

Issue:

South Dakota's system for valuing agricultural land for tax purposes is based on the land's productivity. State law 10-6-33.7. reads: "Agricultural land in each county shall be divided into the eight classes defined by the United States Department of Agriculture's soil conservation service as published in its soil survey for each county. The county director of equalization shall, based on the agricultural lands soil survey classification, determine a value for each soil type."

Under the NRCS soil rating system, land with a soil rating classes 1-3 is considered cropland, class 4 soils can be used as either crop or pasture land, classes 5-7 are considered grass land, and class 8 is considered "miscellaneous" with extremely limited uses.

There is concern among some who, because of various factors, either cannot or choose not to use areas with Class 1-3 soils as crop land. Should this land be taxed as cropland even though the landowner is using it for pasture land?

Background:

County Directors of Equalization are encouraged to use the concept of "highest and best use" in determining the taxable value of real estate. Administrative rules within the Department of Revenue require state-certified residential appraisers to have training in residential market analysis and "highest and best use."

Although the phrase "highest and best use" is not used in state law, the concept is being used in valuing agricultural land, particularly in cases where land that could potentially be used as cropland is being used as pasture land.

A 1981 SD Supreme Court Ruling is often cited as the basis for using highest and best use rather than "actual use" in determining how to value agricultural land. The ruling, in part, reads: "Although actual use may be a factor in determining the valuation of certain property, a landowner should not be able to determine the valuation of property by using it as rangeland when it could be used as cropland."

Some argue this is a fairness issue, in that it limits shifting a tax burden to cropland, away from those who choose to keep cropable soils as pasture land.

Others point out that a county Director of Equalization should not be placed in the position of determining land use decisions, and that there are many factors beyond a soil classification rating that determine the highest and best use of a tract of land.

SDFB Policy:

The assessed valuation of ag land should reflect the land's ability to produce under natural conditions and should be adjusted on a regular basis.

SDFB supports legislation that will allow counties to equalize tax assessments and use any measure of productivity in addition to the soil survey to calculate assessments. The practice of "neighborhooding" in specific geographic areas within a county should be substantially weighted and at least equal in influence with the soil survey.

Questions:

- 1) What factors in addition to the soil survey should assessors be encouraged or required to use in determining the taxable value of agricultural land?
- 2) Would South Dakota benefit from a law, such as is used in North Dakota, which requires assessors to use "actual use of the property for cropland or noncropland purposes by the owner of the parcel" as a factor in determining the assessed value?

Addendum - USDA Soil Classifications:

Class I (1) soils have slight limitations that restrict their use.

Class II (2) soils have moderate limitations that reduce the choice of plants or require moderate conservation practices.

Class III (3) soils have severe limitations that reduce the choice of plants or require special conservation practices, or both.

Class IV (4) soils have very severe limitations that restrict the choice of plants or require very careful management, or both.

Class V (5) soils have little or no hazard of erosion but have other limitations, impractical to remove, that limit their use mainly to pasture, range, forestland, or wildlife food and cover.

Class VI (6) soils have severe limitations that make them generally unsuited to cultivation and that limit their use mainly to pasture, range, forestland, or wildlife food and cover.

Class VII (7) soils have very severe limitations that make them unsuited to cultivation and that restrict their use mainly to grazing, forestland, or wildlife.

Class VIII (8) soils and miscellaneous areas have limitations that preclude their use for commercial plant production and limit their use to recreation, wildlife, or water supply or for esthetic purposes.