

SUGGESTED RULES FOR ORCHARD, VINEYARDS AND SIMILAR SMALL AGRICULTURAL BUSINESSES IN MONTANA

Committee for orchards/vineyards and small agriculture in Montana
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BACKGROUND:

Efforts appear to be in progress by the Montana Department of Revenue, DOR, and various elected officials to eliminate or severely restrict property owners on Flathead Lake and other high value locations in Montana from getting Agricultural Tax Classification for their orchards and vineyards and many other similar agricultural businesses. It is appropriate to eliminate agricultural classification for anyone who is not properly maintaining and operating their orchard or vineyard as serious farmers. It is not appropriate or fair to single out or punish those many orchard and vineyard owners who, in good faith, have followed all applicable rules and practices at considerable time, effort, and expense to establish and maintain their orchards/ vineyards, the beauty and productivity of which significantly benefit the community, at large.

Our group and many others have tried to point out the many positive benefits of these small agricultural businesses, ranging from the aesthetic to the practical in their helping to produce and provide fresh and delicious locally grown fruit. They are the very source of the wonderful roadside stands that local residents and many tourists enjoy every year. In addition to beautifying areas such as around Flathead Lake and being a source of local food production, our orchards and vineyards sustain an ecologically and visually desirable alternative to row upon row of subdivisions which would most likely replace them should their owners be stripped of the agricultural tax benefits that have long been the most important means by which the State of Montana carries out the Constitutional mandate to protect, enhance, and develop ALL agriculture.

Yes, our local orchards and vineyards are taxed at a lower rate than they would be if not devoted to agricultural production, but there are very substantial costs to putting them in and properly maintaining them which is certainly the case with all agriculture in Montana. The vast majority of these financial investments go directly into the local economy. We agree that any owners who do not follow the rules and are not bone fide operators should not receive agricultural tax benefits.

The DOR, had rules and there were State Laws and Regulations in place prior to 2017 that were fair and reasonable. DOR was doing a good job of inspection to assure compliance, however those guidelines and rules may not have covered everything to insure that only bona fide operations were classified as agricultural. We are serious operators, with family businesses who live in rural areas and have invested considerable time, hard work and money to provide great local products. Now there are numerous value added products being locally made.

CONCLUSION AND RECOMMENDATION:

It is the obligation of the Legislature, which extends to all appropriate government agencies, including the DOR and local governments, to fully comply with the mandate of the Montana State Constitution to protect enhance and develop ALL agriculture. This Constitutional requirement is clearly stated in Article XII Section 1 (1). Compliance is not discretionary. It is logical and reasonable to restrict, limit or even eliminate "fake" activities designed only to evade taxes. We suggest that the appropriate response to any efforts to abuse agricultural classification of orchard, vineyards, and similar activities, that the following rules be adopted by the Legislature and enforced by the DOR:

1. As was the case prior to 2017, for new operations plant at least 100 viable trees or 120 vines or crops to produce at least \$1,500 of gross income, as defined by the IRS. Planting additional plants or trees is suggested to assure the minimum needed will survive.
2. As was the case prior to 2017, reinstate the 5 year grace period, allowing interim Ag. Classifications, providing all the guidelines/requirements for such operations as outlined in this paper are complied with.
3. Provide and operate a watering or irrigation system that effectively covers each plant/tree.
4. Install adequate fencing to protect the crops from deer and bears.
5. Maintain the trees/plants to survive and be healthy per accepted standard practices which should include pruning; mowing grass areas, if any; weed control; insect, pest and disease control; nutrients; and harvesting.
6. Contain spraying to the subject property only and to the minimum effective levels.
7. Comply with all applicable crop specific local, state, and federal rules, laws, and regulations.
8. Allow the continuation of Ag. Classification, including the farmstead one acre area, and without limit on acreage provided that all these guidelines are met on a continuing basis.
9. Publish and disseminate these rules throughout all levels of government and send them to all taxpayers with agricultural classification and their adjoining neighbors.