

The Florida Agricultural Exemption: The Cattleman's Best Property Tax Saving Tool (October, 2008)

By Michael S. Hagen, Attorney

INTRODUCTION

Knowledgeable cattlemen have long been aware of the benefit of obtaining a Florida agricultural exemption ("AG EX"), the receipt of which bestows a land assessment at an agriculturally classified rate based upon the income that the agricultural activity generates, instead of at market value. This typically reduces the tax assessment to a few hundred dollars per acre; drastically reducing carrying costs. Some cattlemen own the land that they run their cattle on and have a personal financial stake in obtaining the AG EX. Others lease land for their cattle but it is their AG use of the land that qualifies it for the AG EX.

Unfortunately, many cattlemen have taken this crucial tax benefit for granted and have lost their agricultural exemptions in recent years after a shift by some county property appraisers to a much more stringent enforcement. Accordingly, it is ever more critical for cattlemen to "dot their 'i's" and cross their 't's'" if they wish to qualify for the AG EX in 2009.

DOCUMENT, DOCUMENT, DOCUMENT

It is critical for cattlemen to document their agricultural use. The cattlemen must prove "bona fide commercial agricultural use" (see Florida Statute §193.461) as of January 1, 2009, the legal assessment date. Take date stamped photographs confirming the use as of the key date. Also, get witnesses as to this use. Everything must be in place as of January 1, 2009, in the example of cattle grazing, that means intact fences and gates,

water hole, cattle on site and adequate grazing areas. Scheduling an onsite meeting with the Property Appraiser's AG personnel in late 2008/early 2009 is an excellent way to verify your use and improve your chances of approval.

Additionally, it has become ever more important to supply written proof of commercial activity. A hobby does not qualify. Provide copies of sales receipts of agricultural products (be it cows, calves, etc.), receipts for purchases of supplies needed or services obtained, a written lease, and, if applicable, a tangible personal property return and an Internal Revenue Service return Schedule F. Although you do not necessarily have to provide all this, the more you provide the more likely AG approval is. If the Property Appraiser mails you an agricultural questionnaire letter, which certain counties now distribute annually, typically early in the year, respond to it as completely and promptly as you can. Some cattlemen consider such requests an invasion of privacy and, to a degree, they are correct, but the property appraiser has the legal right to make such requests.

GENERALLY ACCEPTED COMMERCIAL PRACTICES

The agricultural exemption statute lists seven factors that the Property Appraiser may consider in determining entitlement to an agricultural exemption. The cattlemen must show "an indicated effort has been made to care sufficiently and adequately for the land in accordance with generally accepted commercial agricultural practices." The days of just sliding by doing the bare minimum to qualify for the AG are over. Spend the money necessary to get the property in a condition that will support legitimate agricultural use. In order to justify such expenses a lessee may demand a longer lease term from the

landowner. For cattle grazing, that means doing things such as fixing fences, clearing exotic vegetation, mowing, fertilizing, seeding, etc. The cattlemen must take an active interest in maintaining the property. This produces higher yields. *The Florida Cattleman and Livestock Journal* includes informative articles practically every month on best practices and how to implement them.

KEY DATES

Florida Statutes §193.461 lists key dates to be aware of. First, agricultural use must be in place by January 1, as previously discussed above. Secondly, March 1st is the application deadline for an agricultural exemption. Failure to timely apply may be deemed a waiver of the tax year 2009 agricultural exemption. The application must be fully completed, signed and timely delivered (not just postmarked) to the Property Appraiser. The Property Appraiser will notify cattlemen in writing on or before July 1, 2009 if they are denied. The cattleman then has thirty days from that denial mailing date to petition. Petitioners will get a hearing before in front of an attorney Special Magistrate representing the Value Adjustment Board.

OTHER CHALLENGES TO OBTAINING AN AGRICULTURAL EXEMPTION

Cattlemen may have to jump through additional hoops if other factors are present, such as property that is not agriculturally zoned, or that was purchased for more than three times the agriculturally classified value. While these hurdles do not automatically prevent you from obtaining an agricultural exemption, some Property Appraisers will initially deny such applications.

CONCLUSION

Tax year 2008 results clearly showed that it has become critical for cattlemen desiring an agricultural exemption to be proactive in their efforts. Cattlemen that take the proper steps outlined herein are much more likely to be approved for a 2009 agricultural exemption. Those cattlemen that “sit on their hands”, however, are likely to be denied. This property tax benefit is far too important for cattlemen to continue to take a laid back approach.

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