

## Changes to ND Farm Residence Exemption

The 66<sup>th</sup> Legislative Assembly of North Dakota passed changes to the Farm Residence Exemption for farmers and ranchers in North Dakota. These changes should be considered by all farming and ranching individuals and families for the 2020 tax year as many now may become eligible for the residential property tax exemption.

By ND statute, the only occupation that may be exempt from residential property taxes are farmers and ranchers.

To qualify, a farm (or ranch) must be 10 contiguous acres or more, and 66% of total annual gross income (combined gross income if married) must be from farming or ranching activities whether or not the married spouse is a farmer or rancher. A summary of the new law is found in the table below, the terms "Farm" and "Farmer" includes ranch and ranching activities:

Definition	Requirement Summary
Farmer (Rancher)	Major portion of time farming or ranching
Farm (Ranch) size	10 contiguous acres or more used for farming or ranching
Combined Gross Income	Total household income from all income activities and sources reported to the IRS
Income on Farming Activities	66% of combined annual gross income from farming activities
2 year lookback	For Tax year 2020, 66% income requirement must be met in <b>either</b> 2018 or 2019 (one year to be eligible)
Retired Farmer	Current - maintains eligibility; retired from farming because of illness or age and not changing occupations
Beginning Farmer	Began occupancy and operation in either of the two preceding years; major portion of time in farming (ranching) activities; no farm income or loss from farming activity in either of the two preceding years
Residence	Residential building located on agricultural land used in predominantly farming/ranching activities
Residence in a city (platted land)	Not eligible
Vacant Farm Residence	May be exempt provided it was exempt as part of a farm plant when last used

(More details below)

Two senate bills were enacted in 2019 changing requirements for the Farm Residence Exemption:

**Senate Bill No. 2360** changes the definition of income from farming activities from net income to gross income for purposes of the farm residence property tax exemption. The bill changes the qualifying income lookback period from the preceding 3 calendar years to the preceding 2 calendar years and changes the share of total income that must be derived from farming activities from 50 percent of annual net income to 66 percent of annual gross income. The bill also removes provisions that disqualified farmers who had nonfarm income of more than \$40,000 during each of the 3 preceding calendar years. Provisions of the farm residence exemption also were amended by Senate Bill No. 2278.

**Senate Bill No. 2278** makes income information provided to an assessor by an individual applying for a homestead property tax credit or farm residence property tax exemption a confidential record. The bill also makes the collection of income information by an assessor from those applying for the farm residence exemption mandatory rather than permissive. Provisions of the farm residence exemption also were amended by Senate Bill No. 2360

Property Tax Guideline Information

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 (except for marijuana grown under N.D.C.C. ch. 19-24.1), poultry, livestock or dairy products. The farmer and spouse, if married, must have received more than 66% of their combined annual gross income from farming activities in any one year of the two preceding calendar years, whether one or both are farmers. The term also includes an individual who is a retired farmer or beginning farmer.

Requirements:

- Farm buildings and improvements located on agricultural lands are exempt from taxation provided they are used as part of a farm plant.
- 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.
- 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.
- 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.
- A residence is exempt if it is situated on a farm and is occupied or used by an individual who is a farmer. It does not need to 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.
- A retired farmer is an individual who quit farming because of illness or age and has not merely changed occupations
- A beginning farmer is an individual who: 1) began occupancy and operation of a farm in either of the two preceding calendar years; 2) normally devotes the major portion of time to farming activities and; 3) had no farm income or loss from farming activity in either of the two preceding calendar years.

A minimum of two documents (possibly 3 depending on the 2018/2019 financials) are required for the Farm Residence exemption. A link to these forms are found under the "**New Farm Residence Exemption**" link at the top of the Mountrail County Tax Equalization Page at:

<http://www.co.mountrail.nd.us/pages/tax-equalization>

To find the forms required, point your browser to the page above. The "**New Farm Residence Exemption**" link is found above the "Contact Information" area on the screen. Once there, you find some information on the new farm residence law and a link to "**ND.gov Forms and Applications**". Once selected, the New Farm Residence Exemption forms are found in the middle of the page.

The **Application for Farm Residence Property Tax Exemption** is required to be completed and signed each year by the property owner. The **Statement of Farm Gross Income** is required by the occupant of the house for either of the two preceding calendar years. For tax year 2020 that form would be for the 2018 or 2019 tax year. Both documents are online fillable forms. The **Statement of Farm Gross Income** is required to be filled out online as the calculations are automatic.

For instances where there is an individual or family living in a residence that is not their own, the Application is required from the landowner, whereas the **Statement of Farm Gross Income** is required from the occupant of the residence.

The **Statement of Farm Gross Income** is a confidential record and submittal is a requirement with the changes in the law.

The Application and the **Statement of Farm Gross Income** are both required to be submitted to the Tax Director's office. The Application is due by February 1, the **Statement of Farm Gross Income** is due by March 31 for the 2019 tax year – yet it is highly encouraged to get the documentation in sooner than later.

The Tax Equalization Department suggests those who may be eligible for the Farm Residence Exemption to fill out the Application form and the 2018 tax year **Statement of Farm Gross Income** and send them in for review. Obviously it is early for the 2019 taxes hence the 2019 form would be turned in by March 31 as required by the state. Please remember the Farm Gross Income requirement is for **one** of the two previous years hence the 2018 form can be filled out and returned at this time for granting the Farm Residence exemption for the 2020 tax year.

Those currently whom are farm residence exempt will receive a letter in the mail along with the application. It is important to submit the application with the **Statement of Farm Gross Income** that is found at the above listed website. Applications not received by February 1<sup>st</sup> will have the residences assessed and placed on the tax rolls.

If there are further questions please call the Tax Director's office at (701) 628-2425 or if preferred please email [info-tax@co.mountrail.nd.us](mailto:info-tax@co.mountrail.nd.us) and we will gladly assist.