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PROPERTY TAX BULLETIN NO. 20

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SUBJECT: FARMLAND TAX LAW

REFERENCE: Title 36, M.R.S.A., Sections 1101 - 1121

1. General Information.

The Farmland Tax Law provides for the valuation of land which has been classified as farmland based on its current use as farmland, rather than its potential fair market value for more intensive uses other than agricultural. The purpose of this bulletin is to explain the more important features of this law. As used in this bulletin, the title "assessor(s)" means the assessor or board of assessors of a municipality, the chief assessor of a Primary Assessing Area and the State Tax Assessor in the case of the Unorganized Territory.

2. Valuation

The assessor(s) for each taxing jurisdiction shall establish the 100% valuation per acre based upon the current use value of farmland utilized for agricultural or horticultural purposes. The values adopted shall be based on such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and after considering state developed guidelines for agricultural valuation. These values shall not reflect potential developmental or market value usages other than agricultural or horticultural use. In addition, the values shall not reflect either road or shore frontage. See Guidelines for Agricultural Valuation on page 5.

The assessor(s) shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

3. Requirement for Classification

A. ***Minimum size -*** The tract must contain at least 5 contiguous acres. An application may be made for more than 1 tract of property as long as one of the tracts contains 5 contiguous acres.

B. ***Use -*** The tract must be used for farming, agriculture, or horticultural activities, but may include woodland and wasteland within the farm unit. (Horticultural means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.)

C. ***Income Requirement -*** The tract must contribute to a gross income per year of at least $2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 (below) in one of the 2, or 3 of the 5 calendar years preceding the date of application for classification. Gross income includes the value of commodities produced for consumption by the farm household; gross annual farming income may no longer include income from trees grown and harvested for forest products.

(Title 7, §152(2). Agricultural products. "Agricultural products" 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 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.)

D. ***Income Report -*** The owner must file with the assessor by April 1st of each fifth year a determination of the gross income derived by either the owner or lessee in each of the previous five years from acreage classified as farmland.

4. Provisional Classification

The owner of a parcel of farmland which meets all the requirements except the gross income requirement may apply for a 2-year provisional classification as farmland under this subchapter. The parcel shall be provisionally classified and subject to the provisions of this subchapter.

If at the end of the 2-year period, the land does not qualify, the owner pays the following penalty:

An amount equal to the taxes which would have been assessed had the property been assessed at its fair market value on April 1 for the 2 preceding tax years less the taxes paid during those 2 preceding years and interest at the legal rate on those amounts which would have been payable.

5. General Provisions

A. ***Filing -*** Owners must file an application by April 1 of the year in which classification is first requested with the assessor(s) of the jurisdiction where the property is located. Annual filing is not necessary; however, assessor(s) 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 as well as non-farmland classification within the tract.

B. ***Notification of Classification -*** The assessor(s) must determine whether the land is subject to classification and classify the land as to type and notify the owner of the decision by June 1st of that year. If the application is denied, the assessor(s) must state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of the statute.

C. ***Reclassification -*** Landowners are required to give the assessor(s) notice of any change in farmland classification. If the landowners do not give notice of any change in classification, the assessor(s) must reclassify the parcel where 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 jurisdiction.

E. Valuation of Areas Other Than Farmland

(1) Forest Land - The 100% valuations for Farm woodland within a classified parcel must be the 100% valuations per acre established for forest land according to the Tree Growth Tax Law.
(2) Other Areas - Areas other than farmland and horticultural land must be valued on the basis of fair market value.

6. <u>Appeal from Assessor(s)</u>

A. ***Abatement Procedure -*** Assessments made under this subchapter are subject to the abatement procedures provided by 36 M.R.S.A. §841. The assessors, on written application within 185 days from date of commitment, stating the grounds therefore, or on their own initiative within one year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with section 706.

B. ***Notice of Decision -*** The assessor shall by June 1st notify the landowner that his application has been accepted or denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of this chapter within 60 days.

C. ***State Board of Property Tax Review -*** An application for review must be filed within 60 days from receipt of the assessors' decision or within 60 days from the date the application for abatement was deemed to have been denied.

D. ***Superior Court -*** Any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located.

7. <u>Penalty; Withdrawal of Classification</u>

A. ***Change in Use -*** If classified farmland no longer meets the requirement for classification, it may be withdrawn from classification by the assessor(s) or at the request of the owner. Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed.

B. ***Exception -*** Penalties shall be applied as a result of a change in use and the withdrawal of a portion of a classified parcel except when withdrawal is caused by a transfer resulting from the exercise or threatened exercise of the power of eminent domain.

Change from Farmland to Open Space or Open Space to Farmland may not be penalized if parcel also meets eligibility requirements of the new classification.

C. ***Determination of Penalty -*** The penalty shall be an amount equal to one of the following:

(1) For land that has been classified as farmland under this subchapter, the penalty shall be the taxes which would have been assessed upon the land for the past 5 years, less all taxes which were actually paid during those 5 years, plus interest at the rate set annually by the municipality during those 5 years of classification.

(2) An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of the supplemental assessment. For an owner paying the penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the filing date of the tax lien certificate. The increased redemption term from the standard 18-month term is required in order to accommodate the enlarged time to pay under this procedure.

(3) Notwithstanding the above, the recapture penalty for parcels transferred into Farmland from Open Space or Tree Growth shall be the same as the prior classification if the time classified as Farmland is 10 years or less.

D. ***Assessed Fair Market Value -*** Assessed fair market value at the time of withdrawal is the assessed value of comparable property in the taxing jurisdiction adjusted by the certified assessment ratio to 100%.

IMPORTANT

In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, Section 8: **. . .** "a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals."

8. Valuation Guidelines and Program Promotion

The Department of Agriculture, working with Maine Revenue Services, and 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 crop land, orchard land, pasture land and horticultural land. The values recommended are designed to enlighten Maine citizens to the existence of the Farmland Tax Law as well as providing regional information to local farm organizations and municipal tax assessors.

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, PO Box 9106, Augusta, ME. 04332, Tel. (207)287-2013(voice) or (207) 287-4477(TTY).

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GUIDELINES FOR AGRICULTURAL VALUATION

The following **GUIDELINES** were derived by the Department of Agriculture and Maine Revenue Services after review of commentary from the assessing and agricultural communities.

The **CATEGORIES** indicated vary somewhat relative to language found in the law; our attempt to reconcile that language with typical Maine farming practices follows.

SUGGESTED VALUES are a correlation of market data analysis and income streams attributable to agricultural enterprise.

Upon consideration of the various **ADJUSTMENT FACTORS** relative to regional or statewide averages, assessors may elect to develop localized values. However, the local assessors must substantiate any variation in assessment of farmland from the recommended values.

PASTURE LAND...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.

$325 per acre suggested value - observed range $100 - $525.

CROP LAND...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.

$400 per acre suggested value - observed range $150 - $600.

BLUEBERRY LAND...Land devoted to production of wild low-bush blueberries.

$400 per acre suggested value - observed range $200 - $800.

HORTICULTURAL LAND I (EDIBLE)...Land used for intensive vegetable and small fruit production, market gardening, strawberries, raspberries, high-bush blueberries, etc.

$450 per acre suggested value - observed range $350 - $650.

HORTICULTURAL LAND II (ORNAMENTAL)...Land used for production of planted and cultivated Christmas trees, flowers, sod, shrubs, trees and general nursery stock.

$550 per acre suggested value - observed range $425 - $850.

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.

$450 per acre suggested value - observed range $350 - $800. (For standard/full size varieties)
$650 per acre suggested value - observed range $450 - $1150. (For dwarf and semi-dwarf varieties)

ADJUSTMENT FACTORS

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.