



Mike Kadas
Director

Montana Department of Revenue



Steve Bullock
Governor

MEMORANDUM

To: Revenue and Transportation Interim Committee

From: Mike Kadas, Director MDOR *MK*

Date: June 10, 2016

Subject: Small acreage agricultural designation

In late March the Montana Tax Appeal Board (MTAB) issued three similar rulings (Yeager Family Trust, Goodspeed, and Ward) regarding the Department's valuation of agricultural land under 20 acres. The rulings invalidated the Department's criteria of requiring at least one acre of farm land and orchard standards of at least 100 trees for small tracts to receive agricultural status by showing \$1500 of gross agricultural revenues. The Department does not contest the MTAB ruling and intends to amend its rules to conform to the ruling. The ruling does however exacerbate the equity concerns the Department raised at the March 10-11th RTIC meeting. The applicable sections of MCA are below.

15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in [15-1-101](#) and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C);
and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in [15-6-133\(1\)\(c\)](#), must be classified as agricultural land, and the land must be valued as provided in [15-7-206](#).

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in [15-1-101](#);

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in [70-30-102](#) by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as determined by the Montana state university-Bozeman department of agricultural economics and economics.

(4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(5) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in [15-6-133\(1\)\(c\)](#) and is taxed as provided in [15-6-133\(3\)](#). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to [15-7-111](#).

(6) For the purposes of this part, growing timber is not an agricultural use.

15-7-206. Improvements on agricultural land. (1) In determining the total area of land actively devoted to agricultural use, there is included the area of all land under barns, sheds, silos, cribs, greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

(2) One acre of land beneath agricultural improvements on agricultural land, as described in [15-7-202\(1\)\(c\)\(ii\)](#), is valued at the class with the highest productive value and production capacity of agricultural land.

Lakefront Property in Lake County



Ag Parcel with Fruit Orchard
and 1 acre farmsite
Approximately 2.2 acres
LAND TAXES approximately
\$24

Non-ag Parcel
Approximately 2 acres
LAND TAXES approximately
\$3,720

4 parcels located north of Bozeman

Gallatin county



2016 Farmsteads By County

County #	County	Farmsteads	Farmsteads on Ownerships Less Than 160 acres	Farmsteads on Ownerships Less Than 20 acres	Farmsteads on Ownerships Less Than 10 acres	Percentage of Farmsteads on Ownerships Less than 160 Acres
1	Silver Bow	182	69	8	5	38%
2	Cascade	970	324	33	13	33%
3	Yellowstone	1,213	535	100	30	44%
4	Missoula	419	227	69	31	54%
5	Lewis & Clark	706	240	57	14	34%
6	Gallatin	1,162	509	78	26	44%
7	Flathead	780	545	118	35	70%
8	Fergus	1,059	119	6	1	11%
9	Powder River	512	23	5	3	5%
10	Carbon	951	357	39	16	38%
11	Phillips	421	68	4	1	16%
12	Hill	621	105	13	8	17%
13	Ravalli	1,725	1,277	494	204	74%
14	Custer	421	52	7	2	12%
15	Lake	1,264	914	347	236	72%
16	Dawson	518	72	14	6	14%
17	Roosevelt	565	67	3	2	12%
18	Beaverhead	670	125	32	11	19%
19	Chouteau	1,004	65	8	4	6%
20	Valley	773	81	6	2	10%
21	Toole	330	42	7	6	13%
22	Big Horn	658	101	8	5	15%
23	Musselshell	391	28	1	0	7%
24	Blaine	518	57	2	1	11%
25	Madison	810	179	18	4	22%
26	Pondera	481	107	16	4	22%
27	Richland	597	93	14	7	16%
28	Powell	340	35	1	1	10%
29	Rosebud	641	56	7	5	9%
30	Deer Lodge	124	30	9	7	24%
31	Teton	827	198	10	2	24%
32	Stillwater	632	137	25	11	22%
33	Treasure	201	31	6	3	15%
34	Sheridan	555	72	20	16	13%
35	Sanders	396	157	17	7	40%
36	Judith Basin	444	56	3	0	13%
37	Daniels	347	38	7	3	11%
38	Glacier	320	52	2	1	16%
39	Fallon	301	23	1	0	8%
40	Sweet Grass	498	68	7	3	14%
41	McCone	462	43	6	5	9%
42	Carter	414	14	0	0	3%
43	Broadwater	301	89	16	9	30%
44	Wheatland	202	16	0	0	8%
45	Prairie	211	16	2	1	8%
46	Granite	267	50	5	5	19%
47	Meagher	286	37	4	4	13%
48	Liberty	255	40	8	5	16%
49	Park	798	121	19	6	15%
50	Garfield	326	13	1	1	4%
51	Jefferson	364	106	12	4	29%
52	Wibaux	200	8	2	1	4%
53	Golden Valley	173	13	0	0	8%
54	Mineral	59	25	4	2	42%
55	Petroleum	155	11	0	0	7%
56	Lincoln	93	36	4	2	39%
	Statewide	29,913	7,970	1,705	780	27%

Common ownership acreage determined by adding up acres on all ag parcels with identical owner names

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