



**DAVID O'NEILL**  
**Property Valuation Administrator**  
**Fayette County**

March 1, 2016

David Gordon  
Executive Director  
Office of Property Valuation  
501 High St. (4<sup>th</sup> Flr)  
Frankfort, KY 40601

Dear David,

The manner in which PVAs throughout the Commonwealth administer agricultural classifications for property tax purposes has been questioned in a series of recent news articles in the Lexington Herald-Leader.

The current guidelines by which properties qualify for an agriculture classification are not where we should strive to be and are no longer acceptable to the taxpayers in Fayette County. Therefore, I am hopeful the department will find flexibility and authority within current statutes and case law that will allow me to move back toward actual agricultural "use" requirements.

Since this issue is now front and center for a number of PVAs, legislators and the revenue department, let us all seize the opportunity to take a holistic view of both statutes and case law in order to formalize a legal opinion from the Department of Revenue addressing several issues that lack clarity, including:

1. Is a property required to have active agricultural "use" in order to qualify for an agricultural classification or only that the land has an "income producing capability?"
2. What qualifies as "used for the production of" as the term is applied in KRS §132.010(9)?
3. What is meant by the phrase "in area used" for the production of agriculture contained in KRS §132.010(9)? Is this on the same tract or simply in an area where neighboring tracts use their land in that manner?
4. What is meant by the phrase "in area commercially used" in the definition of horticultural land in KRS §132.010(10)? How does this differ from "in area used" in KRS §132.010(9)?
5. If a 10-acre tract includes a house used as the owner's primary residence, but the property is otherwise used in the production of agriculture, can the property qualify for an agricultural classification even though excluding the area under the house would cause the tract to fall short of the 10-acre minimum?
6. When a property planned for development in KRS §132.450(2b) ceases to be used in the production of agriculture, but rather is mostly dormant while awaiting final approval of a development plan and necessary zoning change, when should the agricultural classification be removed?
7. What is meant by "Election by owner" in the title of KRS §132.450? What is meant by "listed by the taxpayer" in KRS §132.450(4)? What is meant by "property schedule" in KRS §132.450(5)? Do any of these phrases imply that agricultural classifications should only be approved at the taxpayer's request? Can the PVA require the taxpayer to request the classification before considering the qualifications?

County Attorney Larry Roberts, who has amassed a considerable volume of research on this issue, and I would love to review with your staff at your earliest convenience.

Respectfully,

  
David O'Neill  
Fayette County Property Valuation Administrator

Cc: Larry Roberts, Terry Rakes, Mack Bushart