

DeWitt County Appraisal District

1-d-1 Agriculture Use Guidelines

2021

LAND PRODUCTIVITY VALUATION

The Texas Constitution permits agriculture and open-space land to be taxed generally on its agriculture use, or productivity value. This means that the taxes would be assessed against the productivity value of the land instead of the market value of the land in the open market.

The two types of land and valuation are commonly called “agriculture 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, Agriculture Land, and section 23.51 through 23.57, Open-Space Land.

Under both provisions, the land must be in agriculture use and is valued in the same manner. However, there are differences in qualification requirements in order to receive the productivity valuation.

1. Eligibility for 1-d Agriculture use:
 - The land must be owned by a natural person. Partnerships, corporations or organizations may not qualify.
 - The land must have been in agriculture use for three years prior to claiming this valuation.
 - The owner must apply for the designation each year, and file a sworn statement about the use of the land.
 - The agriculture business must be the landowner’s primary occupation and source of income.
2. Qualifications for 1-d-1 Open Space Agriculture Use:
 - The land may be owned by an individual, corporation or partnership.
 - The land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.
 - The land must have been devoted to a qualifying agriculture use for at least five of the past seven years.
 - Agricultural business need not be the principal business of the owner.
 - Once an application for the 1-d-1 is filed and approved, a landowner is not required to file again as long as the land qualifies, or unless the chief appraiser requests another application to be filed to confirm current qualifications.

ADDITIONAL TAXATION – ROLL BACK TAX

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 the sale of the land or a change in the 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-agriculture purpose that would not qualify for productivity valuation. Taxes are rolled back or recaptured for the three years preceding the year of the change.

The additional tax is measured by the difference between the 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 May 1. Applications received with a postmark date after April 30 but before the appraisal records are approved, are subject to a penalty for late filing. **Applications received after the appraisal records are approved cannot be considered and must be filed again the next year.**

DeWitt County Appraisal District Agriculture Land

Guidelines have been established by the DeWitt County Appraisal District and approved by the DeWitt County Appraisal District's Agricultural Advisory Board for the implementation of mass appraisal purposes and can be applied uniformly throughout the county.

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

DEFINITION OF KEY WORDS AND PHRASES

Prudent – capable of making important management decisions; shrewd in management of practical affairs. Specifically, the law states the land must be utilized as would an ordinary and prudent manager in the area of the taxing unit.

Substantial – Ample to satisfy; considerable in quantity. Specifically, the law states that the agriculture land must be of adequate size to be economically feasible to farm or ranch. Thus, when two small tracts are used together, they may form a larger operation and become a substantial amount of land; when used separately they may not be.

Typical – Exhibiting the essential characteristics of a group. Specifically, the law states that Ag land will be utilized as would a typically prudent manager. Statistically, a typically prudent manager is the median farmer or rancher.

Agriculture 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 tract of land when the tract is devoted principally to agriculture 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 typical 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 the DeWitt County Appraisal District 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 inside the jurisdictional boundaries of the DeWitt County Appraisal District.
5. Principally means the more important use compared with other uses to which the land is put.

GENERAL QUALIFICATIONS FOR 1-D-1 OPEN SPACE VALUATION

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

The following guidelines have been developed based on what is typical to this area:

1. The land must be currently devoted **principally** to agriculture use **and** the principal use of the land for 5 of the last 7 years must have been agriculture.
2. Agriculture use must be recognizable with the land, 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 the jurisdiction of the DeWitt County Appraisal District. The degree of intensity test measures what an owner is putting into his agriculture operation – in time, labor, equipment, management and capital. Owner must meet typical levels of effort for the same type of operation outlined in these guidelines.
4. The land must be a substantial tract of land that is adequate to support a typically prudent operation and be of a usable management size for the activity involved.
5. The land must be producing an agriculture product intended for sale including but not limited to:
 - a. Livestock
 - b. Crops for human or animal food
 - c. Seed or fiber crops, etc.

6. The operator may be asked to provide documentation of management practices, expenses and sales, if necessary. (Feed, fertilizer, equipment invoices, sales receipts, labor expenses, etc.)
7. The operator may be asked to show evidence that he is not engaged in a hobby farming according to the guidelines set out in Section 183 of the IRS Regulations (see attached).

The guidelines are used as a general guide. There may be circumstances in your agricultural operation which allow it to qualify based upon its own merit. Exceptions to the general rule will be handled on a case-by-case basis.

IRS "HOBBY" FARM GUIDELINES

Reference Section 183 of IRS Regulations

<https://www.law.cornell.edu/cfr/text/26/1.183-2>

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 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 or profit motive?
4. Expectation that Assets Used in the 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 (or seven).
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 of Recreation.

If the taxpayer has personal motives or engages in the activity for recreational purposes, his overall profit motives will be suspect.

*Exemption Department should disregard. Not applicable under the Texas State Property Tax Code Guidelines.

This shows that even the IRS has trouble in identifying actual farming endeavors or just "write-offs".

IRS "HOBBY" FARM GUIDELINES

Section 1.183 of IRS Regulations

<https://www.law.cornell.edu/cfr/text/26/1.183-2>

§ 1.183-2 **Activity** not engaged in for profit **defined**.

(b) Relevant factors. In determining whether an **activity** is engaged in for profit, all **facts and circumstances** with respect to the **activity** are to be taken into **account**. No one factor is determinative in making this **determination**. In addition, it is not intended that only the factors described in this paragraph are to be taken into **account** in making the **determination**, or that a **determination** is to be made on the basis that the number of factors (whether or not listed in this paragraph) indicating a lack of profit objective exceeds the number of factors indicating a profit objective, or vice versa. Among the factors which should normally be taken into **account** are the following:

(1) Manner in which the taxpayer carries on the activity. The fact that the **taxpayer** carries on the **activity** in a businesslike manner and maintains complete and accurate books and records may indicate that the **activity** is engaged in for profit. Similarly, where an **activity** is carried on in a manner substantially similar to other **activities** of the same nature which are profitable, a profit motive may be indicated. A change of operating methods, adoption of new techniques or abandonment of unprofitable methods in a manner consistent with an intent to improve profitability may also indicate a profit motive.

(2) The expertise of the taxpayer or his advisors. Preparation for the **activity** by extensive study of its accepted business, economic, and scientific practices, or consultation with those who are expert therein, may indicate that the **taxpayer** has a profit motive where the **taxpayer** carries on the **activity** in accordance with such practices. Where a **taxpayer** has such preparation or procures such expert advice, but does not carry on the **activity** in accordance with such practices, a lack of intent to derive profit may be indicated unless it appears that the **taxpayer** is attempting to develop new or superior techniques which may **result** in profits from the **activity**.

(3) The time and effort expended by the taxpayer in carrying on the activity. The fact that the **taxpayer** devotes much of his personal time and effort to carrying on an **activity**, particularly if the **activity** does not have substantial personal or recreational aspects, may indicate an intention to derive a profit. A **taxpayer's** withdrawal from another occupation to devote most of his energies to the **activity** may also be evidence that the **activity** is engaged in for profit. The fact that the **taxpayer** devotes a limited **amount** of time to an **activity** does not necessarily indicate a lack of profit motive where the **taxpayer** employs competent and qualified **persons** to carry on such **activity**.

(4) Expectation that assets used in activity may appreciate in value. The term *profit* encompasses appreciation in the **value** of assets, such as **land**, used in the **activity**. Thus, the **taxpayer** may intend to derive a profit from the operation of

the [activity](#), and may also intend that, even if no profit from current operations is derived, an overall profit will [result](#) when appreciation in the [value](#) of [land](#) used in the [activity](#) is realized since [income](#) from the [activity](#) together with the appreciation of [land](#) will exceed expenses of operation. See, however, paragraph (d) of [§ 1.183-1](#) for [definition](#) of an [activity](#) in this connection.

(5) *The success of the taxpayer in carrying on other similar or dissimilar activities.* The fact that the [taxpayer](#) has engaged in similar [activities](#) in the past and converted them from unprofitable to profitable enterprises may indicate that he is engaged in the present [activity](#) for profit, even though the [activity](#) is presently unprofitable.

(6) *The taxpayer's history of income or losses with respect to the activity.* A series of [losses](#) during the initial or start-up stage of an [activity](#) may not necessarily be an indication that the [activity](#) is not engaged in for profit. However, where [losses](#) continue to be sustained beyond the period which customarily is necessary to bring the operation to profitable status such continued [losses](#), if not explainable, as due to customary business risks or reverses, may be indicative that the [activity](#) is not being engaged in for profit. If [losses](#) are sustained because of unforeseen or fortuitous circumstances which are beyond the [control](#) of the [taxpayer](#), such as drought, disease, fire, theft, weather damages, other involuntary conversions, or depressed market [conditions](#), such [losses](#) would not be an indication that the [activity](#) is not engaged in for profit. A series of [years](#) in which net [income](#) was realized would of course be strong evidence that the [activity](#) is engaged in for profit.

(7) *The amount of occasional profits, if any, which are earned.* The [amount](#) of profits in relation to the [amount of losses](#) incurred, and in relation to the [amount](#) of the [taxpayer's investment](#) and the [value](#) of the assets used in the [activity](#), may provide useful criteria in determining the [taxpayer's](#) intent. An occasional small profit from an [activity](#) generating large losses, or from an [activity](#) in which the [taxpayer](#) has made a large [investment](#), would not [generally](#) be determinative that the [activity](#) is engaged in for profit. However, substantial profit, though only occasional, would [generally](#) be indicative that an [activity](#) is engaged in for profit, where the [investment](#) or [losses](#) are comparatively small. Moreover, an opportunity to earn a substantial ultimate profit in a highly speculative venture is ordinarily sufficient to indicate that the [activity](#) is engaged in for profit even though [losses](#) or only occasional small profits are actually generated.

(8) *The financial status of the taxpayer.* The fact that the [taxpayer](#) does not have substantial [income](#) or capital from sources other than the [activity](#) may indicate that an [activity](#) is engaged in for profit. Substantial [income](#) from sources other than the [activity](#) (particularly if the [losses](#) from the [activity](#) generate substantial tax benefits) may indicate that the [activity](#) is not engaged in for profit especially if there are personal or recreational elements involved.

(9) *Elements of personal pleasure or recreation.* The presence of personal motives in carrying on of an [activity](#) may indicate that the [activity](#) is not engaged in for profit, especially where there are recreational or personal elements involved. On the other hand, a profit motivation may be indicated where an [activity](#) lacks any

appeal other than profit. It is not, however, necessary that an [activity](#) be engaged in with the exclusive intention of deriving a profit or with the intention of maximizing profits. For [example](#), the [availability](#) of other [investments](#) which would [yield](#) a higher return, or which would be more likely to be profitable, is not evidence that an [activity](#) is not engaged in for profit. An [activity](#) will not be treated as not engaged in for profit merely because the [taxpayer](#) has [purposes](#) or motivations other than solely to make a profit. Also, the fact that the [taxpayer](#) derives personal pleasure from engaging in the [activity](#) is not sufficient to cause the [activity](#) to be classified as not engaged in for profit if the [activity](#) is in fact engaged in for profit as evidenced by other factors whether or not listed in this paragraph.

Ag/Wildlife Department should disregard item 6. Not applicable under the Texas State Property Tax Code Guidelines

This shows even that even the IRS has trouble in identifying actual farming endeavors or just "write-offs".

MINIMUM GUIDELINES FOR 1-D-1 AGRICULTURE USE

1. Only the acreage actually used agriculturally may qualify for 1-d-1 agricultural valuation.
2. Small acreage with a home built upon the land is primarily residential in nature, with agricultural use secondary. Open-space land must have agricultural use as its primary use in order to qualify for 1-d-1 agricultural valuation.
3. Stocking ratios are based on 12 months use.
4. Land may lay out of agricultural production for normal rotation practices, loss of grass, or water due to the lack of rain, and continue its agricultural qualification. However, if the land is out of production for longer than two years, the land may lose its agricultural qualification.
5. A change of use or change of classification must be reported to the Appraisal District. A change of use could be from agricultural use to an RV Park, any commercial or recreational use. A change of classification could be from native land to improved pasture.

CATTLE

Degree of intensity (Stocking Ratio):

1 weaned calf or yearling	0.6 animal unit
1 steer or heifer (1 to 2 years)	1.0 animal unit
1 mature cow, with or without un-weaned calf	1.0 animal unit
1 bull (2 years or over)	1.3 animal unit

Important – Two animal units or less than 10 acres in agricultural use requires onsite inspection by the Appraisal District staff.

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

Feeder/Stocker – This operation is in the business of raising cattle for processors.

Animals used for cutting – Would **not** qualify. This type of cattle is used for recreational purposes.

Fencing:

Capable of restraining livestock

Management Practices:

1. Fences maintained
2. Stock water
3. Weed control
4. Fertilize
5. Marketing

SHEEP

Degree of Intensity (Stocking Ratio):

5 weaned lambs or yearlings	0.6 animal unit
5 mutton or ewes (1 to 2 years)	1.0 animal unit
5 mature ewes, with or without un-weaned lamb	1.0 animal unit
5 ram	1.3 animal unit

Important – Two animal units or less than 10 acres in agricultural use requires onsite inspection by the Appraisal District staff.

Management Practices:

1. Fences Maintained
2. Stock Water
3. Market (wool, mohair and/or meat)

GOATS

Degree of Intensity (Stocking Ratio):

6 weaned kids to yearlings	0.6 animal unit
6 mutton or does (1 to 2 years)	1.0 animal unit
6 does with or without un-weaned kids	1.0 animal unit
6 bucks or mutton over 2 years	1.3 animal unit

Important – Two animal units or less than 10 acres in agricultural use requires onsite inspection by the Appraisal District staff.

Management Practices:

1. Fences Maintained
2. Stock Water
3. Market (wool, mohair and/or meat)

HORSES

Degree of Intensity (Stocking Ratio):

1 yearling	0.78 animal unit
1 horse over 2 years	1.0 animal unit
1 horse over 3 years	1.25 animal unit

Important – Two animal units or less than 10 acres in agriculture use requires onsite inspection by the Appraisal District staff.

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

Horses stabled, trained or used for recreational, racing, or rodeo purposes do not qualify for Ag use.

Management Practices:

1. Fences Maintained
2. Stock Water
3. Marketing
4. Breeding Records

EXOTICS

Degree of Intensity (Stocking Ratio):

Deer	6 adult head and not less than 5 acres
Ostrich and Emus	25 adult head and 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 specialty markets.

Management Practices:

1. Seven-to-eight-foot perimeter fence

2. Market for meat and / or leather
3. Maintain harvesting schedule

Note:

23.51 (6) – “Exotic Animal” means a species of game not indigenous to this state, including axis deer, nilgai antelope, red sheep, other cloven-hoofed ruminant mammals, or exotic fowl as defined by Section 142.001, Agriculture Code.

HAY

Not less than 5 acres in agriculture use – may require an on-site inspection by Appraisal District staff. This operation involves the cultivation of planted or maintained grasses and cutting and baling in round or square bales. Proof of baling receipts, proof of sales, and proof of ownership of cattle may be required.

Management Practices:

1. Fertilize
2. Apply Herbicide
3. Cut and bale with a minimum of 2 cuttings per year
4. Market and / or use for personal livestock feed

CROPLAND

Not less than 5 acres in agriculture use – may require an on-site inspection by Appraisal District staff. This operation involves the cultivation of the soil for planting grain crops with the intent of harvest for sale or for feed.

Management Practices:

1. Shredding previous crop
2. Planting
3. Apply herbicide
4. Harvest
5. Tillage
6. Fertilize
7. Insect Control

ORCHARDS AND VINEYARDS

Degree of Intensity:

Pecan Orchard	7 trees per acre (minimum 35 feet apart)
Peaches	14 trees per acre
Vineyard	100 plants per acre

Not less than 5 acres in agriculture use – may require an on-site inspection by Appraisal District staff. This operation is in the business of cultivating and growing trees or grapevines that produce crops of nuts and fruits.

Management Practices:

1. Weed control
2. Insect control
3. Fertilize
4. Pruning
5. Supplemental Water
6. Harvesting

Beekeeping Policy for 1-d-1 Agriculture Valuation

Beekeeping is an agriculture use and shall qualify for agricultural use productivity valuation if used for pollination or for the production of human food or other tangible products having a commercial value.

Section 23.51(2) Texas Property Tax Code

Acreage Requirement: The State of Texas has set a minimum of 5 acres and a maximum of 20 acres to qualify beekeeping as an agriculture use.

Degree of Intensity: Our degree of intensity standard is set a minimum of six colonies (hives) and 5.00 acres. The minimum degree of intensity was established using Sec. 131.001 Texas Agriculture Code. The Texas Agriculture Code's definition of an apiary (collection of bees), which is a place where six or more colonies of bees or nuclei (small mass of bees and combs of brood used in forming a new colony) of bees are kept. A colony is the hive and its equipment and appurtenances including the bees, comb, honey, pollen, and brood. Typical management practices include live structure maintenance, monitoring bee health, providing supplemental food, controlling pests and harvesting products.

For each additional 2.50 acres of land one additional colony (hive) is required. Any additional acreage above 5.0 but less than 7.50 would not require an additional colony (hive). Minimum colony (hive) requirements are as follows:

5.00 acres	6 hives
7.50 acres	7 hives
10.00 acres	8 hives
12.50 acres	9 hives
15.00 acres	10 hives
17.50 acres	11 hives
20.00 acres	12 hives

When property owners initially qualify for agriculture appraisal, they must show proof of history for the agricultural use / beekeeping operation for any of the five preceding seven years.

Management Practices:

1. Acreage with a Homestead Exemption cannot be considered for agriculture history or agricultural appraisal.
2. The hives must be located on the property for at least 7 months of the year.
3. The hives must be maintained and kept alive.
4. The District will require copies of registration of the apiary, certificate of inspection, branding information, and export, import or intra-state permits if required by the Texas Apiary Inspection Service for the type of hive movement encountered.

DROUGHT

When DeWitt County is under a drought declaration by the governor, then the degree of intensity, generally accepted, will be affected. The normal time the land remains out of agricultural production will be extended. Stocking ratios will be adjusted until conditions improve. Fence maintenance will be required to continue.