

Addendum to Agriculture in the East Staff Report

Baltimore City

Article 28 10-19. Urban agricultural property.

Editor’s Note: This section was enacted by Ordinance 15-350, effective June 7, 2015. Section 3 of that Ordinance calls for future evaluation of the credit’s effectiveness, as follows:

[A]fter the 3rd tax year for which a tax credit is authorized under this Ordinance, the Mayor and City Council must evaluate the effectiveness of the credit in promoting the use of property for urban agricultural purposes

(a) *Definitions.*

(1) *In general.*

In this section, the following words have the meanings indicated.

(2) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(3) *Sustainability Office.*

“Sustainability Office” means the Baltimore City Office of Sustainability, established by City Code Article 1, Subtitle 34.

(4) *Urban agricultural property.*

“Urban agricultural property” has the meaning stated in State Tax-Property Article, § 9-253.

(5) *Urban agricultural purposes.*

“Urban agricultural purposes” has the meaning stated in State Tax-Property Article, § 9-253.

(6) *Value.*

“Value” means the amount equal to:

(i) the gross income that is actually received from sales of plants, plant products, animals, or animal products produced on site; or

(ii) for plants, plant products, animals, or animal products that are distributed free or at less than applicable market prices, the gross income that could reasonably be assumed to be received from their sale at market prices.

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(b) *Credit granted.*

In accordance with State Tax-Property Article § 9-253, a tax credit is granted against the City property tax imposed on qualified urban agricultural properties.

(c) *Qualifications for credit.*

(1) *In general.*

(i) To qualify for the credit granted by this section, a parcel of land:

(A) must be an urban agricultural property that is being used for urban agricultural purposes;

(B) may not be used for any other purpose that would subject the parcel to property tax liability;

(C) must be maintained in full compliance with the City Building, Fire, and Related Codes Article; and

(D) unless a waiver is granted under paragraph (3) of this subsection, must produce and either sell or otherwise distribute each tax year plants, plant products, animals, or animal products with an aggregate value of \$5,000 or more.

(2) Documentation of product value.

The Sustainability Office may require an owner to verify values by providing copies of sales receipts or invoices and, if relevant, evidence of current market rates.

(3) Waiver of value requirement.

(i) The Sustainability Office may grant a waiver to the value requirement if, in the tax year for which the credit is being sought, the agricultural use of the property:

(A) is newly established; or

(B) has suffered an unexpected disaster, such as drought, vandalism, or infestation

(ii) A waiver may not be granted under this paragraph for more than 2 consecutive tax years.

(d) Amount of credit.

The amount of the credit granted under this section is equal to:

(1) the amount of property tax that would otherwise be due on the property, less

(2) the amount of any other credit applicable to the property in that tax year, multiplied by

(3) 90%.

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(e) Application and certification.

(1) A property owner seeking to obtain and annually maintain a credit under this section must:

(i) at least 90 days before the 1st tax year for which the credit is sought, file an application for the credit with the Sustainability Office; and

(ii) at least 90 days before each subsequent tax year during the term of the credit, file with the Sustainability Office a certification that the property continues to be used for urban agricultural purposes and to meet all other qualification for the credit.

(2) The application and certification must be in the form and contain the information that the Sustainability Office requires.

(f) Term of credit.

(1) The term of the credit is 5 tax years, unless renewed.

(2) On application made no later than 90 days before expiration of the 5-year term, a property owner may apply to renew the credit for another 5 tax years.

(g) Continuous agricultural use required.

(1) In general.

If, at any time during the initial 5-year term of the credit or during a 5-year renewal term, the property ceases to be used for urban agricultural purposes:

(i) the credit granted to the property is terminated; and

(ii) the owner of the property is liable for:

(A) all property taxes that would have been due during that 5-year term if the credit had not been granted, plus

(B) a surcharge at the rate of 1% for each month or fraction of a month accounting from the dates that those taxes would have become due had the credit never been granted through the date on which the taxes first became due by application of this subsection,

(2) Good-cause waiver of interest and penalties.

(i) A property owner may apply to the Director of Finance for a waiver of all or part of the surcharge imposed under paragraph (1) of this subsection.

(ii) The property owner has the burden to demonstrate that:

(A) the cessation of the property's use for urban agricultural purposes was the result of circumstances beyond the owner's control; and

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(B) the owner otherwise meets the requisite criteria for a waiver, as established in the rules and regulations adopted under subsection (h)(1)(ii) of this section.

(iii) The Director of Finance shall consult with the Sustainability Office before denying or granting the application for a waiver, in whole or in part.

(h) *Administration.*

The Director of Finance, after consultation with the Sustainability Office:

(1) shall adopt rules and regulations to carry out this section, including:

(i) the procedures, forms, and documentation required to apply for the credit and to periodically evidence continuing eligibility for the credit; and

(ii) the procedures and governing criteria for obtaining a surcharge waiver under subsection (g)(2) of this section;

(2) may settle disputed claims that might arise in connection with the credit; and

(3) may delegate to any other City agency or employee the powers, duties, or functions in connection with the administration of the credit.

(i) *Analyses and report on costs and benefits.*

The Sustainability Office, after consultation with the Director of Finance, must analyze the public costs and benefits of the credits granted under this section and annually report its findings to the Board of Estimates and the City Council.

(*Ord. 15-350; Ord. 15-427; Ord. 16-503.*)

Montgomery County

Sec. 52-111. Urban Agricultural Tax Credit.

(a) *Definitions.* In this Section:

Gross income means the revenue received from the sale of products grown or raised on the property, including the fair market value of food products grown or raised on the property donated to an organization registered as a charitable organization with the Maryland Secretary of State.

Urban agricultural property means real property in a residential zone that is:

(1) at least one-half of an acre and not more than 3 acres;

(2) located within 1000 feet of or in a Metro Station Policy Area, as defined in the most

recent Subdivision Staging Policy adopted under Section 33A-15, including the:

(A) Bethesda Central Business District;

(B) Friendship Heights;

(C) Glenmont;

(D) Grosvenor;

(E) Rockville Town Center;

(F) Shady Grove;

(G) Silver Spring Central Business District;

(H) Twinbrook;

(I) Wheaton Central Business District; and

(J) White Flint; and

(3) used for urban agricultural purposes.

Urban agricultural purposes means

- (1) the cultivation of fruits, vegetables, flowers, and ornamental plants;
- (2) the limited keeping and raising of fowl or bees; or
- (3) the practice of aquaculture.

(b) *Credit required.* The Director of Finance must allow each eligible taxpayer a credit against County real property taxes due in each tax year in which the taxpayer is eligible for the credit.

(c) *Eligibility.* A property owner is eligible for the tax credit each year:

- (1) the urban agricultural property is used solely for urban agricultural purposes, except an individual may also reside on the property;
- (2) the property owner has more than \$5000 in gross income from the sale of products grown or raised on the urban agricultural property; and
- (3) the property owner files a timely application for the credit with proof of eligibility.

(d) *Amount of credit.* The credit must equal 80% of the County property tax otherwise due on the property.

(e) *Application.* In order to receive the credit, a property owner must apply for the credit with the Office of Agriculture on or before April 1 of the tax year before the first tax year the tax credit is sought on a form containing the information required by the Office of Agriculture. A property owner must apply to continue the credit on or before April 1 of the tax year before each subsequent tax year. The Director of Finance must determine taxpayer eligibility for the credit based upon the recommendation from the Office of Agriculture.

(f) *Term of credit.*

- (1) The term of the credit is 5 tax years, unless renewed.
- (2) A taxpayer may apply to renew the credit no later than 90 days before the expiration of the credit for another 5 tax years.

(g) *Continuous agricultural use required.* If, at any time during the term of the credit or the renewal of the credit, the property is no longer used for agricultural purposes:

- (1) the credit granted to the property must be terminated; and
- (2) the owner of the property is liable for all property taxes that would have been due if the credit had not been granted for any year that the property was not used for agricultural purposes.

(h) *Contiguous lots.* A property owner may combine 2 or more contiguous subdivision lots under common ownership into one property to satisfy the minimum lot size for an urban agricultural property in subsection (a).

(i) *Appeal.* The Director must take all actions necessary to apply the credit to each eligible taxpayer who applies for the credit and is certified as eligible by the Office of Agriculture. A taxpayer may appeal a final decision by the Director denying or terminating the credit to the Maryland Tax Court within 30 days after receiving a notice of denial or termination from the Director. ([2017 L.M.C., ch. 5](#), §1; [2017 L.M.C., ch. 12](#), §1.)

Editor's note—[2017 L.M.C., ch. 5](#), § 2, states: Evaluation. The Director must submit a report to the Executive and the Council on or before January 1, 2020 evaluating the effectiveness of the tax credit in promoting urban agricultural purposes.

[2017 L.M.C., ch. 5](#), § 3, states: Transition. Notwithstanding subsection (e), the deadline to apply for the credit for the tax year beginning on July 1, 2017 must be extended to September 1, 2017.

[Note] ***Editor's note**—See County Attorney Opinion dated [1/26/98](#) analyzing a petition to amend charter to require any increase in taxes to be approved by referendum.
Cross reference-Authority to levy tax for charitable or social relief, § 37-1; revenue authority, ch. 42; parking lot taxing districts, ch. 60; special taxing districts, chs. 61-70; suburban transit district, ch. 87.

Prince Georges County

SUBDIVISION 5L. - URBAN AGRICULTURAL PROPERTY TAX CREDIT.

Sec. 10-235.22. - Urban agricultural property tax credit.

- (a) In accordance with the provisions of Section 9-253 of the Tax-Property Article of the Annotated Code of Maryland, the owner of real property may receive a property tax credit against the County portion of property tax on urban agricultural properties.
- (b) For the purpose of this Section, the following terms have the meanings indicated:
 - (1) **"Urban agricultural property"** means real property that is:
 - (A) at least one-eighth of an acre and not more than five (5) acres;
 - (B) located in a priority funding area, as defined in Section 5-7B-02 of the State Finance and Procurement Article of the Annotated Code of Maryland;
 - (C) used for urban agricultural purposes; and
 - (D) zoned for agricultural uses or permitted as an urban farm pursuant to the Subtitle 27 - Zoning Ordinance of Prince George's County.
 - (2) **"Urban agricultural purposes"** means crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production.
 - (3) **"Value"** means the amount equal to:
 - (A) the gross income that is actually received from sales of agricultural products produced on site; or
 - (B) for products that are distributed free or at less than applicable market prices, the gross income that could reasonably be assumed to be received from sale of those products at market prices.

(CB-74-2015)

Sec. 10-235.23. - Credit qualification.

In order to qualify for a property tax credit, a parcel of land or, any portion thereof:

- (a) shall be an urban agricultural property that is being used for urban agricultural purposes;
- (b) may not be used for any other for-profit purpose that would subject the parcel to property tax liability; and
- (c) unless a waiver is granted under Subsection (d), shall produce agricultural products valued at Two Thousand Five Hundred Dollars (\$2,500) or more per tax year.
- (d) A waiver may be granted for start up properties for up to two (2) years or for a declared natural disaster or drought.

(CB-74-2015)

Sec. 10-235.24. - Credit application and verification.

- (a) The Director of Finance shall require an owner to verify product value by providing information to include but not limited to copies of sales receipts or invoices, provide an IRS Schedule F or C, IRS 990 series form if the owner is a non-profit and, if relevant, evidence of current market rates.
- (b) Application for the tax credit established herein shall be made under oath on an application provided by the Director of Finance. The application shall provide a legal description of the property and such other information or documentation as the Director may require to determine whether the applicant can qualify for the tax credit. The applicant for the tax credit shall submit the application on or before April 1st of each year.
- (c) The Director of Finance in coordination with the Prince George's Soil Conservation District shall determine the eligibility of the taxpayer for the tax credit and notify the State Department of Assessments and Taxation that a taxpayer has been approved for the property tax credit and the assessed value of the premises.
- (d) The amount of credit granted under this Subdivision is equal to the amount of property tax that would otherwise be imposed on the property, less the amount of any other credit applicable to the property in that tax year.
- (e) The term of a tax credit shall be granted for one (1) year.
- (f) The property owner may reapply each year.
- (g) At any time during the period for which a property tax credit under this Subdivision is granted for urban agricultural property, if the property ceases to be used for urban agricultural purposes, the owner of the property shall be liable for all property taxes that would have been imposed if a property tax credit for urban agricultural property had not been granted.
- (h) During any fiscal year, the total of all tax credits granted under this Subdivision shall not exceed One Hundred Thousand Dollars (\$100,000). Each applicant is limited to an annual credit of Five Thousand Dollars (\$5,000). Tax credits shall be granted in the order in which the Office of Finance receives the complete application under Subsection (b) of this Section. If a complete application granted would cause the limit set forth in this Subsection to be exceeded, the tax credit shall be granted in the next fiscal year or years and in the order received.

(CB-74-2015)

Sec. 10-235.25. - Reporting requirements.

The Director of Finance shall provide an annual report to the County Council on the property tax credit for urban agricultural property on or before December 31st of each year for the previous fiscal year, to include:

- (a) the number of applications received;
- (b) the number of applications denied;
- (c) the number of tax credits approved; and
- (d) the location by Councilmanic district of the number of applications received, denied and the amount of tax credit approved.

(CB-74-2015)

Washington D.C.

47-868. Reduced tax liability for certain urban farms.

(a) Except as provided in subsection (b) of this section, if real property is used as an urban farm, then 90% of the real property tax otherwise levied pursuant to [\[§ 47-811\]](#) on the portion of the real property exclusively in use as an urban farm shall be abated for each real property tax year that such portion of the real property is used as an urban farm; provided, that if an urban farm is located on or in an improvement to real property, the abatement shall be applied only to the real property tax otherwise levied pursuant to [\[§ 47-811\]](#) on the portion of the improvement in use as an urban farm, as computed under subsection (a-1) of this section.

(a-1)(1) In the case of an urban farm located in an improvement to real property not exclusively used for urban farming, the portion of the improvement in use as an urban farm shall be computed by dividing the square footage of the portion of the improvement used for urban farming by the gross building area of the improvement.

(2) In the case of an urban farm located on an improvement to real property not exclusively used for urban farming, the portion of the improvement in use as an urban farm shall be computed by dividing the square footage of the portion of the improvement used for urban farming by the total square footage of the improvement, which shall be computed as the sum of the gross building area of the improvement and the roof area.

(b)(1) An abatement permitted under this section shall not exceed the tax liability for the entire parcel of real property on which the urban farm is located, taking into account any other applicable abatements, exemptions, or reductions.

(2) If real property is put to use as an urban farm at some time other than at the beginning of the tax year, the 90% tax abatement provided for in subsection (a) of this section shall be pro-rated according to the portion of the real-property tax year that the real property is in use as an urban farm, notwithstanding any other provision of this section.

(3) No abatement under this section shall exceed \$20,000 per parcel of real property, per tax year.

(4) No abatement shall be permitted for an abutting parcel of real property with common or related ownership that is not in use as an urban farm.

(5) If the amount of tax to be abated for any half tax year for all properties certified under subsection (f)(1) of this section exceeds the total amount of funds available as certified under subsection (f)(2) of this section, the available funds shall be allocated pro rata among all properties certified under subsection (f)(1) of this section.

(c) The abatement described in subsection (a) of this section may be apportioned between semiannual installments of tax.

(d)(1) To be eligible to apply for an abatement under this section, an applicant shall, before the property is put to use as an urban farm, submit a proposed annual planting plan to the Department of General Services ("Department") for approval. The annual planting plan may include season-appropriate uses of an urban farm, such as providing cover crops, a bee hive, or growing seedlings in a greenhouse.

(2) After an applicant submits a proposed annual planting plan, the Department shall have 30 calendar days during which to object to the proposed annual planting plan and request modifications to the annual planting plan. If no objection is made within 30 calendar days of submission, the annual planting plan shall be considered approved.

(3) Once approved, the applicant shall retain the annual planting plan for at least 3 years and shall provide the annual planting plan in the event of an audit.

(e)(1) A real property owner requesting a tax abatement under this section shall apply for and provide documentation supporting the tax abatement claim in the form and manner prescribed by the Department pursuant to rules established under subsection (h) of this section.

(2) A real property owner receiving a tax abatement under this section shall make such reports concerning the use of property as may be prescribed by the Department pursuant to rules established under subsection (h) of this section.

(3) A property owner denied an abatement under this section shall have the appeal rights provided by [\[§ 47-1009\]](#).

(f)(1) The Department shall certify semiannually to the Office of Tax and Revenue ("OTR"), in a form and medium prescribed by OTR, each property or portion thereof eligible to receive a real

property tax abatement pursuant to this section, as well as the period of time for which the property is eligible for a tax abatement under this section.

(2) The certification required by paragraph (1) of this subsection shall be accompanied by a statement from the Department specifying the amount of funds available under [\[§ 48-402.02\]](#), for real property tax abatements for the properties identified pursuant to paragraph (1) of this subsection.

(3) Before certifying that a property is eligible for a real property tax abatement pursuant to this section, the Department shall ensure, at a minimum, that:

(A) The soil on the real property has been tested and found to be substantially free from arsenic, lead, and heavy metals and safe for use in the growth of produce fit for human consumption; and

(B) The real property was in use as an urban farm continuously throughout the abatement period pursuant to an approved annual planting plan.

(g) For the purposes of this section, the terms "urban farm" and "produce" shall have the same meaning as provided in [\[§ 48-401\]](#).

(h) The Mayor, pursuant to [\[subchapter I of Chapter 5 of Title 2\]](#), may issue rules to implement the provisions of this section.

[\(Apr. 30, 2015, D.C. Law 20-248, § 201\(a\)\(2\), 62 DCR 1504; Apr. 7, 2017, D.C. Law 21-257, § 3\(a\)\(2\), 64 DCR 2049; Dec. 13, 2017, D.C. Law 22-33, § 7212, 64 DCR 7652.\)](#)

Emergency Legislation

[For temporary \(90 days\) amendment of this section, see § 7212 of Fiscal Year 2018 Budget Support Congressional Review Emergency Act of 2017 \(D.C. Act 22-167, Oct. 24, 2017, 64 DCR 10802\).](#)

[For temporary \(90 days\) amendment of this section, see § 7212 of Fiscal Year 2018 Budget Support Emergency Act of 2017 \(D.C. Act 22-104, July 20, 2017, 64 DCR 7032\).](#)

Maryland State (SDAT)

The Agricultural Use Assessment

What is the Intent of the Agricultural Use Assessment Law?

Maryland law provides that lands which are actively devoted to farm or agricultural use shall be assessed according to that use. In 1960 Maryland became the first state to adopt an agricultural use assessment law which has proved to be a key factor in helping to preserve the State's agricultural land.

The agricultural use assessment law and its corresponding programs are administered by the Department of Assessments and Taxation. This State agency is responsible for assessing all real property throughout the State and has offices located in the county seat of each of the 23 counties and in Baltimore City. Procedures governing the agricultural use assessment have been established to achieve uniformity among the 23 counties in which agricultural property is located. The Department recognizes the importance of this program to the individual land owner and to the farming community in the State.

The Tax-Property Article of the Annotated Code of Maryland, Section 8-209, provides:

- A. The General Assembly declares that it is in the general public interest of the State to foster and encourage farming activities to:
 1. maintain a readily available source of food and dairy products close to the metropolitan areas of the State;
 2. encourage the preservation of open space as an amenity necessary for human welfare and happiness; and
 3. prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.
- B. It is the intention of the General Assembly that the assessment of farmland:
 1. be maintained at levels compatible with the continued use of the land for farming; and
 2. not be affected adversely by neighboring land uses of a more intensive nature.

While these provisions establish the overall philosophy for the agricultural use assessment program, the law also includes:

- a. Specific provisions relating to the criteria to be used in determining whether or not lands qualify for the agricultural use assessment.
- b. Tests to be considered by the assessors.
- c. Situations where the use assessment cannot apply
- d. Application of the agricultural use assessment to woodland.

What the Agricultural Use Assessment Means to the Property Owner?

Although its importance is widely recognized, the actual benefits of the agricultural use assessment are often misunderstood. Because certain risks in the form of potential tax penalties can result from receiving the agricultural use assessment, the property owner should carefully evaluate the actual tax savings against those risks. The following is an outline of one method to determine the actual tax savings that might be realized from the agricultural assessment.

First, it is necessary to understand that a property tax bill is the product of the assessment on the real property multiplied by the property tax rate. This is true for all property tax situations, regardless of whether or not the land receives the agricultural use assessment. Property tax rates are expressed as a certain number of dollars and cents per \$100 of assessment. While some cities and towns in Maryland impose a separate property tax rate for property in that jurisdiction, most agricultural land is not found within those boundaries. Thus, for illustration purposes, only the county and state property tax rates will be considered here. Our example will use a typical county rate of \$1.00 per \$100 of assessment and a state rate of \$.132 per \$100 of assessment resulting in a combined rate of \$1.132.

To determine what tax savings can be realized by receiving the agricultural use assessment, an examination of the level of assessment with and without the use assessment must be made. The actual preferential value of \$500 per acre is assigned to acreage within the agricultural use assessment. Land that does not receive the agricultural use assessment will be assessed based on its market value.

Assume that a 100 acre parcel of land has a market value of \$3,000 per acre. The total value of the parcel would be \$300,000 (100 x \$3,000). The same 100 acre parcel receiving the agricultural use assessment based on a value of \$500 per acre would be \$50,000 (100 x \$500). The taxes using a combined tax rate of \$1.132 per \$100 of assessment would be \$566.00 $[(\$50,000 \div 100) \times \$1.132]$ under the agricultural use assessment and \$3,396.00 $[(\$300,000 \div 100) \times \$1.132]$ under the market value assessment – a difference of \$2830.00. This illustration demonstrates the importance of the agricultural use assessment in terms of its tax savings.

What Criteria Are Used to Qualify Land to Receive the Use Assessment?

It must be emphasized that the assessment applies to the land, not to the property owner. The law directs the Department to determine whether or not the land is "actively used" for farm or agricultural purposes and defines "actively used" as "land that is actually and primarily used for a continuing farm or agricultural use." The Department does not concern itself with who owns the land or the income of the property owner (with one minor exception mentioned later). The Department's sole focus is on the nature and the extent of the use of the land.

The primary test used by the Department is directly related to the phrase "actively used". While the Department has formal regulations and procedures that are used in this

determination (Code of Maryland Regulations [COMAR] Title 18 and Maryland Assessment Procedures Manual) which are available to the public, they can be summarized as follows:

- a. The nature of the agricultural activity on the parcel that is subject to the approved agricultural activities defined in COMAR Title 18.
- b. The amount of “actually devoted land” engaged in an approved agricultural activity.
- c. The primary use of the land located on the parcel, non-agricultural v/s agricultural.
- d. Total size of the parcel and its ratio of “associated land” to “actually devoted land” used in the approved agricultural activity.
- e. Amount and type of livestock or poultry located on the “actively used land”.
- f. Acreage in participation in a governmental or private agricultural program such as [Conservation Reserve Enhancement Program \(CREP\)](#).
- g. A parcel that is less than 20 acres that is contiguous to a parcel owned by an immediate family member qualified for agricultural use may be eligible as a “Family Farm Unit”.
 1. Agricultural activity required on the parcel
- h. Parcels being combined as an “Agricultural Land Unit” (ALU) for the purpose of qualifying for the agricultural use.
 1. Not more than 3 parcels of land that are each less than 20 acres in size; located in the same county and under the same ownership. (Parcels less than 3 acres in size must be adjoining to land owned by the same owner and no more than 2 parcels under same ownership within the state may qualify.)
- i. Gross income test derived from the agricultural activity on the parcel of land.
 1. A parcel of land or ALU that is less than 20 acres but greater than or equal to 5 acres may be eligible to meet the gross income test of \$2,500 when the extent of agricultural activity is difficult to determine.
 2. The \$2,500 gross income test must be applied when at least 3 acres but less than 5 acres of land are actually devoted in an approved agricultural activity.
 3. Should the Department elect to apply the \$2,500 gross income test, it is important that the property owner understand what is required. First, the term "gross income" means gross revenues derived from the agricultural activity only. It excludes other sources of income to the property owner. Hence, the figure to be reported is the total gross revenues received from the agricultural product before subtracting expenses.
 4. The law provides that "...'average gross income' means the average of the 2 highest years of gross income during a 3 year period." This provision was added to recognize special situations such as a drought.
 5. The law provides that the Department may require the property owner to supply evidence of the gross income in the form of copies of sales receipts, invoices, lease agreements, schedule F in tax filing, or other documents. If, the property owner leases the land to a farmer, the rent paid for the land is not considered under the gross income test. Instead, the Department examines the nature of the agricultural activity and determines whether or not that activity would generate an average gross income of \$2,500 if the revenues from the sale of the product were received by the owner of the

land. A similar approach is taken when the land owner actually does the farming, but does not sell the products.

What Are Some of the Restrictions on Receiving the Use Assessment?

The law is specific regarding those instances when the agricultural use assessment cannot be granted. For example, regardless of the agricultural activity, the land used for a homesite on the farm is not eligible. This principle applies to tenant homesites as well as the primary homesite. Unless obviously larger in size, the homesite is generally deemed to be a minimum of one (1) acre. Whatever the size, the homesite is valued and assessed at its market value as is all other non-agricultural land used in a more intensive use on the parcel.

Another important restriction is land zoned to a more intensive use at the request of the owner or a person who had previously had an ownership interest in the land. If a rezoning occurs at the initiative of the county, the land may retain the agricultural use assessment. If the owner requests the rezoning, the use assessment must be removed.

The law also prevents granting the use assessment to relatively small parcels of land. For example, in the case of farmland, no parcel under three (3) acres in size is eligible unless one of the following conditions are met:

1. the land is owned by an owner of adjoining land that is qualified to receive the agricultural use assessment and the land is actively used (limited to only two parcels of less than 3 acres in the State and the parcel must have agricultural activity); or
2. the owner receives at least 51% of the owner's gross income from the active use of the small parcel; or
3. the parcel of less than 3 acres is a part of a "family farm unit." This term means that the owner of a larger farm may separate out of that larger parcel not more than 1 smaller parcel for each immediate family member. These smaller parcels must remain in active agricultural use, they must be contiguous to the larger parcel, and they must be owned by the immediate family member. (parcel must have agricultural activity)

The final restriction relates to platted subdivision lots. An ownership is only eligible to receive the agricultural use valuation on a maximum of 5 parcels that are less than 10 acres in size within the same county. In addition, No more than 2 parcels less than 3 acres under the same ownership in the State may qualify for agricultural use.

These parcels must meet the definition of "actively used". Any number of parcels in the subdivision plat over the maximum of 5 which are under 10 acres in size will be assessed based on the market value.

What Woodland is Eligible to Receive the Agricultural Use Assessment?

The application of the agricultural use assessment to woodland is an important tool in helping to preserve Maryland's forestland. In general terms, there are two categories where woodland may be eligible for agricultural assessment: (1) woodland associated with a farm; (2) tracts of woodland within an approved forest plan. When the woodland acreage is a part of a larger parcel that is determined to be actively used for agricultural purposes, the woodland portion of that acreage may receive the agricultural use assessment when the parcel's total acreage meets ratio requirements for that region for land that is actively used. In this case, it is generally expected that the primary use of the parcel is for an agricultural activity. If the Department finds that only a small portion of the parcel is actually used for the agricultural activity, the use assessment may be denied.

Woodland tracts of land are also eligible for the agricultural use assessment upon the property owner obtaining a forest management plan and having a minimum of 5 acres of land within that plan. The management plan must be prepared by a professional registered forester and the property owner will be required at certain points in time to submit their compliance with the plan to the Department. The management plan may be one provided by the State Department of Natural Resources pursuant to the [Forest Conservation Management Agreement](#); or a forest stewardship plan recognized by the Maryland Department of Natural Resources developed by a registered forester. Land within a Forest Conservation Management Agreement receives an agricultural land rate of \$125.00 per acre and land within a forest stewardship plan receives an agricultural land rate of \$187.50 per acre.

More information about the forest management programs may be found by visiting the [Maryland Department of Natural Resources' website](#). Regional brochures about the forest service are also provided by selecting one of the following regions: [Western](#), [Southern](#), [Central](#), or [Eastern](#).

CAUTION!

Owners should be mindful that lands being assessed in the Agricultural Use Category could be subject to an Agricultural Transfer Tax at some later date in the event of a transfer, sale, or other action leading to or causing a violation of the agreement as contained in any Letter of Intent that may have been filed in order to receive the Agricultural Use Assessment.

[More detailed information concerning the Agricultural Transfer Tax is available in a separate pamphlet.](#)

2013 Maryland Code
TAX - PROPERTY
§ 9-253 - Urban agricultural property

(a)(1) In this section the following words have the meanings indicated.

(2) “Urban agricultural property” means real property that is:

(i) at least one-eighth of an acre and not more than 5 acres;

(ii) located in a priority funding area, as defined in [§ 5-7B-02 of the State Finance and Procurement Article](#) ; and

(iii) used for urban agricultural purposes.

(3) “Urban agricultural purposes” means:

(i) crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production;

(ii) environmental mitigation activities, including stormwater abatement and groundwater protection;

(iii) community development activities, including recreational activities, food donations, and food preparation and canning classes;

(iv) economic development activities, including employment and training opportunities, and direct sales to restaurants and institutions; and

(v) temporary produce stands used for the sale of produce raised on the premises.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation may grant, by law, a tax credit against the county or municipal corporation property tax imposed on urban agricultural property.

(c)(1) Except as provided in paragraph (2) of this subsection, a tax credit under this section shall be granted for 5 years.

(2)(i) If the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation grants a tax credit under this section, the jurisdiction granting a tax credit shall evaluate the effectiveness of the credit after 3 years.

(ii) If the jurisdiction granting the tax credit determines that the tax credit is ineffective in promoting urban agricultural purposes, the jurisdiction granting a tax credit may terminate the tax credit.

(iii) The jurisdiction granting a tax credit under this section may extend the tax credit for an additional 5 years.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation may provide, by law, for:

(1) the amount of the tax credit under this section;

(2) additional eligibility criteria for the tax credit under this section;

(3) regulations and procedures for the application and uniform processing of requests for the tax credit; and

(4) any other provision necessary to carry out the credit under this section.

(e) At any time during the period for which a property tax credit under this section is granted for urban agricultural property, if the property ceases to be used for urban agricultural purposes, the owner of the property shall be liable for all property taxes that would have been imposed if a property tax credit for urban agricultural property had not been granted.