



# Revenue and Transportation Interim Committee

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## 57th Montana Legislature

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TO: Revenue and Transportation Interim Committee  
FROM: Lee Heiman, Staff Attorney  
RE: Legislative History of Ag Lands Property Tax  
DATE: December 4, 2001

### 1957

84-301, R.C.M. 1947: Class Three property included generally all land. No special class for agricultural land. Taxed at 30% of its assessed value.

84-429.12 (1), second paragraph, R.C.M. 1947: "... All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity. In such classification work, use shall be made of soil surveys and maps and all other pertinent available information."

Note: There was no definition of agricultural land.

### 1973

The 1973 amendments established a new system.

84-301, R.C.M. 1947, was repealed and replaced by more detailed class structure.

84-301.7, R.C.M. 1947: Class six property includes agricultural land as defined in 84-437.2. Taxed at 30% of its assessed value. (Most other real property was class eleven, taxed at 12% of market value, 84-301.12).

84-429.12, R.C.M. 1947: added a third paragraph to (1): "All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands."

84-437.1, R.C.M. 1947: "**Legislative intent as to agricultural property.** Since the market value of many farm properties is based upon speculative purchases which do not reflect the productive capability of farms, it is the legislative intent that bona fide farm properties shall be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes."

84-437.2, R.C.M. 1947 (direct predecessor to 15-7-202, MCA): "(1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment and taxation as herein provided each year it meets either of the following qualifications:

(a) The area of such land is not less than five (5) contiguous acres when measured in accordance with the provisions of section 84-437.6, R.C.M. 1947, and it has been actively devoted to agriculture during the last growing season and it continues to be actively devoted to agricultural use

which means;

- (i) it is used to produce field crops including, but not limited to, grains, feed crops, fruits, vegetables; or
- (ii) it is used for grazing; or
- (iii) it is in a crop-land retirement program; or
- (b) It agriculturally produces for sale or home consumption the equivalent of fifteen per cent (15%) or more of the owners annual gross income regardless of the number of contiguous acres in ownership."

(2) related to subdivision restrictions; (3) related to keeping horse farms as a hobby.

84-437.4 through 84-437.9, R.C.M. 1947: roll-back tax or greenbelt. Provided that agricultural land that is reclassified is subject to a roll-back tax equal to the difference between what was paid on the land as agricultural land and that which would have been paid under the new classification for the previous 4 years.

## 1985

15-7-202, MCA, Chapter 699: at beginning of (1) inserted "Contiguous parcels of land under one ownership that are actively devoted to agricultural use or noncontiguous parcels under one ownership that are actively devoted to agriculture ...". Deleted the two qualifications in the 1977 version of 84-437.2(1)(a) and (b) and inserted:

"(a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of livestock, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber; or

(b) the parcels would have met the qualification set out in subsection (1)(a) were it not for independent intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice."

Added new subsection (5) to provide that agricultural land continues to be classified as such until the department reclassifies the property.

Chapter 699 also added class 15 – the one acre under improvements on agricultural land to be taxed at 80% of the percentage of class four.

Chapter 681: Added provision that growing timber is not an agricultural use.

**Special Session 1986:** 15-7-202 at beginning of (1) rewrote to read: "Contiguous parcels of land totaling 20 acres or more under one ownership shall be eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to commercial or industrial use." Split off the qualifications lead-in and amended it to read: "(2) Contiguous or noncontiguous land totaling less than 20 acres under one ownership that are actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year that the parcels meet any of the following qualifications:"

The qualifications, \$1,500 or intervening causes, remains the same.

The same bill also established class eighteen property real property containing less than 20 acres that is nonproductive because of laws or ordinances. The bill provided for an extension of reduction in 1986 valuation and a notice to be sent to taxpayers of property that was more than 5 but less than 20 acres and which was valued more than the county average for such property due the application in the change in 15-7-202.

**1991.** Chapter 590 tightened up the subdivision provisions of 15-7-202.

Chapter 705 moved the definition provisions of 15-7-202 to the general definitions section (15-1-101) and included sod, ornamental nursery, and horticultural crops within the definition, but required a minimum of 10 acres for their production to qualify as agricultural.

**1993.** 15-6-133 (class three property – agriculture): provided that property between 20 acres and 160 acres that did not qualify as agricultural land under 15-7-202(1) was to be valued at 7 times the productive capacity of grazing land.

15-7-202: provided that contiguous parcels of land of 160 acres or more not devoted to residential, commercial, or industrial use is agricultural land. Contiguous parcels of 20 acres but less than 160 acres and used primarily for raising and marketing agricultural products are eligible for valuation, assessment, and taxation as agricultural land. Land is presumed to be agricultural land if there is at least \$1,500 annual gross income from agricultural products produced by the land. An owner of land not presumed to be agricultural shall verify to the department that the land is used primarily for raising and marketing agricultural products.

Noncontiguous parcels that meet certain tests are considered agricultural.

Marketing is defined as selling agricultural products produced by the land, including rental or lease of the land actively used for grazing or other agricultural purposes and federal rental or reserve program payments.

The department may not classify land less than 160 as agricultural unless the owner applies for the classification. Land between 20 and 160 acres for which no application is made must be valued at seven times the grazing rate.

15-7-202 as it reads today:

**"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the

land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

(4) Land may not be classified or valued as agricultural if it is subdivided land with stated restrictions effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only, "subdivided land" includes parcels of land larger than 20 acres that have been subdivided for commercial or residential purposes.

(5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property.

A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use."