

CAMERON APPRAISAL DISTRICT AG-USE POLICY LAND PRODUCTIVITY VALUATION

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

The legal basis for special valuation is found in the Texas Constitution Article VIII, Section 1-d and 1-d-1. The two types of land and valuation are commonly called "ag-use" or "open space." The corresponding provision of the Property Tax Code can be found in Chapters 23.41 thru 23.57.

While the purpose of the two special valuations is similar, they must be in agricultural use and valued in the same manner, however the qualifying procedures are different.

1. AG-USE, 1-D, QUALIFICATIONS:

- a. The land must be owned by a natural person. Partnerships or corporations may not qualify.
- b. The land must have been in agricultural use for three years prior to application of this special valuation.
- c. The owner must apply every year and sign a sworn statement about the use of the land.
- d. The agricultural business must be the owner's primary occupation and source of income.

2. OPEN-SPACE, 1-D-1, QUALIFICATIONS:

- a. The land must not be owned by a non-resident alien, corporations controlled by a non-resident alien, or foreign governments.
 1. The Texas Supreme Court has held that non-resident aliens can now qualify for agricultural valuation.
- b. Devoted principally to agricultural use to a degree of intensity generally accepted in the area.
- c. The land must have been devoted to a qualifying use for at least 5 of the past 7 years-consecutive if inside city limits.
- d. The agricultural business need not be primary.
- e. A one-time application and approval is required unless the Chief Appraiser requests another application.

The possibility of a "Rollback Tax" exists under either form of special valuation. Liability for additional taxes is created under 1-d by either by the sale of the land or a change of use. A prior three year envelope exists from the date of sale or change use occurs.

Open-Space 1-d-1 rollback is triggered by a change in use of the land to a non-agricultural use. The recapture period is five years preceding the year the change occurs.

The additional tax is calculated by taking the difference between taxes paid under special valuation and taxes that would have been paid if the land were appraised at market value, plus an annual interest penalty of seven percent.

The window for filing an application is between January 1 and May 1. A late penalty is imposed if the application is filed after May 1 and before ARB approval of appraisal rolls.

Guidelines have been established by the Cameron Appraisal District for the implementation of these provisions. It is also the opinion of the Chief Appraiser the guidelines are valid for mass appraisal purposes and can be applied uniformly throughout Cameron County.

**CAMERON APPRAISAL DISTRICT
PROPERTY TAX CODE
SECTION 23.51**

SECTION 23.51. Definitions.

1. Qualified "open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purpose of this subdivision, appurtenances to the land means private roads, darns, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian waters rights.
2. "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts or other tangible products having a commercial value; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management.
3. "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land may include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste and may be further divided according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district.

SECTION 23.56 PROPERTY TAX CODE
LAND INELIGIBLE FOR 1-D-1

Land is not eligible for appraisal as provided by this subchapter if:

1. The land is located inside the corporate limits of an incorporated city or town unless:
 - A. the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography land utilization, and population density; or
 - B. the land has been devoted principally to agricultural use continuously for the preceding five years.

2. The Texas Supreme Court has held that the bottom requirements are unconstitutional.
 - A. the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property ; or
 - B. the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

