

AGRICULTURAL CLASSIFICATION

2009 FLORIDA STATUTES:

193.451 Annual growing of agricultural crops, nonbearing fruit trees, nursery stock; taxability.--

(1) Growing annual agricultural crops, nonbearing fruit trees, and nursery stock, regardless of the growing methods, shall be considered as having no ascertainable value and shall not be taxable until they have reached maturity or a stage of marketability and have passed from the hands of the producer and/or offered for sale. This section shall be construed liberally in favor of the taxpayer.

(2) Raw, annual, agricultural crops shall be considered to have no ascertainable value and shall not be taxable until such property is offered for sale to the consumer.

(3) Personal property leased or subleased by the Department of Agriculture and Consumer Services and utilized in the inspection, grading, or classification of citrus fruit shall be deemed to have value for purposes of assessment for ad valorem property taxes no greater than its market value as salvage. It is the expressed intent of the Legislature that this subsection shall have retroactive application to December 31, 2003.

History.--ss. 1, 2, ch. 63-432; s. 1, ch. 67-573; ss. 1, 2, ch. 69-55; s. 1, ch. 2005-210.

Note.--Former s. 192.063.

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.--

(1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at his or her office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3) (a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used **for a bona fide agricultural purpose**. Failure to make timely

application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions set out in this section, only lands which are used primarily for bona fide agricultural purposes shall be classified agricultural. "Bona fide agricultural purposes" means good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

1. The length of time the land has been so used.
2. Whether the use has been continuous.
3. The purchase price paid.
4. Size, as it relates to specific agricultural use, but in no event shall a minimum acreage be required for agricultural assessment.
5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease.

7. Such other factors as may from time to time become applicable.

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes shall not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to s. 193.011, to qualify for the assessment limitation set forth in s. 193.155. The remaining property may be classified under the provisions of paragraphs (a) and (b).

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from the value adjustment board or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January 31 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

(4) (a) The property appraiser shall reclassify the following lands as nonagricultural:

1. Land diverted from an agricultural to a nonagricultural use.

2. Land no longer being utilized for agricultural purposes.

3. Land that has been zoned to a nonagricultural use at the request of the owner subsequent to the enactment of this law.

(b) The board of county commissioners may also reclassify lands classified as agricultural to nonagricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.

(c) Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used

primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.

(5) For the purpose of this section, "agricultural purposes" 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.

(6) (a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:

1. The quantity and size of the property;
2. The condition of the property;
3. The present market value of the property as agricultural land;
4. The income produced by the property;
5. The productivity of land in its present use;
6. The economic merchantability of the agricultural product; and
7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

(b) Notwithstanding any provision relating to annual assessment found in s. 192.042, the property appraiser shall rely on 5-year moving average data when utilizing the income methodology approach in an assessment of property used for agricultural purposes.

(c) 1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.

(d) In years in which proper application for agricultural assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

(7) Lands classified for assessment purposes as agricultural lands which are taken out of production by any state or federal eradication or quarantine program shall continue to be classified as agricultural lands for the duration of such program or successor programs. Lands under these programs which are converted to fallow, or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a *de minimis* value of no more than \$50 per acre, on a single year assessment methodology; however, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

History.--s. 1, ch. 59-226; s. 1, ch. 67-117; ss. 1, 2, ch. 69-55; s. 1, ch. 72-181; s. 4, ch. 74-234; s. 3, ch. 76-133; s. 15, ch. 82-208; ss. 10, 80, ch. 82-226; s. 1, ch. 85-77; s. 3, ch. 86-300; s. 23, ch. 90-217; ss. 132, 142, ch. 91-112; s. 63, ch. 94-353; s. 1468, ch. 95-147; s. 1, ch. 95-404; s. 1, ch. 98-313; s. 1, ch. 99-351; s. 3, ch. 2000-308; s. 4, ch. 2001-279; s. 15, ch. 2002-18; s. 2, ch. 2003-162; s. 43, ch. 2003-254; s. 1, ch. 2006-45; s. 2, ch. 2008-197.

193.4615 Assessment of obsolete agricultural equipment.--

(1) For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461 and that is no longer usable for its intended purpose shall be deemed to have a market value no greater than its value for salvage.

(2) This section shall take effect January 1, 2007.

History.--s. 16, ch. 2006-289.

193.462 Agricultural lands; annual application process; extenuating circumstances; waivers.--

(1) For purposes of granting an agricultural classification for January 1, 2003, the term "extenuating circumstances," as used in s. 193.461(3)(a), includes the failure of a property owner in a county that waived the annual application process to return the agricultural classification form or card, which return was required by operation of s. 193.461(3)(e), as created by chapter 2002-18, Laws of Florida.

(2) Any waiver of the annual application granted under s. 193.461(3)(a), which is in effect on December 31, 2002, shall remain in full force and effect until subsequently revoked as provided by s. 193.461(3)(a).

History.--s. 3, ch. 2003-162; s. 44, ch. 2003-254.

FLORIDA ADMINISTRATIVE CODE:

12D-5.001. Agricultural Classification, Definitions.

(1) For the purposes of section 193.461, Florida Statutes, agricultural purposes does not include the wholesaling, retailing or processing of farm products, such as by a canning factory.

(2) Good faith commercial agricultural use of property is defined as the pursuit of an agricultural activity for a reasonable profit or at least upon a reasonable expectation of meeting investment cost and realizing a reasonable profit. The profit or reasonable expectation thereof must be viewed from the standpoint of the fee owner and measured in light of his investment.

[Note: Despite the above language in (2), subsequent Florida court rulings have held the "reasonable expectation of meeting investment cost and realizing a reasonable profit" is invalid; the only requirements are to be a bona fide commercial operation, regardless of whether or not a profit is likely.]

12D-5.002. Purchase Price Paid as a Factor in Determining Agricultural Classification.

(1) **The property appraiser may determine that the "purchase price paid" for land is inconsistent with agricultural use.** A purchase price in excess of the agricultural assessment can be indicative of lack of a "good faith commercial agricultural use" since the agricultural assessment is basically derived by a capitalization of the income to be produced by land in such a use and thus approximates the amount that could be invested consistent with a reasonable return.

(2) Additionally, should the purchase price paid exceed the agricultural assessment by three or more times, a presumption that the land is not used primarily for good faith commercial agriculture purposes is created by section 193.461(4)(c), Florida Statutes. The mere filing of a return is not sufficient to overcome this presumption created by the purchase price. Instead, the landowner must make a showing of special circumstances such as, but not limited to: 1) need of the acquired property to expand a previously owned agricultural operation; 2) need of the acquired property to facilitate proper drainage of a previously owned agricultural operation; 3) need of the acquired property for ingress or egress related to a previously owned agricultural operation; 4) the need of the acquired property to reestablish an agricultural operation after the owner's previous agricultural operation was terminated due to eminent domain proceedings or other similar circumstances; and 5) when the purchase price includes payment for other than real property, such as improvements on or to the land or deferred income, e.g., forestry.

[Note: Despite the above language in (2), subsequent Florida court rulings have held the "special circumstances" may best be drawn from the factors set forth in Section 193.461(3)(b), Florida Statutes.]

(3) Furthermore, the presumption created by section 193.461(4)(c), Florida Statutes, may be defeated by overcoming the appraiser's presumption of correctness as to the agriculturally classified value and demonstrating that the purchase price paid was not three or more times

what the agriculturally classified value should be. However, such a showing, while defeating the presumption, would not prevent a denial of the classification if the purchase price paid was, nonetheless, indicative of a lack of good faith commercial agricultural use.

12D-5.003. Dwellings on Agriculturally Classified Land.

The property appraiser shall not deny agricultural classification solely because of the maintenance of a dwelling on a part of the lands used for agricultural purposes, nor shall the agricultural classification disqualify the land for homestead exemption. So long as the dwelling is an integral part of the entire agricultural operation, the land it occupies shall be considered agricultural in nature. However, such dwellings and other improvements on the land shall be assessed under section 193.011, Florida Statutes, at their just value and added to the agriculturally assessed value of the land.

12D-5.004. Other Factors that May Become Applicable to Classification of Agricultural Land.

(1) Other factors enumerated by the court in *Greenwood v. Oates*, 251 So. 2d 665 (Fla. 1971), which the property appraiser may consider, but to which he is not limited, are:

- (a) Opinions of appropriate experts in the fields;
- (b) Business or occupation of owner; (Note that this cannot be considered over and above or the exclusion of the actual use of the property.) (See AGO 70- 123.);
- (c) The nature of the terrain of the property;
- (d) Economic merchantability of the agricultural product; and
- (e) The reasonably attainable economic salability of the product within a reasonable future time for the particular agricultural product.

(2) Other factors that are recommended to be considered are:

- (a) Zoning (other than section 193.461, Florida Statutes), applicable to the land;
- (b) General character of the neighborhood;
- (c) Use of adjacent properties;
- (d) Proximity of subject properties to a metropolitan area and services;
- (e) Principal domicile of the owner and family;
- (f) Date of acquisition;
- (g) Agricultural experience of the person conducting agricultural operations;
- (h) Participation in governmental or private agricultural programs or activities;
- (i) Amount of harvest for each crop;
- (j) Gross sales from the agricultural operation;
- (k) Months of hired labor; and
- (l) Inventory of buildings and machinery and the condition of the same.