



# Guideline

## Property Tax Exemption of Farm Buildings and Other Improvements

North Dakota Century Code § 57-02-08(15)

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### General Provisions

1. Farm buildings and improvements located on agricultural lands are exempt from taxation provided they are used as part of a farm plant.

The land must be used for raising agricultural crops or grazing farm animals and used as part of a farm plant. A farm plant is the entire farm enterprise operated as an economic unit. If the unit contains less than 10 acres of land, the taxing authority, in determining whether the unit is a farm, must consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of a greenhouse.

2. A residence or other building located on agricultural land is exempt if used both in a farming and in a nonfarming activity, provided the primary or dominant use of it is in farming.
3. Buildings and other improvements located on agricultural land in unplatted areas within the boundaries of an incorporated city are exempt, provided the buildings are used for agricultural purposes and are part of a farm plant.
4. A residence or other building located on platted land within the boundaries of an incorporated city or upon railroad operating property is not exempt as a farm building. An outlot (a lot included within the boundaries of an original or subdivision plat) is platted land.
5. Any building located on a farm and occupied or used by someone not engaged in farming is not exempt. (See number 8)
6. A reasonable amount of land on which a non-exempt building is located must be assessed in the same classification as the building, either residential or commercial.
7. A vacant farm residence or building located on agricultural land is exempt, provided it was exempt as part of a farm plant or as a farm residence when it was last used. A vacant farm residence or building which was taxable because of a non-qualifying use should remain taxable until its active use has changed.
8. Buildings located on agricultural land used by a farmer to provide housing for that farmer's workers are exempt, provided they are used as part of a farm plant. (See number 5)
9. Buildings and other improvements primarily used to feed chickens, turkeys or other poultry, cattle, pigs or other livestock are exempt if the enterprise is located on agricultural land.

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“Livestock” includes “nontraditional livestock”, that is, any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries, or an animal that is physically altered to limit movement and facilitate capture. [N.D.C.C. § 36-01-00.1].

10. Beekeeping is an agricultural pursuit. It includes extraction and storing of honey in containers. Buildings and improvements used in connection with a beekeeping operation are exempt. [N.D.C.C. § 4-12.2-25].

Processing honey is a commercial operation. Buildings and improvements used in connection with commercial honey operations are not exempt. Processing honey is any procedure, including filtering or clarifying, which changes the natural state of honey. Morel v. Thompson, 225 NW 2d 584 (N.D. 1975).

11. “Farm buildings and improvements” includes a greenhouse or other building used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display of grown horticultural or nursery products is not a farm building or improvement.

A commercial nursery is a farming operation; buildings and improvements used in the operation of a commercial nursery are exempt. Boehm v. Burleigh County, 130 NW 2d 170 (N.D. 1964).

12. The exemption is not limited to a single set of farm buildings. If a farmer has more than one set of farm buildings, all are exempt if the buildings are used as part of the farm plant.

## Farm Residence Exemption

13. A residence is exempt if it is situated on a farm and is occupied or used by an individual who is a farmer. It need not be owned by the farmer.

The term **farm** means a single tract or contiguous tracts of agricultural land containing a minimum of 10 acres which are normally used for farming or ranching.

The term **farmer** means an individual who normally devotes the major portion of the individual’s time to the activities of producing unmanufactured products of the soil, poultry, livestock or dairy products. The farmer and spouse, if married, must have received more than fifty percent of their combined annual net income from farming activities in any one year of the three preceding calendar years, whether one or both are farmers. The term also includes an individual who is a retired farmer or beginning farmer.

14. A retired farmer is an individual who quit farming because of illness or age and has not merely changed occupations. The local assessment officials have the responsibility to determine whether a farmer retired because of illness or age.
15. A beginning farmer is an individual who: 1) began occupancy and operation of a farm within the three preceding calendar years; 2) normally devotes the major portion of time to farming activities and; 3) had no farm income or loss in at least one of the prior three years.
16. A residence occupied by the surviving spouse of a farmer who owned and occupied the residence as an active farmer at the time of death is exempt through the end of the fifth taxable year after the year of the farmer’s death.

A residence occupied by the surviving spouse of a farmer who owned and occupied the residence as a retired farmer at the time of death remains exempt for as long as the residence is continuously occupied by the farmer's surviving spouse.

17. A residence located on a tract of agricultural land containing 10 acres or more, occupied by a farmer who also farms other noncontiguous land, qualifies for the exemption even though the particular tract of land upon which the residence is located does not produce 50 percent or more of the farmer's net income.
18. A residence is not exempt if it is located on a tract or contiguous tracts of agricultural land, whether owned or rented, containing less than 10 acres.
19. A residence located on a tract or contiguous tracts of agricultural land containing 10 acres or more is not exempt if it is occupied or used by an individual who is not a farmer.
20. A residence is exempt if it is situated on a farm and remains occupied by the retired farmer who **owned and occupied** it as a farmer at the time of retirement.
21. If the agricultural land acreage owned by the retired farmer diminishes to less than 10 acres after retirement, the residence may continue to be exempt, provided that the residence qualified for the exemption at the time the farmer retired.
- \* 22. A residence situated on a farm and occupied by a farmer is not exempt if the farmer and spouse had non-farm income exceeding \$40,000 in each of the three preceding calendar years. This provision does not apply to a retired farmer, beginning farmer, or surviving spouse of a farmer.
23. "Net income from farming activities" includes income from producing products of the soil or raising farm animals. It is the taxable farm income for income tax purposes (including CRP payments), minus income from custom work, plus taxable capital gains from the sale of agricultural products, plus the basis deducted in calculating capital gains, plus interest and depreciation expenses incurred in the farming operation. Interest expense includes such items as mortgages on the farm land, buildings, equipment, etc.

**Note:** "Net income from farming activities" does **not** include income from cash rent; mineral leases or royalties; wages or salaries; interest income from a contract for deed payment from sale of farm land; interest, the principal of which may have been derived from farm income; or any other income not specifically defined as farm income for income tax purposes.

24. An assessor may require the occupant of the residence to sign a statement showing the facts required for the exemption. If an assessor requires a statement from the occupant of **any** farm residence, equity and fairness dictate that the assessor should require a statement from the occupant of **every** farm residence.
25. If a farmer operates a bed and breakfast facility in the farm residence occupied by that farmer, the residence is exempt provided the farmer and the residence meet the other qualifications for the exemption.

\* Indicates significant change since last revised