STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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Frequently Asked Questions

Agricultural Assessments

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1. **Has the Land Type 11 - 14 been changed in the new guidelines to subtract from the ag land such as land type 9, 91, and 92 currently does?**

No, the Land Types were not changed.

2. **How can the land for 2 horses, that is for recreational purposes, there is no commodity for this "livestock," be considered agricultural land...especially when the market shows that these types of parcels are selling for much more per acre than the agricultural land base rate?**

Each situation should be reviewed separately. There have been several Indiana Board of Tax Review ("IBTR") decisions that address the use of the land and differentiating between agricultural land, residential land, and excess residential land. The law does not indicate how many animals it takes to reclassify land from residential to agricultural. Horses used for recreational purposes, 4-H animals, hobby farms, and family vegetable gardening plots are all topics related to this question and there is no clear place to draw the line and no single indicator used to make the determination. It is fact sensitive with a wide variety of scenarios. In one IBTR decision, it was stated: "The classification depends on whether the acreages in question are put to agricultural or residential use."

3. **How would we as Assessors go about getting more clarification, especially for horses...in terms of agricultural versus residential designations?**

Although each situation is different, previous IBTR decisions can provide a guide for what may or may not be considered agricultural land versus residential land.

- https://www.in.gov/ibtr/files/07-004-02-1-5-00174.pdf;
- https://www.in.gov/ibtr/files/RichardandJoAnnHarbit.pdf;
- https://www.in.gov/ibtr/files/Faerber_06-010-14-1-5-00006_etc.pdf;
- https://www.in.gov/ibtr/files/Baker_71-027-16-1-5-00387-17.pdf;
- https://www.in.gov/ibtr/files/Herman_06-005-13-1-5-00016.pdf

4. **Who/how are Land Types 41 & 42 determined? Does the property owner need to report that? Does an agricultural parcel have to have a house to be able to use the code 92?**

Here are a couple of different scenarios. How would they be identified?

- 40-acre tract with 15 acres of trees and the rest tillable – with no house? If the County is using the 92 code, would it be 92 or 6? Not all Counties are using the 92, if not, what would it be?
- 40-acre tract with 15 acres of trees and the rest tillable – with a house located in the trees? With a house located in another portion of the property of the tillable land.
- Does the type for the trees differ depending on if a house exists on the property or not?
- Does a pond within a classified forest get included with the 21? I am looking at a property that is approximately 40 acres and is recorded as all 21, but 10.55 acres of it is a big pond?

It is fact sensitive. For example:

If there was a house on the 40-acre parcel, perhaps the house was built in the woods and the woods were all cleaned up and a part of the yard. Or perhaps the house was built away from the woods and the woods were full of briars and poison ivy. This means all or a part of the woods might be classified as excess residential or agricultural woodland.

Now add some grain bins and other agricultural-type buildings to that house to create a barnyard. Type 71 is typically used around the house and other agricultural buildings since the farmer need space for the large trucks to move around while loading and unloading the grain or livestock. Type 92 – Agricultural Excess Acres could be used if the farmer does not want to plant corn right up to the house and the barnyard so there is an area with this type of space available. Perhaps there is a pond near the house and the barnyard extends down to it, but the data collector does not believe this area fits the category of barnyard/barn lot and classifies it as agricultural excess acres. This is all fact sensitive and a judgment call.

If the 40-acre parcel had no buildings or anything else on that tract of land, the 15 acres of woods would probably be Type 6 – Woodland. As far as if the type of trees mattered, the Type 6 - Woodland definition just talks about the amount of the area covered by a canopy and not the type of tree.

5. **What if there is a 10-acre pond that is a part of the 40 acres designated as a Classified Forest. Can a pond be considered a part of a forest?**

The use is the key, and the pond does not meet the definition of a forest; hence, it would not qualify. If it were 10 acres of tillable land planted with corn in this 40-acre parcel, it would not qualify either.

Perhaps it could be classified as part of a wildland and still be a part of the Classified Land Program (see Indiana Code 6-1.1-6-2.5 (2) below):

> **IC 6-1.1-6-2.5 Wildlands**
> **Sec. 2.5.** Land may be classified as wildlands if it contains one (1) or more of the following:
> **(1)** Grasslands that are dominated by native grasses or intermixed with other native herbaceous vegetation.
> **(2)** Wetlands that support a prevalence of native vegetation adopted for saturated conditions.
> **(3)** Early forest successional stands that are dominated by native herbaceous and woody

vegetation that will develop into native forest land.

(4) Other lands the department determines is capable of supporting wildlife and conducive to wildlife management.

(5) A body of water.

6. **I work with several counties creating their GIS Land Use layer and have always considered trees with the over 50% canopy cover on agricultural properties to be coded as 6 (unless it is part of classified land). The description in the webinar seems to differ from that. I have one client who is only using 6 for properties that are part of the DNR woodland program and the rest of the "wooded" areas are coded as 5 throughout the county. This was new to me and I am guessing if the county is consistent then this is okay since the book is just a "guideline?"**

   I am also looking into the Woodlands Program and trying to determine the differences between it and Type 6 in the book. Now it seems there is a 3rd option of 92. I just want to be able to help the Counties assess their Ag properties the way the rules were intended. But again, I am assuming as long as they are consistent, they can set up their own rules. Is this a fair statement?

   I am wanting to verify the parcels they say have wetlands vs. what is recorded by the State. Is there a way to get a list of parcel numbers along with the recorded acreage associated? The response I got from the Farm Service Agency representative for the county I'm working for was "Not to my knowledge, our software does not have parcel #'s nor recorded acreages."

Concerning the Classified Land Programs, remember that they are voluntary programs that the property owner signs up for. They are not mandatory. If a farmer has a natural valley in his 40-acre field that washes out and he plants a 30-foot wide by 150-foot-long filter strip to prevent erosion, he can elect to sign up for the program or decide that it is not enough to bother with and let it be assessed as tillable. There have been stories in the past where the assessor felt that the property owner was eligible for the tax breaks and automatically gave them the designation.

In regard to contact information for the USDA to learn more about designated wetlands, most counties have a local Natural Resources Conservation Service (NRCS) that you could contact with your questions. If you search the web with "NRCS Indiana," their website is packed full of this type of information.

Concerning the one client who is using Type 5 or Type 6 based on whether the woods are in a DNR program or not, this is probably a mistake since there is a Type 21 for Classified Forest Land.

Type 43	Farmed wetlands—land that the U.S. Department of Agriculture has designated as farmed wetlands. This land type applies only to areas of contiguous land measuring 2.5 acres or more. This land use type must be verified through records obtained from the U.S. Department of Agriculture, Farm Service Agency. A 50% influence factor deduction applies to this land use type.

Type 73	2.5 contiguous acres of land designated by the U.S. Department of Agriculture as wetlands. This land use type must be verified through records obtained from the U.S. Department of Agriculture, Farm Service Agency. The value is determined using a productivity factor of .50 and a 40% influence factor deduction.

7. **Are you saying that the part of the code that says land purchased for commercial does not apply to the large hog farms? They are buying 5 acres to 10-acre tracts for just their hog operations.**

   It sounds as if we need to change the land to agricultural use on these "commercial" hog operations. Does that include using land type 71 (farm buildings)? Because again, if the land was never meant to be a grain farm, why give the deductions for not being able to grow crops. Also, the remaining land around the buildings is not farmed, it is just grass. So, would you suggest land type 92 or pricing as tillable since there is nothing impeding it from being tillable? Sorry to be a bother, but we have run these commercial issues for years, and only this year have we had anyone appeal.

It was mentioned that there is an appeal on this issue, so during the appeal when you call it a "commercial hog operation," the property owner might challenge that terminology and call it an "agricultural hog operation."

To support his terminology, he might cite Indiana Code 32-30-6-1 which defines an "agricultural operation" as being used for the production of crops, livestock, poultry, etc., and then he will point out that hogs are considered livestock in the State of Indiana. He might even point out that Indiana ranks fifth in the nation for hog production.

Concerning your questions on land type codes, you mentioned Type 71 for land used for farm buildings and barn lots. That would be a good "type number" to consider. Concerning the large grassy area outside of the area that you are calling a barn lot, you suggested either Type 92 – Agricultural Excess Acres or Type 4 – Tillable Acres. Since the land is not currently being tilled and planted and there is no intent to farm it in the future (based on the layout of the operation), most counties are probably classifying it as Type 92 – Agricultural Excess Acres.

8. **While we are talking about confined animal feeding operations (CAFO), is it possible that a neighbor could request that his assessed value be lowered because of the odors coming from the operation?**

While the CAFO may have a negative impact on the property's assessed value, the property owner would have to present probative market-based evidence to support his proposed value if he disagrees with the assessor's value which may have been adjusted for the property's proximity to the operation.

9. **If a parcel is zoned for commercial use and the owner plants a crop on it, how can it be assessed as agricultural land since it seems to conflict with local zoning regulations?**

While the Department of Local Government Finance's ("Department") regulations do consider zoning as a factor to determine a property's classification, we also direct assessors to consider its use.

While the determination could be fact-sensitive, the actual use of the property is the key factor. There have been times when a parcel is zoned commercial and has a USDA assigned farm number so the assessor must decide on a case-by-case basis.

10. **Can an assessor use satellite imagery as a resource to determine the correct number of tillable acres and non-tillable acres?**

Yes, an assessor can use any available information to assist with making a correct assessment. If the property owner disagrees with the assessment, an appeal can be filed where this type of evidence can be challenged.

11. **As a follow-up to the above question, what if the satellite imagery is used to correct a mistake between the tillable and non-tillable acres and the property owner challenges that nothing has changed for the last ten years so why should it be changed now?**

The courts have ruled that each year stands alone so when a property owner has benefitted from an alleged mistake made in past assessment years, he must focus on the assessment year(s) involved with the appeal and show that the assessor erred with the information used to calculate that assessment.

12. **If there is an easement on a portion of a parcel being assessed as agricultural land, should the area covered by the easement be exempted? My problem is that you can't even tell that an easement is even present because the farmer plants a crop on it each year.**

The property owners would be required to show how the fact that they have an easement would entitle them to an exemption with reference to the applicable Indiana law. The assessor could also consider if the property was used for an exempt purpose. This is a fact-sensitive issue that could be appealed if desired.