

What follows is a summary of how Montana and seven other Western states handle agricultural land for property tax purposes. The states included are Wyoming, North Dakota, South Dakota, Idaho, Oregon, Washington, and Colorado. The topics are Definition of Agricultural Land Use, Income and Acreage Requirements, and Methodology for Valuing Agricultural Land. There is some overlap in the topics because each state adds its own nuances to how it defines and values agricultural land and how it describes those procedures.

Definition of Agricultural Land Use

MONTANA

The term "agricultural" for property tax purposes, refers to "the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes."

The term also refers to the raising of domestic animals and wildlife in domestication or a captive environment.

[Section 15-1-101(a), MCA]

WYOMING

The term "agricultural land", for property tax purposes, means "land which has been used or employed during the previous two years and presently is being used and employed for the primary purpose of obtaining a monetary profit as agricultural or horticultural use or any combination thereof is to be agricultural land...unless legally zoned otherwise by a zoning authority."

[Section 39-13-101(a)(iii), WY ST]

NORTH DAKOTA

"'Agricultural property' means platted or unplatted lands used for raising agricultural crops or grazing farm animals, except lands platted and assessed as agricultural property prior to March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals."

North Dakota code also provides that "property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

- a. The land is platted by the owner.
- b. Public improvements including sewer, water, or streets are in place.
- c. Topsoil is removed or topography is distributed to the extent that the property cannot be used to raise crops or graze farm animals.
- d. Property is zoned other than agricultural.
- e. Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
- f. The parcel is less than ten acres and not contiguous to agricultural property.

- g. The property sells for more than four times the county average true and full agricultural value."

[Section 57-02-01(1), ND Century Code]

SOUTH DAKOTA

South Dakota code does not specifically define "agricultural land", but provides criteria for classification of land as agricultural for property tax purposes. The criteria include an income requirement, a use requirement, and an acreage requirement. The income and acreage requirements are addressed in those categories later in this summary.

The use requirement provides that the principal use of the land be "devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit..." Agricultural land "also includes woodland, wasteland, and pasture land, but only if the land is held and operated in conjunction with agricultural real estate...and is under the same ownership."

[Section 10-6-31.3, South Dakota Codified Laws]

IDAHO

Idaho code also provides income and acreage criteria for land to be considered "land actively devoted to agriculture", which will be covered later in this summary.

Use requirements provide that land "is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables." The land may also be used to "produce nursery stock as defined in section 22-2302(11), Idaho Code", "used by the owner for the grazing of livestock to be sold as part of a net profit-making enterprise, or is leased by the owner to a bona fide lessee for grazing purposes", or is in a cropland retirement or rotation program.

[Section 63-604, Idaho Code]

OREGON

"Farm use" is defined in Oregon as "the current employment of land for the primary purpose of obtaining a profit in money by:

- a. Raising, harvesting, and selling crops;
- b. Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof;
- c. Dairying and selling dairy products;
- d. Stabling or training equines, including but not limited to providing riding lessons, training clinics, and schooling shows;
- e. Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;
- f. On-site constructing and maintaining equipment and facilities used for the activities described in this subsection;

- g. Preparing, storing or disposing of, by marketing or otherwise, the products or by-products raised for human or animal use on land described in this section; or
- h. Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof."

The definition does not include land subject to timber or forest land taxation, but *does* include: land that is not economically tillable or grazeable that is adjacent to farm use land and under the same ownership as the farm use land; land under buildings that support accepted farming practices; land that is idle for no more than one year when absence of activity is because of family illness; and land used for profiting from breeding, raising, kenneling, or training greyhound dogs for racing.

[Section 308A.056, Oregon Revised Statutes]

Oregon uses a zoning concept for farm land. Section 308A.053, ORS, defines an "exclusive farm use zone" (EFU) as a "zoning district established by a county or a city" that is consistent with farm use zone provisions established in additional sections of the code. "Exclusive farm use zone farmland" is defined as land that qualifies for special assessment.

Land may qualify for farm use assessment if it is located within an EFU zone and if the land is used primarily to make a profit in farming. Land that is not in an exclusive farm use zone may still qualify for special assessment upon application of the landowner and providing that:

- >the land is currently used and has been used for the two previous years exclusively for farm use;
- >the land meets an income test; and
- >the owner or lessee files a Schedule F showing farm income.

WASHINGTON

The Revised Code of Washington (RCW) defines "farm and agricultural land" as land that is "devoted primarily to the production of livestock or agricultural commodities for commercial purposes" or enrolled in a cropland retirement program. These two provisions apply to parcels that are 20 acres or more. Smaller parcels have income requirements.

Farm and agricultural land can also include: land that is compatible with agricultural purposes and used incidentally for those purposes, not to exceed 20% of the classified land; land on which appurtenances necessary for the production, preparation, or sale of agricultural products if it is in conjunction with the land producing the products; a noncontiguous parcel 1 to 5 acres if it is an integral part of the farming operations; and land on which housing for employees and principal place of residence of the farm operation or owner if it is integral to the farm use of the land and if the farm use parcel is 20 or more acres.

COLORADO

The definition of "agricultural land" in the Colorado Revised Statutes (CRS) includes acreage requirements that will be discussed later. Farm and ranch land use requirements are as follows.

"Farm" means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit."

"Ranch" means a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit. For the purposes of this subsection (13.5), "livestock" means domestic animals which are used for food for human or animal consumption, breeding, draft, or profit."

Agricultural land can also be land that is underlying any residential improvement located on the land and land that is underlying other improvements if the improvements are an integral part of the farm or ranch and if the other improvements and the land area dedicated to the other improvements are typically used as an ancillary part of the operation.

If at least 40 acres of a parcel is forest land with a forest management plan and the forest land is used to produce tangible wood products, it may be considered agricultural.

Land that is in the process of being restored through conservation practices may also be considered agricultural.

[Section 39-1-102(1.6, 3.5, and 13.5), Colorado Revised Statutes]

Income and Acreage Requirements for Land to be Considered Agricultural

MONTANA

Section 15-7-202, MCA, provides that contiguous parcels of land that are between 20 and 159 acres may be considered agricultural if at least \$1,500 annual gross income is marketed from the raising of agricultural products produced by the land.

Noncontiguous parcels that meet the \$1,500 requirement may also be considered agricultural land if the land is part of a bona fide agricultural operation and if the land is not devoted to a residential, commercial, or industrial use.

Parcels under 20 acres may qualify if the \$1,500 threshold is met or would have been met if not for production failure out of the producer's control or for marketing delay.

A parcel between 20 and 159 acres that does not qualify is assessed as if it were grazing land and taxed at seven times the taxable rate for grazing land.

**MT
Acreage
breakdown:**

**0-19
20-159
160+**

WYOMING

There do not appear to be income or acreage requirements for land to be considered agricultural. A landowner simply must have been using the land over the past 2 years and be currently using the land for the primary purpose of making a profit from agricultural products.

NORTH DAKOTA

Except for special provisions concerning inundated land, there do not appear to be any income requirements, but if any four of seven listed conditions are met (the conditions are listed above in North Dakota's portion of the "Definition of Agricultural Land Use" summary), the land may not be considered agricultural property. One of the seven listed conditions is that the parcel under consideration is less than 10 acres and not contiguous to agricultural property.

**ND
Acreage
breakdown:**

0-10

An owner of inundated agricultural land must apply for the land to be classified as agricultural. To be classified as agricultural, inundated land must contain a minimum of 10 contiguous acres if the value of the inundated land exceeds 10% of the average agricultural value of noncropland for the county. The land must also be inundated to the extent that it is unsuitable for growing crops or grazing farm animals for two or more consecutive growing seasons. Revenue produced from inundated land must be less than the average revenue per acre of noncropland.

SOUTH DAKOTA

Land is classified as agricultural if it meets two of three criteria. The three criteria are:

1. At least 33% of the owner's total family gross income is derived from the pursuit of agriculture;
2. The land's principal use is devoted to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and management of farm livestock, poultry, fish, or nursery stock, the production of bees and apiary products, or horticulture, all for intended profit. Woodland, wasteland, and pastureland may also be considered agricultural only if the land is held and operated in conjunction with agricultural land and is under the same ownership; and
3. The land consists of no less than 20 acres of unplatted land or is part of a contiguous ownership of not less than 80 acres of unplatted land. The same requirements apply to platted land, excluding land platted as a subdivision in an unincorporated area. A board of county commissioners may increase the minimum acre requirement up to 160 acres.

**SD
Acreage
breakdown:**

**20+
80+
160+**

Any agricultural land that sells for more than 150% of its agricultural income value is classified as "nonagricultural acreage" and is assessed differently. Any agricultural land that is sold in an increment of 70 acres or less may not be used for the purpose of valuing agricultural property.

IDAHO

Land over 5 contiguous acres qualifies for appraisal, assessment, and taxation as agricultural land if it is actively devoted to agriculture.

A parcel of land that is 5 acres or less may qualify if the land has been actively devoted to agriculture during the last three growing seasons and:

- >it produces for sale or home consumption at least 15% of the owner's or lessee's annual gross income; or
- >it produced gross revenues in the preceding year of \$1,000 or more.

ID
Acreage
breakdown:

0-5
6+

A parcel of land that is 5 acres or less is presumed to be nonagricultural land until it has been established that the above requirements have been met.

OREGON

Land in an Exclusive Farm-Use (EFU) Zone is not required to meet any criteria other than it must be used primarily to make a profit in farming.

Land outside an EFU Zone that is 6 acres or less must produce at least \$650 gross income from farming. For land that is more than 6 but less than 30 acres, gross income from farming must be \$100 multiplied by the number of acres. A parcel of land that is 30 acres or more must show gross income from farming of at least \$3,000.

OR
Acreage
breakdown:

0-6
7-29
30+

WASHINGTON

A parcel of land that is 20 or more acres and that is devoted primarily to the production of livestock or agricultural commodities for commercial purposes or that is enrolled in a USDA-administered cropland retirement program may be considered agricultural for property tax purposes.

A parcel of land that is between 5 and 19 acres must be devoted primarily to agricultural uses equivalent to:

- >\$100 or more per acre per year for three of the five years preceding the date of an application for classification made prior to January 1, 1993; or
- >\$200 or more per acre per year for three of the five years preceding the date of application for classification made on or after January 1, 1993.

A parcel of land under 5 acres must produce a gross income of:

- >\$1,000 or more per year for three of the five years preceding the date of application for classification made prior to January 1, 1993; or
- >\$1,500 or more per year for three of the five years preceding the date of application for classification made on or after January 1, 1993.

WA
Acreage
breakdown:

0-5
5-19
20+

COLORADO

Agricultural land for property tax purposes may be one of the following:

>a parcel, regardless of its size, that was used the previous two years and is used currently as a farm or ranch with the gross income equaling or exceeding a of the total gross income resulting from all uses of the land during any given property tax year;

>a parcel that has at least 40 acres of forest land with a forest management plan and that is used to produce tangible wood products; or

>a parcel that consists of at least 80 acres (or less than 80 acres if the parcel does not contain residential improvements) and that is subject to a perpetual conservation easement

**CO
Acreage
breakdown:**

**40+
(forest)
80+
(conservation
easement)**

Methodology for Valuing Agricultural Land

MONTANA

Land that is considered agricultural for property tax purposes is valued at 100% of the productive capacity of the land. Forest land is assessed at 100% of its forest productivity value and other land in Montana is assessed at 100% of the land's market value¹.

Agricultural land is classified according to its use, which, according Department of Revenue rules, includes grazing land, continuously cropped hay land, nonirrigated farm land, nonirrigated continuously cropped farm land, and tillable irrigated land (ARM 42.20.142 through 42.20.146). Within each of these classes, the land is subdivided further into production categories or grades.

The Department calculates the per-acre productive capacity value in each production category by dividing the per-acre net income of the land in each land use and production category by a capitalization rate of 6.4%².

$$\text{Per-acre productive capacity value} = \frac{\text{per-acre net income}}{\text{the capitalization rate}}$$

Section 15-7-201(5)(a) provides that the net income used in the valuation formula be determined separately in each land use based on production categories. Section 15-7-201(5)(b) requires that "net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data."

¹ The market value to which the taxable percentage for residential and commercial property is applied excludes the exemption amount provided for in 15-6-201, MCA.

² The Agricultural Land Advisory Committee appointed pursuant to 15-7-201(7) may recommend a different capitalization rate which must then be adopted by the Department by rule to be used in this calculation.

An agricultural land valuation advisory committee appointed by the Governor compiles, reviews, and analyzes the data required to determine net income and the capitalization rate for the valuation formula. The committee then recommends agricultural land valuation schedules to the Department of Revenue.

[Section 15-7-201, MCA]

WYOMING

Agricultural land is taxed based on the land's average productive capability under normal conditions. The three categories of agricultural land are irrigated land, dry crop land, and range land.

To value a parcel of land, ownership and classification is determined by the County Assessor's office. The productivity capability is calculated depending on the category or categories the parcel falls into. The four-step valuation process appears similar to Montana's process:

1. Determine prices of agricultural products using the Wyoming Agricultural Statistics Service's commodity price data. This information is converted to a 5 year weighted average.
2. Select the capitalization rate based on the Farm Credit Services of Omaha Long Term Portfolio rates converted to a 5 year weighted average.
3. Determine net income by multiplying the price of each of the three commodities by the production per acre.
4. Capitalize net income.

CRP land is valued as it was before it was put into the program.

NORTH DAKOTA

The 2001 North Dakota legislature requested a study of how agricultural land is assessed. Problems with the current system are that detailed soil surveys (intended to be a significant part of how the valuation of agricultural property was to be calculated) have not been completed; farmers are seeing declining incomes and property market values while their property tax valuations have increased; and there is doubt that the productivity formula results in appropriate valuations of agricultural land.

The true and full value of agricultural land in North Dakota is based on productivity, which is established through a computation of the capitalized average gross return of the land. Inundated agricultural land is treated differently, and a landowner must apply to receive this classification.

The North Dakota State University Department of Agricultural Economics determines the annual gross return, which is 30% of the annual gross income for crop land used for growing crops other than sugar beets and potatoes, 20% of the annual gross income for

land used for growing sugar beets and potatoes, and 25% of gross income potential based on animal unit carrying capacity for land used to graze animals.

The average gross return is capitalized by a rate that is a 10-year average of the gross federal land bank mortgage rate of interest for North Dakota.

The Department of Agricultural Economics must annually compute the average agricultural value per acre for cropland, noncropland, and inundated agricultural land for each county and submit the information to the Tax Commissioner, who distributes it to each county Director of Tax Equalization, who gives it to the local assessors. If an assessor develops a value for land the assessor's district that differs substantially from the estimate, the assessor must provide written evidence to support the change.

SOUTH DAKOTA

Section 10-6-33.1, South Dakota Codified Laws, provides: "The true and full value in money of agricultural land...which has been primarily in agricultural use for at least five successive years immediately preceding the tax year for which assessment is to be made shall be the market value as determined for each county through the use of all comparable sales of agricultural land based on consideration of the following factors:

1. The capacity of the land to produce agricultural products...; and
2. The location, size, soil, terrain, and topographical condition of the property including but not limited to capability, the land's use, climate, accessibility, and surface obstructions which can be documented through an analysis of land selling prices."

Administration and collection of all property tax except taxes assessed on large companies is a local responsibility. The South Dakota Department of Revenue may only assist local governments in making sure property tax assessments are fair and comply with the law.

IDAHO

Idaho Code provides that the use value of agricultural land is "established by comparable sales data compared to value established by capitalization of economic rent or long term average crop rental at a capitalization rate which shall be the rate of interest charged by the Spokane office of the farm credit system averaged over the immediate past five (5) years plus a component for the local tax rate."³

$$\text{Value per acre} = \frac{\text{net income per acre}}{\text{capitalization rate}}$$

Idaho Code defines the "speculative portion" of agricultural land as the difference between the current market value and the taxable value of a parcel of agricultural land. Section 63-620K of the Idaho Code provides that the speculative portion of agricultural land is exempt from taxation.

OREGON

³ Idaho Tax Commission Rule No. 613 notes that the component for local taxes achieves the necessary allowance for the expense of property taxes.

As previously discussed, Oregon counties and cities may establish exclusive farm use (EFU) zones. Land located within an EFU must be used primarily to make a profit in farming to qualify for the farm use assessment. Owners of land located outside of an EFU zone must apply for the farm use assessment, meet a time and income requirement, and file a Schedule F.

Qualifying parcels are valued using an income method considering the land's productive capacity. The local assessor determines the capitalization rate and the net income per acre for farmland. The net income is the typical gross annual return minus typical expenses and the capitalization rate is the 5-year average Farm Credit Services mortgage rate, plus the local property tax rate. The formula is similar to Montana's:

$$\text{Farm use value per acre} = \frac{\text{net income per acre}}{\text{capitalization rate}}$$

Land that receives a special farm use assessment is assessed on the lesser of:

- >the real market value;
- >the maximum assessed value⁴;
- >the specially assessed value described in the above paragraph; or
- >the maximum specially assessed value.⁵

A county board evaluates information and factors used by the local assessor

WASHINGTON

Open space land, farm and agricultural land, and timberlands are valued at their current use rather than their highest and best use. The local assessor determines the current use value of farm and agricultural land by considering the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than 5 years. The earning capacity is the "net cash rental" and is capitalized by a rate of interest charged on long-term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

COLORADO

The actual value of agricultural land, exclusive of buildings, is determined by considering the earning or productive capacity of the land over a 10-year period. The earnings are capitalized into actual value.

The following is taken directly from a brochure prepared by the Colorado Assessor's Association, the Colorado Association of Tax Appraisers, and the Colorado Division of Property Taxation entitled "How Agricultural Property is Valued in Colorado".

⁴ For the tax year beginning in July, 1997, the MAV was the property's tax year 1995-96 real market value minus 10%. For subsequent years, the MAV is the greater of the prior year's assessed value increased by a maximum of 3% or the prior year's MAV.

⁵ The MSAV for farm land in the tax year beginning July 1, 1997 was the specially assessed value for the tax year beginning July 1, 1995 reduced by 10%. For subsequent years, the MSAV is the prior year's MSAV increased by 3%.

The steps in valuation of irrigated or dry farm land are as follows:

1. Determine the basic crops raised and the cropping practices used in each farming area.
2. Establish the appropriate ten-year average yield for each crop in each farming area.
3. Determine the landlord's share of each basic crop.
4. Establish the typical landlord expenses in each farming area.
5. Calculate the landlord's net income.
6. Determine the actual value by dividing the landlord's net income by the statutory 13% capitalization rate.
7. For assessment purposes, the assessed value is calculated by multiplying the actual value by the statutory assessment rate of 29%.⁶

The procedure is graphically represented by this table.

Yield	x	Commodity Price	?	Total Gross Income ?
? Total Gross Income	x	Landlord's Share	?	Landlord's Gross Income ?
? Landlord's Gross Income	-	Typical Landlord Expenses	?	Landlord's Net Income ?
? Landlord's Net Income	÷	Capitalization Rate (13%)	?	Actual Value ?
? Actual Value	x	Assessment Rate (29%)	?	Assessed Value

Valuation of grazing and meadow hay land is represented by this table.

Animal Unit Month Rental	?	Carrying Capacity	?	Landlord's Gross Income ?
? Landlord's Gross Income	?	Typical Landlord Expenses	?	Landlord's Net Income ?
? Landlord's Net Income	÷	Capitalization Rate (13%)	?	Actual Value ?
? Actual Value	x	Assessment Rate (29%)	?	Assessed Value ?

⁶

In Colorado, the rate for residential property is 21%.

AGRICULTURAL LAND TAX

Summary of Eight Western States' Statutes and Guidelines for Defining, Qualifying,
and Valuing Land Used for Agricultural Production

Prepared for the Revenue and Transportation Interim Committee
by
Leanne Kurtz, Committee Staff

November 2001

Published By



Legislative Services Division

PO Box 201706
Helena, MT 59620-1706
PHONE: (406) 444-3064
FAX: (406) 444-3036
<http://leg.mt.gov/>