50 acres as agricultural. He states that only two acres will be actively farmed as the rest of the land is woodlands and wastelands and not suitable for any other type of farming. This land should not qualify as agricultural. The owner should seek another classification—such as forest—if the land meets those qualifications.

§ 6. The family-farm provision

The family-farm provision provides that land may qualify, or continue to qualify, as agricultural if it (1) has been farmed for at least 25 years by the owner or owner's parent or spouse, (2) is used as the owner's residence, *and* (3) is not used for a purpose inconsistent with an agricultural use.[29] In other words, the agricultural use can cease and the land will still qualify. But it is not a requirement for the land to have been previously classified as agricultural to meet the 25-year requirement. It only needs to have been farmed for at least 25 years.

Forest land

§ 7. The definition of *forest land*

For land to qualify as a forest, it must constitute a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen acres and that has tree growth in such quantity and quality and so managed as to constitute a forest.[30] The assessor may request the advice of the state forester in determining whether land qualifies as a forest.[31]

In 2017, the law was amended to require a minimum of fifteen acres to qualify as forest land. Under the previous definition of forest land, a forest unit could possibly contain less than fifteen acres and still qualify as forest land. Due to this change in the law, tracts of less than fifteen acres no longer qualify as forest land. As discussed in § 55, the disqualification of such tracts will not typically result in rollback taxes because the disqualification resulted from a change in the law.

§ 8. A forest management plan is required

A forest management plan is required for land to qualify as a forest. Sometimes, a property owner may request that land qualify as a forest prior to having completed a forest management plan. Although the policy has been to qualify land as a forest before a plan is completed, the owner needs to submit it as soon as possible. If a plan is never submitted, the land should be disqualified. But the best practice is to require the plan at the time the owner applies.

[29] T.C.A. § 67-5-1004(1)(A)(ii).
[30] T.C.A. § 67-5-1004(3).
[31] T.C.A. § 67-5-1006(b)(2) & (c).

FEMA (/)

Navigation

Search

Languages

Agricultural Structure

The purpose of this page is to define Agricultural Structures, a commonly used term in floodplain management.

Expand All Sections

Definition/Description

A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building.

Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestack and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety.

New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 60.3 (c) (3).

National Flood Insurance Program (NFIP) Requirement

Other Applicable NFIP Regulations

Guidance

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