

WISE COUNTY APPRAISAL DISTRICT

Agricultural Use Guidelines

Effective January 2011

Two amendments to the Texas Constitution permit agricultural and open-space land to be taxed generally on its agricultural use, or productivity value. This means that taxes would be assessed against the productive value of the land instead of the selling price of the land in the open market.

The legal basis for special land appraisal is found in the Texas Constitution in Article VIII, Sections 1-d and 1-d-1. The two types of land and valuation are commonly called “ag-use” or “1-d” and “open-space” or “1-d-1.” The corresponding provisions of the Texas Property Tax Code are Sections 23.41 through 23.46, Agricultural Land, and Sections 23.51 through 23.57, Open-Space Land.

The purpose of the two provisions is similar. Under both provisions, the land must be in agricultural use and is valued in the same manner. However, there are differences in the qualifications that must be met in order to receive the productivity valuation.

Ag-Use, 1-d, qualifications include:

1. The land must be owned by a natural person. Partnerships, corporations, or organizations may not qualify.
2. The land must have been in agricultural use for three years prior to claiming this valuation.
3. The owner must apply for the designation each year, and file a sworn statement about use of the land.
4. The agricultural business must be the land owner’s primary occupation and source of income.

Open-Space, 1-d-1, qualifications include:

1. The land may be owned by an individual, corporation or partnership.
2. The land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.
3. The land must have been devoted to a qualifying agricultural use for at least five (5) of the past seven (7) years.
4. Agricultural business need not be the principal business of the owner.
5. Once an application for 1-d-1 is filed and approved a landowner is not required to file again as long as the land qualifies unless the chief appraiser requests another application to confirm current qualifications.

The possibility for a “rollback tax” exists under either form of special land valuation. This liability for additional tax is created under 1-d valuation by either sale of the land or a change in use of the land. It extends back to the three years prior to the year in which the change of sale occurs.

Under 1-d-1, a rollback is triggered by a change in use to a non-agricultural purpose that would not qualify for productivity valuation. Taxes are rolled back or recaptured for the five years preceding the year of the change.

The additional tax is measured by the difference between taxes paid under productivity valuation provisions and the taxes which would have been paid if the land had been put on the tax roll at market value.

These provisions are effective only if applications are filed with the appraisal district office in a timely manner. Applications should be filed between January 1 and before May 1.

Applications received with a postmark date after April 30 but before the appraisal roll is certified are subject to a penalty for late filing. Applications received after the appraisal roll is certified cannot be considered and must be filed again the next year.

Agricultural Land

Guidelines have been established by the Wise County Appraisal District for the implementation of these provisions. It is the opinion of the Wise County Appraisal District and the Agricultural Committee that Agricultural Land Qualification Guidelines are valid for mass appraisal purposes and can be applied uniformly throughout Wise County.

These guidelines are supported by Section 183 of the Internal Revenue Service Regulations.

It should be noted that these guidelines are to be used as a general guide for qualifying agricultural land. Exceptions to the general rule will be handled on a case by case basis.

Definitions of Key Words/Phrases

- A. *Prudent* – capable of making important management decisions; shrewd in the management of practical affairs. Specifically the law states that the land must be utilized as would an ordinary and prudent manager in the area of the taxing unit.
- B. *Substantial* – ample to satisfy; considerable in quantity. Specifically, the law states that the agricultural land must be an identifiable and substantial tract of land. This means that the tract must be of adequate size to be economically feasible to farm or ranch. Thus, when two small tracts are used together, they may become a substantial amount of land; when used separately they may not be.
- C. *Typical* – exhibiting the essential characteristics of a group. Specifically, the law states that Ag land will be utilized as would a typically (ordinary) prudent manager. Statistically, a typically prudent manager is the median farmer or rancher.
- D. *Agricultural Use to the Degree of Intensity Generally Accepted in the Area* – farming or ranching to the extent that the typically prudent manager in the area of the taxing unit would farm or ranch on an identifiable and substantial tract of land when the tract is devoted principally to agricultural use. A better understanding of the definition can be gained by identifying the key elements of the definition and explaining each as follows:
 - 1. Degree of intensity generally accepted in the area shall mean that the farming and ranching practices (cropping patterns, planting rates, fertilization methods, harvesting and marketing techniques, etc.) are those of a typically prudent farm or ranch manager.

2. Typically prudent farm or ranch managers are ordinary farmers in terms of acres farmed as well as management ability. Given that all other factors remain constant, the number of acres farmed determines that farmer's capital structure. Typical prudent farmers or ranch managers located in Wise County are assumed to have similar equipment of similar value and utility.
3. Simply stated, a substantial tract is a tract of land large enough to be farmed by itself in a typically prudent manner.
4. Area is interpreted to be that land inside the jurisdictional boundaries of the Wise County Appraisal District.
5. Principally means the more important use in comparison with other uses to which the land is put.

Animal Units

- 1 Cow = 1 A.U.
- Cow & Calf = 1 A.U.
- Horse = 1 A.U.
- Bull = 1 1/2 A.U.
- 2 Calves (500 pound each) = 1 A.U.
- 2 Colts = 1 A.U.
- 6 Goats & Sheep = 1 A.U.
- 2 Miniature Horses = 1 A.U.
- 2 Miniature Donkeys = 1 A.U.

Stocking

- 1 animal unit per 5-15 acres (improved pasture)
- 1 animal unit per 15-25 acres (native pasture)

General Qualifications for Open Space (1-d-1) Special Evaluation

The Texas Constitution permits special agricultural appraisal only if land and its owner meet specific requirements defining farm and ranch use. Land will not qualify simply because it is rural and has some connection with agricultural. Casual uses such as home vegetable gardens, hobby farming and ranching, or incidental cutting and baling of hay do not really constitute a qualifying agriculture use.

The following guidelines have been developed by Wise County Appraisal District based on what is typical to this area:

1. The land must be currently devoted *principally* to agricultural use *and* the principal use of the land for five (5) of the last seven (7) years must have been agricultural.
2. Agricultural use of a property must be *recognizable* with the property maintained in a manner that would indicate prudent management.
3. The land must be utilized to the *degree* of intensity that is generally accepted in Wise County.
4. It must be a substantial tract of land that is *adequate to support* a typically prudent operation and be of a *useable management* size for the activity involved.
5. The land must be producing an *agricultural product* intended for sale including but not limited to: livestock, crops for human or animal food, seed or fiber crops, etc.
6. Operator may be asked to provide documentation of management practices, expenses and sales, if necessary. For example – feed/fertilizer invoices, equipment invoices, sales receipts, labor expenses, IRS Schedule F.
7. Operator may be asked to show evidence that he is not engaged in a hobby according to the guidelines set out in Reference Section 183 of the I.R.S. Regulations. (See Attached)

These guidelines are used as a general guide for qualifying land. There may be circumstances in your agricultural operation, which allow it to qualify based upon its own merit. Very rare exceptions to the general rule will be handled on a case by case basis.

Internal Revenue Service "Hobby" Farm Guidelines

Reference section 183 of the I.R.S. regulations

1. Manner in which the taxpayer carries on the activity. Does the taxpayer go about the activity in a business-like fashion keeping books and records, and does he operate as similar businesses are operated?
2. The expertise of the taxpayer or his advisors. Where the taxpayer has no expertise, does he seek it, and does he follow the advice once found?
3. The time and effort expended by the taxpayer in carrying on the activity. Are either the efforts of the taxpayer or his qualified assistants consistent with the size of the investment and a profit motive?
4. Expectation that assets use in activity may appreciate in value. Lack of current income may be offset by the possibility of asset appreciation.
5. The success of the taxpayer in carrying on other similar or dissimilar activities. A long uninterrupted history of losses will be harmful, but the presumption noted above will operate if the taxpayer has a profit in two years out of five to seven years.
6. The taxpayer's history of income or losses with respect to the activity.
7. The amount of occasional profits, if any, which are earned. If profits are generated, their size in relation to prior or later losses will be considered.
8. The financial status of the taxpayer. If the taxpayer has sufficient wealth to suffer losses, that indicates a non-profit motive.
9. Elements of personal pleasure or recreation. If the taxpayer has personal motives or engages in the activity for recreational purposes, his overall profit motives will be suspect.

* These IRS Guidelines are not a part of the Texas State Property Tax Code, but may be utilized to determine the principal business operation and management practices of the operator. These IRS Guidelines show that even the IRS has trouble in identifying actual farming endeavors or just "write-offs".

Minimum Guidelines For Ag-Use 1-D-1

Only the acreage actually used agriculturally may qualify for ag-use 1-d-1.

Small acreage (5.00 acres or less) with a home built upon the tract is primarily residential in nature, with ag-use secondary. Open space land must have ag-use as its primary use in order to qualify for ag-use. Therefore will not qualify, but may all be

homesteaded.

If the County is declared an agricultural disaster area, a pasture may lay out of agricultural production due to drought and excessive heat and keep the ag qualification. However if a pasture lays out of production for longer than one (1) year the land may lose its ag qualification.

Tracts of land that do not meet the minimum acreage may qualify if used with a larger operation that meets or exceeds the qualifications as a whole. To be considered part of a larger operation, the primary operation must be within a reasonable distance of the smaller tract for a prudent operator to justify the travel and expense and be worked by the same operator with written documentation of the lease agreement. Documentation of cuttings, planting, harvesting or other proof will be required for the tract that does not meet the minimum requirements

Small tracts in the city limits that would otherwise meet all the qualifications, except for being in the city limits, will be grandfathered in. If the tracts continues to be used as described above with a larger operation, it may retain the ag appraisal until it is sold. It must meet the minimum size and usage standards. No new ag applications for lots in the city limits will be granted.

Animal Units

- 1 Cow = 1 A.U.
- Cow & Calf = 1 A.U.
- Horse = 1 A.U.
- Bull = 1 1/2 A.U.
- 2 – 500 Pound Calves = 1 A.U.
- 2 Colts = 1 A.U.
- 6 Goats & Sheep = 1 A.U.
- 2 Miniature Horses = 1 A.U.
- 2 Miniature Donkeys = 1 A.U.

Stocking Rate

- Good – 1 animal unit per 1-3 acres
- Average – 1 animal unit per 4-8 acres
- Poor – 1 animal unit per 8-15 acres

Cattle

- *Over 5.0 Acre Minimum for Degree of Intensity – 2 Animal Unit Minimum*
- Degree of Intensity (Stocking Ratios)
- 1 Animal Unit = 1 Cow
- 1 Animal Unit = 1 Cow/Calf
- 1 1/2 Animal Unit = 1 Bull
- 1 Animal Unit = 2 500 Pound Calves

Pastures with Over 5 - 15 acres must have 3 animal units.

Above 15 acres the normal stocking rate is applicable.

Cow/Calf - This operation is in the business of raising beef for sale to either processors or to other operators for breeding stock.

Feeder/Stock - This operation is in the business of raising beef for processors. Must be on feed for 150 days and the intensity would double.

- Management practices:
- Fences Maintained
- Fertilize
- Stock Water
- Marketing
- Weed Control

Sheep - Goats

Over 5 Acre Minimum – 5 Animal Unit Minimum (30 head)

Degree of intensity (stocking ratios)

1 animal unit = 6 goats &/or sheep

This operation is in the business of providing two by-products wool/mohair & meat.

- Management practices:
- Fences maintained
- Stock water
- Market (wool/mohair &/or meat)

Horses

- *Over 5 acre Minimum – 3 Animal Unit Minimum*
- Degree of intensity (stocking ratios)
- 1 animal unit = 1 mare
- 1 animal unit = 1 mare & foal
- 1 animal unit = 1 stallion
- 1 animal unit = 2 miniature horses

This operation is directed to breeding operations. By-products are colt & fillies. This operation involves having brood mares. Usually includes special facilities & pasture is normally coastal.

- Management practices:
- Fences maintained
- Stock water
- Marketing
- Breeding Records

Hay Meadow

- *Over Five Acre Minimum Required for Degree of Intensity*
- Degree of intensity
- 4 round/100 square bales per acre per year. (4000 lbs per acre)
- Minimum two cuttings per year.

This operation involves the cultivation of planted or maintained grasses. Proof of baling receipts, proof of sales, proof of ownership of cattle may be required.

- Management practices:
- Fertilize
- Apply herbicide
- Cut/bale
- Limited grazing
- Market or used for personal livestock feed.

PROPERTY CUT OCCASIONALLY TO CLEAR THE GRASS/WEEDS WILL NOT QUALIFY FOR AG-USE.

Cropland / Turf

Ten Acre Minimum Required for Degree of intensity

This operation involves the cultivation of the soil for planting grain crops with the intent of harvest for sale or for feed. Turf Grass must be a wholesale operation.

- Management practices:
- Shredding previous crop
- Planting
- Apply herbicide
- Harvest
- Tillage
- Fertilize
- Insect control

Orchard / Vineyard

Over Five Acres Minimum Required for Degree of intensity

Pecan/Fruit Trees – 15 trees per acre

Vineyard - 100 per acre

This operation is in the business of cultivating & growing of trees or grapevines that produces crops of nuts & fruit.

- Management practices and documentation:
- Weed control
- Insect control
- Fertilizer
- Pruning
- Supplemental water
- Harvesting

Exotics

Over Five Acres Minimum Required

Deer – Minimum of 12 adult head for pastures of less than 15 acres. Above 15 acres regular stocking rates apply.

Ostrich/Emus – 50 adult head & only the fenced area may qualify for ag-use.

This operation is in the business of raising breeds that are not native to Texas for supplying meat and/or leather for the specialty markets.

- Management practices:

- Seven to eight foot perimeter fence
- Market for meat and or leather
- Maintain harvesting schedule

MINIMUM GUIDELINES FOR WILDLIFE

WILDLIFE – Land used for wildlife in Wise County is scattered throughout the entire county. A high concentration of wildlife land is located surrounding and near the LBJ National Grasslands located in the North Central portion of Wise County.

Wildlife land is revenue neutral from its previous agricultural use, meaning that it will be taxed at the same rate as it was taxed previously. If the land was previously taxed as native pasture it will continue to be taxed at the same rate per acre as native pasture. If the land was previously taxed as improved pasture it will continue to be taxed at the same rate per acre as improved pasture and so on for all classes of agricultural land.

The first requirement for qualified wildlife management use is that must be previously qualified agricultural land under Chapter 23, Subchapter D, Tax Code (also called 1-d-1 or open space agricultural appraisal), at the time the owner changes use to wildlife management use.

The second requirement for qualified wildlife management use is that the land must be used to generate a sustaining breeding, migrating, or wintering population of indigenous wild animals. An *indigenous* animal is a native animal that originated in or naturally migrates through an area and that is living naturally in that are – as opposed to an exotic animal or one that has been introduced to the area. In this context, an *indigenous* animal is one that is native to Texas. A group of animals need not permanently live on the land, provided they regularly migrate across the land or seasonally live there.

A *sustaining breeding* population is a group of indigenous wild animals that is large enough to live independently over several generations. The definition implies that the population will not die out.

A *migrating* population of indigenous wild animals is a group of animals moving between seasonal ranges. A wintering population of indigenous wild animals is a group of animals living on its winter range.

The indigenous wildlife population must be produced for human use. The human use may include food, medicine, or recreation. Land will not qualify unless the owner propagates the population of wild animals for a human purpose.

A recreational use may be either active or passive and may include any type of use for pleasure or sport. Bird watching, hiking, hunting, photography, and other non-passive recreational hobby-type activities are qualifying recreational uses.

At least three or more of the following are required: Under the law, the owner must perform as least three of seven listed wildlife management activities on the land.

Habitat Control (Habitat Management) - Habitat control or management means actively using the land to create or promote an environment that is beneficial to wildlife on the land.

Erosion Control - Any active practice that attempts to reduce or keep soil erosion to a minimum for the benefit of wildlife.

Predator Control - (Predator Management) This term means practices intended to manage the population of predators (if any) to benefit the owner's target wildlife population.

Providing Supplemental Supplies of Water - Owner actively providing water in addition to natural sources.

Providing Supplemental Supplies of Food - Owner supplies supplemental food by providing food or nutrition in addition to the level naturally produced on the land.

Providing Shelter - Actively creating or maintaining vegetation or artificial structures that provide shelter from the weather, nesting and breeding sites or "escape cover" from enemies.

Making Census Counts to Determine Population - Census counts are periodic surveys and inventories to determine the number, composition or other relevant information about a wildlife population to measure if the current wildlife management practices are serving the targeted species.

Wildlife management must meet all the requirements to qualify for agricultural use, defined in Section 23.51 (i) Tax Code as follows: primary use, degree of intensity, and historical use requirement.

Minimum Acreage Requirements - Wise County has designated a ratio devoted to wildlife management use. The minimum acreage requirement for individual land owner is 14.30 acres (93%). If your property is a part of a wildlife association the minimum acreage requirement is 12.50 acres (92%). And if your property's target animal is candidate, threatened, or endangered the minimum acreage is 11.10 acres (91%).

Application Requirements - Wise County Appraisal District requirements are as follows:

1. A Texas Parks and Wildlife Department - 1-d-1 Open Space Agricultural Valuation Wildlife Management Plan completed.
2. A personal five- year management plan for you land. List activities to be completed by year.
3. An aerial photo of your land showing the areas of completed activities and planned activities.
4. Provide receipts for completed activities.
5. If you are a member of a Wildlife Management Property Association the Association or Agent may file a single report for all it's members , but all members must sign the report. The report must detail the management activities conducted on each individual tract in the association.

Annual Update - The Wise County Appraisal District requires you to file an annual update to your Wildlife Application. The annual update should be sent to the District no later than April 30th each year. The following items should be included:

1. List of management activities completed in the previous calendar year.
2. Aerial photo of your land showing the areas of completed activities in the previous calendar year.
3. Receipts from management activities completed in the previous calendar year.
4. List of management activities planned for the current year.
5. If you are a member of a Wildlife Management Property Association the Association or Agent may file a single report for all it's members, but all members must sign the report. The report must detail the management activities conducted on each individual tract in the association.