

Florida's Use-Value Assessment Law: Questions and Answers for Miami-Dade County Agricultural Classification¹

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Introduction

Florida was the second state in the nation to adopt a use-value assessment program for agricultural land (1959). Currently, every state, except Michigan, has adopted some form of use-value assessment. Because of its wide-scale adoption, use-value assessment is the most widely used technique in the United States today for maintaining land in agricultural production.

Use-value assessment shifts property tax burdens to other classes of property, since use-value assessment generally lowers the value of agricultural property relative to assessment at fair market value. Agricultural producers are taxed at the income-earning potential of the land in agricultural production rather than at what a willing buyer would pay for the land. In Florida, use-value assessment is often referred to as the state's "greenbelt" law. The term use-value assessment is often used interchangeably with the term "differential assessment." Eligibility criteria for use-value assessment for Florida are defined in Florida Statute 193.461. A summary of this statute can be found in EDIS publication FE550, Issues at the Rural-Urban Fringe: Florida State Laws Related to Land Use (<http://edis.ifas.ufl.edu/FE550>), or the entire statute can be accessed electronically from the state's web portal at <http://www.MyFlorida.com>.

Although general guidelines are provided to Florida counties on the application of the state's use-value assessment law, counties may vary slightly in the application and determination of the agricultural land's value. This variation among counties still must be consistent with the general guidelines. Therefore, it is important for agricultural landowners to understand the guidelines used to determine value in the county where the land is assessed and taxed. This factsheet applies specifically to Miami-Dade County, Florida.

Agricultural Classification in Miami-Dade County, Florida

Questions and answers contained in this factsheet were derived from the Miami-Dade County Property Appraiser web page and personal communication with Mr. Elier Fernandez, Supervisor of the Agricultural Section of the Office of the Miami-Dade Property Appraiser. This document is intended to serve as a quick reference guide for some of the questions raised by new and existing growers regarding agricultural classification in Miami-Dade County, Florida. It is not the intent of this document to give legal advice.

Florida's express public policy is to conserve, protect, and encourage agricultural and greenbelt lands. Hence

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landowners are offered an incentive in the form of significant tax savings for using their property for agricultural purposes. The lower assessment level is intended to make it economically feasible for landowners to continue such usage.

In general, three criteria are needed for agricultural classification:

1. The primary use of the land must be for “agricultural purposes.” Among other things, this means that the main activity that takes place on the land includes, but is not limited to, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture (when the land is used principally for the production of tropical fish), aquaculture, sod farming, and all forms of farm products and farm production.
2. The agricultural use must be “bona fide.” This means the agricultural operation is real, genuine, and not deceptive just for the purpose of obtaining the tax reduction.
3. The operation should be “commercial,” meaning that even if it is not profitable in a given year, it is operated with the expectation of making a profit. In other words, the management practices are in keeping with established production practices for crops produced and livestock stock reared. Activities such as backyard gardening, keeping a few fruit trees for household consumption, or having animals as pets are not considered commercial.

No, agricultural classification is different from agricultural zoning. Agricultural zoning is part of a county, municipality, or town’s land-use plan for regulating current and future development. While not all lands in an area zoned for agriculture will receive the agricultural classification, it is possible for lands that are not located in an area zoned for agriculture to be classified as agriculture.

Agricultural classification **REQUIRES AN APPLICATION** to the county property appraiser. In order to have your land considered for agricultural classification, you must apply to the property appraiser no later than March 1 of the year for which the classification is being sought. This is done by filling out and submitting the proper form (Return/Application for Agricultural Assessment). This form is available at the Miami-Dade Property Appraiser’s Offices (South Dade Government Center or Stephen P. Clark Government

Center), or online at http://www.miamidade.gov/pa/library/form/agricultural_assessment.pdf.

Because the March 1 deadline is a decisive date, the document should be date stamped. Failure to make timely application by the March 1 deadline constitutes a waiver for one (1) year of the tax exemption.

The form should be accompanied by supporting documents (discussed below). Agricultural use of the property must be in place and documented as of January 1 of the year when applying for agricultural classification. If documentation is incomplete at the time you file, you must submit any necessary documents as soon as possible. Incomplete applications will be denied agricultural classification.

If you miss the March 1 deadline, you have until August 1 of that year to make a late application. You must file a late application with the Miami-Dade Property Appraiser’s Office and a late petition with the Value Adjustment Board, along with extra costs per folio.

Any of the following documents are acceptable:

- Federal income tax return, proved by any of the following forms for the previous year: Form 1040 along with supplemental forms “Profit and Loss from Farming” (Schedule F) or “Profit or Loss from Business” (Schedule C); Form 11205; or Form 1065
- Certified financial statement
- Proof of crop/tree loss insurance
- Proof of non-insured assistance coverage
- Application and Certificate of Registration from the Florida Department of Agriculture and Consumer Services (FDACS) for agriculture, aquaculture, or beekeeping
- Copy of a contract with a recognized service provider
- USDA Marketing Order Administrative Committee proof of registration or grower’s production sold
- Proof or membership in a recognized agricultural cooperative; proof of organic growers certification, or proof of disaster or financial assistance from a state or federal agency

- Proof of liability insurance indemnifying the landowner for inappropriate agricultural use of the land from the lessee
- Bills of sale can also be valid if submitted with documentation reflecting the “good faith commercial agricultural use”

Only notices of denial will be mailed out. These notices will be sent out by July 1. Persons whose applications are approved will see the reduction in the assessed land value reflected in their TRIM notices (sent in August).

Any landowner whose application for agricultural classification is denied can appeal to the Value Adjustment Board (VAB). The denial notice that is sent out will contain information advising the landowner of his or her right to appeal to the VAB and the filing deadline.

If the application is still denied, the landowner can file a petition to have a Special Magistrate hear his or her case by the VAB. The landowner must file this petition on or before the deadline on the TRIM notices.

Reasons for denial may include, but are not limited to, any of the following:

- Failure to provide supporting documents to prove ‘bona fide agriculture’
- Upon inspection, the primary use of land is not considered to be agriculture
- Change in the use of the land
- Change of deed
- Abandonment of land
- Rezoning of land to non-agriculture

In determining whether or not to grant agricultural classification, the property appraiser may consider the following factors: the length of time the land has been so utilized; whether the land use has been continuous; the care of the land as demonstrated by using accepted commercial agricultural practices such as fertilizing, liming, tilling,

mowing, and/or reforestation; and whether the land is leased and, if so, the length and the terms and conditions of the lease.

Annual renewal will be automatic as long as there are no changes from the previous year. If there is any change, such as title, ownership, or use (including increasing the current use), you must file a new application. You can lose your agricultural classification status if:

- the property’s usage changes from agriculture
- the property changes ownership and the new landowner fails to meet application deadline

Yes, the new landowner must apply for agricultural classification.

Yes, in such situations, the appraiser, upon inspection of the property, will determine the portion consisting of the residence and farmland. The farmland portion will be eligible for agricultural classification and the residence may qualify for Homestead Exemption.

The amount of tax to be paid depends on the millage rate (in 2010, about \$20 per \$1,000 of the assessed value) and the assessed value of the agricultural land. Several factors are taken into consideration in determining the assessed value of the agricultural land. These factors include the potential income from the operation; the type of agricultural use (e.g., livestock, nursery, orchard, row crops); the stage or establishment of groves (e.g., bearing versus non-bearing trees); etc. Notwithstanding the above, the assessed agricultural value of land in Miami-Dade County usually ranges from \$2,000 to \$4,000 per acre.

To see how the tax savings would be realized with agricultural classification, assume that the landowner has five acres with a market value of \$250,000. Without the agricultural classification, the amount of tax owed would be \$5,000 ($\20×250). Now assume that the land qualifies for agricultural classification and is assessed at the upper level of \$4,000 per acre, for a total of \$20,000 ($\$4,000 \times 5$) taxable value for the five acres. Given the 2010 millage rate, the total amount of tax to be paid on the five acres would be about \$400 ($\20×20), compared with \$5,000

(\$20 x 250), resulting in a tax savings of about \$4,600 (\$5,000 – \$400). If the land were assessed at the lower level of \$2,000 per acre, or \$10,000 taxable value for the five acres, the amount of tax would be \$200 (\$20 x 10), implying a tax savings of about \$4,800.

No, the market value is different than taxable value determined as a result of the granting of agricultural classification. The taxable value is used only for the purpose of determining the amount of tax to be paid and does not influence the market value (the price for which a buyer would be willing to purchase the land). In addition, land with an agricultural classification may be of benefit when selling the property since it might be easier for the new landowner to obtain an agricultural classification, resulting in a lower taxable value and a lower property tax payment.

Yes, you are still eligible for agricultural classification once you can show proof (documentation) that the land is being used for bona fide agricultural purposes.

If a property is leased for agricultural purposes, the same rules apply to the agricultural classification. The application can be submitted by either the landowner or the lessee, provided that the application is accompanied by a copy of the lease or an affidavit executed by the landowner stating that the lessee is empowered to make application for the agricultural classification on behalf of the landowner. Oral leases require an affidavit from both the landowner and the lessee detailing the terms of the lease along with the lessee's proof indicating that the land is being used for bona fide agricultural purposes. When lands are subleased for agricultural purposes, copies of the master lease and sublease are required to be submitted along with the lessee's proof indicating the land is being used for bona fide agricultural purposes. Note that it is the responsibility of the landowner to make sure the lessee complies with all the laws that govern agricultural classification.

Concluding Remarks

The information contained in this factsheet is specific to Miami-Dade County, Florida. Agricultural classification can make a difference between an agricultural operation being profitable or unprofitable. A significant portion of land in Florida is currently classified as agricultural and is taxed at a reduced taxable value. When applying for agricultural classification, it is important to meet the March 1

deadline and provide supporting documents to show proof of being engaged in bona fide agriculture. A late application will result in additional expenses. If the agricultural classification application is denied, an appeal is possible through the county Value Adjustment Board (VAB). If the VAB denies the application, an appeal can then be made to a Special Magistrate. Although not specifically covered in this factsheet, there is a considerable amount of case law history in Florida related to agricultural land use classification. Applying for agricultural classification lowers the taxable value of land but not its market value.

References

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